



STATE OF MAINE

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DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
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AUGUSTA, ME 04333-0022



PATRICK MCGOWAN
COMMISSIONER

Memorandum

July 13, 2007

TO: Attendees at First Pre-Hearing Conference in the matter of Zoning Petition ZP 707.
FROM: Agnieszka Pinette, Senior Planner, Land Use Regulation Commission.
SUBJECT: Organization of Detailed Issues Statements.

Attached to this memorandum please find LURC staff/consultants' working draft of "Potential Issues and Applicable Legal Criteria" (hereinafter "document"). This working draft document has been developed by LURC staff and consultants working on Zoning Petition ZP 707. It has not been shown to or developed in consultation with the Commission, and has not been endorsed by the Commission. It is not a final product of the staff and consultants, and is subject to revisions by LURC staff at any time. The Office of Attorney General has endorsed the use of this working draft for the purpose of organizing the hearing, but has not reviewed it for completeness.

Staff is providing this document to attendees at the first pre-hearing conference, to non-attending governmental review/commenting agencies, and posting it to LURC's web site for this project, for two reasons:

1. To invite written comment on the contents of the document from attendees, commenting agencies, and members of the public *no later than 4:00 pm on Friday, July 27, 2007*. Comments filed earlier than July 27th are strongly encouraged. Comment is invited on the questions of whether staff and consultants have accurately identified all potentially relevant types of issues in this proceeding, have understandably and logically grouped these issues into appropriate categories, and have accurately identified all applicable legal criteria attendant to these issues; and
2. To assist Intervenor and Interested Persons in the preparation of their Detailed Issues Statements (due July 27, 2007). The parties are encouraged to use this document to organize their Detailed Issues Statements. If a party objects to how this document is organized, it should explain the basis for that objection in its comments no later than July 27th and may submit its Detailed Issues Statement in an alternative format. Should Intervenor or Interested Persons have a question in this regard that they wish to discuss with LURC staff or consultants, please contact Aga Pinette (call 207-287-8786 or e-mail agnieszka.pinette@maine.gov).

Upon receipt of the Detailed Issues Statements and any written comments on this document, staff intends to revise the document as appropriate and publicly re-release it, again as a working draft. Staff and consultants expect to use the revised document, in combination with the information contained in submitted Detailed Issues Statements, to provide to the Chair a recommended listing of the categories of issues by which the pre-filed testimony should be organized and labeled.

Enclosure: Potential Issues and Applicable Legal Criteria Pertaining to Zoning Petition ZP 707 (dated July 13, 2007)
XC: Zoning Petition ZP 707 file; E. Bart Harvey, LURC Chair; Jerry Reid, Deputy Attorney General.

Land Use Regulation Commission
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POTENTIAL ISSUES AND APPLICABLE LEGAL CRITERIA PERTAINING TO ZONING PETITION ZP 707

Plum Creek's Concept Plan Proposal for the Moosehead Lake Region

Prepared for
The First Pre-Hearing Conference in the Matter of Zoning Petition ZP 707:

July 13, 2007

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I. Location of Proposed Land Use Zones

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the proposed location of development, protection and/or management zones.
- Issues concerning the proposed location of residential, commercial, public/civic and/or resort-related uses.
- Issues concerning the compatibility of the proposed locations of zones with:
 - the management intent of the Commission's lake classifications,
 - protection of the jurisdiction's principal values,
 - the Commission's adjacency principle, and/or
 - the Commission's policy of discouraging growth which results in scattered and sprawling development patterns.
- Issues concerning the effects of zone locations on the remote character of the region.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - A. "The proposed land use district is consistent with the ... comprehensive land use plan and the purpose, intent and provisions of this chapter..."
 - B. "The proposed land use district ... has no undue adverse impact on existing uses or resources ..."
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)
 - 6d. "The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure[s]"
 - 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
 - 6f. "...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources..."
- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**
See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

 - 1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).

2. "Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
3. "Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture"
4. "Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed."
5. "Natural character: Adequate provision has been made to maintain the natural character of shoreland.
6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."
7. "Landowner equity: Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development."

