

State of Maine

Department of Conservation

Maine Land Use Regulation Commission

Tuesday and Wednesday, May 27 and 28, 2008

Commission Deliberation

Zoning Petition ZP 707, Plum Creek Maine Timberlands, LLC and Plum Creek Land Company

Held at the St. Paul Center

Augusta, Maine

Don Thompson & Associates

Court Reporters

1 to go through the whole thing.

2 Some of them are pretty straightforward and probably
3 don't require a lot of discussion. There are obviously
4 probably three or four key issues that need or deserve a
5 substantive amount of discussion.

6 And what I would suggest is that as we work our way
7 through the book that we can identify those issues. I think
8 they're all pretty obvious. And we'll talk a little bit about
9 those today and then reserve them for detailed discussions
10 tomorrow, so that we -- because our objective is really to work
11 our way through this whole set of recommendations so the staff
12 knows that to do with them all.

13 At the end of business tomorrow, we'll be sending
14 them away with specific guidance on how to deal with all of
15 those.

16 Obviously that makes time a very important issue for
17 us, so we need to move -- we'll need to move along. And I may
18 remind us of that from time to time as we go along.

19 Basic -- this is a discussion between the staff and
20 the Commission. There will be no public participation, so I'm
21 sure that will be difficult, but you obviously -- the public
22 has had five weeks of public testimony plus all kinds of
23 opportunities to provide written comments. It's now the
24 Commission's turn to have something to say.

25 So we would appreciate it if there were no public

1 (The deliberation commenced on May 27, 2008 at
2 9:30 a.m.)

3 * * * * *

4 CHAIRMAN HARVEY: Good morning. Am I on? I'm on
5 now, right? Okay. And are we on all over the world? Is that
6 the idea?

7 PARTICIPANT: Should be.

8 CHAIRMAN HARVEY: Okay. Well, good morning to the
9 Commission staff and the people assembled here to -- here and
10 on the Internet. I understand we are now live, so --.

11 We also have some young ladies here from American
12 University in Washington DC that are filming us as far as some
13 type of documentary they're doing, so I told them earlier today
14 that they really missed the fun part the first five weeks.
15 Anyway. So they will be around the room as well.

16 Okay. So just a few quick comments to kind of remind
17 us what we're doing here today and what the rules are, and then
18 we'll get right underway. We have a lot to do in the next two
19 days.

20 We're here today to discuss and comment on
21 recommendations our staff has provided on the Plum Creek
22 proposal and to provide them some guidance on the next steps.
23 I think what we want to do today is we have a book full of
24 recommendations, and we're going to try to work through those
25 today -- all of them, as a matter of fact -- we're going to try

1 comments. As much as you're going to want to, I'm sure,
2 but --.

3 There will be opportunity to comment on what we're
4 doing today at a later time. We'll be offering -- once this
5 staff report based on this meeting is written up, it will be
6 going out for public comment. So you're obviously going to
7 have numerous additional opportunities to make -- review our
8 work for us, tell us how good we did.

9 With that, I'm going to ask the staff if they have
10 any comments before we begin on the program. I believe Aga had
11 a few things she wanted to tell us, so --.

12 MS. PINETTE: Thank you, Chair Harvey. Good morning,
13 everybody. It's great to be here.

14 I do just want to make a couple of brief comments
15 with respect to the recommendations document that you received
16 last week.

17 As you know by now, having reviewed it, these staff
18 and consultant recommendations are not in the form of findings
19 of fact and conclusions of law, which is the form that a staff
20 recommendation typically comes to you. And this is
21 intentionally not a decision document.

22 We are neither recommending approval or denial of
23 this concept plan as it has been presented by Plum Creek;
24 rather, per the Commission's instruction at the end of the
25 January hearings, we have presented for your consideration a

1 set of recommendations that, if accepted, we believe would
 2 result in a concept plan that meets all of the review criteria.
 3 One other point with respect to this document. While
 4 we haven't presented the rationale for how we feel these
 5 recommendations would meet the review criteria, I hope it goes
 6 without saying that the framework within which we've developed
 7 these recommendations are encompassed and integral to the
 8 review criteria and are based on the relevant review criteria
 9 for concept plans.

10 And I just want to note that we would be happy and we
 11 are ready to share our thought process on any of these
 12 recommendations at any time along the way if you wish to engage
 13 us in that discussion.

14 The last thing I want to mention very quickly is it
 15 has -- we want to bring to your attention several areas that we
 16 have discovered since the release of this document, and I would
 17 like to ask Ron to quickly walk through those errors before we
 18 begin.

19 MR. KREISMAN: Good morning, Mr. Chair, members of
 20 the Commission.

21 Despite our best efforts, there were a few things
 22 here that we wanted to bring your attention to.

23 First is on Page 13. The first paragraph there is a,
 24 starting with the Commission would also solicit, is a verbatim,
 25 at least from what we can tell, repeat of that same paragraph

1 that appeared on Page 12. We didn't put it there twice to make
 2 sure you read it. The copy function -- the cut function --
 3 didn't, I guess, work. So that's number one. No meaning
 4 there.

5 On a more substantive basis on Page 113, this is a
 6 discussion of additional plan elements. It's discussing the
 7 vehicular road access easements that Plum Creek is offering.
 8 There's an additional plan element and the staff
 9 recommendations, it goes to the sequencing.

10 There were two directions that were misstated in
 11 that. On the far right column in the second bullet, it should
 12 read: Concurrent with LURC's subdivision development approval
 13 for the first 200 residential and/or resort accommodation units
 14 on the west -- strike east -- side of Moosehead Lake, execute
 15 easements for the following roads.

16 And then the next bullet down, it has that same
 17 directional error. It should say on the west side of Moosehead
 18 Lake. Again. And as we walk you through this, the --
 19 hopefully the logic of how that's set up will come through.

20 Two more. On Page 116. This is a set of
 21 recommendations and discussion on the Community Stewardship
 22 Fund, and under the table starting II, Funding for CSF
 23 Activities, there was a substantive omission there.

24 As you will remember, Plum Creek is proposing that
 25 the Community Stewardship Fund be financed or funded by a

1 donation or fee of 2 percent on the 975 residential dwelling
 2 units and then a one-half of 1 percent fee on resale of those
 3 units.

4 The staff had intended in its recommendation, and I
 5 have text for the new recommendation, to also include to you a
 6 recommendation that either that fee or an alternative approach
 7 be added to the individually owned units that would also be in
 8 the resort so that that fee would apply in one form or
 9 another -- and I want to put this up on the screen, but just to
 10 explain -- that that fee or an alternative approach would apply
 11 not just to the 975 residential dwelling units, but any of the
 12 resort accommodations that eventually look and feel like
 13 individual ownership as well, not the short-term
 14 accommodations.

15 Let me just put this up so I can just quickly walk
 16 you through it. I have copies of this that I can either pass
 17 out now or when we get to. It's -- it's showing tract changes
 18 or strikeout form. So the important addition is in the second
 19 half. For those resort accommodation units that are
 20 individually owned, the same funding amount mechanism and
 21 distribution/allocation should be required for these units as
 22 well unless, 1, the long-term development plan for the resort
 23 proposes and the Commission approves an equivalent alternative
 24 plan for the resort to address these recreation housing and
 25 wildlife needs; or, 2, the long-term plan demonstrates that the

1 resort and these units will not contribute to the needs that
 2 these three funds are addressing.

3 And we can explain this when we go through it, but
 4 that was an omission in our recommendations and I apologize for
 5 that.

6 The last piece is on that same page, and it's really
 7 a pure formatting issue. No. 3 on that page, the land
 8 donations to BPL, and No. 4, the affordable housing, are
 9 incorrectly set up in table format as sub-points of
 10 sub-elements of the Community Stewardship Fund, and they're
 11 not.

12 They weren't presented that way in the Plum Creek
 13 recommendation -- or Plum Creek proposal. They're stand-alone
 14 additional plan elements, and so they should just be formatted
 15 so they're taken out of the overarching table, Community
 16 Stewardship Fund, and just set up as an additional plan
 17 element, independent land donations to BPL, and an additional
 18 plan element independent of affordable housing. If you go back
 19 to the cover page, that's there.

20 So with apologies from Evan and Aga and I, those are
 21 the errors and omissions.

22 CHAIRMAN HARVEY: Thank you, Ron.

23 Jerry, do you have any comments at this point?

24 MR. REID: No.

25 CHAIRMAN HARVEY: All right. If that's the case, I

1 think we're ready to the start right -- start right at the top
2 with the proposed development areas and kind of work through
3 those one at a time.

4 MS. PINETTE: If it would be helpful, what I can do,
5 just to get you familiar with the structure and organization of
6 these recommendations, is I could just spend a couple of
7 minutes guiding you through the architecture of the Beaver Cove
8 recommendation if you feel that that would be helpful, not
9 necessarily talking about the substance, which I'm sure you
10 have read, but rather the flow of the documents.

11 CHAIRMAN HARVEY: Go ahead.

12 MS. PINETTE: Okay. As you'll see, all of the
13 development areas specific recommendations in this document are
14 set up in table form and categorized by elements that we feel
15 are key elements of the proposal. And next to each of those
16 elements is a summary of Plum Creek's current concept plan
17 proposal and then an outline of the staff recommendations
18 related to that element.

19 So, for example, starting on Page 3 of the Beaver
20 Cove Development area, we have outlined the five categories of
21 unit types that Plum Creek is proposing within these
22 development areas. And as you know, some of the areas are
23 exclusively intended for eventual development and others are
24 for resort development and those are categorized into those
25 five types.

1 Going down the list quickly, there's -- the next line
2 deals with the ability to transfer in additional units,
3 specifically additional residential units, up to the 975 unit
4 residential cap proposed by Plum Creek. And in the case of
5 Beaver Cove, you can see that Plum Creek is proposing that this
6 has been an uncapped area that could be a potential receiving
7 area for a portion of those 975 units.

8 Going down to the next line, there's a discussion, or
9 a description, of the approximate size and configuration of the
10 development areas and any changes we are recommending with
11 respect to that, and then a description of the land use zoning
12 or permitted uses within that development area.

13 On Page 4 you will see a description of what
14 development review process, subsequent to concept plan
15 approval, will be in place or is being proposed. And then
16 there is a line item for what might happen to any lands that
17 are not developed within the 30-year term of the plan within
18 this development area and how that undeveloped land -- how that
19 undeveloped land is dealt with in the current proposal and the
20 recommendations.

21 So these key -- excuse me -- these core elements are
22 repeated throughout each of the development areas with some
23 development areas having additional line items that are
24 specific to those areas.

25 Any questions on the flow of the document?

1 MS. HILTON: I'm looking for a recommendation, I
2 guess, from the staff on this. One thing I found when going
3 through this format -- which by the way, I find very easy to go
4 through and read and straightforward with the tables and I
5 think you did a great job of making something very complicated
6 a lot easier for us review.

7 But, for example, when we get to the land use zoning
8 and you look at the recommendation where it is to combine two
9 zones, should we have that conversation about that concept or
10 that recommendation in this conversation about the first
11 district, or should we wait until later?

12 It also is relevant to the disposition of undeveloped
13 land after a 30-year term. And I -- we get into that and it's
14 applicable in many of the districts.

15 MS. PINETTE: That's a great point. The way this
16 document is structured is it does have a number of cross
17 references to some broader development issues that have been
18 highlighted by the staff.

19 And one of them is, of course, the permitted use
20 within the zoning structure as well as the disposition of
21 excess lands, which are more holistically addressed later in
22 the document on the zone --. That discussion begins on
23 Page 47.

24 And there are some broad planning and design elements
25 starting on Page 56 that really are -- flow through the

1 development-specific issues.

2 And I would suggest that at any point where you have
3 an issue or want to discuss that at a specific level at each
4 development area, you should do so and then circle back and
5 step back when you get to the general development issues and
6 look at it more comprehensively at that point.

7 MR. WIGHT: Aga, could I ask a follow-on question to
8 that?

9 It appears that Plum Creek has offered some new zones
10 and then you had -- the staff has taken those zones and kind of
11 combined them into one zone.

12 It might be helpful if you just gave us a little
13 discussion on that whole thing as far as --

14 MS. PINETTE: Sure.

15 MR. WIGHT: I have questions, too, like where did the
16 H and where did the M come from?

17 MS. PINETTE: Right. Yes, I would be happy to give
18 you an overview of our thinking on the land use zoning because
19 it is a flow-through issue.

20 If you can go to Page 48 of the recommendations
21 document, you will see an overview of the recommendations with
22 respect to the development zoning, the management zoning, and
23 the detachment zoning. And I'm assuming, Steve, that you're in
24 particular looking for an explanation of the development zoning
25 right now?

1 MR. WIGHT: Right.
 2 MS. PINETTE: That's what I'll be focusing on.
 3 Basically what we are recommending, starting on Page 49, is on
 4 the residential development by consolidating the two
 5 residential zones that Plum Creek is proposing into one
 6 residential zone that in some areas prohibits commercial
 7 development and in other areas allows commercial development of
 8 a limited nature by special exception.

9 So if you look on Page 49 on the left-hand side -- in
 10 the left-hand column, you will see a description of the two
 11 residential zones that Plum Creek is proposing, as well as the
 12 mixed-use development zone M-GM 3 that is included as kind of
 13 like a floating zone within some of the development areas.

