



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

AMANDA E. BEAL  
COMMISSIONER  
STACIE R. BEYER  
EXECUTIVE DIRECTOR

# Memorandum

**To:** LUPC Commissioners  
**CC:** Stacie R. Beyer, Executive Director  
**From:** Kelly Shores, Senior Planner  
**Date:** September 6, 2023  
**Re:** Amendment A to ZP 682: Staff-initiated petition to rezone lands included in *The Brassua Lake Concept Plan* (P-RP 012); Request to post to a 30-day public comment period

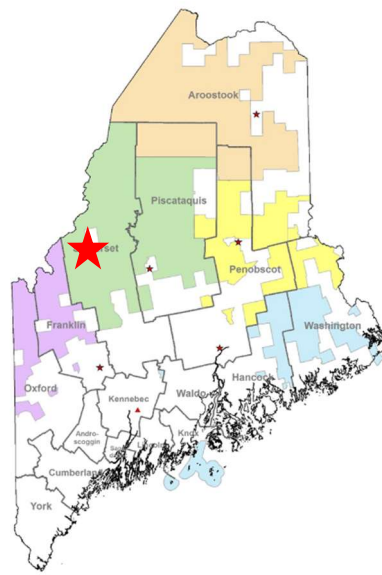
---

The *Brassua Lake Concept Plan* (Plan or Concept Plan) and its associated Resource Plan Protection subdistrict (P-RP) will expire on January 29, 2024. The current major landowner, EMC Holdings, LLC, does not wish to renew the Plan. When a resource protection plan expires, Commission staff must initiate a rezoning process to identify replacement zoning for the former Plan area that provides comparable protection for existing resources. Commission staff have prepared a draft map showing proposed replacement subdistricts for the current P-RP subdistrict. This draft map is attached as Appendix A for your review.

## BACKGROUND

In January of 2004, the Commission approved Zoning Petition ZP 682 and rezoned 5,673 acres in Tomhegan Township to a Resource Plan Protection Subdistrict (P-RP) at the request of the property owner, Moosehead Wildlands, Inc. The property was rezoned in accordance with *The Brassua Lake Concept Plan* ([Concept Plan](#)) and includes over 15 miles of shoreline on Brassua Lake and Baker Pond.

The site is located in T1 R2 NBKP, Tomhegan Township, to the west of Moosehead Lake in Somerset County. The site encompasses two large parcels on portions of both the eastern and western shorelines in the northern area of Brassua Lake, several subdivisions, and some islands in Brassua Lake. The larger of the two parcels is located along the eastern shore and includes the entirety of Baker Pond. The smaller is located along the western shore of Brassua Lake and encompasses ±566 acres.



The Concept Plan, as approved by the Commission, covered a 20-year timeframe and allowed the owner to:

- Manage the area for forestry and primitive recreation
- Develop a shorefront subdivision on the Poplar Hill Peninsula
- Develop several limited commercial development areas, including a sporting camp and cabins
- Develop a trail and cabin system
- Place a large amount of the shorefront of Brassua Lake, Baker Pond, the western peninsula of Brassua Lake, and the interior of the Poplar Hill Peninsula in a permanent conservation easement.

Most of the property within the Concept Plan area was transferred from Moosehead Wildlands, Inc. to Tall Timber Trust in 2014. That same year, the property was transferred to WVX Holdings, LLC (48%), CBD Holdings, LLC (48%), and POQ Holdings, LLC (4%) and subsequently transferred in its entirety to EMC Holdings, LLC, the current owner.

## SUMMARY AND STATUS OF PLAN ELEMENTS

The development and conservation components included in the Concept Plan are summarized below. There have been no amendments to Zoning Petition ZP 682. A copy of the existing Concept Plan map is attached as Appendix B.

### Conservation Components

The table below summarizes the permanent conservation components proposed in the Concept Plan.