▪ **Excerpts from the Commission's Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values... The Commission has identified four principal values that define the jurisdiction's distinctive character: The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest ... Diverse and abundant recreational opportunities, particularly for primitive pursuits ... Diverse, abundant and unique high-value natural resources and features ... Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. (p. 114)
- The Commission has concluded that the principal development issue is not the amount of development taking place in the jurisdiction, but rather where it is located. This conclusion is based on analysis of the pattern and impacts of development that has occurred within the jurisdiction since 1970 and evaluation of the effectiveness of the Commission's policies and regulations in protecting the principal values of the jurisdiction. (p.125)
- The criterion that new development should be located near existing development is referred to as "the adjacency" principle, and the Commission has generally interpreted it to mean that most rezonings for development should be no more than a mile by road from existing compatible development. The Commission recognizes that there are certain instances in which a greater or lesser distance may be appropriate in measuring distances to existing developments... The adjacency principle will remain a central consideration in rezoning, but its application will be further refined to promote consistency and good planning. The Commission recognizes, for example, that isolated patterns of development in remote locations, such as sporting camps, should not be used as the basis for rezoning adjacent lands for development as it can establish conflicting uses. (pp. 122, 124, 127)
- The Commission encourages the use of concept plans by its commitment to ... consider adjusting certain standards, such as the adjacency criterion, provided any such relaxation is matched by comparable conservation measures. (p. C-6, Lake Concept Plans)
- Goal pertaining to the location of development: Guide the location of new development in order 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. (p. 140)
- Policies pertaining to the location of development on a jurisdiction-wide level: (p. 140)
 1. Provide for a sustainable pattern of development consistent with historical patterns which directs development to suitable areas and safeguards the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
 2. Discourage growth which results in scattered and sprawling development patterns.

3. Guide development to areas near existing towns or communities and in other areas identified as appropriate development centers.
- 3c. Guide the location of different types of residential development according to potential impacts, infrastructure needs and the potential for conversion to a more intensive type of residential use.
- Policies pertaining to the location of development on a community or regional level: (p. 141)
 7. In communities or areas without prospective development zoning, encourage orderly growth within and proximate to existing, compatibly developed areas – i.e. existing development of similar type, use, occupancy, scale and intensity to that being proposed, or a community center with a range of uses for which the proposed development will provide complementary services, goods, jobs and/or housing.
 8. Allow well planned development in areas appropriate as new development centers where: (a) there is a demonstrated public demand for and benefit from the proposed development in that area; (b) there is a demonstrated need for locating the development not proximate to established developed areas; (c) the productivity of existing forest and agricultural resources in the jurisdiction is not unduly harmed; (d) recreational resources and uses are not unduly harmed; (e) remote, natural and plant or animal habitat values are not unreasonably degraded; and (f) needed services are available or can be provided without unreasonable financial, social or environmental costs to the public.
 9. In areas which are not appropriate as new development centers, allow for other development, subject to concept plan review.

II. Nature of Proposed Uses and Activities within Zones

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning proposed uses/activities within protection, management and/or development zones.
- Issues concerning the acreage/size of zones.
- Issues concerning the standards by which proposed uses/activities within zones are to be regulated.
- Issues concerning the placement and/or design of subdivisions or other developments within zones.
- Issues concerning the standards and/or guidelines proposed for resort-related development.
- Issues concerning effect of proposed uses/activities on the character of the region.
- Issues concerning whether proposed uses/activities within zones constitute "appropriate development."
- Issues concerning proposed limits on residential dwelling units and resort accommodations.
- Issues concerning the rate, density and type of development.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A § 681. Purpose and Scope**

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses ...

In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, to encourage the well planned and well managed multiple use of land and resources ...

- **12 M.R.S.A. § 685-A (8-A)**

See also Section 10.08,A of the Commission's Land Use Districts and Standards

A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."

B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."

- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**

6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)

- 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
- 6f. "...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources..."

- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
2. "Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
3. "Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture"
4. "Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed."
5. "Natural character: Adequate provision has been made to maintain the natural character of shoreland.
6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."
7. "Landowner equity: Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development."