14 And on the right-hand side you see that we are
 15 recommending creating one zone that accommodates a range of
 16 residential and mixed-use development in different areas.

17 Okay. So for example, reflecting back to Beaver
 18 Cove, this is where the reference to the D-MH-RS1 is.

19 MR. WIGHT: What's that?

20 MS. PINETTE: Moosehead.

21 MR. WIGHT: Moosehead. Oh, why didn't I know that.

22 MS. PINETTE: We simply wanted to distinguish it from
 23 the other residential zones in the jurisdiction. So no other
 24 reference to mixed housing there.

25 But it is a mixed housing zone. In other words, it

1 would permit a range of residential uses from single-family
 2 dwellings to resort units, as well as affordable housing.

3 And in some areas, such as the Brassua Lake south
 4 peninsula, for example, this zone would also allow for some
 5 limited scale commercial facilities and uses by special
 6 exception.

7 If you flip to the next page, you will see that
 8 this -- this describes our recommendations with respect to the
 9 resort-related zone proposed by Plum Creek. And here
 10 Plum Creek is proposing one zone, the D-GN3M zone, that would
 11 apply to a portion of Lily Bay into the Big Moose Mountain
 12 development area. And here we are recommending actually
 13 dividing this zone into three separate end-use zones, one that
 14 would accommodate residential as well as resort-related
 15 development, for example, at Lily Bay and at Moose Bay, but
 16 would not require resort development.

17 And on Page 51, the other zone would be the resort
 18 development zone for the Big Moose Mountain area that would
 19 require resort development. I need to go into the details of
 20 that when we get to discussing Big Moose Mountain.

21 And then the third resort-related zone would be to
 22 capture the "low-impact development" that is being proposed at
 23 Big Moose Mountain on the Indian Pond Shore, as well as on
 24 Lily Bay Mountain, and we are recommending a separate land use
 25 zone for this area that would restrict uses to permitted resort

1 accommodations comparable to sporting camps.

2 MR. KREISMAN: Going back to the residential zones
 3 for one second and Commissioner Hilton's question, in time what
 4 Aga just explained to you for Beaver Cove, for instance,
 5 Plum Creek had proposed the Beaver Cove a D-RS3 zone, which
 6 would mean for the 30-year concept plan, the only thing that
 7 could be constructed in Beaver Cove is single-family
 8 residences. That's what the proposal was, and that's what
 9 you're being asked to approve.

10 So what Aga is saying is that we are suggesting that
 11 while the developer can always maintain the ability, through
 12 restrictive covenants on a particular development, to have only
 13 single-family houses, to have a zone for 30 years that says,
 14 thou shalt do nothing but single-family homes are prohibited
 15 did not make sense to us and that there should be flexibility
 16 if -- some multi-family, what's more appropriate, it's very
 17 limited, as Aga said, to have uses that are scaled depending on
 18 each development.

19 So that's the connection between -- on the Beaver
 20 Cove issue -- and obviously you can talk a lot more about it.
 21 But taking the proposed change to one zone with different
 22 approaches from what was there.

23 MR. WRIGHT: My only other overriding question is if
 24 I were to walk up to the front door of a house and knock on the
 25 door, would I know whether that house, just by looking at it,

1 was one of the 975 single-family homes or whether it was one of
 2 the who knows how many resort single-family units? Is there
 3 any difference in construction style or anything else?

4 MS. PINETTE: There is a -- we are recommending that
 5 there be a difference in unit type only at the Big Moose
 6 Mountain Resort zone in that a percentage of those units ought
 7 to be short-term resort accommodations, in which case you may
 8 be able to distinguish it not necessarily by looking at the
 9 structure but by looking at the deed that is with that
 10 structure.

11 MR. WRIGHT: I understand that, but there are a lot
 12 of them that apparently can be single-family homes.

13 MS. PINETTE: That's right.

14 MR. WRIGHT: Would they look any different than the
 15 975?

16 MS. PINETTE: No, they would not.

17 MR. WRIGHT: Thank you.

18 MS. PINETTE: I do want to give Evan an opportunity
 19 to also talk to you about the hierarchy of commercial uses that
 20 we had envisioned in each of these zones. I think that would
 21 be useful as to context.

22 MR. LAVERTY: I have a couple of questions about the
 23 intensity and type of use that is allowed in each zone. Do you
 24 want to address that now or do you want to wait until it comes
 25 in the presentation itself?

1 MS. PINETTE: We can certainly address it now.

2 MR. LAVERTY: What do you think would be most useful
3 to us? To do it now?

4 MS. PINETTE: Since we're on the topic, I think it's
5 a natural progression.

6 MR. LAVERTY: And again, following up on Steve's
7 question, could you sort of give us examples about the types --

8 MS. PINETTE: Yes, I'm going to ask Evan to do that.

9 MR. LAVERTY: -- about the types and potential uses
10 of each one of these zones? Not -- the residential as well as
11 the resort and commercial zones.

12 MR. RICHERT: Good morning. I haven't had a chance
13 to say good morning yet.

14 One more big picture fresh now as to Aga's and Ron's
15 is that whereas the Plum Creek proposal created a hierarchy of
16 zones -- sometimes in zones, we think of hierarchies of zones
17 where the most exclusive use is at the top of the pyramid and
18 the most open set of zones with the most open use is at the
19 bottom of that pyramid.

20 As is not unusual in zoning schemes, Plum Creek
21 envisioned this pyramid to be based on residential so that
22 there was an exclusive residential zone at the top where you
23 could only do single-family homes, basically.

24 And then as you went down the -- down the pyramid to
25 different residential to commercial to resort, the numbers and

1 types of uses expanded as you went down that hierarchy.

2 As Ron indicated, we could not find a strong public
3 purpose in thinking of exclusivity residentially in any one
4 place over another. And so we switched this hierarchy to more
5 of a commercial hierarchy where you have at the -- where the
6 most restrictive zone is what Aga referred to as the primitive
7 resort where there's only one thing you can do there, basically
8 a sporting-camp type of thing.

9 And then at the very bottom of the pyramid, the most
10 expansive is the -- is what is called the resort zone or RT is
11 the initial given to it -- zone where it is a fairly wide open
12 range of uses that would be allowable there. And in between,
13 there are different levels of non-residential activities that
14 could occur.

15 To answer your question, Commissioner, in the
16 primitive recreation resort zone, very little can happen there
17 of any intensity. It's strictly limited to a sporting camp
18 kind of set of uses, 10,000 square feet gross, total, allowed;
19 no building more than 2,000 square feet in size.

20 Then you come to a -- to the residential development
21 zone which is styled D Moosehead RS-1 in which there are a
22 number of -- several of the zones that will be exclusively
23 residential, plus -- but within that residentially, it doesn't
24 matter to us, as a matter of public policy, whether those are
25 single-family homes or duplexes or townhouses or multi-family.

1 The market and the developer will probably be building
2 single-family homes, but as a matter of public policy, we are
3 not concerned about that, as long as they can get septic system
4 permits and meet all of the other standards.

5 There could also be in those places certain civic
6 uses, such as if there had to be a satellite fire station or
7 something like that there; but there could not be commercial
8 uses. And those zones include, for example, Upper Wilson.

9 MR. LAVERTY: Excuse me. Just before we go on here,
10 with regard to the residential resort option development zone,
11 you referred to that as D-MH-RS1. On page 50, it's RS-2.

12 MR. RICHERT: It should be RS-2.

13 MR. LAVERTY: It should be RS-2 or RS-1?

14 MR. RICHERT: 2.

15 MR. LAVERTY: Okay. But when we go back to Page 3 in
16 the Beaver Cove Development area, it references RS-1. So
17 that's correct?

18 MR. RICHERT: That's correct, yes.

19 MR. LAVERTY: So let me go -- let me continue down
20 the hierarchy here.

21 MR. RICHERT: Just --

22 MR. LAVERTY: I'm a little confused.

23 MR. RICHERT: Okay.

24 MR. LAVERTY: Is the residential resort optional
25 development zone RS-2 or RS-1?

1 MR. RICHERT: RS-2.

2 MR. LAVERTY: Okay. What is RS-1?

3 MR. RICHERT: RS-1 is a residential development zone.
4 It is still residential, but there are two flavors of this
5 RS-1.

6 One flavor is -- it's just residential, but with the
7 capacity to build in some public uses as may be necessary. And
8 that's places like Upper Wilson and Long Pond and so forth.

9 MR. LAVERTY: Okay.

10 MR. RICHERT: And then the second flavor of
11 residential development or RS-1 would allow places like a
12 Rockwood, Blue Ridge in South Brassua where there is a critical
13 mass of residential development proposed, it would allow some
14 neighborhood-scale commercial uses so that people could get
15 some basic goods and services, a quart of milk, the newspaper,
16 ice cream, a walking distance away or a very short drive away.

17 MR. WIGHT: How on a map will we designate the
18 difference between those two?

19 MR. RICHERT: Well, they would be -- it would be easy
20 to code them on a map, but they will -- it will be right in the
21 language of the --

22 MR. WIGHT: Would they both be RS-1?

23 MR. RICHERT: They'll both be RS-1, with the
24 exception that in a few of the places, by special exception,
25 some of these neighborhood-scale, limited scale, limited

1 business uses will be allowed.

2 MR. WIGHT: It seems as though you'd need another
3 number.

4 MS. PINETTE: You wouldn't need another number. The
5 way that we do this in the current zoning is by listing certain
6 additional uses by special exception category.

7 So, for example, this would say in the following
8 areas and list the areas out Route 6 and 15, Rockwood, South
9 Brassua, the following additional uses are allowed by special
10 exception and then neighborhood-scale uses would be listed.

11 MR. WIGHT: I guess I'm jumping ahead in thinking
12 that this may be the makings of the new Moosehead plan in which
13 case, rather than having to list each of the areas where you
14 could do different things in RS-1, you might want to have an
15 RS-1A.

16 MR. RICHERT: I think your notes on formatting this
17 are very useful. It could be 1-A, 1-B, or other numbers, but
18 they do need to be clearly designated so at a glance you could
19 know that they are somewhat different.

20 As you go down the pyramid, Commissioner Laverty, the
21 next level is the residential resort optional, which is the
22 RS-2, which is basically a residential district. But, again,
23 for reasons that we can go into -- or that Aga can go into with
24 you when we get to these specifics -- it appears that there is
25 no reason not to allow bed and breakfasts and things like that

1 that might be resort oriented.

2 And so those areas allow another category of
3 nonresidential activities that the others do not.

4 MR. LAVERTY: Could you give me an example of a
5 neighborhood-scale commercial facility as opposed to a
6 non-neighborhood-scale commercial facility?

7 MR. RICHERT: Yes. A neighborhood-scale facility --
8 First of all, it would be limited in square footage. So, for
9 example, probably nothing more than 2,500 square feet for use.
10 So it's by scale, the size, and then by activity.

11 These are activities that you would think of as
12 everyday needs: A convenience store or a general store, for
13 example, or an ice cream shop, you know, things of that nature.

14 Cumulatively, very limited as to the acreage that
15 they could occupy, and when you go to the individual zones, you
16 will see that we have capped the acres within the development
17 layers that could be used for these purposes.

18 Nonresidential would be a supermarket, a small-scale
19 community shopping center, factory outlet stores. Things that
20 you would expect that there would be -- you wouldn't have in
21 every neighborhood, but that it would be more properly situated
22 at Rockwood -- or in Greenville for that matter -- or in a
23 resort that is -- that is trying to be somewhat self-contained.

24 MR. LAVERTY: Thank you.

25 MR. RICHERT: Then finally at the bottom of the

1 pyramid, the difference that would be most open -- the zone
2 that would be most open to a variety of uses would be the
3 resorts themselves. They're given the greatest amount of
4 flexibility to build in the attractions and the facilities in
5 order to make those resorts successful, and that would become
6 part of the long-term CLUP plan that you would review in
7 advance of a specific subdivision development review permit.

8 MR. LAVERTY: But in terms of the scale of
9 development allowed there, particularly commercial activity,
10 could -- there's been some discussion of golf courses. Could a
11 golf course be considered appropriate for a resort zone?

12 MR. RICHERT: Yes.

13 MR. LAVERTY: Let's say a commercial water park, an
14 amusement park?

15 MR. RICHERT: Great questions, because we've had this
16 very conversation, and the answer is no, not the way we have
17 recommended the language.

18 They have to be nature oriented and things like
19 amusement parks would be either implicitly or maybe explicitly
20 not allowed, unless you wanted it, but that's our
21 recommendation.

22 MS. PINETTE: Our recommendation with respect to the
23 resort-related zones is to allow for an intensity of
24 development that accommodates nature-based resort development
25 and the amenities that are associated with that, but that

1 limits the types of uses to those that are nature-based,
2 meaning, you know, not an amusement park.

3 MR. LAVERTY: So that would be a review criteria in
4 the subdivision review stage?

5 MS. PINETTE: Right. It would be embedded into the
6 list of uses for that zone. And the way I envision the purpose
7 of that zone would make it very clear that we are specifically
8 talking about nature-based resort development.

9 And you can refer to the footnote on Page 50,
10 Footnote 56, to give you a list of examples that we had in mind
11 when we wrote what a nature-based resort might include.