Permanent Conservation					
Area	Location	Shoreline Length (ft.)	Setback	Proposed Acreage	Actual Acreage in Easement
Brassua Lake east side	Shoreline	±17,385	±500 feet from the shoreline	±198	±183
Poplar Hill	Interior Land	-	-	±330	±325
Brassua Lake west side	Shoreline & Interior Land	±28,910	-	±512	±449
Baker Pond	Shoreline	±7,740	±500 feet from the shoreline	±108	±113
Area D	Shoreline	±465	±500 feet from the shoreline	±5	±16
Area C	Shoreline	±3,130	±500 feet from the shoreline	±32	±34
<b>Total</b>		<b>±57,630</b>	-	<b>±1,185</b>	<b>±1,120</b>

In addition to the permanent conservation proposed through the execution of conservation easements, the Concept Plan provides for additional conservation measures. These include:

- 1) ±3,924 acres designated as a “Conservation Area” allowing timber harvesting and mineral extraction during the life of the Plan; and
- 2) Eliminating a portion of a previously approved large lot land division (Reference: Land Division Plan LDP 0040). Once the Concept Plan was approved (see ZP 682, attached), eight of the ten lots (approximately 334 acres) were eliminated, and all development rights authorized under the large lot land division were extinguished.

### Development Components

The Concept Plan proposed the following development components:

Area A – 52-lot residential subdivision (Poplar Hill)

Area B – 11-acre shorefront lot with private boat launch

Area C – Sporting camp with ten cabins, one shorefront manager's dwelling, and a private boat launch

Area D – 2-acre development lot, one dwelling unit

Area E – 2-acre shorefront lot within Area C

Area F – 54-acre lot for two dwelling units

Area G – 49-acre area to be divided into five lots: four lots for residential parcels and one lot retained by Moosehead Wildlands

Our records indicate that the following subdivision and development permits were approved for development proposed in the Concept Plan:

Permit Number	Plan Area Designation	Description
SP 4053	Areas A & G	Authorized two subdivisions: Phase I – three lots in Area G, plus a fourth lot previously sold and developed prior to Plan approval, and 790 feet of new gravel access road. Phase II – Six lots in a 15.9-acre portion of Area A and upgrades to 3,226 feet of existing gravel access road. Final COC issued January 23, 2007.
SP 4070	Area A	Authorized Phase III – a 40-lot subdivision on a 116-acre parcel in Area A accessed by the Poplar Hill Loop Road (RP 3239). Final COC issued October 11, 2011.
SP 4079	Area A	Authorized Phase IV – a four-lot subdivision of 31.6 acres of Area A, a 540-foot interior access road, and a 540-foot underground electrical utility line along the proposed road.
SP 4079 Minor Change	Area A	Minor change to a proposed common driveway layout.

Permit Number	Plan Area Designation	Description
SP 4079A	Area A	Authorized removal of Lot 52 from Survey Note 8 to construct a driveway <sup>1</sup> .
RP 3239	Area A	Authorized construction/upgrades to a 13,900-ft long loop road around Poplar Hill Peninsula intended for access to a future subdivision (SP 4070).
ULP 422	Area A	Authorized 15,000 feet of overhead utility line and 2,300 feet of underground utility line to service the subdivision proposed in SP 4070.
BLN 07-01	See description	Public Hand Carry Boat Launch Notification (Condition of SP 4070) – Located on Brassua Lake within a permanent conservation area.
GP 3317	Area B	Authorized a private trailered boat launch.

In addition, building permits have been issued related to the construction of dwellings and other structures on many of the lots created through the subdivision permits. Our records do not indicate that any lot creation or development proposed for Areas C, D, E, or F was permitted.

## REPLACEMENT ZONING PROCESS

When a Resource Protection Plan and the associated P-RP subdistrict expire, the Commission is tasked with rezoning the area previously covered by the P-RP subdistrict. The process is outline in Chapter 10, § 10.23(H)(8):

The provisions of an approved and recorded Resource Plan must apply for the duration of the approved time period, except that any conservation measures taken to strike a reasonable and publicly beneficial balance in a lake concept plan must continue to apply to the extent that they are covered by legal contract, deeded covenants, permit requirements, or other legal instruments. The Resource Plan must be for a minimum of 10 years and may be extended upon approval of the Commission and the applicant. The Resource plan must become invalidated if the provisions therein are not complied with.