- **Excerpts from the Commission's Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values... The Commission has identified four principal values that define the jurisdiction's distinctive character: The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest ... Diverse and abundant recreational opportunities, particularly for primitive pursuits ... Diverse, abundant and unique high-value natural resources and features ... Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. (p. 114)
- Policies pertaining to site review: (p. 141-142)
 1. Require that provision be made for fitting development harmoniously into the existing natural environment, including ... Requiring the use of buffers, building setbacks, and landscaping to minimize the impacts of land use activities upon one another and to maintain the scenic quality of shorelines and roadways ...
 2. Prevent the degradation of natural and cultural values resulting from cumulative impacts of incremental development.
 3. Encourage site designs which have a minimal impact on the principal values of the jurisdiction, including clustering or open space preservation, and discourage unnecessarily large lot sizes.
- Ensure that development is of a rate, density, and type conducive to maintaining the jurisdiction's principal values. (p. 142)

- Policies pertaining to development rate, density and type: (p. 142)
 1. Monitor the rate of development throughout the jurisdiction to ensure it remains at a reasonable pace, particularly outside areas identified as the most appropriate for growth.
 2. Establish appropriate guidelines for development (such as density or similar standards) in areas where necessary to prevent adverse impacts on the principal values of the jurisdiction.
 3. Limit development to low-impact structures in areas where the principal values of the jurisdiction are threatened by more intensive development.
 5. Encourage development that is energy efficient and that incorporates best practices technologies to conserve energy.
 6. Limit residential densities on the basis of soil suitability and other site limitations.

III. Demonstrated Need in the Community or Area

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the need to rezone land for additional residential, commercial, and/or resort-related development.
- Issues concerning the need for economic development and growth in the area.
- Issues concerning the maintenance and/or creation of quality jobs.
- Issues concerning the market demand for proposed development.
- Issues concerning the market feasibility of proposed resort-related development.
- Issues concerning whether the proposed rezoning is or is not overly speculative.
- Issues concerning the viability and scope of proposed development.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - B. "The proposed land use district satisfies a demonstrated need in the community or area..."
- **Excerpts from the Commission's Comprehensive Land Use Plan**
 - The criterion of demonstrating a need in the community or area is aimed at assuring that the rezoning is truly necessary and not overly speculative. For residential projects, the Commission has historically considered the apparent demand for new housing in a community or area; for nonresidential projects, the need for the services, goods or jobs that would result from the rezoning. (p. 122)
 - The rezoning criterion requiring demonstration of need provides the Commission a powerful tool in evaluating the viability and scope of proposed development. (p 127)
 - While the Commission is charged with protecting the values of the jurisdiction, it will ensure that reasonable economic development is accommodated, particularly facilities related to forestry, agriculture or recreation. (p. 128)
 - Goal pertaining to economic development: Balance the economic benefit that Maine people derive from the natural resource-based industries of the Commission's jurisdiction, especially the maintenance and creation of quality jobs, with protecting the environmental quality and special values of this area. (p. 141)
 - Policies pertaining to economic development: (p. 141)
 1. Encourage those forest and recreation industries and other resource-based enterprises which further the jurisdiction's tradition of multiple use without diminishing its principal values.

3. Provide for expansion needs of intensive developments where such expansion will not have an undue adverse impact on the resources of the area.
 6. Encourage economic development in the towns, plantations, and townships identified as the most appropriate for future growth.
- **Commission's Guidance Document, "Clarifying the Rezoning Criterion of 'Demonstrated Need'" (April 1, 2004)**
 - Evaluation factors for both residential and non-residential projects (presence of existing compatibly zoned areas, community support, compatibility with community character, economic benefit, special community or public benefit).
 - Additional evaluation factors for residential projects (population growth rate, availability of vacant lots/units, housing affordable to local residents, impacts on community services).
 - Additional evaluation factors for non-residential projects (need for goods and services, projected customer base, support for the forestry, agricultural or fishing industry, support for the natural resource based outdoor recreation industry, dependence on site-specific natural resources).