12 MR. WIGHT: I just would like to make a comment that
13 I really appreciate this approach. I've always been concerned
14 that when we've accepted plans, we've accepted subdivisions,
15 not communities. And I think this gets us a long way toward
16 creating communities of various sizes and various places. So I
17 applaud your work on that.

18 MS. HILTON: I really like this approach and --
19 because of what Steve just said, one thing. And also, I think
20 it's simpler to have one zone as opposed to two when you can do
21 that. I think the whole idea of introducing some flexibility
22 for development here along with creative designs, I think
23 it's -- hopefully people will have walkable areas so we can get
24 people out of cars, less traffic, and all the impacts related
25 to traffic. So I think it's great.

1 And I think for Beaver Cove, in particular where you
 2 just limited it to public and civic uses and facilities and
 3 then home occupations, is a good way to approach it for that
 4 particular area.
 5 CHAIRMAN HARVEY: Anybody else on Beaver Cove?
 6 MR. LAVERTY: Oh, we're back to Beaver Cove?
 7 CHAIRMAN HARVEY: Well, I assume we are, unless you
 8 have questions unanswered there.
 9 MR. LAVERTY: We need to go through Beaver Cove.
 10 CHAIRMAN HARVEY: We should go through Beaver Cove.
 11 MR. LAVERTY: Do you want to say types and number of
 12 units in your questions, or do you want us to just jump in with
 13 our questions?
 14 MS. PINETTE: I don't think there's a need for me to
 15 go through this unless you have specific questions.
 16 CHAIRMAN HARVEY: It wasn't our plan to have them
 17 make a presentation on each development zone. If you've got
 18 questions that you've written down somewhere, just go ahead.
 19 MR. LAVERTY: All right. Well, I guess -- it isn't
 20 so much a question, but I -- in the review process, the
 21 development review process, I think that the language that
 22 you've used and the -- sort of the theory that you've used in
 23 the approach to the review process, I think, makes a lot of
 24 sense. It's a little less confusing, I think.
 25 And it's also couched more in terms of language that

1 I think is more understandable within the context of LURC. So
 2 I think that's a major contribution.
 3 I'd also like to talk about the disposition of
 4 undeveloped land after 30 years because this comes up in a
 5 number of circumstances.
 6 MS. PINETTE: Yes, it does.
 7 MR. LAVERTY: In one of the iterations of Plum
 8 Creek's proposal, they were proposing that at the end of the
 9 30-year period when the concept plan goes away, that any land
 10 in the development zone that wasn't developed would
 11 automatically fall into the conservation easement.
 12 Now, at first -- I mean, I've had some concerns about
 13 this and I noticed that they were noted in the record. While I
 14 think that at first blush it may seem like an easy alternative
 15 just let everything sort of tip into the easement, I'm a little
 16 bit concerned about good planning principles, in the sense that
 17 what we're doing is we would then be essentially allocating all
 18 of the developable land into the future.
 19 And it just occurs to me that in 30 years if
 20 Rockwood, for example, should develop as proposed in this plan,
 21 and decides to incorporate, that it seems to me the citizens of
 22 Rockwood ought to have some control over what happens with
 23 their land base.
 24 You know, I think that's also true in perhaps Beaver
 25 Cove and it's also true in areas of intense development that

1 may remain within our jurisdiction.
 2 So I mean, I -- I'm very much in favor of this. It
 3 doesn't say that the land will be developed, but it says that
 4 that decision will be made according to LURC review criteria
 5 after 30 years as opposed to automatically placing all that
 6 land into the conservation easement.
 7 As I say, you know, I can see where a lot of people
 8 would find that very enticing, you know, let's take all the
 9 land and stick it into easement.
 10 I just think that we have a responsibility to future
 11 generations and the people that live in that area to allow some
 12 flexibility so that we're not sitting here in 2008 and picking
 13 the future and, in many instances, at least in certain
 14 portions, in perpetuity. Forever. So I just want to say that
 15 I find this a reasonable approach.
 16 MR. WIGHT: I agree with this. I've only been on
 17 this commission for 21 years, and I think that's a long time;
 18 30 years is a long time, and a lot of things change. I like
 19 your approach.
 20 MS. KURTZ: I also agree with both Ed and Steve, and
 21 I think the other piece that I want to add in is that what this
 22 proposal recommends is that not all of the land that we left
 23 over is equal, it's not all apples and apples.
 24 Relative to where we are and relative to current
 25 development, natural resources that would be there relative

1 ability to be developed and then to put it all -- dump it all
 2 into one bucket doesn't allow for the kinds of things that Ed
 3 had mentioned.
 4 So I think it's a very wise thing to allow those
 5 lands to be looked at individually, either at the end of the 30
 6 years. As we're going through this, there are several other
 7 options, but it does make sense to me.
 8 MR. LAVERTY: I have another issue --
 9 CHAIRMAN HARVEY: Can I follow up just --
 10 MR. LAVERTY: Yes, please.
 11 CHAIRMAN HARVEY: There were some -- I guess it's on
 12 the question of the disposition of undeveloped land. It looks
 13 like you made -- in different locations you made different
 14 recommendations for that?
 15 MS. PINETTE: Yes, that's right. The disposition of
 16 this undeveloped land is really -- the broad approach that
 17 we've taken is described under the planning and design
 18 components. It's on Page 61.
 19 And we have approached this idea of what happens with
 20 any remaining, undeveloped land after the 30-year term that
 21 this plan will expire. It's very much case-by-case and
 22 location-by-location.
 23 And our recommendation to you is that there are four
 24 development areas where a permanent cap on development does
 25 make sense; however, we do not feel that the proposed approach

1 by Plum Creek to put that into balance easement would
2 accomplish that intent. And we are instead recommending an
3 approach of restrictive covenants or easements on the land that
4 would assure permanency of that cap in those four areas.

5 And on the other hand, as Commissioner Laverty
6 discussed, we do feel quite strongly that there are places here
7 where a permanent restriction of undeveloped land would be
8 harmful to the public interest and would create a situation
9 whereby, as communities develop and grow, they will be
10 precluded from accommodating and planning for future needs
11 within that community.

12 And in particular, we are concerned that that would
13 happen in Rockwood if any excess lands, which is quite a bit in
14 that development area, would be put into balance easements.

15 So there we are making recommendations to eliminate
16 the balance easements and actually, in fact, place some of that
17 excess land in more or less a 30-year plan in order to allow
18 those communities and for the LURC Commission, 30 years from
19 now, to make good planning decisions for the community.

20 MR. LAVERTY: I just wanted to -- this also arises at
21 subsequent areas, so I just wanted to bring this up now.

22 We're talking here about 32 planned residential
23 units, but yet the opportunity to transfer in additional
24 residential units up to 975.

25 Now, that's a concern, except that -- and I think the

1 way I've worked through this, and I'm subject to comment from
2 other people -- it seems to me that this is an area that,
3 absent the concept plan, because of our adjacency criteria,
4 would be subject to development and would be subject to
5 development, the intensity of which would be determined at the
6 subdivision review level based on site-specific considerations.

7 So I think that in certain areas, there are a couple
8 other that we'll get to, it seems to me that at least what I'm
9 taking into consideration is if it is an area that could be
10 developed and developed ostensibly absent this concept plan and
11 meets our criteria -- would meet our adjacency criteria for
12 rezoning, then it seems to me that that's an area that I'm
13 willing to guess we accept the more intensive development than
14 I would in areas that don't meet the adjacency requirement.

15 Is that a logical approach to this.

16 MR. RICHERT: That is entirely logical and very
17 consistent with staff and consultant thinking as well.

18 We did do --. There are a couple of points here that
19 you were making. One had to do with the appropriate place for
20 development and not placing artificial limits on those
21 appropriate places if they are well-defined and not going to
22 sprawl over the growth boundaries that have been identified.
23 And that's what you focused on.

24 We also did, as you may recall, an excess land
25 analysis back in late fall/early winter where we looked at each

1 zone and, based on different assumptions of lot size and
2 intensity of use and frontages and things like that, tried to
3 project reasonably whether a given area would have excess land
4 in order to be able to receive more units in transferred from
5 the 975 or would count toward those 975 or be available for a
6 period beyond the concept plan horizon.

7 And by a combination of those things, the adjacency
8 analysis to which you refer, the excess land analysis which we
9 did, we became comfortable with areas being receiving areas, to
10 use Plum Creek's language, versus those that should not be
11 receiving areas. And I think we're very consistent.

12 In the case of Beaver Cove, there are about 106
13 buildable acres. That's only going to be able to accommodate a
14 certain finite number of lots or units. And my guess is that
15 when all is said and done at Beaver Cove and they have designed
16 32 lots and the streets and common spaces that go along with
17 that, there's not going to be much left over.

18 Perhaps they would -- they should be free to transfer
19 more in, but there's a finite limit here just by virtue of the
20 fact that there are only 60 buildable acres and no more, and
21 they're going to need to accommodate septic systems and
22 everything else.

23 So there are natural limitations that go through a
24 number of these areas, but the basic principle that you espouse
25 is very consistent with our thinking.

1 MR. LAVERTY: Okay.

2 MR. KREISMAN: Commissioner Laverty, before you go
3 on, I wanted to go back to another historical note because you
4 made one on the excess lands.

5 I wanted to add another historical note, that in the
6 previous version of the Plum Creek plan, the concern you were
7 raising about not precluding future generations, was actually
8 addressed by -- you'll remember there were buffer zones around
9 the development zones that were for 30 years only that were to
10 accommodate it.

11 And then when this version of the plan came out, they
12 had -- so essentially you had three choices. You had the
13 development zone; you had -- surrounding certain development
14 zones, you had this 30-year buffer; and then you had permitted
15 in perpetuity easement lands.

16 In the version that came out in April, this version,
17 before there was an amendment in October, it was down to two
18 approaches, which was larger development zones to allow that
19 capacity to expand after 30 years and not use it all up, and
20 then in perpetuity easement plans lands surrounding the balance
21 easement.

22 And then what happened in October was the version --
23 was the change in which part of those development zones that
24 weren't development would then go into balance ease.

25 So I just want to make the point that going one

1 historical step prior to what you went, there were --
 2 Plum Creek did acknowledge that there needed to be room for
 3 future generations to decide.

4 So what we're recommending is really that same
 5 policy, but accomplished within the development zones, the
 6 reservation of land and certain targeted development zones.

7 MR. LAVERTY: Thank you.

8 CHAIRMAN HARVEY: Ron, I don't want to complicate
 9 this any, but how is -- the question of the restricted
 10 covenants which caps the number of developments, number of
 11 units, as opposed to the excess land? If you cap them, then
 12 there's no excess land, right?

13 MR. KREISMAN: Well, I'm not sure if you're asking a
 14 policy question or a legal question. If it's a legal question,
 15 I think Jerry can answer.

16 CHAIRMAN HARVEY: No, I just --

17 MR. KREISMAN: Why don't you explain the thinking on
 18 where different choices were made?

19 MS. PINETTE: We had thought carefully about whether
 20 the approach of putting the -- any remaining excess lands into
 21 balance easement was the appropriate way to ensure that no
 22 additional development would occur in those areas, and we found
 23 several challenges with that approach.

24 First of all, it would not -- that approach would not
 25 preclude vertical expansion, in other words upward growth or

1 in-fill in these areas over time. And one might have a
 2 situation, for example, in one of these capped areas -- let's
 3 just use Upper Wilson -- where there's a 32-unit cap that would
 4 dissolve at the 30-year term of the plan and new zoning would
 5 be established in that area.

6 But those 32 units may be laid out in such a way to
 7 use up all of the lands through that zone through larger lot
 8 sizes, for example, or through a design that doesn't make it
 9 conducive to putting any of the lands into a balance easement.
 10 And that, per se, is not the problem.

11 The problem is that if the Commission feels that it's
 12 important to cap that area permanently and limit the ability
 13 to -- or the intensity to increase in that area, that this
 14 approach would not achieve that. And that is why when we were
 15 looking at other legal approaches -- that Jerry can more fully
 16 explain if you wish -- that would permanently impact the
 17 ability for new units to be developed in that zone or for units
 18 to be expanded into duplexes or multi-family homes, for
 19 example, that would increase the intensity of development on
 20 the same acreage.

21 CHAIRMAN HARVEY: Okay. Are there any other --.

22 Are there any other comments you want to make about
 23 Beaver Cove? Gwen?

24 MS. HILTON: I just have a question. What is the
 25 definition of caretaker manager housing? It's all through

1 here, and I didn't get a chance to look it up.

2 MR. RICHERT: I think it's in the pocket part
 3 definition, but it's -- and without looking at it, I'm
 4 paraphrasing -- it's housing of people who would be employees
 5 of the homeowners association hired to take care of the
 6 housing, either in the wintertime when they're unoccupied or
 7 are there to do the landscaping, or to take care of the variety
 8 of issues that come up with homes within a subdivision.

9 MS. HILTON: Do you have any concern about that being
 10 a loophole in any way?

11 MR. RICHERT: I don't. It's a great question because
 12 that sort of thing is always ripe for loopholes.

13 In the actual language that will be developed after
 14 the Commission has given the big picture corrections, the
 15 language will have to be tight to make sure.

16 MR. WIGHT: There's a host of different categories of
 17 housing units that are not covered by the 975 and the 1,050.
 18 That's certainly one of them. Then there's employee housing in
 19 addition to managerial house, and then there's affordable
 20 housing.