At the termination of a plan, the Commission will, in conformity with its comprehensive plan, statutes, and standards, designate appropriate zoning which is reasonably consistent with zoning in accordance with Section 10.08,A.

In the event that a plan is terminated, all transactions initiated as a component of the plan, including without limitation, the granting of conservation easements or restrictive covenants on subdivided lands will continue to apply to the extent that they are covered by legal contract, deeded covenants, permit, or other legal requirements.

## PROPOSED REPLACEMENT ZONING

Under the provisions of 10.23(H), the following subdistricts are proposed as replacement zoning for the Concept Plan area according to the purpose and definition of each subdistrict. Except for the

---

<sup>1</sup> Survey Note 8 required the driveways for several lots, including Lot 52, to enter the lots from Cape Point Way. The owners of Lot 52 proposed to remove the lot from Survey Note 8 to place the driveway in a less steep location with more suitable soils. The proposed location would be shorter and would require less fill materials.

Residential Development (D-RS) subdistrict, all are essentially the same as the zoning that was in place before the adoption of the Concept Plan.

- **Residential Development (D-RS) Subdistrict – Lots Granted Subdivision Approval:** In accordance with the Commission’s Chapter 10 rules, all of the approved subdivision lots would be zoned D-RS subdistrict. The purpose of the D-RS subdistrict is “to set aside certain areas for residential and other appropriate uses so as to provide for residential activities apart from areas of commercial development. The intention is to encourage the concentration of residential type development in locations where public services may be provided efficiently or where residential development can be integrated with a recreational resource that is suitable for additional use associated with proximate residential development.” *See the Commission’s Chapter 10 rules, § 10.21(M) for the full description of the D-RS subdistrict.*
- **Great Pond Protection (P-GP) Subdistrict:** Except for subdivision lots proposed to be D-RS, the shoreline of Brassua Lake would be zoned P-GP subdistrict. The P-GP subdistrict covers areas within 250 feet of the normal high-water mark, measured as a horizontal distance landward of such high-water mark, of those bodies of standing water 10 acres or greater in size. The purpose of the P-GP subdistrict is to “regulate residential and recreational development on Great Ponds to protect water quality, recreation potential, fishery habitat, and scenic character.” *See the Commission’s Chapter 10 rules, § 10.23(E), for the full description of the P-GP subdistrict.*
- **General Management (M-GN) Subdistrict:** All areas not zoned for development or protection would be zoned M-GN subdistrict. The purpose of the M-GN subdistrict is to “permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required.” *See the Commission’s Chapter 10 rules, § 10.22(A), for the full description of the M-GN subdistrict.*
- **Fish and Wildlife Protection (P-FW) Subdistrict:** One area would be zoned P-FW subdistrict, reverting to the zoning in place prior to the adoption of the P-RP. It would extend from an existing P-FW subdistrict on the abutting property to the east. The purpose of the P-FW subdistrict is to “conserve important fish and wildlife habitats essential to the citizens of Maine because of their economic, recreational, aesthetic, educational or scientific value.” *See the Commission’s Chapter 10 rules, § 10.23(D), for the full description of the P-FW subdistrict.*
- **Shoreland Protection (P-SL2) Subdistrict:** A 75-foot P-SL2 subdistrict would be placed along each bank of minor flowing waters, the upland edge of freshwater wetlands, and bodies of water less than 10 acres in size. Note that the P-SL2 subdistrict areas may not always be depicted on the map because they are too narrow at that scale, but nevertheless will be in effect in these areas. The purpose of the P-SL2 subdistrict is to “regulate certain land use activities in certain shoreland area in order to maintain water quality, plant, fish and wildlife habitat and in order to protect and enhance scenic and recreational opportunities.” *See the Commission’s Chapter 10 rules, § 10.23(L), for the full description of the P-SL2 subdistrict.*

