

# **Moosehead Regional Planning**

**Commission Memorandum 12/07/2022**

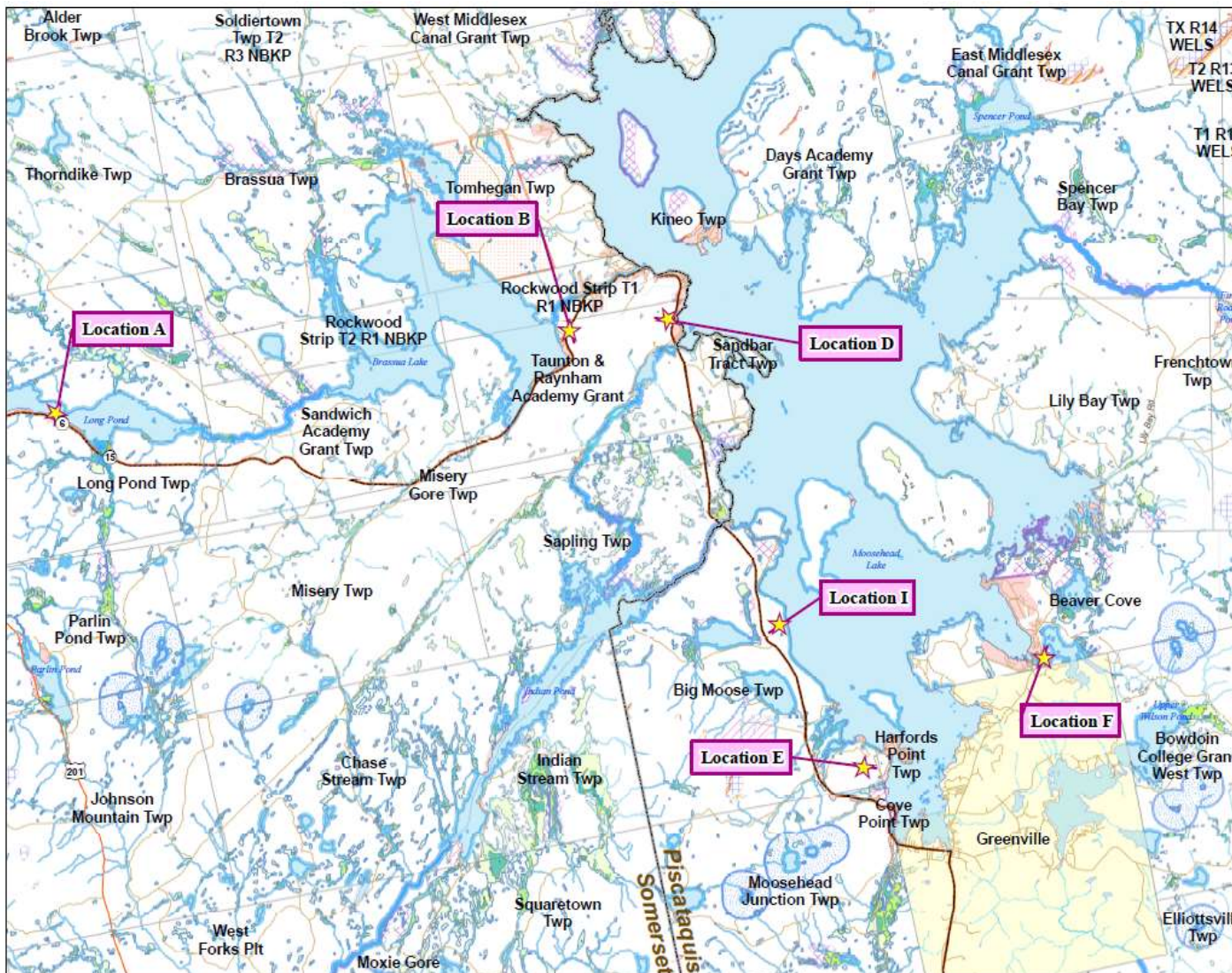
## **Attachment 1. Proposed Development Subdistrict Locations**

**Moosehead Regional Planning Package**  
09/02/2022

**Proposed Development Areas**



See Moosehead Regional Planning Package for more information on each Location.



- County Lines
- LUPC Service Area
- Organized Town
- Waterbody
- U.S. Routes
- State Routes
- E011 Roads
- D-CI: Commercial Industrial
- D-GN: General
- D-RF: Recreation Facility
- D-RS: Residential
- M-GN: General
- P-AL: Accessible Lake
- P-FP: Flood Prone
- P-FW: Fish and Wildlife
- P-GP: Great Pond
- P-MA: Mountain Area
- P-RP: Resource Plan
- P-RR200: Recreation - 200'
- P-RR: Recreation
- P-SG: Soils and Geology
- P-SL1: Shoreland - 250'
- P-SL2: Shoreland - 75'
- P-UA: Unusual Area
- P-WL1: Wetlands of Special Significance
- P-WL2: Scrub-shrub Wetlands
- P-WL3: Forested Wetlands
- ★ Proposed Development Subdistrict Locations

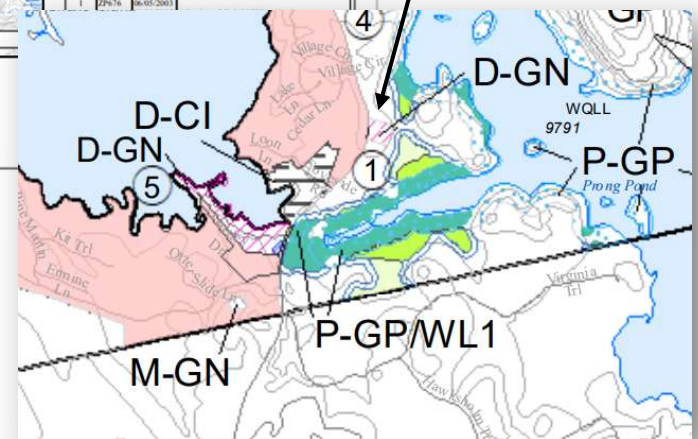
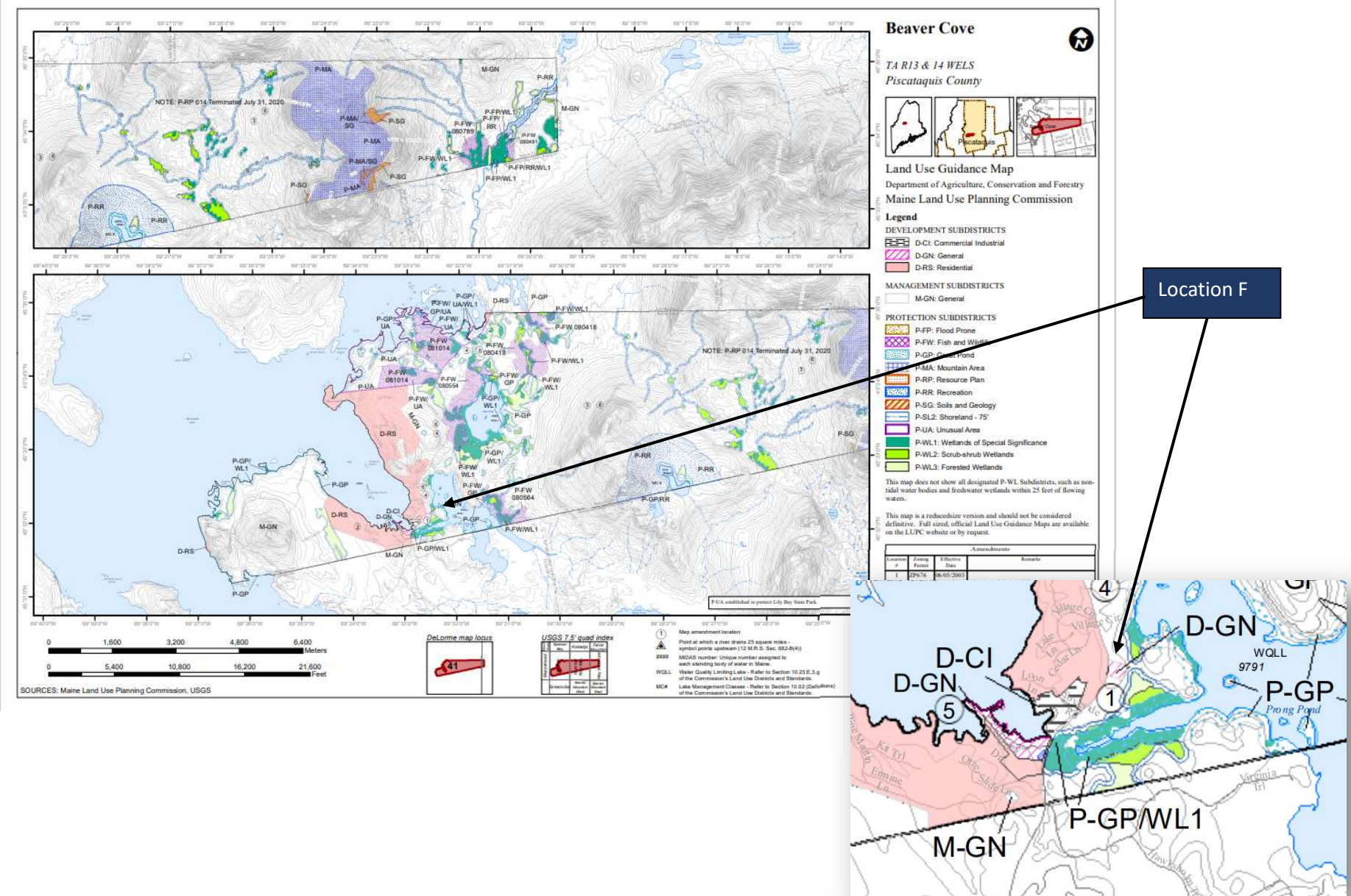


# Moosehead Regional Planning

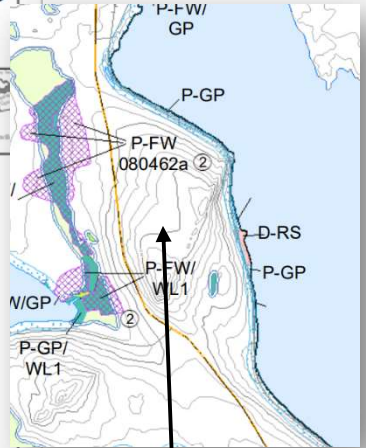
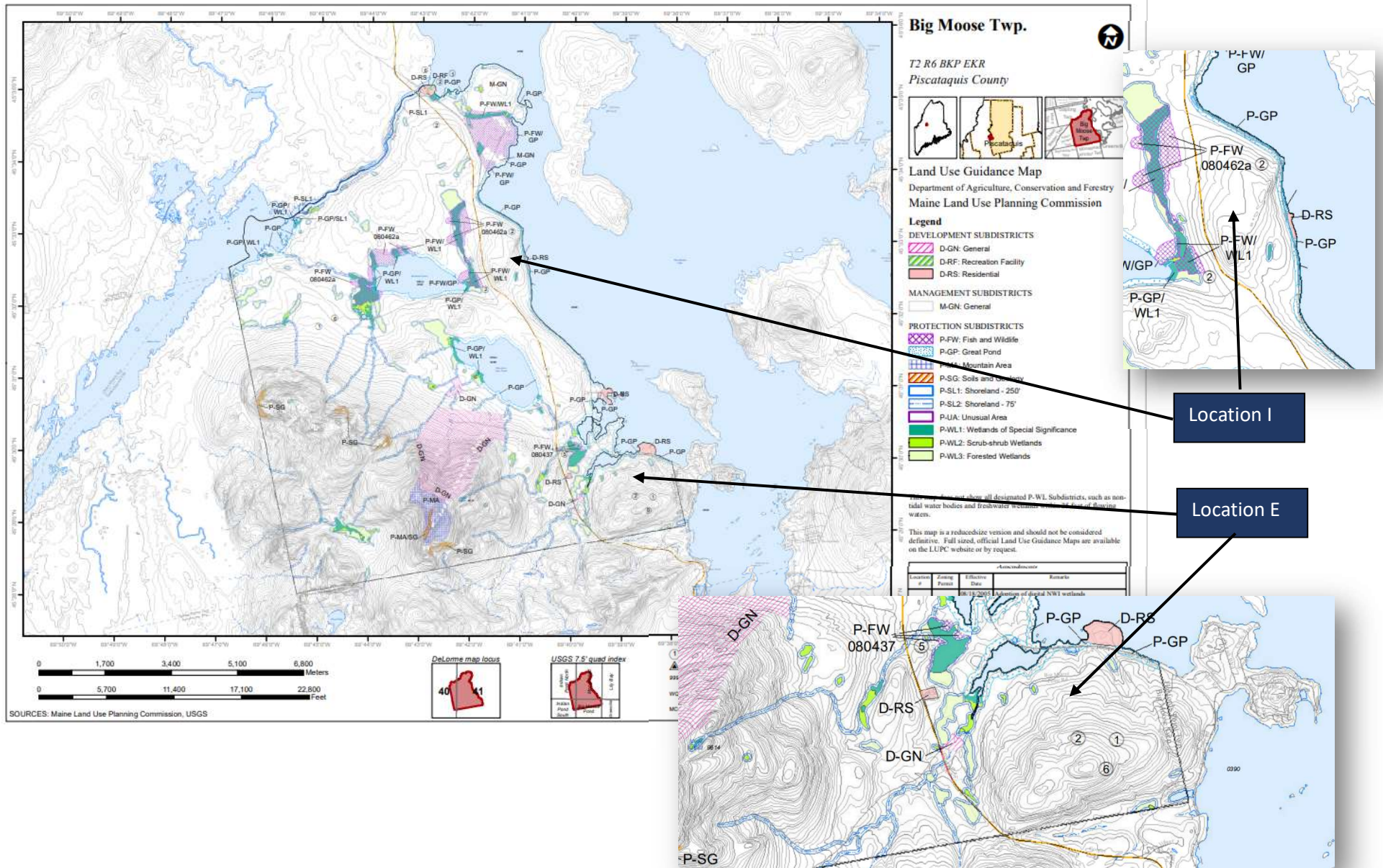
Commission Memorandum 12/07/2022

