



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
MAINE LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022



PATRICK K. MCGOWAN
COMMISSIONER

June 29, 2006

Virginia E. Davis, Esq.
Preti, Flaherty, Beliveau, Pachios & Haley, LLC
45 Memorial Circle
P.O. Box 1058
Augusta, ME 04332-1058

Subject: Identification of application deficiencies within Plum Creek's 2006 petition for rezoning.

Dear Ginger:

The Commission's staff has been reviewing the new rezoning petition submitted by Plum Creek and received by LURC on April 27, 2006, and additional application materials received in May 2006. This letter describes the deficiencies in the new petition that have been identified by the Commission's staff to date, and the status of the new rezoning petition.

STATUS OF 2005 PETITION FOR REZONING

The application submitted by Plum Creek in 2005 was not accepted for processing by the Commission's staff because information necessary for the Commission's review was determined by the Commission's staff to be missing. Plum Creek was informed of this situation (please refer to deficiency letters to Plum Creek representatives dated July 29, August 4, and November 11, 2005), but has not supplied the missing information. Given that LURC has received a new petition, the Commission's staff considers the incomplete 2005 rezoning petition to be wholly superseded by the application submitted in 2006.

STATUS OF APPLICATION FEE SUBMITTED WITH 2005 PETITION FOR REZONING

An application fee is assessed in accordance with Section 1.04,C of the Commission's General Provisions (Chapter 1). On December 29, 2005, LURC received an application fee of \$80,280 from the petitioner as part of its requirements for the 2005 petition for rezoning. In most cases, such a fee is returned if an application is deemed incomplete by staff. However, given that we have received a new petition, the already-received application fee will be levied against the 2006 petition, and no further application fee is required of Plum Creek at this time.

DEFICIENCIES IN THE 2006 PETITION FOR REZONING

Below is a list and description of the deficiencies identified by the Commission's staff to date. Due to the deficiencies identified below, the 2006 petition for rezoning is considered by the Commission's staff to be incomplete.

Alongside the deficiencies identified in this letter you will find due dates, where applicable, that have been set by the Commission's staff as a way to ensure the continued timely review of Plum Creek's petition.¹ Please understand that delays in receiving these materials could result in substantial delays in the Commission's review process.

¹ On June 23, 2006, the Commission's staff received a letter from Plum Creek (dated June 22, 2006) in which time frames were listed for providing several items that were not yet available at the time Plum Creek submitted its petition. For those items listed in the letter, the time frames stated in that letter are consistent with those being required by Commission staff.

CATHERINE M. CARROLL, DIRECTOR

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It is likely that additional information will be requested during the review process. Please bear in mind that all information requests from the Commission's staff, including those listed in this letter and others that may be identified at a later date, will be essential to proceeding with any public hearings on this proposal, unless otherwise expressly noted.

A. Processing Fee (due 07/10/2006).

Pursuant to the Commission's statute, 12 M.R.S.A. section 685-F, the Commission may assess a processing fee for certain projects where review is likely to significantly impair the capacity of the Commission's staff or to give rise to costs that exceed normal application costs. Review of the 2006 proposal will require the Commission to incur costs that substantially exceed the funding provided by the application fee. Therefore, as with the 2005 petition, Director Catherine Carroll has designated Plum Creek's 2006 petition for rezoning as an "extraordinary project" in accordance with 12 M.R.S.A. section 685-F. In response to your request during our meeting on May 12, 2006, an accounting of the use of the processing fee that was submitted by Plum Creek as part of its 2005 petition is enclosed.

The preliminary estimate of the new processing fee for the 2006 petition includes estimated administrative costs such as public notice requirements, notification mailings to interested parties, travel costs for meetings and site visits, and costs related to public hearings, as well as expert consulting and legal counsel costs to provide research and analytical assistance on issues raised by the petition and the Commission's review of the proposal. The petitioner must pay half of the estimated processing fee prior to the start of the project review. We therefore request that Plum Creek forward a check to the Commission's Augusta office, payable to "Treasurer, State of Maine," for the sum of \$141,395. The remainder of the processing fee will be billed to the petitioner on a quarterly basis. Any delay in receiving this processing fee will impede the Commission's review process.

As set forth in 12 M.R.S.A. section 685-F, the processing fee for an extraordinary project is the sum of the actual costs associated with review of the application. This processing fee estimate is only an estimate and should not be construed as a reflection of the *actual* costs associated with review of this petition. In accordance with 12 M.R.S.A. section 685-F(3), the Commission will keep records of all expenses incurred in reviewing this project, including time records and billing statements for contracted services. The final processing fee will be based on the actual costs of the project application review. As required by statute, the Commission must withhold a decision on the project until the entire processing fee is paid. All unspent funds will be returned to the applicant within 120 days of the Commission's decision on the application. In accordance with 12 M.R.S.A. sections 685-B(1-B) and 685-F(4), an applicant has the right to review by the Commission of this decision to designate a project as an extraordinary project or of the estimated processing fee.