- **Wetland Protection (P-WL1, 2, and 3) Subdistrict:** Any wetland area depicted on the National Wetland Inventory map would be zoned P-WL1,2, or 3, as applicable. (Note that certain P-WL subdistrict areas, such as stream channels and lake bottoms, or where a wetland abuts a stream, may not be depicted on the draft map but nevertheless will be in effect in these areas.) The purpose of the P-WL subdistrict is to “conserve coastal and freshwater wetlands in essentially their natural state because of the indispensable biologic, hydrologic and environmental functions which they perform.” *See the Commission’s Chapter 10 rules, § 10.23(N), for the full description of the P-WL subdistrict.*

## **LANDOWNER REVIEW**

Staff initially contacted the primary landowner, EMC Holdings, LLC, in February 2023 and have been working with them through the expiration process via their agent. Shortly after, staff began identifying all current landowners within the Plan area and the status of development and conservation measures outlined in the Plan. A draft rezoning map was sent to the majority landowner for review via email and USPS mail in early July. The draft map was also mailed to all property owners within the Plan area in July for informal review. Staff have yet to receive any comments but have responded to several questions from property owners within and outside the Concept Plan area. Landowners were also notified that they would receive notice once a formal public comment period was initiated and would have an additional opportunity to comment then.

If approved for posting, a Notice of Filing for the staff-initiated rezoning application would be sent to all property owners within the Concept Plan area and all abutters within 1000 feet of the Plan area at the start of the public comment period. County officials will also be notified, and a GovDelivery notice will be sent to relevant subscriber lists. Related application materials and the draft map will be available on the Commission’s website and at the Augusta and Greenville offices.

## **RESOURCE AGENCY REVIEW**

A draft replacement zoning map was sent to the Bureau of Parks and Lands (BPL), the Maine Historic Preservation Commission (MHPC), the Maine Department of Inland Fisheries and Wildlife (MDIF&W), the Maine Forest Service (MFS), and the Maine Natural Areas Program (MNAP) for review in July. MHPC and MNAP each responded that they had no comments on the proposed zoning. No comments or questions were received from BPL, MDIF&W, or MFS.

If approved for posting, a Notice of Filing for the staff-initiated rezoning application would be sent to these agencies at the start of the public comment period, and each agency will have an opportunity to provide formal comments if they choose.

## **STAFF RECOMMENDATION**

The Commission’s statute and Chapter 4 *Rules of Practice* require that public notice of proposed changes to zoning boundaries be given and either a public comment period or public hearing be held prior to the Commission adoption of changes in subdistrict boundaries.

Staff recommends that the Commission post Amendment A to Zoning Petition ZP 682, a staff-initiated petition to rezone the area within *The Brassua Lake Concept Plan* in Tomhegan Township in Somerset County, to a 30-day public comment period.