## Attachment 2. Existing Land Use Guidance Maps

# Attachment 2.1 – Beaver Cove - Existing Land Use Guidance Map

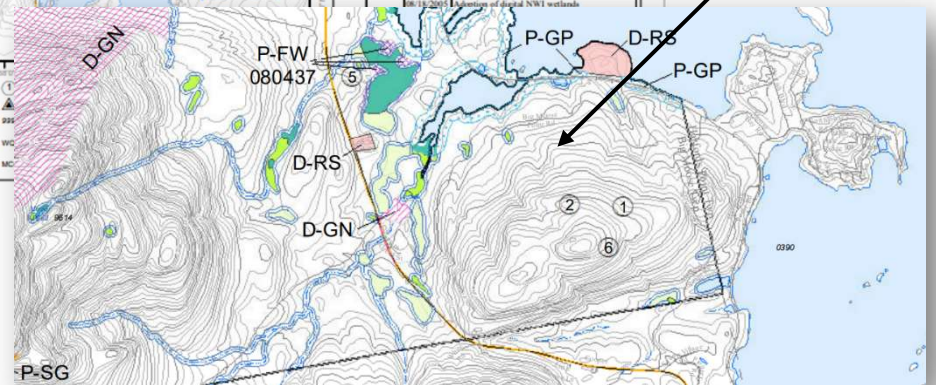


# Attachment 2.2 – Big Moose Township - Existing Land Use Guidance Map

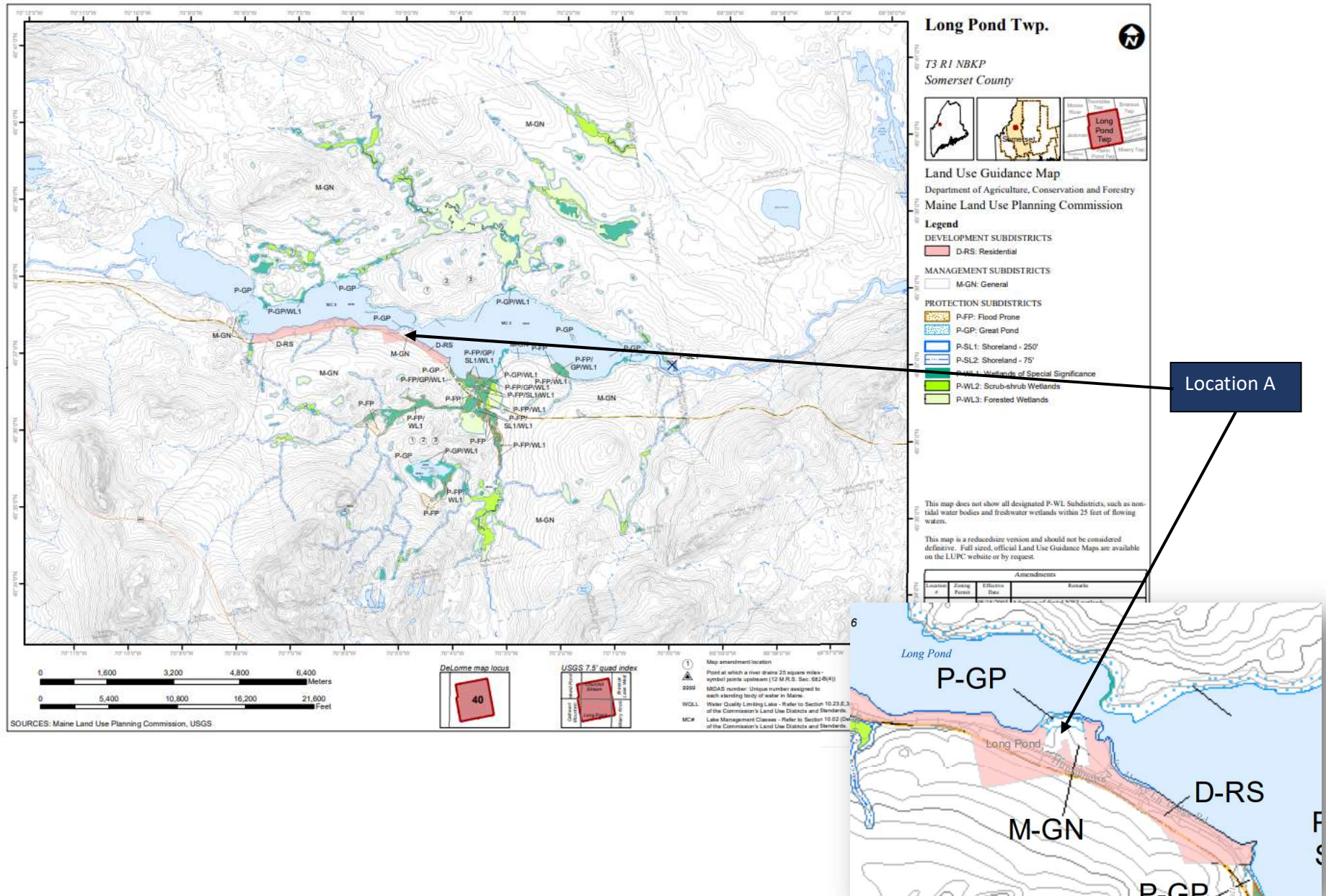


Location I

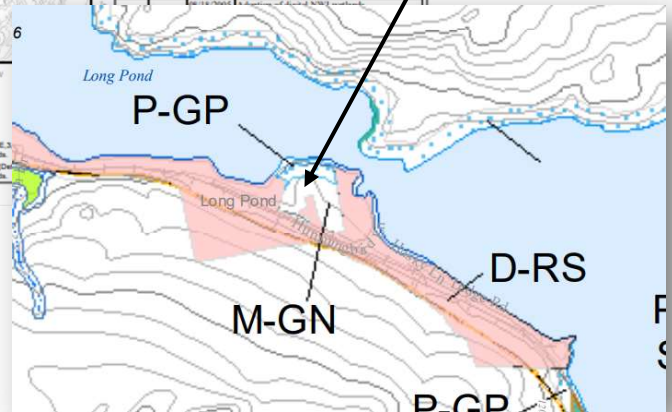
Location E



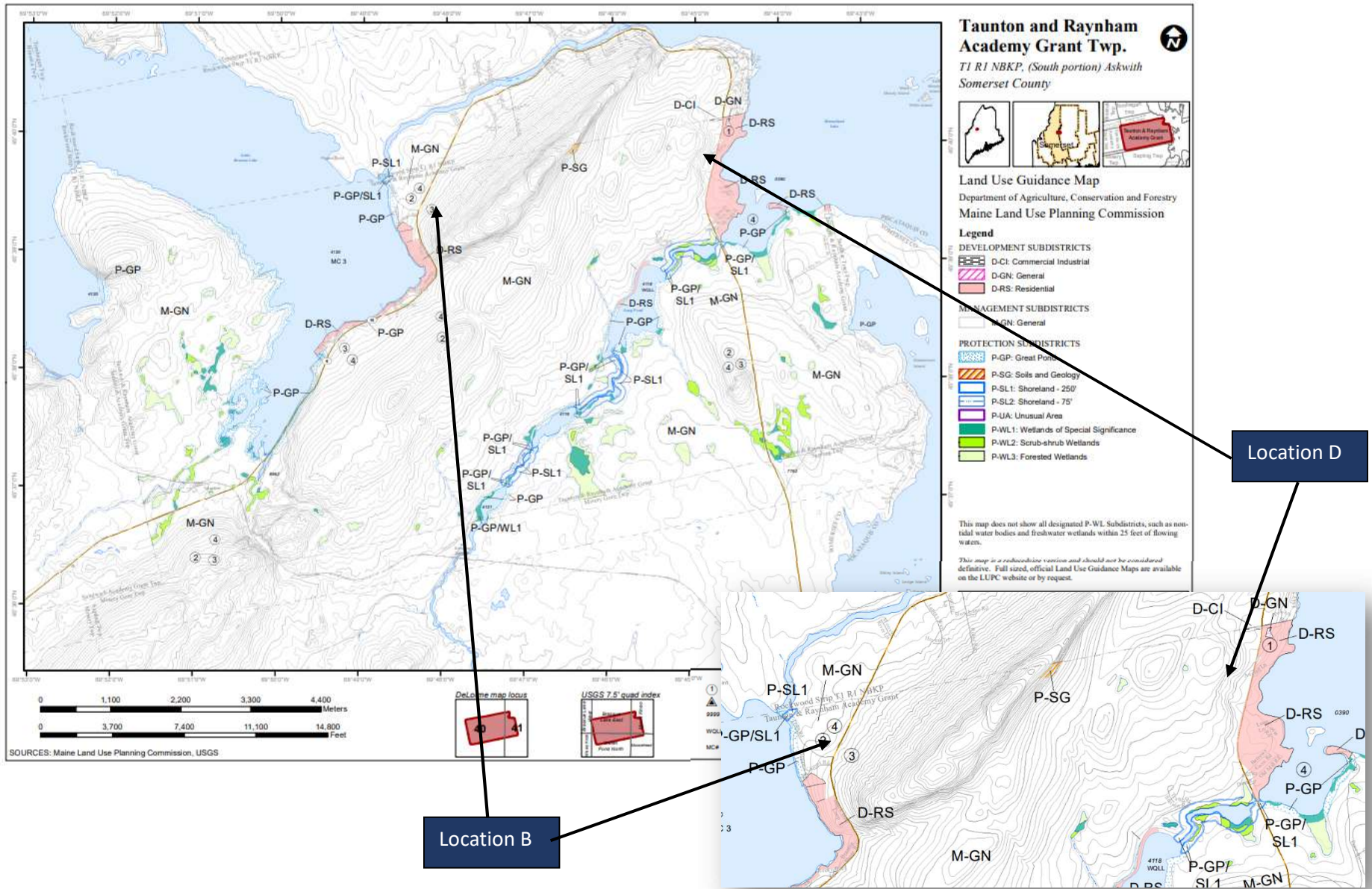
# Attachment 2.3 – Long Pond Township - Existing Land Use Guidance Map