IV. Public/Community Services and Infrastructure

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the effects of proposed development on existing public/community services (including education, law and code enforcement, fire protection, rescue/health care, utilities – water, electricity, communications, liquid and solid waste disposal, and transportation) and associated infrastructure.
- Issues concerning affordable/workforce housing and resort-related employee housing.
- Issues concerning the fiscal benefits and costs to the public of proposed development.
- Issues concerning capacity (current and/or future), financing and/or maintenance of public/community services and associated infrastructure.
- Issues concerning traffic movement, safety and/or effects on transportation corridors (current and/or future).
- Issues concerning the community fund.
- Issues concerning the effects of the proposal on service provision by municipal governments (including the service center communities of Greenville and Jackman and/or other organized towns proximate to the plan area), county government, and/or state government.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
 - B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."
 - B. "The proposed land use district satisfies a demonstrated need in the community or area..."
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)
- **Excerpts from the Commission's Comprehensive Land Use Plan**
 - Policies pertaining to the location of development on a jurisdiction-wide level: (p.140)
 - 3c. Guide the location of different types of residential development according to potential impacts, infrastructure needs and the potential for conversion to a more intensive type of residential use.

4. Guide proposals for major new waste disposal and similar facilities to locations on the fringe of the jurisdiction that have good road access, low natural resource values, and are separate from incompatible uses.
- Goal pertaining to infrastructure: Ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction's principal values. (p. 142)
 - Policies pertaining to infrastructure: (p.142)
 1. Discourage the construction of major new public roads which would degrade the natural character of remote areas.
 2. Require that new utility lines, pipelines, and their associated facilities be (a) located within or adjacent to existing utility or public road rights of way to the extent practicable; (b) constructed and landscape so that they do not degrade natural values; and (c) located so as not to inappropriately encroach upon or change the character of remote areas, or produce an intensity of use that is inappropriate for a particular area.
 3. Monitor the installation of new road networks in order to anticipate and plan for future growth and public access and use in appropriate areas.
- **Commission's Guidance Document, "Clarifying the Rezoning Criterion of 'Demonstrated Need'" (April 1, 2004)**
 - Additional evaluation factors for residential projects - Impacts on community services: Although new residential developments are a source of tax revenue, the cost of providing these developments with necessary public services often more than offsets these revenues, resulting in potential for a fiscal drain on community resources. Community services typically include public safety (fire, rescue and/or law enforcement services), solid waste disposal, road maintenance, and public education. In evaluating which community services a proposed project needs, the following considerations are particularly relevant:
 - ▶ Nature of utility and road infrastructure that will service the project
 - ▶ Marketing orientation (year-round vs. seasonal)
 - ▶ Likelihood of eventual conversion of seasonal to year-round development
 - ▶ Permanent provision of private services

V. Natural, Cultural, Archaeological and/or Historical Resources

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the effects of the proposal on natural resources (including forest, geologic, mineral, mountain, water, wetland, plant/natural communities, fisheries and wildlife resources), special natural areas, and cultural, archaeological and historical resources.
- Issues concerning the effects of proposed development on water quality.
- Issues concerning the compatibility of proposed development with the significant and outstanding resource values of affected lakes.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A § 681. Purpose and Scope**

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to preserve ecological and natural values.

- **12 M.R.S.A. § 685-A (8-A)**

See also Section 10.08,A of the Commission's Land Use Districts and Standards

A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."

B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."

- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**

6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)

6e. "The plan ... includes in its purpose the protection of those resources in need of protection"

- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).

2. "Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."

- **Excerpts from the Commission's Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values... The Commission has identified four principal values that define the jurisdiction's distinctive character: The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest ... Diverse and abundant recreational opportunities, particularly for primitive pursuits ... Diverse, abundant and unique high-value natural resources and features ... Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. (p. 114)
- Broad Goals of the Commission: (p. 134)
 1. Support and promote the management of all resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, 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. Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, nonintensive outdoor recreation and fisheries and wildlife habitat.
 3. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.
- Goals and policies pertaining to natural resources. (pp. 135-139)