21 So all of these things I hope at some point we'll
 22 understand where they're going to go. Maybe we won't
 23 understand until the subdivision stage, but when the world
 24 freaked about 975, this little piece hadn't come forward yet.

25 CHAIRMAN HARVEY: Are there other specific comments

1 or concerns about Lily Bay -- not Lily Bay -- Beaver Cove?

2 I'm assuming that municipal concerns are taken care
 3 of and in this new zoning you proposed, it allows the concerns
 4 to the Town of Beaver Cove development potential needing a
 5 little more space for municipal facilities are allowed in this
 6 zoning area?

7 MS. PINETTE: Yeah, that's right.

8 We're recommending --. Plum Creek has proposed two
 9 M-GM zones that are -- adjoin the property owned by the Town
 10 for its Town hall.

11 And we're recommending moving those from the M-GM
 12 zoning and putting them into this residential RS-1 zone, as
 13 Evan mentioned, which does allow for public and civic uses.

14 CHAIRMAN HARVEY: Okay. If there aren't any other
 15 questions about Beaver Cove, I'm going to ask you to look at
 16 Wilson Pond, Upper Wilson.

17 MS. PINETTE: If I may, I would like to highlight the
 18 added lines to this recommendation that are new to Upper Wilson
 19 Pond that may be worth bringing to your attention.

20 MR. LAVERTY: Excuse me, Aga. New? You mean they're
 21 not in here?

22 MS. PINETTE: No, they're in here. I'm sorry. The
 23 elements that are distinct for Upper Wilson that did not appear
 24 in the Beaver Cove zone.

25 You'll see on Page 6 outlined the number and type of

1 units and the transfer and configuration as before and our
2 recommendations starting on Page 7 on zoning the review process
3 dealing with the excess lands.

4 The last two rows of the table on Page 7 are unique
5 to Upper Wilson. You will see a recommendation related to
6 limiting shoreland structures, and that will be repeated in
7 some of the other development areas as well.

8 And something that is exclusively unique to Upper
9 Wilson is Management Class 4 lakes classification and our
10 recommendation with respect to removing some added provisions
11 that are currently in Chapter 10 related to preservation of
12 additional open space within that development area.

13 I just wanted to highlight that that is an element
14 that is unique to this development area.

15 MS. HILTON: Aga, that last point you made, could you
16 elaborate on that a little bit more?

17 MS. PINETTE: Sure. Upper Wilson Pond is a
18 Management Class 4 lake which, because of Lower Wilson Pond
19 development patterns, means that it is approaching, "heavily
20 developed status."

21 In the case of Management Class 4 lakes, LURC
22 typically requires that subdivisions meet the requirement of
23 Section 10.25-R which is on the same page. Essentially what
24 that means is within the development area, 50 percent of net
25 developable land and 50 percent of net developable shore

1 frontage must be set aside as open space.

2 The reason for that, the rationale between that rule,
3 was basically to prevent the type of ring-around-the-lake
4 development that has occurred in many southern Maine lakes, and
5 some northern Maine lakes as well, whereby no preservation of
6 shoreline occurred as development incrementally along the
7 shoreline.

8 In the context of this concept plan, we felt that
9 that objective has already been achieved through the proposed
10 conservation of the remaining shoreline of Upper Wilson Pond,
11 which is illustrated, I believe, on Page 5 where you see that
12 the entire east side of the lake -- and really going through
13 the northern shoreline on the eastern side of the lake that is
14 in Plum Creek's ownership is being proposed for conservation.

15 And we felt that the remaining development area,
16 which does meet the adjacency principle, in our opinion, and is
17 sited on the west side of the lake, shouldn't be subject to
18 additional open space requirements, per se.

19 Now, there may be a need to protect certain portions
20 of the shoreline for natural resource protections to avoid the
21 wetlands, et cetera, but we felt that the Management Class 4
22 objective had been met, and therefore we're not recommending
23 any changes to Plum Creek's proposal to strike that Class 4
24 open space requirement.

25 CHAIRMAN HARVEY: This is unique to Upper Wilson?

1 MS. PINETTE: Yes. This is the only Class 4 lake
2 being proposed for development.

3 MS. KURTZ: Aga, could you follow up with the second
4 section of the management class -- Class 4 lake requirements on
5 eliminating Plum Creek's proposal to eliminate the clustering
6 requirement?

7 MS. PINETTE: Yeah, that's probably a wrong
8 descriptor of Section 10.25-R. If you look at Chapter 10 and
9 the actual requirements that are in Section 10.25-R, they are
10 much less a description of what we all might envision as being
11 clustering and much more of a description of how to preserve
12 the shoreline.

13 So this recommendation is in no way an indication of
14 a position that clustering shouldn't occur here; in fact, good
15 planning principles would be part of the design in this area
16 that would make efficient use of land.

17 However, Section 10.25-R is very specific to
18 preservation of open space and, in particular, preservation of
19 shoreline, and that's the only reference being made here.

20 CHAIRMAN HARVEY: Okay. Ed, do you have another
21 question?

22 MR. LAVERTY: Well, once again, as you mentioned,
23 this -- again, this development area falls within, I think
24 arguably recently, our adjacency criteria that more intensive
25 development than this could take place without the concept

1 plan, and at least it would be subject to approval based on
2 current standards.

3 So I'm pleased that this has been limited. I'd like
4 to see, quite frankly, no development here, but I think that --
5 you know, because of the adjacency criteria where I think
6 Plum Creek has proposed a cap here, I think we're pleased to
7 accept their proposal.

8 Having one access structure to the lake, I think, is
9 important here, with recognition of what we're talking about is
10 these 32 units are going to have one point of access to that
11 lake, not 32 wharfs or docks.

12 So I mean, I'm --. You know, while I'm -- you know,
13 I think this is about the best we can do.

14 Having editorialized, would you explain -- just so
15 that we're all clear on this -- why, looking at the deed
16 restrictions or the covenants -- as opposed to other mechanisms
17 for preserving the cap. I know you mentioned this briefly
18 before, but exactly how will that work in this instance at
19 Wilson Pond?

20 MS. PINETTE: I'm going to defer that question to
21 Jerry if he doesn't mind.

22 MR. REID: I don't mind. It's a good question.

23 The term restrictive covenants appears throughout the
24 staff recommendations in this context. It's a legal mechanism
25 that we have chosen for the time being to accomplish the policy

1 objectives that Aga has described very well.
2 I'm still not completely certain whether restrictive
3 covenants are the best legal mechanism to achieve those
4 objectives; we're continuing to look into that, and through the
5 process we'll make sure that we have the right mechanism by the
6 end of this.

7 That's really an issue that I need to resolve, and
8 that's all I have to say about it for the time being. Does
9 that respond to your question?

10 MR. LAVERTY: No, but it was a good response. You're
11 looking for the appropriate -- but the policy objective here is
12 to cap at 32 in perpetuity, not just for the 30 years. So at
13 the end of 30 years, then we could have 100 more units.

14 The idea is that at some point, some mechanism -- the
15 appropriate, and I assume the most efficient mechanism, to
16 achieve that end is what we're looking for.

17 MR. REID: That's what we're looking for. And if we
18 want to talk policy, I'm going to send it back to Aga. But
19 that's right. The objective is to find the legal mechanism
20 that is binding, that runs with the land, and that operates in
21 perpetuity to accomplish those objectives.

22 MR. KREISMAN: Commissioner Laverty, I might add,
23 since Jerry's thrown it back, unlike in the Rockwood area, for
24 instance, here we are firmly recommending to the Commission
25 that you should feel comfortable for all time, as you said,

1 capping this area at 32 units given its size, its location, the
2 amount of land there, what's appropriate.

3 And so our search, I guess it's -- from what I just
4 heard from Jerry, somewhat of a -- not complete search yet --
5 is for a real estate run-with-the-land mechanism to ensure that
6 that occurs and, if that is the Commission's will, to give this
7 Commission the assurance that it will occur.

8 MR. LAVERTY: That would be important to me.

9 CHAIRMAN HARVEY: Steve?

10 MR. SCHAEFER: I'd like to open the discussion at
11 this time in reference to the shoreland structures, especially
12 temporary docks, and what you're thinking not just for Wilson
13 Pond, but for the entire project and how it pertains -- like in
14 Wilson Pond, how it pertains to Rum Ridge and what their policy
15 is and previous developments we're talking about adjacency, for
16 instance. But I know it shows up several other times.

17 And that -- I think it affects the value of
18 waterfront lots to some extent, so I think it's important to
19 talk about it as a Commission because I think we are
20 determining the value, in some cases, of these lots by this
21 restriction. So if we could talk about what your thinking is.

22 MS. PINETTE: Sure, I'd be happy to do that. That's
23 a great question.

24 We looked at the issue of shoreland structures from
25 several points of views and perspectives.

1 First of all, Dave Rocque, who is the State soil
2 scientist, made some very specific recommendations with respect
3 to the developability of the shoreline of the proposed
4 development areas, and he raised concerns about having
5 excessive shoreline access in some development areas with poor
6 soils or with steep slopes that he has seen, from his
7 experience, I believe, has resulted in excessive shoreline
8 erosion and in those cases he recommended a limitation on
9 shoreline access.

10 That, for example, is the main reason why we
11 recommended the limit on docks on the Route 6 and 15
12 development -- within the 6 and 15 development area.

13 Secondly, we looked at the issue of shoreland
14 structures from the viewpoint of what kind of impacts it
15 might -- excessive docks and other shoreland structures might
16 create on recreational and scenic resources, and we relied on
17 analysis conducted by James Palmer and Mark Anderson, our
18 consultants, on making recreational use and impact, to make the
19 recommendations that we did in places, for example, like Upper
20 Wilson where both Drs. Palmer and Anderson found that this area
21 has significant existing scenic and primitive recreational
22 resources, and Dr. Palmer recommended a limitation on docking
23 structures for that reason.

24 In addition, specific to Upper Wilson, we did look at
25 the Rum Ridge on Lower Wilson Pond as a model for what might be

1 appropriate for Upper Wilson. And we felt that that was an
2 appropriate model that would allow for water access for the
3 proposed 32 units without degrading the primitive resources
4 that exist on our lake.

5 Anything to add?

6 MR. RICHERT: The only other thing I would add is
7 that in those places that we thought a limit was appropriate,
8 we tried to come up with a number that could conceivably be
9 within walking distance of all homes in the development so that
10 there was a sense that each lot would have ready access to the
11 water without having to go a long distance or around the other
12 side of the lake.

13 MS. PINETTE: And one last thing with respect to
14 Upper Wilson in particular. We are not recommending the type
15 of green belt common in shorefront ownership that is at
16 Rum Ridge, for example.

17 We do recognize that some of those 32 lots would
18 likely have fee ownership of the shoreline. But we did feel it
19 was important to actually limit the actual physical structures
20 that could -- that could be placed on the shoreline as
21 impacting the scenic and recreational resources here.

22 MR. KREISMAN: Commissioner Schaeffer, one other
23 thing. On a more general point -- although I don't have the
24 specific day reference -- you'll remember that Plum Creek's
25 representative Luke Muzzy in his testimony -- I believe it's in

1 his written testimony, but I'm remembering his oral testimony,
2 generally indicating -- and I'm not saying whether he agreed or
3 disagreed -- but generally indicating a willingness to
4 significantly limit a number of temporary structures throughout
5 as something they were quite open and amenable to. If you want
6 to see that, we can dig for that specifically.

7 MR. SCHAEFER: No, no. Can you tell me the
8 legalities of the FPL shoreline and temporary structures? Is
9 there an issue there?

10 This is overlying, it shows up again, so --

11 MS. PINETTE: Yeah. That doesn't apply to Upper
12 Wilson. We can either discuss that now or defer that
13 discussion to when we talk about the FPL issues, Moosehead and
14 Brassua.

15 MR. KREISMAN: Okay. That's fine. Why don't we hold
16 that. And FPL is filing -- you'll remember they were asked
17 that very question in the hearings in December.

18 And based upon that, they filed a letter with the
19 Commission giving their legal view on the legality of temporary
20 structures, crossing the public lands or the easement area in
21 Indian Pond. And I can dig that up for you when we get to the
22 low impacts on there.

23 MR. SCHAEFER: Okay. That gives us an idea of what's
24 coming as it's filtered through. I appreciate that. Thank
25 you.

1 CHAIRMAN HARVEY: Any other comments on Wilson Pond?
2 Are you comfortable with basically what's been proposed here?

3 Let's see, I guess the next one is -- oh, Lily Bay.
4 I don't think anybody has any concerns about that one.

5 Okay. I was just -- it would have been my estimate
6 of the situation that perhaps Lily Bay is going to require a
7 fair amount of discussion, so why don't we get a flavor of that
8 and then, as I say, this is one of the areas I thought that
9 maybe we would have to defer until tomorrow and we could really
10 get into it because I'm sure there's a lot of issues here and
11 it deserves a full, thorough examination, in the interest of
12 moving through everything, but --.

13 Does anybody want to express some kind of broad
14 issues that we want to be -- that staff might be prepared for
15 here?

16 MR. LAVERTY: Of course.

17 CHAIRMAN HARVEY: The whole thing, right?

18 MR. LAVERTY: Yes. Just that --. First of all, do
19 you have a visual for this? Do you have a map that's on
20 Page 8.