Location A



# Attachment 2.4 – Taunton and Raynham Academy Grant - Existing Land Use Guidance Map



# Moosehead Regional Planning

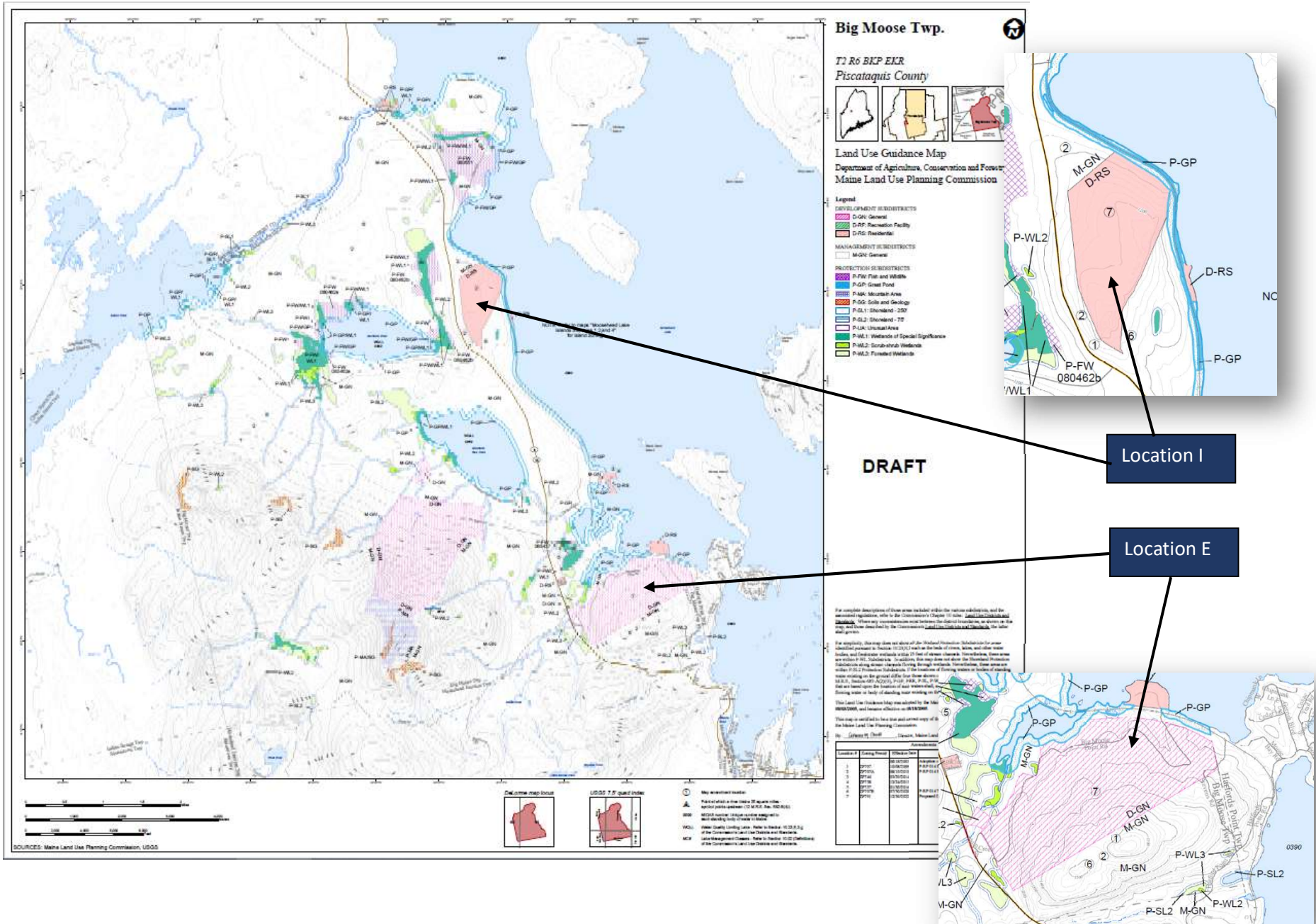
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## Attachment 3. Proposed Land Use Guidance Maps

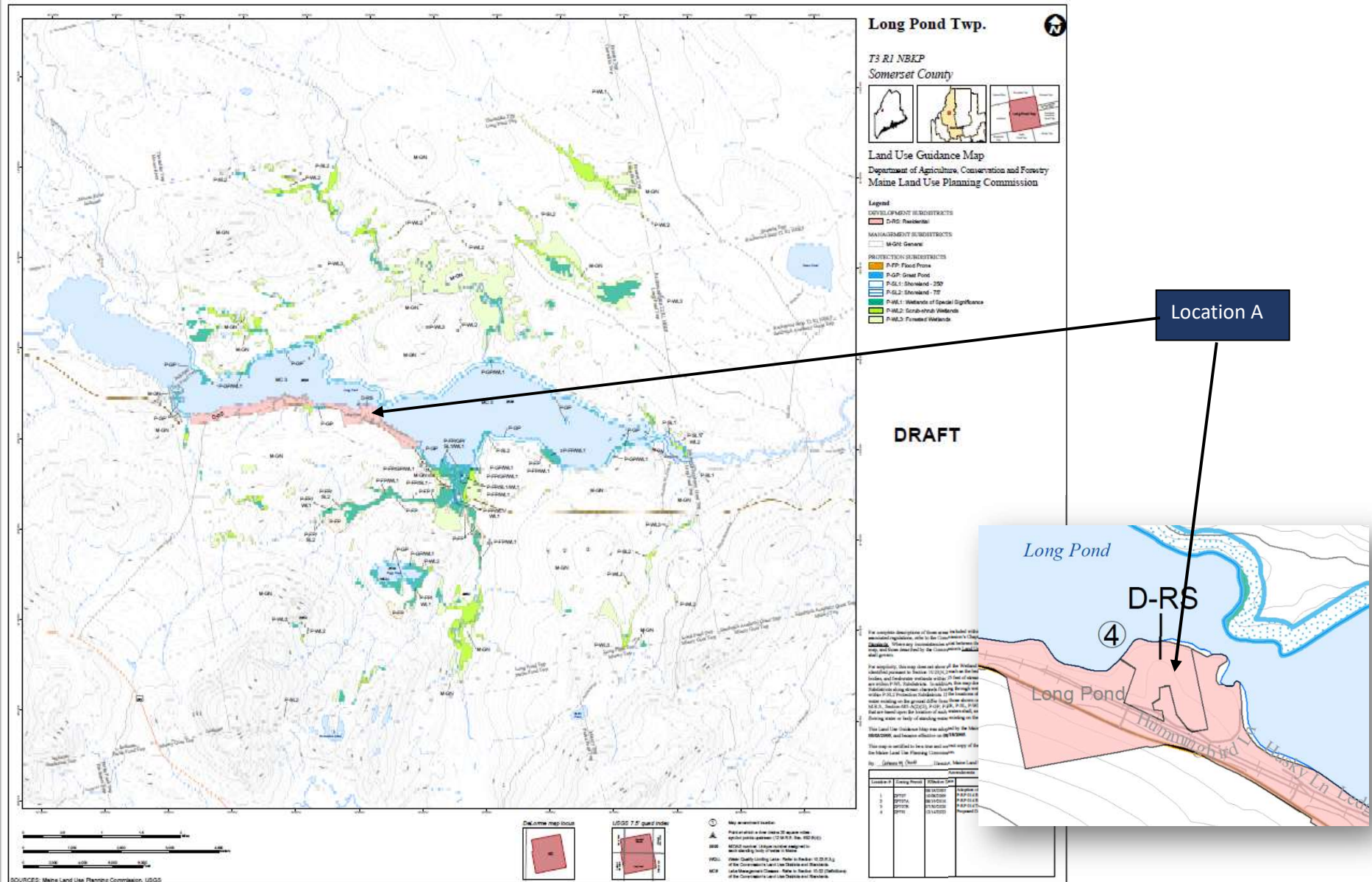




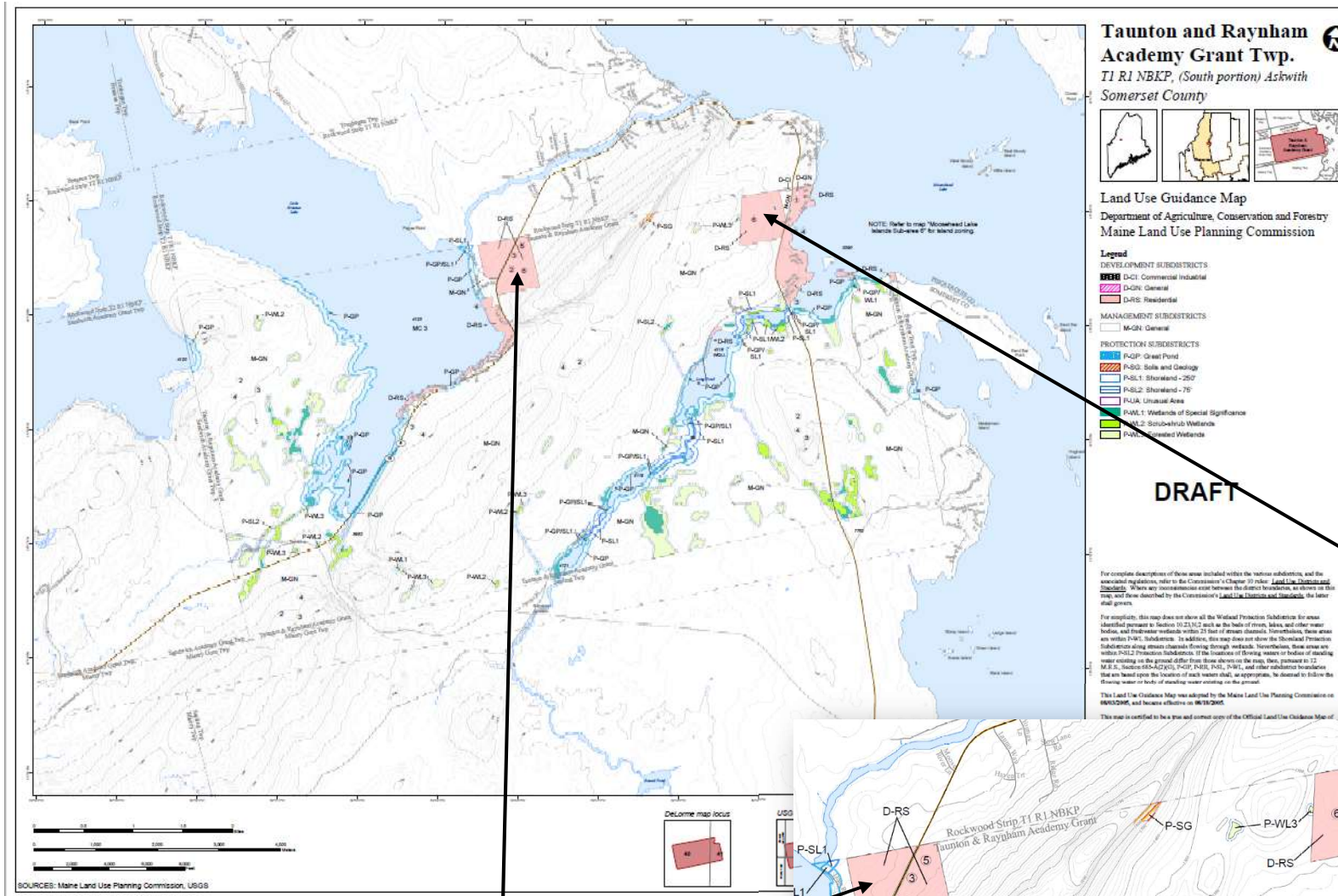
# Attachment 3.2 – Big Moose Township - Proposed Land Use Guidance Map



# Attachment 3.3 – Long Pond Township - Proposed Land Use Guidance Map



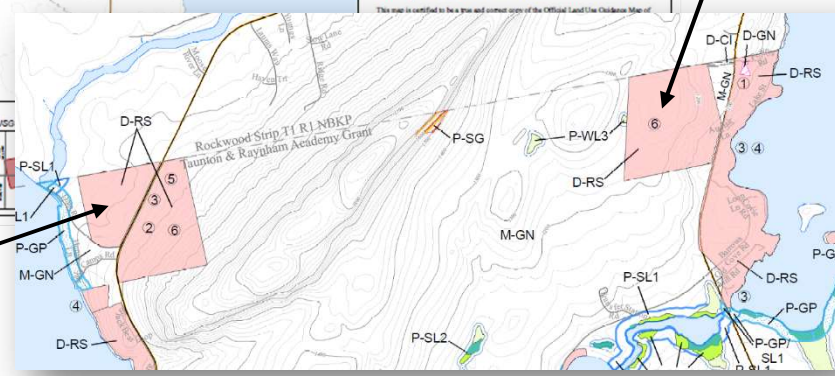
# Attachment 3.4 – Taunton and Raynham Academy Grant - Proposed Land Use Guidance Map



DRAFT

Location D

Location B



**Moosehead Regional Planning**

**Commission Memorandum 12/07/2022**

**Attachment 4. Draft Zoning Decision**

**ZP 791**



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
106 HOGAN ROAD, SUITE 8  
BANGOR, MAINE 04401

AMANDA E. BEAL  
COMMISSIONER

JANET T. MILLS  
GOVERNOR

STACIE R. BEYER  
ACTING EXECUTIVE DIRECTOR

COMMISSION DECISION  
IN THE MATTER OF

**Staff, Maine Land Use Planning Commission**

**Findings of Fact and Decision**

**ZONING PETITION ZP 791**

The Maine Land Use Planning Commission (Commission), at a hybrid meeting held on December 14, 2022, after reviewing the petition and supporting documents submitted by the Land Use Planning Commission staff for Zoning Petition ZP 791, review of agency and public comments, and other related materials on file, pursuant to 12 M.R.S. Sections 681 *et seq.* and the Commission's Land Use Standards and Rules, finds the following:

1. **Applicant:** Commission Staff (Attn: Stacy Benjamin)  
Maine Land Use Planning Commission  
22 State House Station  
Augusta, Maine 04333-0022
2. **Completed Petition:** September 27, 2022
3. **Location of Proposal:**
  - A. Beaver Cove, Piscataquis County, Maine, Beaver Cove Map PIP01, Portion of Plan 1, Lot 1 (*reference Moosehead Regional Planning Package Location F*)
  - B. Big Moose Township, Piscataquis County, Maine, Portion of Maine Revenue Service (MRS) Map PI009, Plan 01, Lot 1.13 (*reference Moosehead Regional Planning Package Location E*) and Portion of Map PI009, Plan 01, Lot 1 (*reference Moosehead Regional Planning Package Location I*)
  - C. Long Pond Township, Somerset County, Maine, MRS Map SO034, Plan 04, Lot 3 (*reference Moosehead Regional Planning Package Location A*)
  - D. Taunton and Raynham Academy Grant Township, Somerset County, Maine, MRS Map SO031, Plan 05, Lots 3.1 and 4 (*reference Moosehead Regional Planning Package Location B*) and Portion of MRS Map SO031, Plan 05, Lot 16.1 (*reference Moosehead Regional Planning Package Location D*)

4. **Current Zoning:** General Management Subdistrict (M-GN) and various wetland protection subdistricts.