B. Petition for Rezoning Exhibits E and F (due 07/31/2006).

As part of Exhibits E and F (letters evaluating impacts and letters confirming availability of services) of the petition for rezoning, Plum Creek has submitted letters sent by the applicant to officials requesting an evaluation of impacts and services. Please submit any responses that you have received to date (as well as from this date forward) from officials, in response to your prior requests. The Commission's staff may also seek this information separately as part of its review of the petition.

C. Concept Plan and Associated Appendices (due 07/31/2006).

The following items are missing from the Concept Plan description and appendices. Because these missing items directly relate to the Commission staff's ability to understand the nature of what is proposed by Plum Creek in its rezoning petition, staff has determined that the petition is deficient until these items have been supplied by Plum Creek.

1. Please submit the following missing appendices, which are referenced in the 2006 application:
 - Appendix B: Infrastructure and Community Impact Analysis, report by the Eastern Maine Development Council.
 - Appendix F: Form of Ski Trail Easement -- Moosehead to Mahoosucs.
 - Appendix H: Form of Conservation Easement for the Moosehead-Roach River.
 - Appendix P: Legal Standards.
 - Missing Appendix: A separate report outlining Plum Creek's approach to erosion control, referenced on page VII-2 of the Plan Description.

2. Please submit a red-lined version of Part VIII (Land Use Standards) of the Plan Description, in printed and electronic (Microsoft Word) format. Such document should identify all deviations from the Commission's existing land use districts and standards (Chapter 10), and provide a rationale for each change.
3. Please submit a red-lined version of all proposed conservation easements, in printed and electronic (Microsoft Word) format. Such documents should identify all deviations from the Commission's model easement, and provide a rationale for each change.
4. Please submit a comprehensive description of the restrictions and conditions proposed for commercial, residential and other development within each of the two resort envelopes identified within the petition. Information in the proposal (specifically, Part VII.G – Development Details: Resorts and Part VIII – Land Use Standards) does not adequately describe the type and amount of structural development that could occur in these areas. Such a description should, at minimum, include responses to the following questions:
 - Please specifically describe the following terms, as used in Part VIII (Land Use Standards): “Club house”; “outdoor education facility”; “hut”; “public, semi-public and private gathering, meeting and function facility associated with residential and/or tourism or resort development”; “employee housing”; and “resort accommodation”.
 - What specific types and numbers of structures and uses would be permitted within each of the proposed resort envelopes? Please clarify language in Section 10.23.A,3,d of Part VIII (Land Use Standards).
 - What type and amount of commercial development would be permitted within each of the proposed resort envelopes?
 - Are residential lots proposed within the 2600-acre resort envelope on Big Moose Mountain or the 500-acre resort envelope in Lily Bay? If so, please describe maximum number and location of such lots within each of the resort envelopes, and provide other relevant information.
 - Are dwelling units, as defined in Section 10.02(46) of the Commission's Land Use Districts and Standards, proposed within the 2600-acre resort envelope on Big Moose Mountain or the 500-acre resort envelope in Lily Bay? If so, what type of dwelling units would be permitted (separate residential houses, duplexes, condominiums, cabins, hotel rooms, etc.) within each resort envelope?
 - What would be the dimensional, design, layout and other standards for any residential lots or dwelling units within each resort envelope?
5. Please submit a comprehensive description of the restrictions and conditions proposed for affordable housing development within the petitioner's Concept Plan. Such a description should include details regarding the type (residential dwellings, duplexes, condominiums, cabins, hotel rooms, etc.), maximum amount, and location of proposed development.
6. Please submit an inventory and map of all existing telephone and electric utility lines (except service drops) within the plan area and within the townships adjacent to the plan area. If possible, provide maps as ArcGIS shapefiles.
7. Please submit an inventory and a map of all proposed new roads, telephone and electric utility lines (except service drops) within the plan area and within the townships adjacent to the plan area that will be needed to serve the project. We are seeking a similar level of road detail as provided by Plum Creek in its Concept Plan for First Roach Pond (“A Concept Plan for First Roach Pond submitted by the Plum Creek Land Company”, Effective Date: January 24, 2002, Table 1, page IV-3, enclosed), which clarifies the amount and location of (a) newly constructed roads serving proposed development and (b) existing land management roads that will be improved to serve as access roads to proposed development. If possible, provide maps as ArcGIS shapefiles.
8. By your letter dated May 26, 2006, and received by LURC on May 30, 2006, Plum Creek has asserted that “the Conservation Framework is part of the proposed Concept Plan for Plum Creek's lands in the Moosehead Lake Region.” Since that is Plum Creek's position, please provide copies of all option agreements, conservation easements including what was supposed to be contained in Appendix I (“Form of Conservation Easement for the Moosehead Legacy Areas”) and other agreements related to the Conservation Framework. Pursuant to paragraph C (3), above, please submit a red-lined version of all easements related to the Conservation Framework as well. By separate letter, the Commission's staff is notifying you concerning outstanding issues that involve the relevance of the Conservation Framework to the Commission's regulatory review. If this matter is ultimately determined not to be relevant, these submittals will not be considered.

I suggest that we schedule a meeting to discuss the items outlined above in further detail and determine how these deficiencies will impact the review timeline of Plum Creek's new petition. Thank you for your patience and cooperation. If you have any questions about this matter, please feel free to contact me.