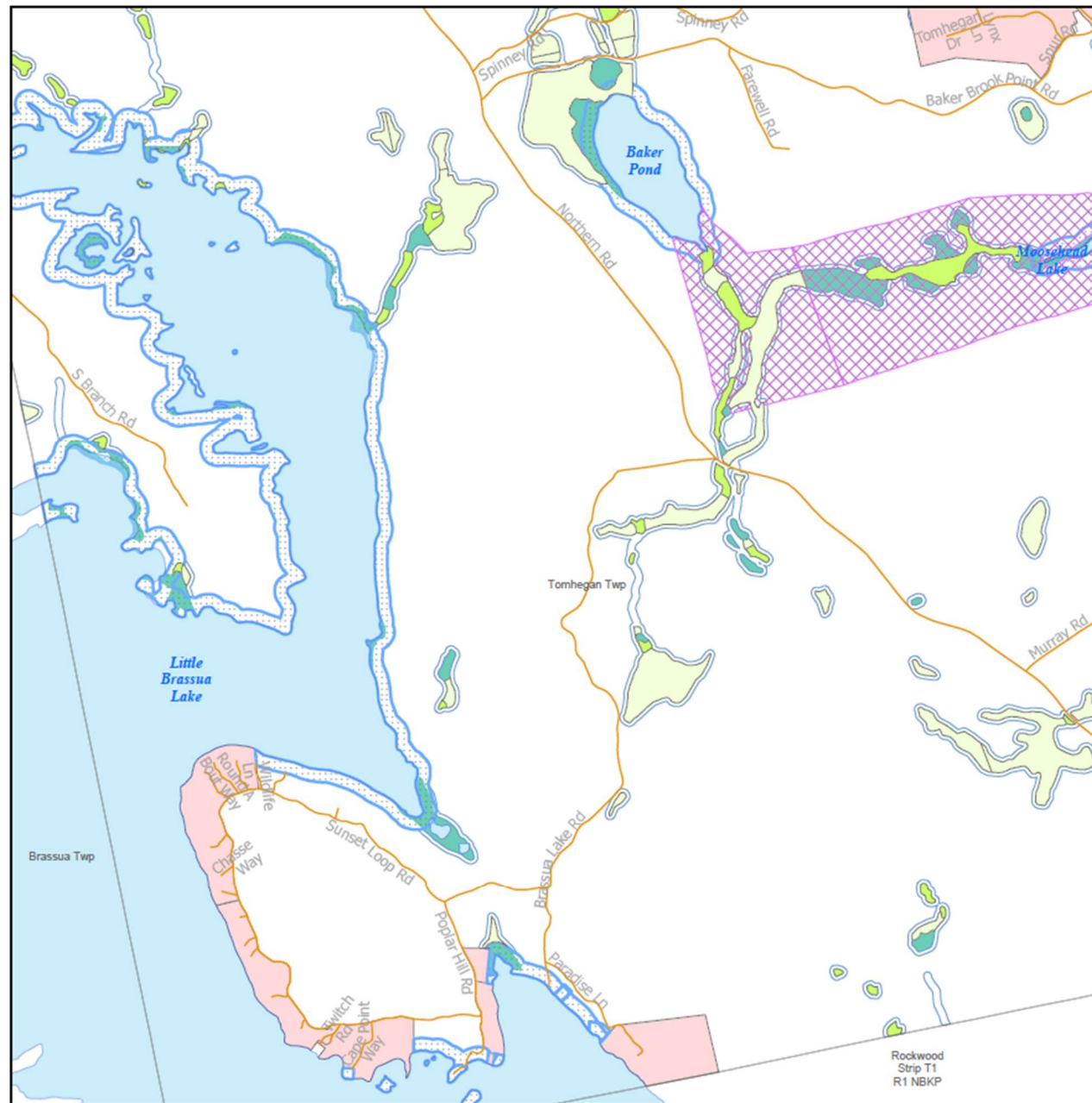
Following the comment period and a public hearing if requested, staff will make final changes depending upon comments received from the landowners, resource agencies, and any interested persons and then present a final land use guidance map to the Commission for a decision on adoption.

\*\*\*\*\*

Appendix A: Draft Land Use Guidance Map

Appendix B: Existing Brassua Lake Concept Plan Map

# APPENDIX A: DRAFT LAND USE GUIDANCE MAP



## Brassua Lake Concept Plan Proposed Rezoning

**DRAFT - 6/27/2023**

### Towns

LUPC Service Area

E911 Roads

### Lakes/Ponds

Lake/Pond

D-RS: Residential

M-GN: General

P-FW: Fish and Wildlife

P-GP: Great Pond

P-SL2: Shoreland - 75'