5. **Proposed Zoning:**

- Beaver Cove – Location F – General Development Subdistrict (D-GN), ±7.2 acres
- Big Moose Township – Location E – General Development Subdistrict (D-GN), ±496 acres
- Big Moose Township – Location I – Residential Subdistrict (D-RS), ±240 acres
- Long Pond Township – Location A – Residential Subdistrict (D-RS), ±15 acres
- Taunton & Raynham Academy Grant – Location B – Residential Subdistrict (D-RS), ±160 acres in two parcels
- Taunton & Raynham Academy Grant – Location D – Residential Subdistrict (D-RS), ±118 acres

6. **Proposed Total Area to Be Rezoned:** ±1,036 acres

7. **Affected Waterbodies:**

A. Brassua Lake

The Commission has identified Brassua Lake as a Management Class 3, resource class 1B, accessible, developed lake with the following resource ratings: significant fisheries resources and outstanding cultural resources.

B. Long Pond

The Commission has identified Long Pond as a Management Class 3, resource class 1A, accessible, developed lake with the following resource ratings: significant fisheries resources, significant wildlife resources, outstanding scenic resources, significant shore character, and significant cultural resources.

C. Moosehead Lake

The Commission has identified Moosehead Lake as a Management Class 3, resource class 1A, accessible, developed lake with the following resource ratings: outstanding fisheries resources, outstanding wildlife resources, outstanding scenic resources, outstanding shore character, outstanding botanic resources, outstanding cultural resources, and outstanding physical resources.

8. **Current Conditions:** The primary use of each subject location is commercial forest management, and the sites are undeveloped. Non-intensive public recreation also occurs in each area.

## I. PROJECT DETAILS AND PUBLIC PROCESS

### 9. Background and Administrative History

- A. Termination of Concept Plan: When the Moosehead Lake Region Concept Plan was terminated in July of 2020, the entire area subject to the Concept Plan, including identified development areas, was rezoned to the General Management Subdistrict, or to a range of protection subdistricts based on resources present such as streams, shorefront, steep slopes, wetlands, and wildlife habitat. As part of the termination process, Weyerhaeuser Company and Weyerhaeuser NR Company, the property owner, agreed to provide an opportunity for residents and stakeholders to participate in planning for future land uses in these areas. The goal was to seek input about what types of development would be suitable in certain areas and to ensure adequate protections for highly valued natural resources. LUPC staff, with stakeholder input, designed and led a regional planning process with a goal of final Commission approval of any zoning changes or rule revisions by the end of 2022.

Planning Process: Staff first obtained feedback from the community on the proposed regional planning process, including geographic scope, community concerns, and areas appropriate for conservation or development. This feedback was used to develop a map-based online survey to gather more in-depth information from the public and other stakeholders about locations that matter to them. The initial feedback and survey data were used to develop four Discussion Scenario Maps of future land use scenarios involving zoning changes and/or rule changes (e.g., removal of Primary or Secondary Locations). In the fall of 2021, staff sought community feedback on the Discussion Scenario Maps by posting them to the project website and hosting both in person and virtual public meetings in the Moosehead Region.

Feedback on the Discussion Scenario Maps from written comments and public meetings, combined with additional research and deliberation, were all synthesized to develop a draft Moosehead Regional Planning Package that was presented to the Commission at its regular business meeting on May 11, 2022. With Commission input, during the summer of 2022, staff sought community feedback on the draft package through written comments, public meetings, and targeted outreach to potentially affected landowners, and then used this feedback to refine the proposals. At its regular business meeting on September 12, 2022, the Commission posted the revised Moosehead Regional Planning Package to a 30-day public comment period.

This action implements the prospective zoning component of the revised Moosehead Regional Planning Package dated September 2022. Information and comments regarding the complementary rulemaking component can be found in the Basis Statement and Summary of Comments for Amendments to Chapter 10: Land Use Districts and Standards Regarding Rule Revisions to Refine the Location of



Development Criteria and Revise Primary and Secondary Locations in the Moosehead Lake Region.

- B. Prospective Zoning: Six new development zones in four minor civil divisions are proposed to be created as described in Table 1 below. Please see draft township maps for subdistrict boundaries. These locations were all designated as development areas under the former Concept Plan for the Moosehead Lake Region and are located near designated Rural Hubs. Proposed development zoning for these areas includes both D-GN and D-RS subdistricts. The six development zones comprise a total of approximately 1,036 acres, or 6.1% of the 16,910 acres originally designated for development in the now-terminated Moosehead Lake Region Concept Plan

**Table 1. Locations for New Development Subdistricts**

Minor Civil Division	Location Designation	Proposed Subdistrict/ Size
Long Pond Township	Location A	D-RS (Residential) / ±15 acres
Taunton and Raynham Academy Grant	Location B	D-RS (Residential) / ±160 acres (2 parcels)
Taunton and Raynham Academy Grant	Location D	D-RS (Residential) / ±118 acres
Big Moose Township	Location E	D-GN (General Development) / ±496 acres
Beaver Cove	Location F	D-GN (General Development) / ±7.2 acres (2 areas)
Big Moose Township	Location I	D-RS (Residential) / ±240 acres

**10. Public Notice and Comment**

- A. Criteria: Notice as described by Sections 4.04(B)(3)(a)(2) and (3) of the Commission’s *Rules of Practice*, 01-672 C.M.R. Ch. 4, last revised November 01, 2021 (Chapter 4), is required for applications for zone changes. The Commission staff may provide, or require an applicant to provide, additional notice related to an application in any manner the Commission staff deems appropriate. Chapter 4, § 4.04(A)(3)(b).
- B. Analysis: The Moosehead Regional Planning Project has been in progress since July 2020. During that time, eight community meetings, either in-person in Greenville or virtual, have been held to gain input into the planning process. Each of these meetings was publicized through multiple methods: website postings, GovDelivery notices, printed posters, or targeted mailings. Twelve GovDelivery notices have been sent during the course of the planning process. In addition, printed notices regarding the proposal were sent to two hundred property owners in the region potentially affected by the rule

changes proposed as part of the planning package. Two landowner meetings were also held. A project website was created at the outset of the planning process, and regularly updated with information and materials related to the regional planning project.

Specific to this rezoning petition, at its September meeting, the Commission directed staff to post the revised Moosehead Regional Planning Package for a 30-day public comment period. On September 28, 2022, notice of filing of the application for zone change was sent by postal mail to all persons owning or leasing land within 1,000 feet of the proposed areas for rezoning, the County Commissioners of Piscataquis and Somerset Counties, and the towns of Greenville and Beaver Cove. Notice was also sent by e-mail to resource agencies (see below) and interested persons. Because the Package includes proposed changes to Chapter 10 of the Commission's rules, notice of the rezoning was included in the Secretary of State's notice for the rulemaking published in multiple newspapers across Maine. The proposed Package was posted on the Commission's website, along with instructions describing how to comment on the Package and how to obtain additional information.

- C. Agency Review: Copies of the zoning petition materials were sent to the Maine Bureau of Parks and Lands, Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine Historic Preservation Commission, Maine Forest Service, Maine Department of Transportation, and the U.S. Fish and Wildlife Service for review.
- D. Written Comments: The public comment period opened on September 28, 2022 and closed on October 31, 2022. The Commission received 28 written comments on the revised Moosehead Regional Planning Package. In addition, staff received one inquiry from a private landowner with general questions. No requests for a public hearing were received. A summary of comments and responses is provided below.

1) *Topic: Comments on Locations*

**Location A:** Two commenters opposed the inclusion of Location A in Long Pond Township. In addition, the Maine Historic Preservation Commission commented that a Phase II archaeology survey is required before any development proposal can be submitted for this location due to the presence of potentially significant archaeological resources.

**All Locations:** The U.S. Fish and Wildlife Service noted activities with a federal nexus occurring at any of the six locations (i.e., Locations A, B, D, E, F, and I) would likely require Section 7 consultation for the federally endangered northern longeared bat and the federally threatened Canada lynx. In addition, USFWS is currently considering the following species for listing under the ESA: tricolored bat, monarch butterfly, little brown bat, wood turtle, and northern bog lemming. Each of these species may occur in or near the rezoned parcels.

**Commenter(s):** E. Dubois; E. Townsend, AMC; Maine Historic Preservation Commission; U.S. Fish and Wildlife Service

**Response:** Location A was included in the prospective zoning package because it is a smaller parcel completely surrounded by an existing Residential Development

subdistrict (D-RS) and rezoning it to D-RS eliminates the zoning outlier. Because of the nature of the site, its location and configuration, and the requirement for a Phase II archaeology survey, we anticipate scale and intensity of any future development will be limited and similar to surrounding development. Regarding the comments from USFWS, the Commission's current practice is to consult with USFWS while reviewing development permit applications to identify potential adverse impacts to species of federal concern, and the LUPC will continue this practice in the area proposed for rezoning. LUPC expects that any potential adverse impacts to listed species may be addressed during permitting, by incorporating recommendations and permit conditions that limit potentially harmful development or other activities.

**Action(s):** The requirement for a Phase II archaeology survey for Location A will be noted in the LUPC GIS and Geographic-oriented Action Tracker (GOAT) databases to ensure permitting staff are aware of the requirement should any future development proposals be submitted.

2) *Topic: Comments Regarding Additional Protections*

Multiple commenters expressed a desire for more protections for fish and wildlife in the region. Commenters also noted the economic importance of keeping the northern forest intact for recreation and tourism, and the impact inappropriately located development could have on the region's dark skies.

Commenter(s): D. McCormick; M. Keady; N. Hathaway; R. Osann; S. Scholar; T. Allen; R. Bourassa; E. Emrich, D. Wheeler; G. Johnson; A. Harris; S. Neily

Response: LUPC protection subdistricts are specialized zones designed to limit impacts to specific resources such as, but not limited to, shorelines, aquifers, steep slopes, significant wildlife habitat, or wetlands. Areas included in these specialty subdistricts must meet specific criteria. Proposed development must be in compliance with LUPC standards to protect natural and cultural resources at the site level. As part of the LUPC permitting process, natural resource agencies review and comment on development permit applications to ensure that significant resources are not adversely impacted by proposed development.

Regarding the economic importance of keeping the northern forest intact and maintaining the dark night sky, staff believe the implementation of the Planning Package will focus more intensive development as desired by creating development subdistricts near hubs and removing the potential for rezoning to more intensive development subdistricts in certain MCDs. The region also includes nearly 400,000 acres of permanently conserved lands that will effectively limit fragmentation as a result of development. In terms of lighting, the LUPC has standards for lighting in place, applied during the permitting process, to minimize impacts from development that does occur. The LUPC will be evaluating the efficacy of these standards in the near future. **Action(s):** No action taken.

3) *Topic: Comments in support of the proposal*

Multiple commenters expressed support for the prospective zoning proposal and the Moosehead Regional Planning Package as a whole.

**Commenter(s):** E. Dubois; D. McCormick; D. Smith; K. Young; M. Keady; M. Tupper; R. Osann; S. Scholar; T. Allen; R. Bourassa; D. Boxer; L. Woods; S. Gilpin; D. Wheeler; V. Lenk; L. Taylor; A. Harris; M. Sturm, NRCM; E. Townsend, AMC; G. Johnson; J. Whitney; S. Neily; S. Farrand

**Response:** The Commission acknowledges and appreciates the public feedback on this prospective zoning proposal.

**Action(s):** No action taken.

- E. Finding: Based on the analysis in #10.B above, considerable effort has been made to garner public participation in this regional planning process. After all notices, the rezoning proposal was held for sufficient time to allow for public comments and requests for a public hearing. Therefore, the Commission finds that the prospective zoning changes were properly noticed consistent with the intent of applicable sections of Chapter 4, §§ 4.04(B)(3)(a)(1),(2), and (3), and 4.04(A)(3)(b).