21 MS. PINETTE: Yes. Hold on just a minute. We can
22 put it up on the Beamer. This is the concept plan and summary
23 map of Lily Bay, Map 8.

24 If you hit the link on the bottom. Click on the
25 little plus sign on the left.

1 MR. LAVERTY: Okay. Thank you. This is a -- I know
2 that this whole area has given a lot of people heartburn in
3 trying to figure out how to address this.

4 We are now --. As I understand the staff
5 recommendation -- and please correct anything I may say -- that
6 the purple zone, the residential development area is now
7 eliminated from -- you're recommending that it be eliminated.

8 About 200 acres will be retained, but -- that was
9 essentially adjacent to the other areas, more adjacent to the
10 other areas.

11 Now, I'm particularly pleased to see this happen
12 because this is, as we know from the testimony in the record,
13 there is some very sensitive habitat here, not the least of
14 which is habitat associated with the Canada lynx.

15 By removing this from development, we approach the
16 Canada lynx question by avoidance as opposed to proposing some
17 kind of mitigation either through easement or some other means
18 of mitigation or encouraging into Canada lynx habitat.

19 Now, I know for a substantial period of time, the
20 State of Maine was in legal conflict with the federal
21 government regarding whether or not A, Canada lynx should be
22 listed in the State of Maine as a threatened and endangered
23 species. If so, under federal approach to regulating this type
24 of habitat, avoidance is the only mitigation.

25 The State has argued that because we may have

1 substantial Canada lynx habitat and may adversely affect other
2 types of activities, that we should be allowed not only
3 mitigation to avoidance but mitigation through off-site
4 mitigation, such as setting aside other land or preserving
5 other types of habitat, off-site mitigation.

6 It seems to me that the suit filed by the State of
7 Maine and its resolution of the courts makes us, at least in
8 theory, subject to the federal requirements; therefore, the
9 only approach to mitigation is avoidance.

10 If we were -- it seems to me if we were to allow for
11 development in this area and argue that it can be developed
12 because off-site mitigation can minimize the impact to this
13 habitat, we would be subject -- I think we would be subject to
14 litigation -- perhaps ongoing litigation for some period of
15 time, and the developer would also be subject to that
16 litigation.

17 It seems to me that avoiding the impact on the Canada
18 lynx habitat makes a lot of sense for the lynx, for the
19 habitat, for the people of Greenville, and for, I think, all of
20 us involved. So I'm very much pleased with the elimination of
21 that.

22 Now, as for the -- the zones that are to remain,
23 again, I'm very concerned about development in this area as I'm
24 sure other people are as well. And I'm convinced again that
25 the adjacency comes into play here in that these zones that

1 will remain, with the exception of the Lily Bay Resort
2 development area, which is up in the boonies there, that
3 development could occur here as a result of -- absent the
4 concept plan.

5 The amount of development that's being proposed here
6 is -- was a major concern to me, I must say, the amount of
7 development.

8 The problem that I've had, though, is once you've
9 said, okay, we're going to eliminate that residential -- that
10 development area, what rationale is provided by the record, as
11 I approached it, for the number of units that can be allowed in
12 these development zones?

13 And the only real -- and I know it's a term that I've
14 only become used to through this process -- the metric, I
15 guess, measurement is by looking at the model of road mortality
16 presented and -- but yet modified by testimony -- presented by
17 Audubon and a recognition that beyond certain traffic volumes
18 and traffic studies that were done, that there would be a
19 potentially adverse impact on wildlife.

20 In the record as I understand it -- and I stand to be
21 corrected -- the Audubon proposed, you know, fairly low traffic
22 volumes beginning to have impacts on smaller animals and things
23 like that, but by the time we got through 3,000 trips a day,
24 Ken Elowe, IF & W -- if my recollection serves me correctly --
25 said that that was definitely the threshold, and the person

1 that testified on behalf of Plum Creek regarding lynx habitat
2 said 3,000 seemed to be a good threshold. The others seemed to
3 say around 3,000 trips a day, we'd begin to have adverse
4 impacts.

5 If we look at and we take a reasonable view of
6 competing traffic studies, which I think you've done, and we
7 look at the number of units that are likely to generate the
8 3,000 and in excess of 3,000 trips a day, you come to the
9 figure of the -- what is it -- where am I? The 284 units.
10 Okay? So it seems to be grounded somehow at least in the
11 record.

12 Then go on to say, though, that after a certain
13 proportion of the 284 units are actually constructed, there is
14 in a sense -- and maybe I may be using the wrong legal terms
15 here, but it's in a sense a rebuttable presumption available to
16 Plum Creek to come in and say, now that we've undertaken this
17 development of X number of these units, we can, in terms of the
18 real world, look at those thresholds for adverse wildlife
19 impact.

20 And if they can demonstrate that based on the actual
21 traffic generated by units that no adverse impact or no
22 unreasonable adverse impact is affected, then they can increase
23 from the 284 units to a total of 404.

24 Now, I mean, it's sort of metric machination that
25 leads us to this, but it is based in the record. Given the

1 fact that some adjacency would apply, I guess -- and also
2 recognizing that now we've modified at least the -- well, one
3 of the resort zones in terms of waterfowl habitat and some of
4 the restrictions on Birch Brook I believe it is.

5 I still have a hard time with this. I have to say, I
6 have a really hard time. But I think that eliminating the
7 residential development area and preventing any encroaching
8 into what is generally viewed as lynx habitat in combination
9 with my understanding -- and this is jumping ahead, but I think
10 it's important to talk about now -- shoreline protections, the
11 easement being extended into Spencer Bay -- is that not
12 correct? -- that beyond this development, we would essentially
13 be providing shoreland protection up the east side of the lake,
14 the east shore of the lake, and not actually adjoining but
15 coming close to adjoining publicly preserved land -- or lands
16 protected, otherwise protected. Is that my reading?

17 MS. PINETTE: Yeah, we can put up the map of the
18 conservation easement areas. I think you've got the gist of
19 it.

20 There's a 500-foot easement already on the shoreline
21 that is owned by the State. And beyond that 500 feet along
22 Spencer Bay northward to the Days Academy property public
23 property would be protected.

24 MR. LAVERTY: My big problem here is this business
25 about the 284 lots and then the possible expansion to 404 lots.

1 Again, I'm -- you know, I haven't read this stuff, I
2 haven't thought about it, as everyone else has. There's just
3 something about this that bothers me, and I don't know --. I
4 guess I'll just leave it at that.

5 MR. WIGHT: Is the sheer number 404 that gets you, or
6 is it the concern about what we do when we get to wherever it
7 is that's the trip point? Is it 135? At 135 you decide, and
8 when you get to 284 you decide? Are you concerned about the
9 instability of those regulatorily?

10 MR. LAVERTY: I think they're the best sort of
11 threshold that we have and they're supported in the record.

12 MR. WIGHT: That's right.

13 MR. LAVERTY: I guess I'm concerned about the overall
14 numbers. But there again, this is more of a gut thing.

15 When I look at -- again, when I look at removing that
16 residential zone and the shoreline protection along Spencer Bay
17 and a recognition that these two zones are essentially adjacent
18 and could seek approval for development at what level of
19 concentration I think would be land use base.

20 MR. WRIGHT: I love this view into your mind, Ed, the
21 decision making --

22 MR. LAVERTY: It's confusing. I have to say -- you
23 wanted a broad overview. As long as I'm accurate, you know, my
24 justification -- please correct me if I'm wrong -- but then I
25 would like to hear what other people have to think about this.

1 I would also state that to me what is important here
2 is the connection between the Lily Bay area and the proposed
3 easement, the legacy balance. Essentially what that does is
4 provides connectivity, easement connectivity, through -- well,
5 all the way, essentially, to Nahmakanta Lake, which is the
6 hundred mile -- I'm not exactly -- but it's essentially the
7 100-mile wilderness which I think is an astounding legacy.

8 And I think that -- I just think that -- I just think
9 that the elimination of that residential zone enhances that
10 substantially.

11 MR. WIGHT: I think you're getting at some of the
12 real benefits of this plan. And I do think that with the
13 decision points laid out, as long as we understand what
14 happened at those decision points, we're in good shape.

15 MR. SCHAEFER: I'll tell you my rationale. Removal
16 of the purple zone there is a huge step towards making this a
17 viable development. I mean, it's a legal lightning rod, that
18 area right there.

19 But it also would alter the traffic studies with the
20 removal of that to the point where most of the activity would
21 take a hard left before it gets to the lakes corridor. So you
22 can't throw the studies out the window, but you can certainly
23 look at them with a different outlook that there will be less
24 cars going north there. And that was a real issue for
25 travelling.

1 So not to say to some of the residents of that area
2 are not going to turn left and go enjoy that, but I don't think
3 it's going to be what the study predicted. So that's -- that's
4 how I -- and plus the fact that that is going into the
5 easement. That's not subject to development in 30 years.

6 So I think it's a smart move, it protects everybody
7 legally from what obviously has transpired during the course of
8 these hearings. It started in one place and ended up in
9 another from the federal standpoint.

10 CHAIRMAN HARVEY: Anybody else? Rebecca?

11 MS. KURTZ: I guess I'd like to have an understanding
12 of the rationale as to why a decision -- the recommendations
13 that resorts could be allowed or required, just your thought
14 process as to how that determination came about.

15 I also would like a little more understanding about
16 the affordable housing being part of the cap and whether or not
17 it makes it likely that the affordable housing will even occur
18 if it is part of the cap and whether it's something that, in
19 your mind, my opinion of this, affordable housing, I believe,
20 is -- one of the studies indicated that what's being proposed
21 is about what, a half of what is needed or would be needed.

22 And I just -- my head's not quite as convoluted as
23 Ed's, but I'm trying to work out sort of in my mind, grapple
24 with the idea of affordable housing and potential need and
25 whether or not the likelihood that it would occur here being

1 part of the cap. So just sort of an explanation of that.

2 And then I had some questions which I'm having just
3 some clarification of the no-disturbance buffer that's being
4 recommended, MNAP recommendation to remove certain parts from
5 development.

6 And then employee housing needs, just -- back to
7 before affordable housing, I'm sorry to jump back -- I have a
8 concern without knowing a whole lot about affordable housing
9 that at some point it would no longer be affordable housing and
10 if it does occur, whether it's here or anywhere else, whether
11 it remains truly affordable.

12 And then finally, employee housing needs, how do you
13 determine a need versus a demand? And how -- what metric, I
14 guess, to borrow that term, is used.

15 How do you know what you're going to need and again
16 how would that -- what insurances or assurances would remain
17 for employee housing. Those are just a bunch of questions
18 thrashing around and I'd like to gain some clarification.

19 MS. PINETTE: Just a process question, Chair Harvey.
20 Are those the types of questions that you would like to address
21 tomorrow, or should we respond today?

22 CHAIRMAN HARVEY: I guess the deeper we go into this,
23 the more we're committing ourselves to deal with Lily Bay now,
24 not tomorrow. So I guess I don't want to take away from any of
25 the discussion, obviously, but I think if we want to stick to

1 the plan, we don't want to go down -- too far down the road.

2 I know Jerry's got a few comments to make about the
3 legal questions that were raised by Ed and there may be some
4 other comments. But maybe if we could get those questions on
5 the table, that can give us something to think about if that's
6 all right with the Commission.

7 MR. WIGHT: I think Rebecca's questions are good
8 ones. And I also think that some of them are going to keep
9 coming up over and over.

10 This question of affordable housing and how do you
11 keep it affordable is something that the world is struggling
12 with. But if staff and consultants have any thoughts about how
13 we're going to deal with it here, it would be good to know
14 because we're going to see it over and over again.

15 MS. PINETTE: That's something we can respond to
16 pretty quickly right now, if that's all right.

17 CHAIRMAN HARVEY: Who's the affordable housing expert
18 if there is such a person in the world?

19 MS. PINETTE: That would be Ron.

20 MR. KREISMAN: That would not be Ron. Ron will
21 provide you with my knowledge based on the record. It does not
22 go beyond that.

23 Commissioner Kurtz, I think I understand the
24 questions you're asking. Let's first identify -- it sounds
25 like you understand, but just to make sure we're on the same

1 page -- the two types of employee or indirect employee housing
2 needs that are provided for -- or proposed by Plum Creek in the
3 plan and then what staff recommendations are, and I'm following
4 the chair and Aga, and I'm going to talk generally here. Okay?

5 Employee housing is used by Plum Creek as a term of
6 art, a defined term. And it refers to -- and we interpret it
7 as meaning housing for short-term or seasonal employees,
8 principally at the resorts.

9 So to the extent that there is a summer season and my
10 son decides to be and he needs to be gainfully employed and
11 wants to go up to the Moosehead region and Plum Creek or
12 whoever is running the resort offers him a job and there's no
13 place to stay, their zone, their proposed zone, for the resorts
14 created employee housing as an allowable use. That's what it
15 said. Okay.

16 On the -- so, number one, employee housing is a term
17 of art that's thought of for short-term seasonal employees. It
18 was related to the resort zone and Plum Creek had it as an
19 allowable use.

20 What staff consultants are recommending for this
21 category, employee housing, is that as part of the long-term
22 development plan for the resorts, Plum Creek make a showing in
23 the proposed plan that the Commission would have to approve
24 that either they are prepared to meet these employee housing
25 needs -- we didn't specify on-site versus off-site -- or that

1 there's no need to meet them because there's sufficient
2 short-term employee housing for my son in Greenville or
3 whatever. Okay.