P-WL1: Wetlands of Special Significance

P-WL2: Scrub-shrub Wetlands

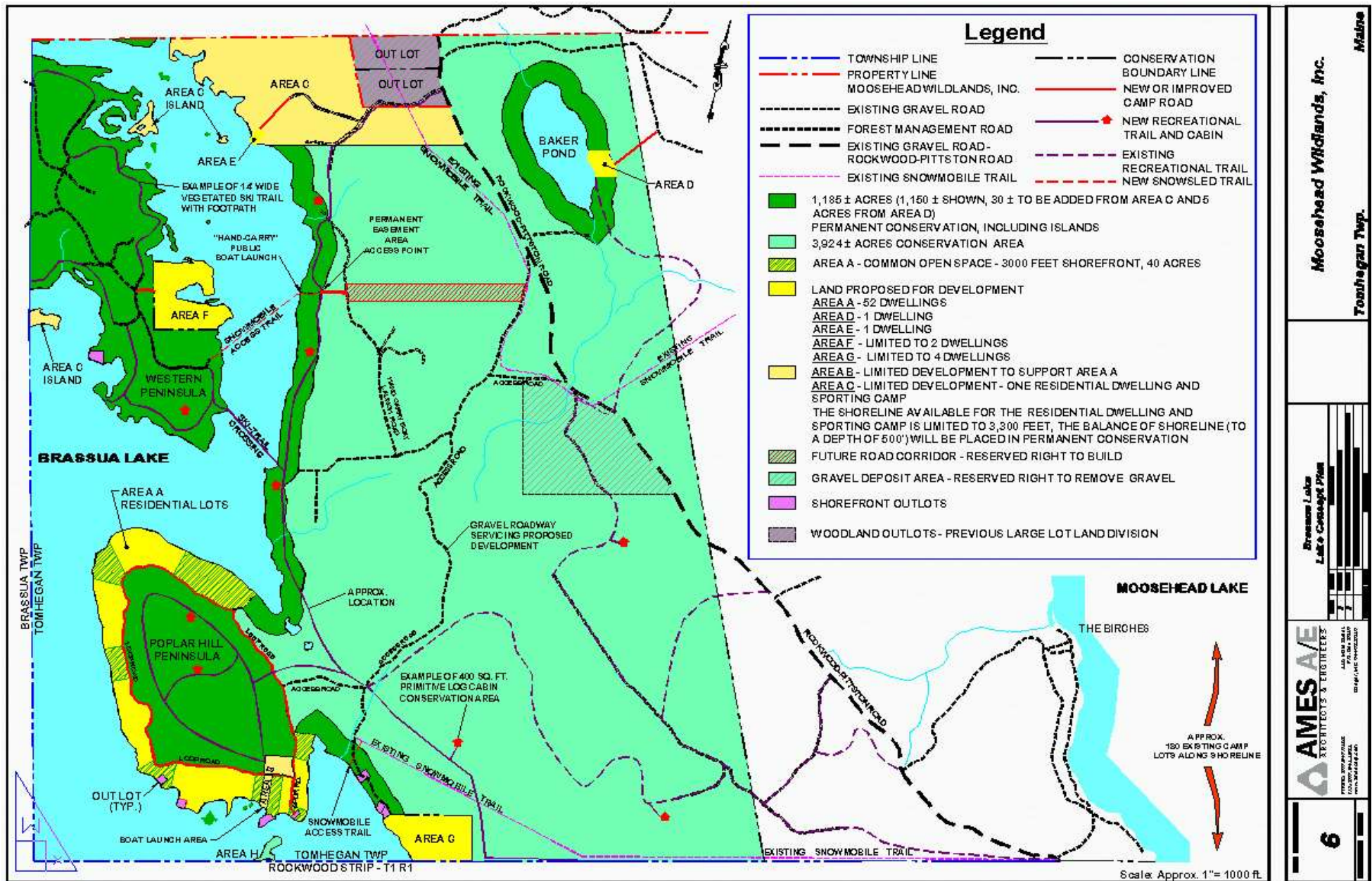
P-WL3: Forested Wetlands



0 1,250 2,500 5,000 Feet



# APPENDIX B: EXISTING BRASSUA LAKE CONCEPT PLAN MAP



Moosehead Wildlands, Inc.

Maine

Township

Brassua Lake  
Lake Concept Plan

AMES A/E  
ARCHITECTS & ENGINEERS

6