Sincerely,

Agnieszka Pinette, Senior Planner
Planning & Administration Division

Enclosures: Accounting of 2005 processing fee.
Table 1: Proposed Development. "A Concept Plan for First Roach Pond submitted by the Plum Creek Land Company", Effective Date: January 24, 2002. Page IV-3.

xc: File Copy, Tracking No. 40884.

ACTUAL REVENUE AND EXPENDITURE REPORT
YTD FY 2006

PLUM CREEK
6/22/2006

Initial Special Processing Fee Deposit 7/8/05	107,722.00
Payment 11/18/06	<u>20,823.04</u>
TOTAL PROCESSING FEES PAID	128,545.04

ACTUAL EXPENDITURES

GENERAL OPERATIONS	BUS REPLY & POSTAGE DUE	255.17	
	INTRAGOVERNMENTAL SERVICE	28.72	eg; state postal service center
	METER POSTAGE	179.48	
	OTHER THAN ST MILEAGE	58.82	Commissioner mileage
	PHOTO COPYING	594.00	
	PRINTING BINDING ETC STAT	5.50	
OFFICE & OTHER SUPPLIES	OFFICE SUPPLIES		
PROF. SERVICES, NOT BY STATE	MISC PROF FEES & SPEC SRV	100,689.91	Kreisman contract (\$123,940 encumbered)
RENTS	RENT FOR MGMT/TRNG ROOM	1,587.88	
	RENT OF STATE VEHICLE		
	RENT PRIVATE EQUIP	725.00	AudioEquipment
TRANSFERS	DICAP TRANSFER	6,786.30	Department Incidental Cost Allocation
	STACAP	4,471.98	State Incidental Cost Allocation
TRAVEL EXPENSES, IN STATE	AUTO MILEAGE-GEN IN STATE	124.40	
	HOTEL ROOM & LODGING	994.00	
	MEALS AND GRATUITIES	481.80	
	MISCELLANEOUS EXPENSE	25.24	
Subtotal: Actual Expenditures		118,191.25	
Encumbered Funds Kreisman Balance		23,250.00	
TOTAL PLUM CREEK EXPENSES 6/22/06		141,441.25	

EXPENSES TO DATE	141,441.25
PAYMENTS	<u>128,545.04</u>
BALANCE	12,896.21

Table 1: Proposed Development

Area (see Concept Plan Map)	No. of Lots	Lot Size (acre) ¹	Total lot acreage ¹	New Road (lin. ft.) ²		Improved Road (lin. ft.) ³		Approx. Driveway (lin. ft.)	Shorefront Total (ft.) ¹
				in ⁴	out ⁴	in	out		
Area 1									
North Shore-West									
Shore lots	23	1.4 – 3.0	41.7	3,600	0	1,425	800	8,350	5225
Back lots	8	3.2 – 4.6	29.3	2,400	0	0	0	1,150	0
North Shore-Center									
Back lots	4	1.80	7.3	850	0	0	7,500	1,200	0
North Shore-East									
Shore lots	6	1.6 – 2.6	12.6	1,200	600	0	4,750	1,800	1,700
^									
Peninsula	7	±11.0	78.4	3,300	4,750	0	0	5,650	4527
Area 5									
South Shore-East									
Back lots	6	2.3 – 3.0	15.6	800	0	2,400	0	2,650	0
South Shore-Center									
Shore lots	5	1.8 – 2.5	10	550	0	0	0	1,900	1,100
Area 2									
South Shore-West									
Shore lots	16	1.9 – 3.1	36.1	0	0	0	0	5,060	3,861
Area 4									
West Shore									
Shore lots	5	3.7 – 6.2	23.4	0	0	0	0	3,225	1,590
Back lots	9	1.4 – 2.9	20.8	1,250	800	0	0	1,100	0
TOTAL	89	-	275.2	13,950	6,150	3,825	13,050	32,085	18,003
¹ All lot sizes and dimensions (except for the Peninsula, South Shore West, and West Shore shore lots) are approximate; final dimensions and precise locations will be dependent on detailed field work and soils information, the lots shown are located given the best available information, however no shore lot will have less than 200 foot frontage or be less than 1 acre in size. Actual dimensions will be determined during the subdivision permitting process. ² "New Road" refers to newly constructed roads, within and outside the Concept Plan area, serving new lots; they connect to existing forest management roads and may serve as future forest management roads. All road measurements were scaled off a map. ³ "Improved Road" refers to existing forest management roads both within and outside the Concept Plan area that will be improved to serve as access roads to the lots. ⁴ "In" refers to road construction within the Concept Plan area; "Out" refers to road construction outside of the Concept Plan area but within the Plum Creek Maine Timberlands ownership.									

Land Use Standards Applicable to the Plan

All development will be regulated by the Commission subject to the provisions of this Concept Plan, as specified in Appendix . Particular provisions include the *Land Use Standards* and the *Homeowners Association Covenants and Restrictions*. Subsequent provisions in any and all subdivision permits issued by LURC pursuant to this Concept Plan shall also apply.