4 So that's how they have proposed and where we've, I
5 think, moved it a little further towards a specific
6 requirement, vis-a-vis the resorts.

7 Affordable housing is a term used by Plum Creek in a
8 different way, as we understand it. Affordable housing in our
9 minds is that type of housing that might be provided for
10 employees of a construction firm, for instance, who have
11 ongoing house construction in the area and need a place for
12 them and their family on a permanent or semi-permanent basis
13 that they can afford, or whatever other secondary jobs might be
14 created such that people -- you know, a gift shop in Greenville
15 that opens up as a result.

16 Our view of the record evidence, going back to your
17 statement on affordable housing is as follows: First of all,
18 Plum Creek has proposed the following, and I'm doing this off
19 the top of my head and I'll invite Aga and Evan to jump in.

20 They entered into an arrangement with Coastal
21 Enterprises in which -- and it's a two-phase arrangement -- the
22 first phase, which has already occurred, is not contingent on
23 plan approval, had a subsidized loan going to Coastal
24 Enterprises -- I think the amount was 800- or \$900,000 -- it's
25 in my notes, I can look at that later -- and a grant of 25

1 acres of land, the record suggests it would be in the
2 Greenville area, to address existing affordable housing needs.

3 The second part of their proposed -- financial
4 proposal for affordable housing was that upon plan approval,
5 there would be an additional grant of approximately the same
6 amount of a subsidized loan. So I think the total -- in total
7 was \$1.7 million and a grant of, I believe, 100 acres of
8 land -- 75 acres? It's a total of 100 acres; I'm sorry I
9 misspoke.

10 A total -- a total of 75 acres of land in specified
11 development zones -- or not in specified, by in development
12 zones where under their proposal, affordable housing was an
13 allowable use where the specific location would be determined,
14 but that's where the 75 acres was.

15 Then from the zoning perspective, what they were
16 proposing -- or are proposing, as I just mentioned -- is in
17 specific zones, not all the zones but in certain specified
18 zones, affordable housing is a permitted use.

19 What staff is recommending -- and this is on Page 117
20 of your recommendations -- what staff consultants are
21 recommending, vis-a-vis affordable housing, on the right-hand
22 side is, first of all, that you allow, subject to plan
23 approval, the second phase of the Coastal Enterprises
24 arrangement.

25 That's the 75 acres in the second part of the

1 subsidized loan, Commissioner Wight.

2 That you open up, where affordable housing is a
3 permitted use, to everything that's -- every place that has the
4 new residential zone that we're proposing. But you're not
5 requiring it anyplace. You're allowing it every place where
6 the residential zoning is.

7 I've already spoken about the requirement and the
8 demonstration of adequacy of employee housing with no specific
9 text. And then, as part of our proposal to, I would say,
10 disaggregate or break into three pieces the proposed Community
11 Stewardship Fund, one of the proposed -- one of the funds would
12 be an affordable housing fund.

13 And I can explain now or when we get to it the basis
14 of that recommendation, but the idea -- and it goes to the
15 point that you mentioned, Commissioner -- is that our view of
16 the record evidence from both Maine State Housing Authority and
17 from both Piscataquis and Somerset County was there was an
18 existing serious affordable housing problem in Greenville and
19 in the counties and that additional subsidies in addition to
20 what Plum Creek was proposing would be necessary under a full
21 build-out projection.

22 But the Maine State Housing Authority was also very
23 quick to note that it was simply a projection and that they
24 thought the idea of an ongoing fund that could address reality
25 when the money -- when the needs presented themselves was their

1 very strong recommendation, rather than some kind of formula
2 that was based on things that might change.

3 So that's the -- going to Commissioner Wight's
4 request, that's the broad approach to affordable and employee
5 housing. And I suppose how that relates to Lily Bay we can get
6 to when the chair wants to go into it in depth.

7 CHAIRMAN HARVEY: Jerry?

8 MR. REID: Sure. I'll just say a few words in
9 follow-up to Commissioner Laverty's comments about the
10 Endangered Species Act.

11 Nothing that I have to say is meant to second guess
12 your policy positions that you expressed because I thought they
13 were all well within your discretion, but I would just restate
14 context, the legal context, into which I think they fit.

15 The Endangered Species Act is potentially relevant in
16 a couple of ways. One is through the critical habitat
17 designation, which is a rulemaking that is going on right now
18 at the federal level. There's a proposed rule that's been
19 issued by the Department of Interior. It will not be finalized
20 until, I think, February 15 of 2009.

21 So the legal relevance of the proposed rule which
22 does encompass this development zone area as proposed critical
23 habitat reliance is really very limited and should not be
24 relied on by the Commission during this ruling -- during this
25 proceeding because it's entirely subject to change.

1 And even once that rulemaking is finalized and there
2 is critical habitat legislated, there are obstacles of legal
3 remedies associated with how a landowner can navigate through
4 the Endangered Species Act process to deal with desiring to
5 develop within critical habitat under the ESA. So it's not
6 necessarily a show stopper the way you might think it is.

7 The second way the ESA is relevant is through what's
8 called a take of an endangered or threatened species, and that
9 is a point of intersection between our State proceedings and
10 what's happening at the federal level. Whatever happens
11 ultimately on the ground, LURC cannot issue permits that result
12 in the taking of an endangered species.

13 But we're not at that stage now; we're talking about
14 rezoning lands. We will be at that stage when we're talking
15 about approving or not approving subdivision permits.

16 So what I meant when I said that I thought your
17 policy positions were completely within your discretion was all
18 of those issues that you voiced are in play here because of
19 your review criteria, especially no undue adverse impact on
20 wildlife and wildlife habitat.

21 It's completely within your prerogative to take those
22 issues into account in your decision making but you should not
23 do so under the auspices of the federal Endangered Species Act
24 because I really don't see it applying at this stage.

25 So those are -- I think that those are the important

1 points that I wanted to make, and I knew it would something,
2 given all of the activity at the federal level, and if any of
3 the other Commission members have any questions about it, I'd
4 be happy to try to answer them.

5 CHAIRMAN HARVEY: Okay. Thank you.

6 MR. RICHERT: Could I just follow up on Commissioner
7 Kurtz's question? She had one final question, I think,
8 embedded which I didn't get to answer on affordable housing,
9 which was how do you assure that it stays affordable.

10 I just want to note that your current Chapter 10, a
11 fairly new provision of Chapter 10 on affordable housing,
12 requires affordable housing covenants and affordable housing
13 agreements that will run with the land. And I believe this
14 proposal is simply locked into your existing provisions in
15 Chapter 10.

16 MR. KREISMAN: And the other thing that I would add
17 to that -- I'm sorry I forgot that point, and I'm glad Evan
18 jumped in -- is, as you can imagine, maintaining housing that's
19 affordable when it changes hands or flips to a different owner
20 is an issue that's hardly unique to this proposal.

21 Maine State Housing Authority, CEI has a deep
22 interest in assuring that from both policy level and from the
23 restrictions that are placed on the subsidies -- because all of
24 this is very subsidized -- that go into this follow through.

25 There are all kinds of covenants on these that are

1 very consistent with your policy statement.

2 So it's coming -- my point is coming both from the
3 policy statement -- and there's record evidence of this; I
4 think one of you asked this question already. It's very kind
5 of de rigueur that any of these affordable housing units that
6 are constructed contain -- unless that's some provision
7 excepting it from the Housing Authority, through CEI, whoever,
8 to ensure that the public purpose is met and the subsidies are
9 there.

10 MS. KURTZ: Can I just raise one more? It's a
11 question that can be addressed later, but I'm afraid I'm going
12 to forget it if I don't spit it out there right now.

13 It has to do with the funding -- the funding
14 mechanism, the stewardship funding, breaking into three parts
15 with the formula of 45 percent for recreation, 45 percent for
16 affordable housing, and 10 percent for wildlife endangered
17 species fund.

18 And I just wondered if, for one reason or another,
19 this formula does not make sense, how you -- will there be a
20 mechanism for shifting the funds? And it doesn't have to be --
21 we don't have to answer that right now. It's just something
22 I'm afraid I'm going to forget if I don't bring --

23 MR. KREISMAN: I will note it and I think if you want
24 that -- if when we get to it, we can explain our general
25 reasoning for that approximation.

1 But if you want to direct us to either ensure
2 flexibility or further ensure that number as part of our next
3 step, I think that'd be possible, too. So I'll note it.

4 MS. KURTZ: Thank you.

5 CHAIRMAN HARVEY: Anything else on Lily Bay at this
6 time? Gwen.

7 MS. HILTON: Yes. I was wondering if the staff could
8 just talk about how we should look at what they're proposing
9 here with respect to the adjacency criteria, and if, for
10 example, if we were doing this outside of the concept plan, how
11 would we be looking at this? Just a little clarification on
12 this.

13 MS. PINETTE: Sure, I would be happy to discuss that.
14 As Commissioner Laverty reflected, Lily Bay is an
15 area with an existing development pattern. There are
16 approximately somewhere in the range of 80 to 100 seasonal
17 homes in Lily Bay Village proper, which is just south and
18 southeast of the yellow resort zone that you see on this map.

19 When we pulled together our adjacency analysis, we
20 identified, again, as Commissioner Laverty stated, both the
21 yellow zone and the pink zone here, the resort zoning proposed
22 and the smaller residential zone, the RS-2, fall within the
23 one-mile by road adjacency standard or adjacency metric. So
24 the land area within those zones, our opinion is that it does
25 meet the adjacency criteria.

1 The number of units being proposed within the
2 entirety of this zone, and certainly within our
3 recommendations, I don't believe would meet the intensity of
4 development portion of the adjacency criteria.

5 And so we are looking at a staff recommendation here
6 that does acknowledge that there would be a waiver of adjacency
7 with respect to the intensity of development being proposed
8 and, to some extent, the location of development.

9 So going back to your question, what might Plum Creek
10 be able to do here absent a concept plan, our assessment is
11 that development could occur within the lower reaches of those
12 zones or the development area that's being proposed, and that
13 somewhere in the range of maybe a hundred units could get
14 approved under the adjacency standard, standard subdivision
15 review.

16 As you know, the concept plan does allow for waivers
17 of adjacency, and we are recommending that -- our view is that
18 a waiver of adjacency both in terms of the intensity and, to
19 some extent, the location of development would be appropriate.

20 And so we feel comfortable with rezoning an area that
21 could accommodate up to 404 units. And we have roughly
22 estimated that acreage to be 700 to 1,400 acres, and I would
23 defer to Evan to explain how we got to that acreage.

24 But we feel comfortable with that acreage and
25 recognize that that would be a waiver of adjacency with

1 comparable conservation.

2 MS. HILTON: Okay. With respect to the -- you took
3 me right where I wanted to go with the next question -- with
4 respect to the comparable conservation, the -- I'm assuming
5 that your recommendation looks at that aspect of this as well,
6 the comparable conservation.

7 Is that a locational thing? You know, in other
8 words, conservation in this part of the concept plan?

9 I guess where I'm going with this is -- I mean, if we
10 were to say we don't want to see anything there, for example,
11 or we want to scale this back, would we have a difficult time
12 justifying the conservation that is being proposed here in your
13 eyes? Is there sort of a balancing act here, I guess?

14 MS. PINETTE: I'm going to defer to Ron to fill in
15 here, but basically as the staff has looked at what is
16 necessary to meet the relevant review criteria in terms of
17 easement or conservation options, that falls broadly into three
18 categories: What is necessary to meet comparable conservation;
19 what is necessary to meet the publicly beneficial balance
20 requirement; and what is necessary to mitigate impacts to
21 certain resources and here, in particular, recreation impacts
22 and wildlife impacts.

23 If the only criterion that we were dealing with here
24 were -- was the comparable conservation criteria, then I think
25 we could come up with a geographical analysis for you that

1 said, as proposed, comparable conservation might involve X
2 acres in this location. If the plan is modified by scaling
3 back that purple zone, it might involve a certain amount of
4 acres and units scaled back to the location where a point where
5 adjacency isn't waived.

6 However, it is more complicated because there are
7 these additional conservation requirements in the context of
8 this concept plan. And I'm sure that we will have more
9 dialogue on what that involves, but geographically
10 superimposing those is challenging. I don't know if you want
11 to add something.

12 MR. KREISMAN: Yeah, I do want to add something to
13 that. Taking what Aga said as the starting point, our view is
14 that the comparable conservation for waiver of adjacency --
15 let's focus on that first and your question what would happen
16 if this -- what would happen to the conservation if Lily Bay
17 development were not here, if you decided on that.

18 As Aga just pointed out, there is a significant
19 waiver of adjacency that staff is recommending that you accept
20 here in terms of the number of units.

21 In my thinking, that has driven and legitimized and
22 made critical the kind of conversation in this area -- and may
23 justify -- the kind of conservation in this area that
24 Commissioner Laverty spoke of a few minutes ago.

25 Secondly, going to Aga's point, that to the extent

1 conversation is also driven by the need to avoid undue adverse
2 impacts to wildlife and recreation -- there was, for instance,
3 e.g., quite clear testimony from IF & W, from Ken Elowe and
4 others, that said that their view of the justification and, in
5 fact, the need and criticalness for the landscape scale
6 conservation they talked about was for wildlife, and
7 particularly lynx habitat, mitigation for this area.