## II. GENERAL CRITERIA FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

A land use development district boundary may not be adopted or amended unless it meets the Location of Development criteria; there is substantial evidence that the proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of Chapter 206-A; and there is substantial evidence that the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area. 12 M.R.S. § 685-A(8-A) of the Commission's statute and restated in Section 10 § 10.08(A) of the Commission's Land Use Districts and Standards, 01-672 C.M.R. Ch. 10, last revised March 29, 2022 (Chapter 10).

### 11. Location of Development Criteria

- A. Criteria: To satisfy the general criteria contained in 12 M.R.S. § 685- A(8-A) and restated in Chapter 10, § 10.08(A), a petitioner proposing the adoption or amendment of a development subdistrict must demonstrate that the proposed subdistrict is consistent with the sections of the Comprehensive Land Use Plan (CLUP) relevant to the location of development (for additional CLUP criteria, see #13 below). The CLUP addresses the location of development through multiple goals and policies and ultimately are implemented in rule in Chapter 10, § 10.08(B). To demonstrate that the adoption of a General Development (D-GN) subdistrict or Residential (D-RS) subdistrict is consistent

with the portions of the CLUP that address the location of development, the Commission must find:

- 1) *Emergency Services*: The county, a nearby municipality, or other service provider is willing to and will be able to provide fire and ambulance services, for the land uses allowed in the proposed subdistrict;
- 2) *Compatibility*: The land uses allowed in the proposed subdistrict shall be compatible with other uses and resources, and reduce or minimize land use conflicts;
- 3) *Character*: The land uses allowed in the proposed subdistrict shall not unreasonably alter the character of the area;
- 4) *Area for Development*: Proposed D-GN subdistricts shall be located in a Primary Location, and proposed D-RS subdistricts shall be located in a Primary or Secondary Location;
- 5) *Access to Development*: The land within the proposed subdistrict shall be accessible from a public road by a legal right of access in accordance with Section 10.08-A,E.

**B. Analysis:**

- 1) Local emergency management officials in the nearby rural hubs of Greenville, Jackman, and Rockwood were notified of the proposed development locations and were consulted during the planning process. No concerns were expressed regarding the provision of emergency services.
- 2) Each of the six development areas is located near existing, compatible development and all are proximate to public roads.
- 3) The prospectively zoned areas were selected specifically to minimize impacts from development on the character of the region as a whole, based on feedback received from the community during the planning process. Future development proposals for a specific location will undergo thorough review during the permitting process, including consistency with the Commission's Scenic Character standards (Section 10.25,E).
- 4) All six development areas meet the requirements for Primary Locations and are being prospectively rezoned to accommodate future development as part of a balanced approach that also includes township-level removal of Primary Locations in Big Moose Township, Taunton and Raynham Academy Grant, and Long Pond Township, among others.
- 5) All six development areas have legal right of access from a public road.

- C. Finding:** Based upon the analysis presented in #11.A, and analysis of the entire proposal, the locations described in this section proposed for D-GN and D-RS subdistricts meet the requirements of the Location of Development Criteria. Therefore, the Commission finds that the proposed prospectively zoned subdistricts are consistent with the Location of Development criteria in effect at this time in accordance with 12 M.R.S. § 685-A(8-A) of the Commission's statute and restated in Chapter 10 § 10.08(A).

## 12. Consistency with Standards in Effect for District Boundaries

- A. Criteria: A land use district boundary may not be adopted or amended unless there is substantial evidence that the proposed land use district is, among other criteria, consistent with the standards for district boundaries in effect at the time. 12 M.R.S. § 685-A(8-A)(A) as restated in Chapter 10, § 10.08(A)(1).
- B. Analysis:
- 1) *Chapter 10, Section 10.21, C – General Development Subdistrict (D-GN)*: “The purpose of the D-GN subdistrict is to recognize existing patterns of development in appropriate areas and to encourage further patterns of compatible development therein and adjacent thereto. It is the Commission's intent to promote these areas as future growth centers in order to encourage the location of compatible developments near each other and to minimize the impact of such development upon incompatible uses and upon public services and facilities. Thus the Commission's purpose is to encourage the general concentration of new development, and thereby avoid the fiscal and visual costs of sprawl, and to provide a continuing sense of community in settled areas. The proposed D-GN zones are intended to accommodate current non-residential development, future landowner plans for commercial uses, and future residentially compatible commercial development.”
    - a) Location E in Big Moose Township is adjacent to existing commercial and residential development and near the rural hub of Greenville. It is also near the Big Moose Mountain ski resort. Locating residential-scale, mixed-use development in this area will “encourage the general concentration of new development” and will accommodate “future landowner plans for commercial uses, and future residentially compatible commercial development.” Much of the surrounding area is permanently protected by conservation easement or public ownership, and prospectively zoning this area for development helps ensure adequate space near Greenville and the ski mountain is available for future growth. This future availability also helps balance the removal of Primary Locations in Big Moose Township by limiting the potential for future rezoning for additional development.
    - b) Location F in Beaver Cove consists of two areas on either side of the Beaver Cove Town Office and located in a Primary Location near existing commercial and residential developments, including a large D-RS subdistrict located on the other side of the road. The prospectively zoned area allows for “compatible development” near the Town Office and can help create a “continuing sense of community” in the area.
  - 2) *Chapter 10, Section 10.21, M – Residential Subdistrict (D-RS)*: “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.”

- a) Location A in Long Pond Township is surrounded by D-RS subdistrict and existing residential development on Long Pond, a Management Class 3 Lake. The location is suitable for compatible residential development pending a Phase II archaeological survey, to be completed when a proposal for development in this location is made, and ensuring identified archaeological resources are adequately recorded and protected to avoid adverse effects (see 10.D above and 15.B.2.b. below).
- b) Locations B and D in Taunton and Raynham Academy Grant Township are both located just south of the Rockwood boundary and near existing residential development areas. Rezoning of these areas for residential development allows for the future concentration of residential development in places where public services can be efficiently provided.
- c) Location I in Big Moose Township is proximate to both the Town of Greenville and the Big Moose Mountain ski area. Prospectively rezoning this location to D-RS provides an opportunity to help meet the identified need for attainable housing in the region by allowing for future residential development in a location that does not include more costly shorefront or direct access to the ski mountain. As with Location E, much of the surrounding area is permanently protected by conservation easement or public ownership, and prospectively zoning this area for development helps ensure that a reasonable amount of space near Greenville and the ski mountain is available for future development. This future availability also helps balance the removal of Primary Locations in Big Moose Township.

C. Finding: Based upon the analysis presented in #12.B, together with the analysis and finding in #11 above regarding the location of development, the locations described herein proposed for D-GN and D-RS subdistricts meet the descriptions of and are consistent with the purposes of each subdistrict and the Location of Development criteria. Therefore, the Commission finds that the proposed prospectively zoned subdistricts are consistent with the standards for district boundaries in effect at this time in accordance with 12 M.R.S. § 685-A(8-A) of the Commission’s statute and restated in Chapter 10 § 10.08(A).

**13. Consistency with the Comprehensive Land Use Plan (CLUP):**

C. Criteria: Pursuant to 12 M.R.S. § 685-C(1), the Commission has adopted a Comprehensive Land Use Plan, ver. 2010 (CLUP) that guides the Commission in developing specific land use standards, delineating district boundaries, siting development, and generally fulfilling the purposes of the Commission’s governing statute. The CLUP includes goals, policies and principles that address, among other items, the location of development, the value of economic development, and natural and

cultural resources, which the Commission evaluates regarding a proposal's consistency with the CLUP.

- 1) *Broad Goals of the Commission* (CLUP, pg. 5). "Support and promote the management of all the resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine and property owners and residents of the unorganized and deorganized townships, to ensure the separation of incompatible uses and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction."
- 2) *Location of Development Goals and Policies* (CLUP, pg. 6). The location of development goals outlined in the CLUP guides the location of new development to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another, and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships. One policy states that the location of development, at the jurisdiction-wide level, must "Provide for a sustainable pattern of development, consistent with historical patterns, which directs development to suitable areas and retains the principal values of the jurisdiction, which includes a working forest, integrity of natural resources, and remoteness." A second policy directs the Commission to consider the location of develop at the regional level and "Undertake prospective zoning within certain areas of the jurisdiction where there is a need to achieve balance between expected development pressures and high resources values in order to provide greater regulatory predictability."
- 3) *Water Resources Goal* (CLUP, pg. 18). "Preserve, protect and enhance the quality and quantity of surface waters and groundwater."
- 4) *Wetland Resources Goal* (CLUP, pg. 19). "Conserve and protect the ecological functions and social and economic values of wetland resources."
- 5) *Cultural Resources Goal* (CLUP, pg. 13). "Identify and protect unique, rare and representative cultural resources to preserve their educational, scientific and social values."

B. Analysis:

- 1) *Broad Goals of the Commission*. The Moosehead Region is a very special place. Its stunning natural beauty, working forests, and vibrant recreation-based tourism economy create a unique and valuable regional identity. The scale of development proposed under the Concept Plan for the Moosehead Lake Region was seen by many members of the community as too intensive for the region. Upon termination of the Concept Plan, the community was able to refine their vision of future development in the region. The regional planning process was based upon sound planning practices (see 14.B below). It ensures the separation of incompatible uses by locating future development near existing development and away from areas



coveted for their remoteness and natural character, helping to ensure the availability of these places for generations to come.

- 2) *Location of Development* (see also #11 above). The Moosehead Lake region is an area where there is a recognized need to balance development pressures with the area's high resource values. During the Moosehead Regional Planning Project process, staff repeatedly heard from community members and stakeholders that new development subdistricts should be focused near Greenville and Rockwood. The six prospectively zoned locations, together with the concurrently proposed changes to Primary and Secondary Locations, provide balance and reflect the community's preference. They also provide a "reasonable range of development opportunities" through the use of both D-GN and D- RS zones. Through the regional planning process and prospectively zoning these locations for development, greater regulatory predictability is ensured for the property owners in the region.
- 3) *Natural and Cultural Resources Goals*. Consideration was given during the planning process to avoid potential resource impacts from development occurring in the prospectively zoned locations. Most of the locations were selected and configured specifically to allow for development that does not include shorefront areas or mapped wetlands to minimize future impacts. Any future development proposed will require full development permitting and review to ensure that there are not impacts to adjacent or nearby surface or ground waters, or to any wetlands subsequently identified on any of the sites. In terms of cultural resources, the Maine Historic Preservation Commission did not identify any potential historic sites on five of the the six prospectively zoned locations. Location A in Long Pond Township will require a Phase II archaeological survey prior to any development proposal (See 15.B.2.b below)

- C. Finding: The CLUP contains a range of goals, policies, and principles. The Commission, having considered the broad goals of the Commission, the location of development, regional planning, and resource protection goals, policies, and principles highlighted in this decision document, as well as the various provisions of the CLUP more generally, finds the rezoning is consistent with the Commission's *Comprehensive Land Use Plan*.

#### 14. Consistency with 12 M.R.S., Chapter 206-A

- A. Criteria: A rezoning petition may not be granted unless the proposed land use district is consistent with the purpose, intent and provisions of Title 12, Chapter 206-A. 12 M.R.S. § 681 states the Legislature "finds that it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State" to, among other things, "encourage appropriate residential, recreational, commercial and industrial land uses." 12 M.R.S. § 685-A(8-A)(A). Section 685-A(1) establishes the Commission's zoning authority: "The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that shall fall into land use districts and designate each area in one of the following major district classifications:

protection, management and development.” Section 685-C (1) required the Commission to develop the CLUP and establishes: “The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.”

- B. Analysis: The Moosehead Regional Planning Project process was conducted using sound planning strategies for community engagement, including informational meetings, a Geographic Information System-based online survey tool, targeted outreach, and multiple opportunities for public engagement. Feedback from the community was considered and incorporated in each step of the planning process. The suitability of each proposed location for development was evaluated based on numerous factors by LUPC staff and vetted with natural and cultural resource agencies. Factors evaluated include proximity to a rural hub, public services, and similar development; natural features of the sites (soils, slopes, wetlands, etc.); and the recognized need for additional areas for future development in a region with significant existing conserved lands while balancing public desire to increase protections for certain areas in the region.
- C. Finding: The Commission evaluated the petition and finds it to be consistent with Chapter 206-A and principles of sound planning, zoning, and development. Having considered the locations of the proposed development areas, the review of agency and public comments, and the record, the Commission concludes approval of the petition would be an act of sound land use planning. Therefore, the Commission concludes the proposed rezoning is consistent with the purpose, intent, and provisions of Chapter 206-A, which cumulatively are designed to promote sound planning.