V. Recreational Resources

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the effects of the proposal on existing recreational uses and resources, including:
 - primitive recreational uses and resources (camping, hiking, fishing, hunting, canoeing, etc.)
 - diversified, nonintensive, nonexclusive use of recreational resources;
 - recreational trails (hiking, ATV, snowmobile, water/canoe trails);
 - water access, including trailered and/or hand-carry boat launches;
 - remote ponds; and/or
 - public recreation lands, including state parks and reserved lands;
- Issues concerning the effects of the proposal on existing recreation-based commercial operations, including registered Maine guides, outdoor education services, campgrounds, commercial sporting camps and other lodging facilities.
- Issues concerning public access related to recreational use of lands within the plan area.
- Issues concerning the locations and terms of proposed Peak-to-Peak, Moosehead-to-Mahoosucs, and ITS snowmobile trail easements.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A § 681. Purpose and Scope**

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses; ... to prevent the despoliation, pollution and inappropriate use of the water in these areas ...

In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, ... to encourage the appropriate use of these lands by the residents of Maine and its visitors, in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

- **12 M.R.S.A. § 685-A (8-A)**

See also Section 10.08,A of the Commission's Land Use Districts and Standards

A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."

B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."

▪ **Section 10.23,H (P-RP Subdistrict Criteria for Review)**

6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)

6e. "The plan ... includes in its purpose the protection of those resources in need of protection"

▪ **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

3. "Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture"

4. "Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed."

▪ **Excerpts from the Commission's Comprehensive Land Use Plan**

- ... the Commission's approach to recreational uses focuses on supporting and protecting primitive recreational resources and opportunities. (p. 68)
- While the Commission encourages recreational diversity, it will ensure that new uses or activities do not diminish the experience for traditional recreational users. (p. 75)
- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values... The Commission has identified four principal values that define the jurisdiction's distinctive character: The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest ... Diverse and abundant recreational opportunities, particularly for primitive pursuits ... Diverse, abundant and unique high-value natural resources and features ... Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. (p. 114)
- While the Commission is charged with protecting the values of the jurisdiction, it will ensure that reasonable economic development is accommodated, particularly facilities related to forestry, agriculture or recreation. (p. 128)
- Proposals for other development adjacent to sporting camps will be reviewed with particular care to ensure that values on which the camps depend for their survival are not eroded. (p. 128)
- Goal pertaining to recreational resources: Conserve and protect the natural beauty and unspoiled qualities of the waters, shorelands, mountains, plant and animal habitats, forests, scenic vistas, trails and other natural and recreational features in order to protect and enhance their values for a range of public recreational uses. (p. 138)
- Policies pertaining to recreational resources: (p. 138)
 1. Protect remote, undeveloped and other significant recreational areas, including such areas around rivers and streams, trails, ponds and lakes, to protect their natural character for primitive recreational activities such as canoeing, hiking, fishing and nature study.
 2. Encourage diversified, nonintensive, nonexclusive uses of recreational resources. (Nonexclusive uses are those in which a wide range of people can participate, generally at reasonable cost. – p. 64)

3. Promote a range of recreational opportunities, including (a) major, intensive recreational facilities near organized areas or in new development centers determined to be appropriate, (b) less-intensive, nonexclusive recreational facilities in other areas, and (c) opportunities for primitive recreation without intrusion from more intensive forms of recreation.
 5. Encourage intensive recreational facilities to locate or expand away from areas where there is a potential for conflict with existing uses, natural resources and other values of the jurisdiction.
 6. Encourage traditional outdoor recreation by working with landowners to conserve the natural resources of the jurisdiction and to enhance recreational opportunities.
- Policies pertaining to water resources: (p. 138)
2. Protect the recreational and aesthetic values associated with water resources.
 4. Conserve and protect lakes, ponds and rivers and their shorelands which provide significant public recreational opportunities.
 5. Permit a reasonable range of development and land uses on lakeshores in order to accommodate a range of recreational opportunities important to Maine people.
 7. Encourage cooperative uses of public and private docks, water access points and boat launching sites.