8 And so to the extent -- and they spoke of other
9 areas, too, they were speaking about all the development zones.
10 But I think there would have to be, from staff's point of view,
11 a critical reassessment of what conservation was, in fact,
12 demanding applying the regulatory criteria if Lily Bay weren't
13 there.

14 And my general point of view would be that the
15 conservation would look somewhat different, if nothing else,
16 because you would have a significant waiver of adjacency that
17 is requiring comparable conservation.

18 MS. HILTON: Do you plan to talk about this more
19 tomorrow?

20 CHAIRMAN HARVEY: I think we might.

21 MR. WIGHT: We'll see. There's another area.

22 MR. NADEAU: I've got a question on the community
23 services. In the proposal it says that the resort is to be
24 self-sufficient in water resources, solid waste disposal, and
25 fire protection.

1 Your recommendation says that if a resort is
2 developed including a resort core and associated resort
3 accommodations, it must be self-sufficient.

4 I guess I have a problem with self-sufficient. What
5 do you mean by that? What is the core? And also what is the
6 resource accommodation?

7 MR. RICHERT: Commissioner Nadeau, Plum Creek
8 proposed -- Plum Creek proposed that associated with their
9 resorts, and they have proposed that there will be resorts at
10 Big Moose Mountain and at Lily Bay, and those facilities would
11 be self-sufficient in these four areas.

12 Now, what is a resort? Because Lily Bay would become
13 a resort optional zone, we had to make some parenthetical
14 explanations, which you've just referred to, to remind us what
15 a resort is.

16 A resort by definition is a facility that contains a
17 resort core, that is, a core of activity with short-term
18 visitor accommodations, recreational uses of facilities, and
19 other hospitality amenities and resort accommodation units
20 which could be anything from hotel, timeshares, to
21 single-family homes. So that's why we make those -- that's why
22 we make reference to that resort core.

23 How they would become self-sufficient would have to
24 become clear as part of the long-term development plan and the
25 subsequent development permit reviews, but it would be in one

1 of two ways: Either they would be providing those services on
2 site, such as Sugarloaf Mountain does with a fire station on
3 site in combination with the Town of Carrabassett Valley, or
4 they would have firm, written agreements to acquire those
5 services from an able and willing entity, such as the Town of
6 Greenville, for example. So it could be either by acquisition
7 or by on-site provision of those services.

8 MR. LAVERTY: Mr. Chairman, before I -- I'm looking
9 at your recommendation -- next-to-the-last recommendation --
10 recommendation that no sequencing be required, and I know this
11 is going to come up in the next one, Moose Mountain.

12 Maybe we should get this on the table right now.
13 What's the whole -- what are the issues with regard to
14 sequencing and non sequencing?

15 MS. PINETTE: Our sense is that throughout these
16 development areas, we felt that there was only one place
17 that -- where sequencing or phasing in of development was
18 appropriate and necessary, and that was at the Big Moose
19 Mountain Resort where we wanted to establish some assurances
20 that a resort core of the type that Evan just described would
21 actually be developed.

22 We do not have those strong feelings or sentiments
23 about Lily Bay and feel it would be appropriate for this area
24 to be either a residential area comprised of 400 -- up to 404
25 units, or a resort area with a core; but we didn't feel like

1 that sequencing was critical here in the same manner that we
2 felt it was necessary at Big Moose Mountain.

3 MR. LAVERTY: And the rationale for sequencing at Big
4 Moose Mountain, for a number of reasons, not the least of
5 which, is that the public benefit that Plum Creek proposes to
6 meet is partially addressed by the economic benefits associated
7 with resort development; is that not --

8 MR. PINETTE: That's correct.

9 MR. LAVERTY: And so the idea is at some point, there
10 ought to be a resort.

11 MS. PINETTE: That's right. We felt that it was
12 critical for a resort to occur at Big Moose Mountain among
13 other things for the job-generating elements that Plum Creek
14 was courting in their proposal.

15 In addition to that, however, there were other
16 reasons why we felt the resort should be required at Moose
17 Mountain as opposed to optional.

18 One of those, for example, involves the necessary
19 recreation mitigation that this development would create. Mark
20 Anderson and John Daigle both recognize that there would be a
21 loss of primitive recreational opportunities in certain parts
22 of the planned area as a result of the development being
23 proposed. One of those losses would occur at Indian Pond, for
24 example, potentially.

25 And we felt that in order to offset or mitigate those

1 types of losses, one important element of the mitigation
2 package was to assure that a resort core with recreational
3 facilities, which is a requirement of the resort core, be built
4 up at Big Moose Mountain which both Daigle and Anderson
5 acknowledged would increase the diversity of recreational
6 opportunities in this area and also would contain the
7 recreation within that resort area, so it wouldn't necessarily
8 go out into the more remote portions --

9 MR. LAVERTY: And just to be explicit, the logic for
10 not requiring sequencing at Lily Bay is --?

11 MR. RICHERT: It is that we as a staff are neutral on
12 whether or not a resort actually happens at Lily Bay.

13 We think it would be perfectly acceptable if what
14 happened there was a village with homes and some small stores
15 and services, basically an extension or expansion of the
16 village that is there in its rudimentary form today as part of
17 that established pattern of settlement.

18 So we're neutral on whether it evolves as a resort or
19 evolves as more of a residential village. We were not neutral
20 with respect to Big Moose where we saw the very large number of
21 resort accommodation units and a great deal of the potential to
22 mitigate recreation by offering a variety of recreational
23 opportunities, Nordic skiing and so forth, as part of the
24 resort as well as a very significant share of the jobs that
25 were reported to come with this project. Thank you.

1 MS. PINETTE: Just to add to that one additional
2 element that, you know, infused our thinking and distinguished
3 Lily Bay from Big Moose Mountain is that there is already an
4 established pattern of development, residential development, at
5 Lily Bay that does not exist at the Big Moose Mountain resort
6 area, and our sense from reviewing the testimony, particularly
7 from tourism experts and hearing from witnesses who had
8 expertise in the area, was that the Big Moose Mountain area,
9 the land mass there, was uniquely -- was uniquely set up to
10 accommodate a resort and have the possibility of creating the
11 economic driver for the region that we didn't sense the
12 Lily Bay area necessarily had.

13 So that was part of our thinking in making Lily Bay
14 resort optional and making Big Moose Mountain required.

15 MR. LAVERTY: Thank you.

16 CHAIRMAN HARVEY: Any other questions about Big Moose
17 Mountain Resort? There's a lot to chew on on this one, too,
18 although it seems to be channelling right where it's supposed
19 to be. We're on Big Moose.

20 MR. LAVERTY: Can we have a visual for Big Moose up
21 there? I think it's helpful to -- to have that to refer to.

22 MR. WIGHT: I have to question on Big Moose, just on
23 one of the footnotes, Footnote 20. I think there's a word
24 missing and I want to make sure I added the right one. In the
25 fourth line of that it says something about zoning --

1 extinguishing additional development rights and it must be
2 beyond 10,000 square feet?

3 PARTICIPANT: Yes.

4 CHAIRMAN HARVEY: Would you just --. I heard you --
5 in that same footnote, I heard you make a reference to add
6 vertical expansion. I assume --. Would you just tell us what
7 your thinking there is?

8 MS. PINETTE: The reason we were going towards a
9 restriction that runs with the land as opposed to the expansion
10 of the balance easement is that we felt that that expansion
11 would not limit the ability of a development area to grow
12 upwards or to in-fill with additional intensity of development.

13 So, for example, in this area, if there were not a
14 10,000 square-foot gross floor area restriction, a developer
15 might come back and request that that sporting -- that
16 development of a sporting-camp type be expanded to a second
17 story or a third story after the 30-year period.

18 CHAIRMAN HARVEY: Okay. The use of the word sporting
19 camps is usually like pouring gas on fire. You talk about the
20 outside of the context of what at least the Sporting Camp
21 Association believes is their purview.

22 MR. WIGHT: I think it has a different term,
23 primitive something or other, but just say it looks like, walks
24 like, and talks like a sporting camp.

25 CHAIRMAN HARVEY: Are there any specific questions or

1 concerns about what they're proposing? I thought that, you
2 know, obviously the sequencing here is a big issue.

3 I think that we might want to explore a little bit.
4 And obviously there's been some changes in there removing some
5 of this -- some of the area from the development zone and
6 response to specific testimony regarding wildlife impacts
7 and --.

8 MR. WIGHT: I have a question on the resort core and
9 that would be the Footnote 22. Just a question about how we
10 decide how many short-term accommodations make up a core.

11 In the case of Lily Bay it was 15, and in the case of
12 Moose Mountain it was 25. Does it have something to do with
13 total scale expected?

14 MR. RICHERT: Commissioner, Plum Creek proposed 25
15 short-term visitor accommodations as the initial -- as the
16 minimum core or as the minimum contribution to the core.

17 There would also be recreational use, hospitality
18 amenities, but short-term accommodation units, the minimum
19 would be 25. And by their original proposal, it need never be
20 more than that.

21 Their argument, which they buttress with a
22 supplemental filing of activity of other resorts around the
23 country that they believe comparable to the situation, is that
24 they cannot predict what a resort core should or would look
25 like until there is a developer on board that has a vision of

1 what the marketplace wants to prepare.

2 And what they demonstrated to their supplemental
3 submission was that a number of successful resorts started out
4 at this scale and then it evolved, over time, into considerably
5 larger resort cores with larger numbers of short-term
6 accommodation -- visitor accommodations.

7 What we did -- have suggested to you as a
8 modification of that, was, fine, start with 25 resort
9 accommodation units, but if that's all you have, then you only
10 have a hundred other resort accommodation units to go with it.

11 But as the resort core grows, so can the rest of the
12 resort accommodation units that are not short-term visitor
13 accommodations, if you wish.

14 And we arrived at a ratio that was based in part on
15 their supplemental submission. We looked at the projects that
16 they said were successful that they said were comparable; and
17 while there was a wide range -- kind of a middle range -- was
18 this 160, this 4:1 kind of ratio seemed to make sense.

19 It seemed also to be within the experience of Maine
20 at Saddleback and Sugarloaf and Samoset and other places in
21 terms of the numbers of short-term accommodation units that
22 might make up a successful resort.

23 MR. WIGHT: Actually if you want a little innkeeper's
24 inside tip, you need at least 25 in order to accommodate a tour
25 bus.

1 MR. RICHERT: Those tips are very helpful.

2 CHAIRMAN HARVEY: Would you kind of take us through,
3 I think it's Footnote 29, where you talk about just what you
4 just talked about, because now you have this 4:1 ratio, but
5 then there's some exceptions to it based on viewsheds.

6 MR. RICHERT: Yes, it is a little complicated, but
7 the rationale at first was that we know, or we expect from the
8 record, that a large resort with all the resort accommodation
9 units that are proposed will have an effect on Indian Pond. It
10 will change the character of Indian Pond to some extent.

11 We hope that through standards and other things, that
12 that extent will be minimized, but you can't help but change
13 the character of a place like the north end of Indian Pond, in
14 all likelihood, with this scale of development.

15 And partly offsetting that or justifying that change
16 is the fact that there will be an economic engine here and
17 there will be recreational facilities here that might suggest a
18 reasonable tradeoff. And thus, the sequencing is to make sure
19 we get those varieties of benefits that come with the
20 short-term visitor accommodation units.

21 If, however, there was a circumstance that arose that
22 we cannot anticipate -- and we don't expect it -- that, for
23 example, the resort core or a great number of the units could
24 be placed outside of the Indian Pond viewshed either because an
25 arrangement has been struck with the adjacent ski resort or

1 because they have found a way to design on the property that
2 they presently owned that is oriented towards Moosehead Lake
3 and not towards Indian Pond, or they decide that maybe it's
4 okay to put some of these resort accommodation units, even some
5 of the core, down at Deep Cove or over at Moose Bay Village,
6 which we're calling resort optional now, all of which might
7 move some of this development out of the Indian Pond viewshed,
8 if they were able to do that, then we think the tradeoff is --
9 no longer is necessary, and therefore the sequencing could be
10 extinguished, it could go away outside if in fact all that
11 development was going outside of the Indian Pond viewshed.

12 CHAIRMAN HARVEY: Is that -- is that in the totality
13 of all of the units or just some of them?

14 MR. RICHERT: The way that we have done it is
15 totality. We played with formulas and things like that, but we
16 were also mindful of the testimony on the record that it's the
17 first wave of development that represents what Jim Palmer
18 called the discordant element that has the larger minimal
19 effect and so both for that reason and for simplicity we said,
20 if it's all out of the viewshed, then no sequencing.

21 Sequencing is not a bad thing in any case, and so
22 we're comfortable saying all or nothing.

23 CHAIRMAN HARVEY: So that means that 775 units would
24 have to be outside of the viewshed; is that right?

25 MR. RICHERT: That's right. As I said, we have no

1 expectation about this. We just wanted to offer it up because
2 it helps make clear the tradeoff that we suggested here; that
3 if you alter the scenic character and experience on Indian
4 Pond, then we want to make sure that the bargain really
5 includes some very good things in terms of recreational
6 amenities and in terms of jobs.

7 CHAIRMAN HARVEY: Okay.

8 MS. HILTON: So the way I think proposing that this
9 work then is that you would know whether they were going to ask
10 for that exception when they submit, I guess, it's the resort
11 master plan?