#### 15. No Undue Adverse Impact on Existing Uses or Resources

- A. Criteria and standards: Pursuant to 12 M.R.S. §685-A(8-A), a land use district boundary may not be adopted or amended, among other criteria, unless there is substantial evidence that the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

- B. Analysis:

- 1) *Existing Uses*: All sites are currently undeveloped. The primary existing use on all sites is commercial forestry and timber harvesting. Incidental recreation use also likely occurs. Regionally, the Moosehead Lake area is renowned for its outstanding forest resources and recreational opportunities and is an access point for remote recreational experiences in the Maine woods. Existing uses are described in more detail for each site below.

- a) **Beaver Cove** (Location F – D-GN)

There are multiple large residential subdivisions nearby and across the road from this location, as well as the Beaver Cove Marina. The new development zones are located on either side and adjacent to the Beaver Cove town office. Access to the sites is via Lily Bay Road.

b) **Big Moose Township** (Location E – D-GN)

This site is near Harford's Point residential developments and proximate to several D-GN subdistricts including Mountain Village and Golf. It is also less than 1.5 miles to the Big Moose ski area access road. Access to the property is via Big Moose Point Road.

c) **Big Moose Township** (Location I – D-RS)

There are a few water-access only camps near this property on Moosehead Lake. It is located less than three miles from the Big Moose Mountain ski area. Access to the property is via Route 15.

d) **Long Pond Township** (Location A – D-RS)

This property is surrounded by residential development and the only commercial use nearby is forestry. Access is via Hummingbird Lane.

e) **Taunton and Raynham Academy Grant** (Location B – D-RS)

These two parcels are located just south of the Rockwood boundary and near existing residential developments in Rockwood and along the shore of Brassua Lake. They are less than one mile from the Brassua Dam. Access to both parcels is via Route 15.

f) **Taunton and Raynham Academy Grant** (Location D – D-RS)

This site is adjacent to small D-CI and D-GN zones (gas station/ market; self-storage) and there is residential development across Route 15. The Rockwood Fire Department is less than 1/4 mile away. Access to the property is via Route 15.

2) *Existing Resources:*

a) *Fish and wildlife resources:* Staff consulted with the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the U.S. Fish and Wildlife Service regarding the possible presence of rare, threatened, or endangered species, and significant wildlife habitat. MDIFW indicated that there are significant deer wintering areas near Locations F and I, and MDIFW recommends that additional consultation occur during any future development permitting processes. The configuration of these areas was altered from the originally proposed zone boundaries to respond to this concern. The U.S. Fish and Wildlife Service noted activities with a federal connection occurring at any of the six locations (i.e., Locations A, B, D, E, F, and I) would likely require Section 7 consultation for the federally listed species that may occur in or near the rezoned parcels (See Comments on Locations in 10.D above).

b) *Historic resources:* The Maine Historic Preservation Commission (MHPC) reviewed the petition and indicated that no historic, archaeological, or architectural properties would be adversely affected by the proposal as defined by Section 106 of the National Historic Preservation Act at Locations B, D, E, F, and I. Location A has at least two potentially significant archaeology sites that were identified

during the Moosehead Lake Region Concept Plan planning process. A Phase II archaeological survey will be required prior to any proposed development at this location to ensure that identified archaeological resources are adequately recorded and protected to avoid adverse effect.

- c) *Plant species and communities*: The Maine Natural Areas Program (MNAP) reviewed the petition and searched MNAP's Biological and Conservation Data System files for rare or unique botanical features in the vicinity of the Project area and indicated that, according to their current information, there are no rare botanical features that would be disturbed within the proposed development areas.
  - d) *Mountain areas, geologic resources, and soils*: There are no mountain areas or significant geologic resources identified within the proposed development areas. Soils were reviewed using soil map unit data obtained using the U.S. Department of Agriculture's (USDA) National Resource Conservation Service's (NRCS) Soils Survey Geographical database for Piscataquis and Somerset Counties, Maine. Soils vary by location and are typical of the region, including various associations of Telos, Chesuncook, and Elliotsville soils, among others. Any development permitting will require soil suitability analysis for on site septic disposal.
  - e) *Bodies of standing water, flowing water, and freshwater wetlands*: Location A in Long Pond Township is the only prospectively zoned site with frontage on a great pond. The Commission has identified Long Pond as a Management Class 3, resource class 1A, accessible, developed lake with the following resource ratings: significant fisheries resources, significant wildlife resources, outstanding scenic resources, significant shore character, and significant cultural resources. The other sites may have small unnamed streams or freshwater wetlands that will be identified and protected as part of any future development review.
  - f) *Significant sand and gravel aquifers, and water supplies*: None of the prospectively zoned development areas contain a significant sand or gravel aquifer nor are near any public drinking water wells.
- C. Finding: Potential impacts on existing uses and resources are considered broadly when land use districts are proposed for adoption. The Commission has made such considerations here by engaging state resource agencies to inventory natural and cultural resources, and through community engagement to gather local information. The Commission looks in greater detail at potential impacts from development during review of permit applications and would, for instance, consider special areas identified by the Maine Historic Preservation Commission and the Department of Inland Fisheries and Wildlife during a development review process in each of the prospectively zoned locations. The Commission finds that there is substantial evidence that the proposed land use districts will have no undue adverse impact on existing uses or resources in accordance with 12 M.R.S. § 685-A(8-A)(B), restated in Chapter 10, § 10.08(A)(2), provided future development proposed for any of these areas follows Commission permit review procedures and standards to ensure there are no adverse impacts to on site resources identified herein or subsequent to more detailed site analyses.

**16. The facts are otherwise as represented in the application for Zoning Petition ZP 791 and supporting documents.**

**III. FINAL CONCLUSIONS**

**Based on the above information and supporting documents, the Commission makes the following conclusions:**

1. The Commission concludes that there is substantial evidence in the record (see Finding #11C) that the proposed land use districts are consistent with the Location of Development criteria contained in Chapter 10, § 10.08(B).
2. The Commission concludes that there is substantial evidence in the record (see Finding #12C) that the proposed land use districts are consistent with the standard for district boundaries in effect at this time, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) restated in Chapter 10, § 10.08(A)(1).
3. The Commission concludes that there is substantial evidence in the record (see Finding #13C) that the proposed land use districts are consistent with the *Comprehensive Land Use Plan*, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) restated in Chapter 10, § 10.08(A)(1).
4. The Commission evaluated the petition with respect to consistency with 12 M.R.S. ch. 206-A and the principles of sound planning, zoning, and development (see Finding #14C). Having considered the location of proposed development subdistricts and the record as a whole, the Commission concludes approval of the petition would be an act of sound land use planning, and that the proposed prospective rezoning is consistent with the purpose, intent and provisions 12 M.R.S. ch. 206-A, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) restated in Chapter 10, § 10.08(A)(1).
5. The Commission concludes that there is substantial evidence in the record (see Finding #15C) that the proposed land use districts have no undue adverse impact on existing uses or resources, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(B) restated in Chapter 10, § 10.08(A)(2).

**Therefore, the Commission approves the staff-initiated petition to prospectively rezone the following locations pursuant to the revised Moosehead Regional Planning Package<sup>1</sup>:**

- 1) Beaver Cove – Location G – General Development Subdistrict (D-GN), ±7.2 acres
- 2) Big Moose Township – Location E – General Development Subdistrict (D-GN), ±496 acres
- 3) Big Moose Township – Location I – Residential Subdistrict (D-RS), ±240 acres
- 4) Long Pond Township – Location A – Residential Subdistrict (D-RS), ±15 acres
- 5) Taunton & Raynham Academy Grant – Location B – Residential Subdistrict (D-RS), ±160 acres in two parcels
- 6) Taunton & Raynham Academy Grant – Location D – Residential Subdistrict (D-RS), ±118 acres

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<sup>1</sup> For specific locations refer to #3 above or the [Moosehead Regional Planning Package](#).

In accordance with 5 M.R.S. § 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.

DONE AND DATED AT A HYBRID COMMISSION MEETING

THIS 14<sup>TH</sup> DAY OF DECEMBER 2022.

By: \_\_\_\_\_

Stacie R. Beyer, Acting Executive Director

These changes in subdistrict designations are effective on December 30, 2022.

# **Moosehead Regional Planning**

**Commission Memorandum 12/07/2022**

## **Attachment 5. Proposed Rule Revisions in Redline**

MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

**MAINE LAND USE PLANNING COMMISSION**

**Draft 2022 Moosehead Regional Planning Chapter 10 Rulemaking**

September 14, 2022 Draft

Proposed changes are shown in strikeout and underline format with additions in underlined text, deletions as ~~striketroughs~~, and relocations within the same chapter as double underline and double ~~striketroughs~~.

*Where necessary, further explanations of some changes have been included in [brackets]. These explanatory notes will not be included in the final rule.*

**[REVISION NOTE: The following edits both implement actions stemming from the 2020-2022 Moosehead Regional Planning Process and reorganize the section to better distinguish primary and secondary locations designated based on original core adjacency principles versus changes made for other reasons. Consistent with the provisions of Section 10.08,B,3,b, these edits also stipulate that any future changes to primary and secondary areas may only occur in response to a regional planning process that is comprehensive and balanced, and must not occur on a township by township basis.]**



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## 10.08-A LOCALITIONAL FACTORS FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

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### A. PURPOSE

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Locating most new subdistricts for commercial activities and residential subdivisions close to existing development and public services reduces public costs; improves the economic health of existing communities; protects important habitat; and minimizes interference with natural resource based activities such as forestry, agriculture, and recreation. In some cases, land uses that must be conducted near a natural resource or are closely tied to a natural resource should be allowed to locate away from development to ensure a continued natural resource-based economy and a reasonable opportunity for residential development in select locations.

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### B. RURAL HUBS

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The following minor civil divisions are rural hubs: Ashland, Bethel, Bingham, Calais, Caribou, Carrabassett Valley, Dover-Foxcroft, Eastport, Ellsworth, Farmington, Fort Kent, Gouldsboro, Greenville, Guilford, Houlton, Island Falls, Jackman, Jonesport, Kingfield, Lincoln, Lubec, Machias, Madawaska, Medway, Milbridge, Millinocket, Milo, Oakfield, Old Town, Patten, Presque Isle, Princeton, Rangeley, Rockwood Strip T1 R1 NBKP, Rumford, Saint Agatha, Unity, Van Buren, and Waterford.

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### C. PRIMARY AND SECONDARY LOCATIONS

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1. **Primary Location.** Each of the following areas within the unorganized and deorganized areas of the State, is within ~~the a~~ primary location, except as modified pursuant to Section 10.08-A,C,4:
  - a. Land within seven miles of the boundary of a rural hub that also is within one mile of a public road;
  - b. Land within a town, plantation, or rural hub within one mile of a public road;
  - b.c. Land within a township listed in Section 10.08-A,C,4,a, ~~town, plantation, or rural hub~~ that also is within one mile of a public road; and
  - e.d. Land within 700 feet of a Management Class 3 lake where the lake has no existing or potential water quality problems and soils are suitable for development.
2. **Secondary Location.** The following area within the unorganized and deorganized areas of the State is within ~~the a~~ secondary location, except as modified pursuant to Section 10.08-A,C,4:

**DRAFT – Not Agency Policy**

- a. Land within a rural hub, or in a town, township, or plantation bordering a rural hub, that is also within three miles of a public road and outside the primary location;

3. **Measuring Distance.** Measurements from a rural hub are made in a straight line from the boundary of the minor civil division. Measurements from a public road are made in a straight line from the edge of the traveled surface. Neither straight line measurement is made across major waterbodies, or interstate highways, except as follows. Measurements are made across major waterbodies, or interstate highways when the resulting primary or secondary location on the other side of such features is either directly connected by a public road that crosses the feature, or contiguous with the respective primary or secondary location.

4. **Inclusions and Exclusions to Primary and Secondary Locations.** New additions to and removals from primary and secondary locations must result from a regional planning process that addresses the location of development through a balanced and comprehensive process, such as prospective zoning or community guided planning and zoning as described in the Comprehensive Land Use Plan and applicable Commission guidance documents.

a. **Additional Land Included In Area Within Primary Locations.**

- (1) Land within one mile of a public road within the following townships is within the primary location: Benedicta Twp., Blanchard Twp., E Twp., East Moxie Twp., Greenfield Twp., Kingman Twp., Madrid Twp., Marion Twp., Moxie Gore Twp., Oxbow North Twp., Prentiss Twp., Silver Ridge Twp., T9 R5 WELS, and T9 SD BPP.