VII. Scenic Resources

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning scenic impacts of shorefront development (including docks and other shore structures) and/or hillside development.
- Issues concerning the visual effects of the proposal on shoreland, landscapes, recreational resources, and/or public roads and lands.
- Issues concerning the effects of the proposal on resource values identified as significant or outstanding in the Wildland Lakes Assessment.
- Issues concerning vegetation clearing.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
 - B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)
 - 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**
See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

 - 1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
 - 5. "Natural character: Adequate provision has been made to maintain the natural character of shoreland.
 - 6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."

- **Excerpts from the Commission's Comprehensive Land Use Plan**
 - Goal pertaining to scenic resources: Protect scenic character and natural values by fitting proposed land use activities harmoniously into the natural environment and by minimizing adverse aesthetic effects on existing uses, scenic beauty, and natural and cultural resources. (p. 139)
 - Policies pertaining to scenic resources: (p. 139-140)
 1. Encourage concentrated patterns of growth to minimize impacts on natural values and scenic character.
 2. Regulate land uses generally in order to protect natural aesthetic values and prevent incompatibility of land uses.
 3. Protect the scenic values of coastal, shoreland, mountain, recreation, and other scenic areas.

VIII. Conservation

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the location, amount and terms of the proposed 'balance' conservation easement.
- Issues concerning the Conservation Framework, including the Moosehead Legacy conservation easement and the fee acquisitions of the Roaches tract and No. 5 Bog area.
- Issues concerning a "reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources."
- Issues concerning comparable conservation measures related to waivers of adjacency.
- Issues concerning the conservation of areas representative of the jurisdiction's principal values and areas especially valued for their remote and relatively undeveloped condition.
- Issues concerning the proposed conservation easement holders' consistency with the Commission's *Guidelines for the Selection of Easement Holders*.
- Issues concerning the consistency of proposed conservation easements with the Commission's model easement.
- Issues concerning monitoring and enforcement of conservation easements, and associated costs.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that may relate to these potential issues include, but are not necessarily limited to, the following:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
 - B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)
 - 6d. "The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure[s]"
 - 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
 - 6f. "...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources..."

6g. "In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation."

▪ **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

3. "Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture"
4. "Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed."
5. "Natural character: Adequate provision has been made to maintain the natural character of shoreland."
6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."

▪ **Excerpts from the Commission's Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values... The Commission has identified four principal values that define the jurisdiction's distinctive character: The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest ... Diverse and abundant recreational opportunities, particularly for primitive pursuits ... Diverse, abundant and unique high-value natural resources and features ... Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. (p. 114)
- Broad Goals of the Commission: (p. 134)
 4. Support and promote the management of all resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, 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.
 5. Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, nonintensive outdoor recreation and fisheries and wildlife habitat.
 6. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.
- Policy pertaining to location of development on a jurisdiction-wide level: Encourage conservation of select areas of the jurisdiction that are particularly representative of the jurisdiction's principal values and, overall, are especially valued for their remote and relatively undeveloped condition... Work cooperatively with landowners to encourage the designation of large tracks of land with these values for limited or no development. (p. 140)

▪ **Commission's Guidance Document, "Guidelines for Selection of Conservation Easement Holders" (November 10, 2004)**

- Minimum legal requirements, public agencies, compatible goals and purposes, board accountability, conflict of interest, financial resources, monitoring, enforcement, back-up holder, transfers, compliance with laws.

IX. Concept Plan Mechanics/Procedures

EXAMPLES OF POTENTIAL ISSUES

This category includes, but is not limited to, the following types of potential issues:

- Issues concerning the structural elements of the concept plan, including the organization of proposed land use zones and standards.
- Issues concerning proposed mechanisms for plan amendment of the P-RP subdistrict boundary and terms.
- Issues concerning the proposed creation of a regulatory framework of land use zones and standards that are unconnected to the current and future regulatory approach embodied in LURC's Land Use Districts and Standards (Chapter 10).
- Issues concerning the proposed 'master plan' mechanism for development within proposed resort zones.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The legal authority for addressing concept plan mechanics and procedures flows from the Commission's legal responsibility to ensure that all standards and criteria in law are adhered to in adoption and implementation of any concept plan.