



STATE OF MAINE

JOHN E. BALDACCI
GOVERNOR

DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
18 ELKINS LANE – HARLOW BUILDING
22 STATE HOUSE STATION
AUGUSTA, ME 04333-0022



PATRICK MCGOWAN
COMMISSIONER

Memorandum

April 28, 2008

TO: Commissioners

FROM: Agnieszka Pinette, Senior Planner, Land Use Regulation Commission

SUBJECT: Zoning Petition ZP 707 -- Plum Creek's Proposed Concept Plan for the Moosehead Lake Region:

- Proposed agenda for the Commission's May 27-28 Deliberative Sessions, and
- Outline of proposed steps for Commission process following Deliberative Sessions

Please find enclosed with this memorandum staff/consultants' proposed agenda for the Commission's May 27-28, 2008, deliberative sessions. Staff/consultants will be seeking endorsement of this agenda by the Commission at its May 7 meeting.

This document was sent to the parties in draft form on April 23 for their comments. Petitioner Plum Creek, the Forest Ecology Network/RESTORE: The North Woods, Maine Audubon/Natural Resources Council of Maine, Maine State Chamber of Commerce, and Moosehead Region Futures Committee filed comments on the draft document. Generally, the comments consisted of (1) statements about how the review criteria should apply to the proposed Concept Plan in its entirety or to specific issues, and (2) lists of sub-issues that parties wished to highlight for the Commission's attention. The comments from these parties received by LURC are enclosed.

The proposed agenda reflects minor edits made in response to the parties' comments, and presents the issues in what staff/consultants believe to be a logical order. Because the proposed agenda is not intended to identify separately each individual sub-issue, but instead provide an organizational framework for deliberations, the detailed listing of sub-issues submitted by some commenting parties was not added to the proposed agenda. Nevertheless, these submissions were helpful and will assist staff/consultants in preparation for deliberations.

At the conclusion of the party hearings in January, Commission members stated their desire for a post-hearing process that would not lead directly to an up-or-down vote on the Concept Plan as filed, but instead would allow the Commission to consider whether and how the Concept Plan could be amended to address any deficiencies the Commission identifies under the review criteria. The proposed agenda is intended to meet the Commission's desire by focusing on core issues raised in written testimony at the hearings and in the party briefs, as well as issues identified from the record by staff/consultants. Staff/consultants will prepare written recommendations on each core issue for the Commission's consideration at the deliberations, and will provide those recommendations to the Commission and the parties approximately one week before the deliberations are held.

Regarding the decision-making process that the Commission might choose to follow on May 27-28 and thereafter, staff/consultants are recommending the following:

1. As the Commission deliberates on the core issues on May 27-28, the Commission will provide staff/consultants with guidance on whether amendments to the Concept Plan are required in connection with each core issue and, if so, how the Concept Plan must be amended to satisfy review criteria.
2. Following these two days of deliberations, staff/consultants would prepare a write-up of the Commission's guidance. The write-up would be presented to the Commission for review and approval, likely at its July or August meeting. Upon Commission approval, the write-up would represent the Commission's views on how the Concept Plan would need to be amended, if at all, in order to satisfy review criteria.
3. Following the Commission's approval of a write-up, this write-up would be posted for a public comment period. This comment period would allow petitioner Plum Creek to inform the Commission whether the amendments described in the write-up are acceptable in principle to it as the landowner.
4. The Commission would also consider all other comments it receives and determine whether an up-or-down vote on the Concept Plan as filed is in order, or instead whether staff/consultants should prepare specific amendment language for the Commission's review. If the Commission directs preparation of specific amendment language, those amendments again would be subject to public comment before the Commission would consider their final adoption. After considering the comments, the Commission could make additional changes and once again seek comment on those changes, or proceed to a final vote.

Staff/consultants will be asking the Commission for its endorsement of the above decision-making process at its May 7 meeting. Although this memorandum describes staff/consultants' recommended course for bringing this proceeding to a conclusion, it does not commit the Commission to any certain result on the merits of the Concept Plan until it takes a final vote. Similarly, at any point along the way, the Commission would retain discretion to make procedural adjustments in the interest of fairness, efficiency and due process generally, and staff/consultants could recommend any such adjustments, as appropriate, either to the Chair or the Commission as a whole.

Enclosures: Proposed Agenda for the Commission's May 27-28 Deliberative Sessions
 Comments on draft agenda from Plum Creek, FEN/RESTORE, MA/NRCM, Maine State Chamber of Commerce, and
 Moosehead Region Futures Committee

XC: Zoning Petition ZP 707 File

ZONING PETITION ZP 707
PLUM CREEK MAINE TIMBERLANDS, L.L.C. AND PLUM CREEK LAND COMPANY

PROPOSED AGENDA FOR THE COMMISSION'S MAY 27-28 DELIBERATIVE SESSIONS

April 28, 2008

1. PROPOSED DEVELOPMENT AREAS

Will the review criteria for concept plans be satisfied if the Commission accepts Plum Creek's proposal to rezone each of the following areas for development, considering, among other things, their locations, sizes, resources, character, and existing uses:

- A. Beaver Cove
- B. Upper Wilson Pond
- C. Lily Bay
 - Residential area
 - Resort-related area
 - Lily Bay Mountain "low-impact" area
- D. Big Moose Mountain
 - Big Moose Mountain
 - Moosehead Lake -- Deep Cove
 - Burnham Pond
 - Indian Pond "low-impact" area
- E. Moose Bay Village
- F. D-CI Commercial Zone
- G. Route 6/15 Corridor
- H. Rockwood/Blue Ridge
- I. Brassua Lake
 - Brassua Lake south peninsula
 - Brassua Lake northeast shore
- J. Long Pond
 - Northwest shore
 - Northeast shore
 - Southeast shore
 - Southwest shore

2. PROPOSED LAND USE ZONES AND STANDARDS

- A. Are Plum Creek's proposed development zones consistent with the review criteria for concept plans? Are the lists of uses (including uses allowed without a permit, uses allowed without a permit subject to standards, uses requiring a permit, or special exception uses) within (1) each development area, and (2) the lands proposed for conservation, consistent with the review criteria for concept plans?
- B. Is Plum Creek's proposal to freeze the boundaries of protection zones located within development areas for 30 years consistent with the review criteria for concept plans?
- C. Is Plum Creek's proposal to freeze certain land use standards for the 30-year term of the concept plan in return for a grant of permanent conservation lands consistent with the review criteria for concept plans?
- D. Is Plum Creek's proposal to modify, add or delete portions of the Commission's otherwise applicable regulations (e.g., scenic impact standards, subdivision layout and design standards) consistent with the review criteria for concept plans?
- E. Is Plum Creek's proposal to include certain land use standards in homeowner associations' declarations of covenants, conditions and restrictions consistent with the review criteria for concept plans?
- F. Are any additional or modified review processes and/or land use standards necessary for Plum Creek's proposal to satisfy the review criteria for concept plans?

3. TOTAL NUMBER OF UNITS WITHIN THE 30-YEAR TERM OF THE CONCEPT PLAN

Is Plum Creek's proposal to develop up to 975 residential dwelling units, 1050 resort accommodation units, affordable housing, employee housing, caretaker/manager housing, and other non-residential development consistent with the review criteria for concept plans, considering both area-specific and cumulative impacts?

4. "BALANCE" CONSERVATION EASEMENT

- A. Do the (1) location and (2) amount of land included in the proposed "Balance" conservation easement satisfy the review criteria for concept plans, including for:
 - Waivers of adjacency (comparable conservation);
 - Mitigation to prevent undue adverse impacts to existing uses and resources (e.g., recreational resources, wildlife resources); and
 - Publicly beneficial balance?
- B. Do the provisions contained in Plum Creek's proposed "Balance" conservation easement satisfy the review criteria for concept plans? These provisions include, *inter alia*, those addressing:
 - The type, intensity and location of permitted structures and uses;
 - Forest practices standards;
 - Subdivision;
 - Enforcement; and
 - Entities proposed as easement holder and third party.
- C. Are any additional provisions not contained in Plum Creek's proposed "Balance" conservation easement required to satisfy the review criteria for concept plans (e.g., stewardship/monitoring fund)?
- D. Does the proposed timing for execution of Plum Creek's proposed "Balance" conservation easement satisfy the review criteria for concept plans?

5. CONSERVATION FRAMEWORK

Are any components of the Conservation Framework (i.e., the Moosehead Legacy conservation easement, fee sale of the Roaches Tract, and fee sale of Number 5 Bog) required to satisfy the review criteria for concept plans? If one or more components, in whole or in part, is required:

- A. Has Plum Creek proposed the necessary, enforceable provisions and terms to satisfy the review criteria for concept plans?
- B. Does the proposed timing for execution of these components satisfy the review criteria for concept plans?

6. ADDITIONAL CONCEPT PLAN ELEMENTS

A. Do the additional plan elements proposed by Plum Creek, in combination with the proposed development and other offset provisions, satisfy the review criteria for concept plans? These additional plan elements are:

- Peak-to-Peak trail easement;
- Hut-to-Hut trail easement;
- ITS trail easement;
- Vehicular road access easements;
- Affordable housing; and
- Community stewardship fund.

B. Do the conditions imposed by the Maine Department of Transportation's Traffic Movement Permit satisfy the review criteria for concept plans as they relate to traffic congestion and safety?

C. Is Plum Creek's proposal to permanently conserve any remaining land in proposed development areas on which development has not occurred by the end of 30 years (as part of the so-called "Balance Easement") consistent with the review criteria for concept plans?

7. CONCEPT PLAN IMPLEMENTATION MECHANISMS

A. Are Plum Creek's proposed concept plan provisions governing amendment consistent with applicable review criteria?

B. Are Plum Creek's proposed concept plan provisions governing implementation of the plan by LURC, including, *inter alia*, administration, enforcement and the proposed role for the Homeowner Associations' Covenants, Conditions and Restrictions in plan implementation consistent with applicable review criteria?

C. Are Plum Creek's proposed planning and review processes at development application stages consistent with applicable review criteria?