5.b. **Area Outside Land Excluded from Primary and Secondary Locations.**

- (1) Areas not eligible. ~~Notwithstanding any provision to the contrary, land~~ within the Prospective Zoning Plan for the Rangeley Lakes Region ~~shall not be~~ **is not** eligible for inclusion in the primary or secondary locations.
- (2) Areas removed or excluded. ~~The following minor civil divisions are removed or excluded from primary and secondary locations. Land within 700 feet of Management Class 3 lakes is considered separately and included in primary locations pursuant to Section 10.08-A,C,1,d, unless excluded pursuant to Section 10.08-A,C,4,b,(3). Additionally, land within the following townships shall not be eligible for inclusion within the primary or secondary location under Section 10.08-A,C,1,a or 2,a, except that land around a Management Class 3 lake is included pursuant to Section 10.08-A,C,1,c:~~ Argyle Twp., Andover West Surplus Twp., Carrying Place Town Twp., Dead River Twp., Elliottsville Twp., Johnson Mountain Twp., Lexington Twp., Mount Abram Twp., North Academy Grant Twp., Pierce Pond Twp., Redington Twp., T1 R5 WELS, T1 R6 WELS, T3 R3 WELS, T3 R4 BKP WKR, T3 R7 WELS, T4 R7 WELS, T7 SD BPP, and Upper Molunkus Twp.

**[REVISION NOTE: The following table represents the list of minor civil divisions currently listed in Section 10.08-A,C,5 (in paragraph format); edits illustrated otherwise are shown as 'tracked changes.']**

**Aroostook County**

North Yarmouth Academy Grant Twp.  
T1 R5 WELS  
T3 R3 WELS

**Piscataquis County**

Big Moose Twp.  
Bowdoin College Grant West Twp.  
Elliottsville Twp.

**DRAFT – Not Agency Policy**

Upper Molunkus Twp.

Lily Bay Twp.

**Franklin County**  
Mount Abram Twp.  
Redington Twp.

**Somerset County**  
Carrying Place Town Twp.  
Dead River Twp.  
Johnson Mountain Twp.

**Hancock County**  
T7 SD BPP

Lexington Twp.

Long Pond Twp.

**Oxford County**  
Andover West Surplus Twp.

Misery Twp.

Misery Gore Twp.

**Penobscot County**  
Argyle Twp.  
T1 R6 WELS  
T3 R7 WELS  
T4 R7 WELS

Pierce Pond Twp.

Rockwood Strip T2 R1 NBKP

Sandwich Academy Grant Twp.

Sapling Twp.

Taunton & Raynham Academy  
Grant

T3 R4 BKP WKR

Table 10.08-A-1. Areas removed or excluded from primary and secondary locations.

(3) Primary locations around MC3 lakes. Land within 700 feet of the following lakes as described below, are excluded from primary locations:

(a) The portions of Brassua Lake (#4120) in Brassua Twp., Rockwood Strip T2 R1 NBKP, and Sandwich Academy Grant Twp.;

(b) Indian Pond (#4090) in Big Moose Twp., Chase Stream Twp., Indian Stream Twp., and Sapling Twp.; and

(c) The portion of Long Pond (#2536) in Long Pond Twp.

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**D. LOCATION-DEPENDENT ACTIVITIES**

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Notwithstanding Section 10.08-A,C, certain location dependent activities may be located in accordance with the following:

1. **Resource-dependent Commercial Activity.** Subdistricts for resource dependent commercial activities may be located in areas described in the D-RD subdistrict description in Section 10.21,K.
2. **Recreation-based Residential Activity.** D-RS subdistricts for recreation-based subdivisions shall be located within one-half mile of the following:
  - a. Management Class 4 or 5 lakes;
  - b. Management Class 7 lakes that have at least five existing dwelling units, at least one existing dwelling unit per 50 acres of surface area, and at least one existing dwelling unit per one-half mile of shoreline; or

- c. Trailheads serving permanent trails that support motorized vehicles, non-motorized vehicles, or equestrian use, and have an appropriately-sized parking area and sufficient additional user capacity to serve users from the proposed residential use.
3. **Three-phase Power Dependent Activity.** D-CI subdistricts for commercial or industrial facilities that require three-phase power for operation may be established in any location that is consistent with the locational criteria of Section 10.08,B,2.

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## E. LEGAL RIGHT OF ACCESS

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When land proposed for rezoning is required to be accessible from a public road by a legal right of access, a petitioner must demonstrate a legally enforceable right to access the land by road or by water.

1. **Road Access.** A legal right of access by road exists when the land proposed for rezoning:
- a. Abuts a public road or is part of a larger parcel in common ownership that abuts a public road; or
  - b. Benefits from an easement, appurtenant to the land, that provides for vehicular access.

Under either option, if the road over which legal access is provided does not exist, it must be reasonable that the road could be built. Additionally, the access must be sufficient to support the land uses allowed in the proposed subdistrict, including any associated construction, maintenance and use of structures, and decommissioning. An easement providing for vehicular access may contain reasonable provisions to minimize the burden on the underlying fee owner, such as provisions that: allow for closure of the road during spring mud conditions; allow for closure during the winter to avoid snow plowing, provided pedestrian and snowmobile access is allowed; and establish road standards and reasonable maintenance expectations and responsibilities.

2. **Access by Water.** An enforceable right of access by water exists when the land proposed for rezoning reasonably may be accessed by boat from a public or private boat launch or ramp, provided the boat launch or ramp is accessible by road access consistent with Section 10.08-A,E,1 above. Additionally provided, when the subdivision land will be accessed by boat from a private boat launch or ramp, all lot owners will have a legally enforceable right to use and ensure continued maintenance of the boat launch or ramp.

**Moosehead Regional Planning**

**Commission Memorandum 12/07/2022**

**Attachment 6. Draft Basis Statement**

**Rule Revisions Related to the Moosehead Regional  
Planning Package Implementation**

# Maine Land Use Planning Commission

Department of Agriculture, Conservation and Forestry



## BASIS STATEMENT AND SUMMARY OF COMMENTS

FOR AMENDMENTS TO

### CHAPTER 10: LAND USE DISTRICTS AND STANDARDS REGARDING

#### RULE REVISIONS to REFINE THE LOCATION OF DEVELOPMENT CRITERIA AND REVISE PRIMARY AND SECONDARY LOCATIONS IN THE MOOSEHEAD LAKE REGION

December 7, 2022

#### STATUTORY AUTHORITY:

12 M.R.S. § 685-A, Subsection (1)  
12 M.R.S. § 685-A, Subsection (7-A)  
12 M.R.S. § 685-A, Subsection (8-A)  
12 M.R.S. § 685-C, Subsection (5)(A)

#### EFFECTIVE DATE OF THE RULE AMENDMENT:

#### FACTUAL AND POLICY BASIS FOR THE RULE AMENDMENT:

##### Overview

The primary objective of this rulemaking is to implement actions stemming from the 2020-2022 Moosehead Regional Planning Process. The amendments allow for the modification of Primary and Secondary Locations, which are part of the Commission's application of the Location of Development policy (also called the adjacency principle), resulting from a balanced and comprehensive regional planning process. The proposed revisions also remove Primary and Secondary Locations in the Moosehead Region (thereby limiting the potential for rezoning for certain types of commercial and residential development) in ten minor civil divisions and in certain shorefront areas around Management Class 3 (MC-3) lakes. The amendments also reorganize and clarify the section to better distinguish the Primary and Secondary Locations designated based on application of the Location of Development policy, versus changes made as the result of a balanced and comprehensive regional planning process.

Key changes to the rules include:

- Primary and Secondary Locations. The revisions modify Section 10.08-A of Chapter 10 to allow for adjustments to the locational factors that apply to adoption or amendment of land use district boundaries through a comprehensive regional planning process. Examples of regional planning processes include prospective zoning or community guided planning and zoning as described in the Comprehensive Land Use Plan and applicable Commission guidance documents.
- Moosehead Region. The revisions remove Primary and Secondary Locations from the following minor civil divisions (MCDs) and Management Class 3 lakes in the Moosehead Region:
  - Big Moose Township (*entire MCD*)
  - Bowdoin College Grant West (*entire MCD*)
  - Lily Bay Township (*entire MCD*)
  - Long Pond Township (*entire MCD*)
  - Misery Township (*entire MCD*)
  - Misery Gore Township (*entire MCD*)
  - Rockwood T2R1 NBKP (*entire MCD*)
  - Sandwich Academy Grant (*entire MCD*)
  - Sapling Township (*entire MCD*)
  - Taunton and Raynham Academy Grant (*entire MCD excluding the Primary Location around the portion of Brassua Lake within the township*)
  - Indian Pond (*entire shoreline*)
  - Brassua Lake (*Portions of the shoreline in Brassua Township, Rockwood Strip T2 R1 NBKP, and Sandwich Academy Grant*)
  - Long Pond (*Portion of shoreline in Long Pond Township*)

This rulemaking implements the Location of Development component of the revised Moosehead Regional Planning Package proposed in September 2022. Zoning Petition 791 implements the companion prospective zoning component of the proposal and includes information and public comments related to the specific areas proposed to be rezoned for development as a result of the planning process.

### **Background on the Location of Development Rules**

The Location of Development policy provides an initial screen for where new zones for development of a residential subdivision or commercial businesses<sup>1</sup> can be proposed. The policy guides most development toward existing development and away from undeveloped areas. This helps lower tax burdens, ensures land remains available for forestry, agriculture, and recreation, and promotes the health of existing communities.

The Location of Development policy changed fundamentally with the 2019 Adjacency and Subdivision Rulemaking. It shifted to a new system that:

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<sup>1</sup> Resource dependent businesses can locate outside of Primary Locations. Examples include operations that process forest products to reduce bulk, gear rental for recreation in areas further from town, agritourism, and trail centers that need certain kinds of terrain and open space to operate.

- Pre-identifies locations (called Primary and Secondary Locations) suitable for most types of development near a town where services can be provided based on distance from rural hubs and public roads; and
- Allows for recreation-dependent or resource-dependent development to locate farther from town (and outside of Primary or Secondary Locations).

During the 2019 Adjacency and Subdivision Rulemaking process, Primary and Secondary Locations were added or removed in specific places based on local or regional input about service provision, access, and other topics. When the 2019 Location of Development rule changes were adopted, the Commission recognized that further refinement would likely be necessary in some regions, and if undertaken should be based on a community planning process.

The Moosehead Regional Planning Project has been a community-guided planning process resulting from the unexpected termination of the Moosehead Lake Region Concept Plan, which encompassed over 400,000 total acres. The Plan and accompanying permanent conservation easement were influential in economic development and other planning efforts in the region in recent years. At the time of the 2019 Adjacency rulemaking, the Concept Plan was in place. When the Concept Plan was terminated, a large amount of acreage formerly designated for future development became available for consideration in a regional planning process. Regional planning was possible because the acreage was no longer pre-determined for development, and because the landowner agreed not to submit any development proposals to allow for the Commission to complete a regional planning and zoning process.

### **Planning Process Summary**

When the Moosehead Lake Region Concept Plan was terminated in July of 2020, the entire area subject to the Concept Plan, including identified development areas, was rezoned to the General Management Subdistrict, or to a range of protection subdistricts based on resources present such as streams, shorefront, steep slopes, wetlands, and wildlife habitat. As part of the termination process, Weyerhaeuser Company and Weyerhaeuser NR Company, the property owner, agreed to provide an opportunity for residents and stakeholders to participate in planning for future land uses in these areas. The goal was to seek input about what types of development would be suitable in certain areas and to ensure adequate protections for highly valued natural resources. LUPC staff, with stakeholder input, designed and led a regional planning process with a goal of final Commission approval of any zoning changes or rule revisions by the end of 2022.

Staff first obtained feedback from the community on the proposed regional planning process, including geographic scope, community concerns, and areas appropriate for conservation or development. This feedback was used to develop a map-based online survey to gather more in-depth information from the public and other stakeholders about locations that matter to them. The initial feedback and survey data were used to develop four Discussion Scenario Maps of future land use scenarios involving zoning changes and/or rule changes (e.g., removal of Primary or Secondary Locations). In the fall of 2021, staff sought community feedback on the Discussion Scenario Maps by posting them to the project website and hosting both in person and virtual public meetings in the Moosehead Region.

Feedback on the Discussion Scenario Maps from written comments and public meetings, combined with additional research and deliberation, were all synthesized to develop a draft



Moosehead Regional Planning Package that was presented to the Commission at its regular business meeting on May 11, 2022. With Commission input, during the summer of 2022, staff sought community feedback on the draft package through written comments, public meetings, and targeted outreach to potentially affected landowners, and then used this feedback to refine the proposals. At its regular business meeting on September 12, 2022, the Commission posted the revised Moosehead Regional Planning Package to a 30-day public comment period.

**Changes to the Location of Development Policy in the Moosehead Region**

Removing Primary and Secondary Locations from minor civil divisions (MCDs) in the Moosehead Region was broadly supported as a strategy through public and stakeholder comments on the Discussion Scenarios. Many commenters recommended locations in additional MCDs be removed beyond those suggested in the Scenarios. Based on this feedback, and on subsequent community outreach, the rule revisions remove Primary and Secondary Locations in ten MCDs, along with shorefront areas on several lakes in the region. The goal is to minimize the intensity and rate of future residential and commercial development in these locations.

To balance removal of Primary and Secondary Locations in the region, the Commission will simultaneously consider rezoning six locations to development subdistricts to accommodate future growth and help concentrate development near Rural Hubs as desired by stakeholders. By taking this balanced approach, the Commission is guiding development to pre-identified locations in the region, and limiting the types, intensity, and rate of development that can occur outside of those locations.

The minor civil divisions and the factors considered/basis for removal for the Moosehead Region are described in Table 1 below.

**Table 1. Minor Civil Divisions Removed from Primary and Secondary Locations**

<b>Minor Civil Division</b>	<b>Resources Present</b>	<b>Factors Considered/ Basis for Removal</b>
Big Moose Township	Moosehead Lake, Big Moose Mountain, Burnham Pond, Indian Pond, Mountain View Pond, East Outlet, Eagle Rock Trail, Big Moose Trail	<ul style="list-style-type: none"> <li>• Broad public support for removal</li> <li>• Current Primary and Secondary Locations include sensitive resources</li> <li>• Existing and proposed development zones can accommodate growth near Greenville, and which may allow for businesses serving visitors to the ski area</li> <li>• Limits the intensity of any future development on portions of the back side of the mountain</li> <li>• Some rezoning options remain available for the ski area (e.g., expanding the D-GN or rezoning to D-PD)</li> </ul>
Bowdoin College Grant West	Upper Wilson Pond	<ul style="list-style-type: none"> <li>• No public road access in existing Secondary Location</li> <li>• Limited area available for development</li> </ul>
Lily Bay Township	Moosehead Lake, Lily Bay State Park, Burgess Brook, North Brook, Lily Bay Brook, Tussle Lagoon	<ul style="list-style-type: none"> <li>• Broad public support for removal</li> <li>• Broad support for limiting development potential in Lily Bay Township</li> </ul>

<b>Minor Civil Division</b>	<b>Resources Present</b>	<b>Factors Considered/ Basis for Removal</b>
Long Pond Township	Long Pond, Moose River, Mountain Brook, Twelvemile Bog, Fogg Pond, Churchill Stream, Northern Forest Canoe Trail	<ul style="list-style-type: none"> <li>• Support for limiting development on the southeastern portion of Long Pond</li> <li>• Current Primary and Secondary Locations include sensitive resources (e.g., rare plants, and an extensive complex of wetlands)</li> <li>• Limited area available for development</li> </ul>
Misery Township	North Branch Stream, Misery Stream, Misery Ridge	<ul style="list-style-type: none"> <li>• Broad public support for removal</li> <li>• Limited area available for development</li> </ul>
Misery Gore Township	West Outlet, Misery Stream, Misery Ridge	<ul style="list-style-type: none"> <li>• Broad public support for removal</li> <li>• Limited area available for development</li> </ul>
Rockwood T2R1 NBKP <sup>2</sup>	Brassua Lake, Demo Pond, Twelvemile Bog, Stony Brook	<ul style="list-style-type: none"> <li>• Limited access to existing Secondary Location</li> <li>• Remote location</li> <li>• Area unavailable for development</li> </ul>
Sandwich Academy Grant	Brassua Lake, Moose River, Long Pond Mountain	<ul style="list-style-type: none"> <li>• Removal of Primary and Secondary Locations in adjacent townships</li> <li>• Limited area available for development</li> </ul>
Sapling Township	Moosehead Lake, East Outlet, Indian Pond, West Outlet, Misery Ridge, Churchill Stream	<ul style="list-style-type: none"> <li>• Broad public support for removal</li> <li>• Limited area available for development</li> </ul>
Taunton and Raynham Academy Grant	Blue Ridge, Brassua Lake <sup>3</sup> , Moosehead Lake, West Outlet, Misery Stream	<ul style="list-style-type: none"> <li>• Broad public support for removal</li> <li>• Current Primary and Secondary Locations include sensitive resources (Blue Ridge, West Outlet)</li> <li>• Development zones added to focus new development near Rockwood</li> </ul>

This amendment to Section 10.08-A,C of Chapter 10 also removes Primary Locations around certain MC-3 lakes, or around portions of certain MC-3 lakes within designated MCDs, as a result of the formal regional planning process. The Lakes Management Program, which was adopted by the Commission in the early 1990's after extensive public input, is intended to provide comprehensive protection for lakes (2010 CLUP, pg. 288), and applies jurisdiction-wide. Part of providing comprehensive protection for lakes includes guiding development toward suitable waterbodies, and away from unsuitable waterbodies. Management classifications assigned to specific lakes were intended to be permanent and stable over time and are one of the mechanisms that implement this goal.

The establishment of Primary Locations around MC-3 lakes is a result of the 2019 Adjacency and Subdivision Rulemaking and was intended to implement the "adjacency waiver" described in the Commission's Comprehensive Land Use Plan (CLUP) for proposals to rezone for development if

<sup>2</sup> Rockwood consists of two MCDs, and the one proposed for removal is the western MCD

<sup>3</sup> The Primary Location along the shorefront of Brassua lake remains in place in Taunton and Raynham Academy Grant.

certain criteria can be met (e.g., soils must be suitable and the proposal must not result in water quality impacts). This concept was broadly applied to all MC-3 lakes throughout the jurisdiction, including Indian Pond, Long Pond, and Brassua Lake in the Moosehead Region.

Based on the more detailed information about these waterbodies obtained during the planning process, this rulemaking removes the Primary Locations around all or portions of these MC-3 lakes and is an appropriate fine-tuning of the Location of Development policy based on a robust regional planning process. Specific information about changes for each of these lakes is presented in Table 3 below.

**Table 3. Certain MC-3 Lake Shorefront Removed from Primary Locations**

Lake	MCDs included	Factors Considered/ Basis for Removal
Indian Pond <i>(entire waterbody)</i>	Big Moose Township, Chase Stream Township, Indian Stream Township, Sapling Township	<ul style="list-style-type: none"> <li>• Critically important resource for remote recreational tourism</li> <li>• East and West Outlets converge in northeastern end</li> <li>• Limited area available for development</li> <li>• Wildlife value and diverse riparian area</li> </ul>
Brassua Lake <i>(portions of waterbody)</i>	Brassua Township, Rockwood Strip T2 R1 NBKP, Sandwich Academy Grant	<ul style="list-style-type: none"> <li>• Part of undeveloped “western room”</li> <li>• Wildlife habitat value</li> <li>• Limited area available for development</li> </ul>
Long Pond <i>(portion of waterbody in LUPC jurisdiction)</i>	Long Pond Township	<ul style="list-style-type: none"> <li>• Remote recreation value</li> <li>• Current Primary Location includes sensitive resources (rare plants)</li> <li>• Wildlife habitat value</li> <li>• Limited area available for development</li> </ul>

**PUBLIC NOTICE OF RULEMAKING<sup>4</sup>**

The Moosehead Regional Planning Project has been in progress since July 2020. During that time, eight community meetings, either in-person or virtual, have been held to gain input into the planning process. Each of these meetings was publicized through multiple methods: website postings, GovDelivery notices, printed posters, or targeted mailings. Twelve GovDelivery notices have been sent during the course of the planning process. Early in the planning process, postcards advertising an online survey and providing agency contact information were mailed to property owners in the LUPC service area in the Moosehead Region. Over 350 people responded to the online survey, offering over 550 individual comments. In addition, printed notices regarding the proposal were sent to approximately two hundred property owners in the region potentially affected by the rule changes proposed as part of the planning package. At a meeting held on September 12, 2022, the staff presented to the Commission the draft rule revisions and requested to post the revisions to public

<sup>4</sup> The draft rule changes were included in the draft Moosehead Regional Planning Package that was posted for an informal public comment period. Multiple community meetings, email notices, printed mailings, and website updates occurred during this part of the planning process.

comment. The Commission voted to post the revisions for a 30-day public comment period and a 7-day rebuttal period.

Specific to this formal rulemaking process, notice of the rulemaking was provided in the Secretary of State's consolidated rulemaking notice on September 28, 2022. The Secretary of State's notice appeared in the Bangor Daily News, Kennebec Journal, Portland Press Herald, Lewiston Sun-Journal, and the Central Maine Morning Sentinel. E-mail notice via GovDelivery or direct e-mail was also provided to approximately 2,793 individuals. These included the Commission's mailing list of persons wishing to be contacted regarding the Moosehead Regional Planning Project. The notice of the rulemaking and the proposed revisions were also posted on the Commission's web site. Because the Moosehead Regional Planning Package includes a rezoning component, on September 28, 2022, notice was also sent by postal mail to all persons owning or leasing land within 1,000 feet of the proposed areas for rezoning, the County Commissioners of Piscataquis and Somerset Counties, the Town of Greenville, and Beaver Cove Plantation. The record remained open until October 31, 2022, to allow interested persons to file written statements with the Commission, and for an additional seven days until November, 7, 2022 to allow interested persons to file written statements in rebuttal of statements filed up to October 31, 2022.

## COMMENTS AND RESPONSES<sup>5</sup>

### 1. **Topic:** Comments Regarding Additional Protections

Multiple commenters expressed a desire for more protections for fish and wildlife in the region. Commenters also noted the economic importance of keeping the northern forest intact for recreation and tourism, and the impact inappropriately located development could have on the region's dark skies.

**Commenter(s):** D. McCormick; M. Keady; N. Hathaway; R. Osann; S. Scholar; T. Allen; R. Bourassa; E. Emrich, D. Wheeler; G. Johnson; A. Harris; S. Neily

**Response:** LUPC protection subdistricts are specialized zones designed to limit impacts to specific resources such as, but not limited to, shorelines, aquifers, steep slopes, significant wildlife habitat, or wetlands. Areas included in these specialty subdistricts must meet specific criteria. Proposed development must be in compliance with LUPC standards to protect natural and cultural resources at the site level. As part of the LUPC permitting process, natural resource agencies review and comment on development permit applications to ensure that significant resources are not adversely impacted by proposed development.

Regarding the economic importance of keeping the northern forest intact and maintaining the dark night sky, staff believe the implementation of this Package will focus more intensive development as desired by creating development subdistricts near hubs and removing the potential for rezoning to more intensive development subdistricts in certain MCDs. The region also includes nearly 400,000 acres of permanently conserved lands that will effectively limit fragmentation as a result of development. In terms of lighting, the LUPC has standards for lighting in place, applied during the permitting process, to minimize impacts from development that does occur. The LUPC will be evaluating the efficacy of these standards in the near future.

**Action(s):** No action taken.

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<sup>5</sup> Comments received during the planning process and on the draft Moosehead Regional Planning Package are summarized in the September 2022 Commission memorandum.

2. **Topic:** Comments in support of the proposed rule changes

Multiple commenters expressed support for the proposed rule changes and the Moosehead Regional Planning Package as a whole.

**Commenters:** E. Dubois; D. McCormick; D. Smith; K. Young; M. Keady; M. Tupper; R. Osann; S. Scholar; T. Allen; R. Bourassa; D. Boxer; L. Woods; S. Gilpin; D. Wheeler; V. Lenk; L. Taylor; A. Harris; M. Sturm, NRCM; E. Townsend, AMC; G. Johnson; J. Whitney; S. Neily; S. Farrand

**Response:** The Commission acknowledges and appreciates the public feedback on this proposed rule change.

**Action(s):** No action taken.

# **Moosehead Regional Planning**

**Commission Memorandum 12/07/2022**

## **Attachment 7. Public Comments Received on the Moosehead Regional Planning Package**

In response to 30-day public comment period from  
September 28, 2022 – October 31, 2022

### **Link to Public Comments PART 1 of 2:**

**[https://www.maine.gov/dacf/lupc/laws\\_rules/proposed\\_rules/chapter10/moosehead\\_planning/MooseheadRPPPublicComment\\_Part1.pdf](https://www.maine.gov/dacf/lupc/laws_rules/proposed_rules/chapter10/moosehead_planning/MooseheadRPPPublicComment_Part1.pdf)**

### **Link to Public Comments PART 2 of 2:**

**[https://www.maine.gov/dacf/lupc/laws\\_rules/proposed\\_rules/chapter10/moosehead\\_planning/MooseheadRPPPublicComment\\_Part2.pdf](https://www.maine.gov/dacf/lupc/laws_rules/proposed_rules/chapter10/moosehead_planning/MooseheadRPPPublicComment_Part2.pdf)**