12 MR. RICHERT: The long-term development plan
13 associated with this development area, yes.

14 MS. HILTON: Okay. Because that long-term
15 development plan would show everything within that zone and --

16 MR. RICHERT: It would show an overall concept is
17 right. So you would know early on whether they --.

18 This would be a matter of that they were able to come
19 to an agreement with an adjacent property owner or reevaluated
20 their own lands at, let's say, Moose Bay or Deep Cove, and
21 decided that those were the better places for these activities.

22 MS. HILTON: Okay. So actually, if they're going to
23 give you a long-term development plan, then you have a little
24 bit of an idea how things are going to be built or sequenced,
25 but what you're saying here is that you won't, like, hold them

1 to it or you won't require as much in-depth information about
2 how it would be sequenced? Or am I missing the point here?

3 MR. RICHERT: No, this is a narrow -- you're not
4 missing the point, but this is a narrow provision that simply
5 says the de facto situation is you're going to sequence.

6 For every short-term accommodation -- visitor
7 accommodation that you have, you're entitled to a certain
8 number of other kind of resort accommodation units, and that's
9 all that sequencing has to do with.

10 MS. HILTON: I think I just got it.

11 MR. RICHERT: Good.

12 MR. WIGHT: I have a question, though, about the
13 long-term plan. Is there a long-term plan for each development
14 area, or is it a master plan proposed --

15 MR. RICHERT: There's a long-term development plan
16 proposed for -- I think it's six or seven of the development
17 areas -- those that are large enough -- that suggest that
18 they'll be developed in phases.

19 And so for each of those, there will be a requirement
20 to submit a long-term development plan prior to or along with
21 the first subdivision.

22 MR. WIGHT: And somewhere in here I did see the term
23 master plan. Is that any part of Plum Creek's thinking? Is
24 there a master plan over all the long-term development plans
25 or --

1 MR. RICHERT: No, they have proposed, as part of the
2 resorts, something called resort master planning. They
3 proposed a three-part -- a three-stage review process that we
4 found complicated and vague so --

5 MR. WIGHT: Right. So your long-term plan with the
6 two-step process is --

7 MR. RICHERT: Is equivalent of their master plan.
8 That's right. We don't have to worry about finance or
9 mortgages of this resort area because there are other larger
10 areas that would be phased, and it's important to know how the
11 circulation of open space, habitat, and everything else, will
12 work in the system.

13 MR. LAVERTY: Mr. Chairman, could you just help me
14 identify changes that you're proposing in this particular map?

15 For example, the little beige area in there, the
16 development zone, has been eliminated and folded into the
17 easement, is that correct, because of the waterfowl concerns?

18 MS. PINETTE: I can tell you the point that we're
19 making.

20 MR. LAVERTY: Okay. That's not -- that's not part of
21 the proposal?

22 MS. PINETTE: We're making several recommendations
23 related to changes to this development area.

24 First of all, you see this proposed M-GNM zone. That
25 is a deer yard that is established under the -- I believe under

1 IF & W's memorandum agreement with Plum Creek, and we are
2 recommending that this be pulled out of M-GNM zoning and put
3 into the balance easement, so that is one change to the
4 configuration of this zone.

5 We're also recommending the removal from this zone
6 and added to the balance easement an area that is south of
7 Burnham Brook, which is basically this area that is in between
8 Burnham Brook and the access road that accesses Indian Pond.

9 This is an area that had been identified by IF & W
10 and MNAP as having significant resources as well as several
11 wetlands and a mapped deer yard.

12 So basically this area right here (indicates) is what
13 we're recommending removing from this zone.

14 We are not making any other recommended changes to
15 the configuration of the zoning; however, we do recognize that
16 there are other resources that have been identified by IF & W
17 and that there are comments that warrant attention. For
18 example, there is an area that is a small deer yard, I believe,
19 in this region here (indicates) that we are flagging in
20 Footnote 21, as well as a wildlife corridor that affects --
21 potentially affects the northern portion, northwestern portion,
22 of the Burnham Pond development area here.

23 We are recommending that these areas remain within
24 the development zoning but at the time that a long-term
25 development plan is presented to the Commission for development

1 here, that the developer demonstrate how those resources that
2 have been identified will be protected.

3 MR. LAVERTY: Given the evidence -- statements about
4 the impact, particularly on the northern part of Indian Pond,
5 sort of this is going to happen, why are we still proposing a
6 development area on the shore of Indian Pond?

7 MS. PINETTE: That development area on Indian Pond is
8 one of the two areas targeted for low impact -- "low-impact
9 development" of the type that is conjured up when one thinks of
10 a sporting camp.

11 The limitations would be -- square footage
12 limitations would be imposed there and our sense is that this
13 is a use that more or less could occur already under
14 established M-GN zoning, and we are recognizing that as a type
15 of primitive use, primitive development, that we feel is
16 consistent with the Commission's approach to encouraging
17 primitive recreational opportunity in the region.

18 MR. LAVERTY: Okay. And just to refresh my memory,
19 what would be the intensity and use that development in that
20 area would be --

21 MS. PINETTE: The intensity and use would be limited
22 to structures that are no -- in total aggregate, square
23 footage -- I'm sorry, total of aggregate floor area of 10,000
24 square feet or less within the zone, and each structure could
25 be no more than 2,000 square feet in size.

1 We would also -- we are also recommending that that
2 zone not be allowed to be subdivided so that the scenario that
3 has occurred in other parts of the jurisdiction, sporting camps
4 being sold and condominialized [sic] doesn't happen here.

5 MR. KREISMAN: If I could, I just wanted to add two
6 comments: One, Commissioner Laverty's first set of questions,
7 which is what areas we're including -- we're recommending be
8 excluded from natural resources, And secondly to the Indian
9 Pond question.

10 More generally, you've now gone through two
11 recommendations, including Lily Bay, where we are recommending
12 acceptance of some of IF & W's and other parties' -- and
13 parties' recommendations on carving out -- the term we've been
14 using internally -- certain natural resource areas. And we're
15 not recommending acceptance of certain other areas that they're
16 proposing carving out.

17 And I think speaking generally here, just to share
18 with you our approach as opposed to the specific responses that
19 Aga gave, our approach is that when there was a contained,
20 contiguous -- or not contiguous, but a fixed natural resource
21 in which development within that natural resource was really
22 impossible because it was a wetland, in our view, for instance,
23 that should not be rezoned for development.

24 However, when there was land that had natural
25 resource values where current regulations could allow some

1 development within that particular natural resource or some
2 harvesting within that particular natural resource, we are not
3 recommending, per se, the front-end removing it from the
4 development zone, but leaving that determination, as you do
5 repeatedly, to subdivision review.

6 In those terms, we -- those lands, we have internally
7 referred to -- and it's probably not the greatest -- as
8 perforated areas, meaning there could be some development or
9 not.

10 And so in those, throughout this, and it's not just
11 Big Moose, we are not recommending that they be removed at the
12 development stage because there may be limited development and
13 because not only your normal practice in subdivision but in
14 repeated testimony from Plum Creek in the record, and it would
15 be in our recommendation as it is, that you fully address those
16 issues in subdivision review.

17 That's the big picture that I think we may be coming
18 back to.

19 Just to add a bit to Aga's answer on why do we have
20 this approach to sequencing to avoid -- or to acknowledge
21 certain impacts but then we're recommending approval of this
22 low-impact area.

23 I think our view, to put it quite pointedly, is it's
24 really comparing apples and oranges in some way. The apples
25 are the potential for that very northern portion of Indian Pond

1 to have a viewshed that will include some filtered views or
2 some views of development on the shoulder of that mountain and
3 looking up and seeing it. And Evan described our view of the
4 impact and what should be done.

5 That is very different -- very different, in our
6 view -- from an extremely limited sporting camp, very few
7 units, at water level that will be screened in the exact same
8 way that are units are screened, and there are other units on
9 Indian Pond. Not, you know, great numbers, but you know, be
10 clear there are other units on Indian Pond, significantly down
11 water, so to speak, from that northern section.

12 And you know, if you were paddling up to that
13 northern section from Harris, you would absolutely see some
14 other units in going there.

15 So that's the difference -- just to maybe put a
16 harder point on what I heard Aga saying, that we considered
17 those, you know, very different types of impacts.

18 MR. LAVERTY: Could you just take a moment and tell
19 me about Deep Cove? Are you proposing a resort there? What's
20 the logic?

21 MS. PINETTE: Deep Cove is this area here
22 (indicates). It is being proposed right now currently by
23 Plum Creek as part of this D-GN2 zone at Big Moose Mountain.

24 Our sense is that that would be an appropriate place
25 for a resort core to go should the market put it there,

1 developers wish to put it there.

2 MR. LAVERTY: Why is it appropriate?

3 MS. PINETTE: This is in a portion -- first of all,
4 it's located along a stretch of Routes 6 and 15, so the
5 infrastructure is there.

6 MR. LAVERTY: And it's adjacent.

7 MS. PINETTE: It is not adjacent.

8 MR. LAVERTY: Oh, it's not?

9 MS. PINETTE: No, it doesn't meet LURC's adjacency
10 tests. In fact, none of the areas that you are looking at
11 meets the adjacency criteria here; however, it is within the
12 corridor that stretches from Greenville to Rockwood and in an
13 area of Moosehead Lake that is quite developed.

14 The shoreline north of here is dotted with shorefront
15 units; the shoreline south of here, I don't believe this area's
16 developed, but further south it is.

17 So it is within a viewshed of the lake that is
18 already impacted, and our sense is that this rim of Moosehead
19 Lake, with the scenic impact standards that we are
20 recommending, would be able to accommodate resort-related
21 development here.

22 And the one constraint physically that might bar that
23 from happening is that there is a railroad track that runs
24 along the shoreline here, so there is no accessible shore
25 frontage and that may even implicate the marketability of this

1 area for a resort core.

2 CHAIRMAN HARVEY: Aga, how many units do you have to
3 have before you can claim adjacency?

4 MS. PINETTE: It depends on what you're proposing.
5 For example, if you were to come in to LURC for a 20-unit
6 subdivision, we would look within a one-mile radius to see
7 whether more or less 20 or so units existed in that area.

8 If you were coming to LURC for a 100-unit
9 subdivision, we would want to see whether that adjacent area
10 contained that intensity of development, development that is
11 comparable to that.

12 CHAIRMAN HARVEY: There are several camps on that
13 shore that you just pointed to. There aren't very many, but
14 they are there, so that's why I'm asking.

15 MS. PINETTE: Yeah, it didn't meet -- when I was
16 looking at the development patterns surrounding that area,
17 especially within the one-road-mile provision, I didn't find
18 them in this.

19 MS. HILTON: I have two questions.

20 CHAIRMAN HARVEY: Go ahead, Gwen.

21 MS. HILTON: With respect to water access on Indian
22 Pond, you're talking about one common water access point
23 developed as part of an existing public boat launch.

24 Just curiosity -- what did you envision there? Sort
25 of an expansion of the existing boat launch or --?

1 MS. PINETTE: Hold on.

2 MS. HILTON: Sure.

3 MR. RICHERT: There's an existing boat launch along
4 that road that Aga was pointing out earlier. And I think the
5 limitation that we're talking about --. Could you ask your
6 question again?

7 MS. HILTON: It's actually just a -- I'm curious what
8 you are proposing there.

9 MR. RICHERT: We're proposing the limit within the
10 Plum Creek property with one common access facility on Indian
11 Pond could be associated with --

12 MR. KREISMAN: I'm sorry to jump in here. I think
13 more important is what we're not proposing.

14 What we're not proposing is additional boat launches
15 on Indian Pond. We're proposing funneling additional use that
16 may come as a result of the resort units through the existing
17 facility there that may need to be expanded with additional
18 picnic tables or an enhancement of the infrastructure of that
19 boat launch.

20 We're nebulous, or purposely vague, on what would be
21 required. You may remember that I attempted in questioning to
22 elicit from Hart, Howerton, and others where recreational boat
23 use would come on Indian Pond and how much. And they basically
24 said yes, there would be some, yes, it's critical, but we don't
25 know the answer to that.

1 So what we're saying is there should not be more boat
2 launching but there may need to be an expansion. We should all
3 be focused on that one existing point.

4 MR. RICHERT: And there may be -- there may be some
5 requirement down the road because of the FPL proceedings where
6 there needs to be upgraded access to accommodate the demand and
7 Plum Creek would be providing that.

8 MR. WIGHT: Could you point out where the boat
9 launches are.

10 MS. PINETTE: If you follow the Burnham Pond Road.

11 MR. WIGHT: Thank you.

12 MS. HILTON: My second question is, I think one
13 thought -- and I think it was in the testimony -- with respect
14 to this, the configuration of the zone was to scale back the
15 zone out of the viewshed of Indian Pond.

16 And I'm just wondering why you didn't do that, or
17 what you're thinking about that. Why you chose an alternative
18 approach.

19 MR. RICHERT: There are tradeoffs, a lot of
20 tradeoffs. You can see that if you moved to -- within the
21 Plum Creek property much more over towards the Moosehead
22 viewshed, there are -- you're now in the drainage of Burnham
23 Pond, the Class A stream. And if we can agree that Big Moose
24 Mountain is generally a good place for a resort as proposed,
25 then you have to think about the different constraints in the

1 area and in some areas, the visual constraints might be thought
2 of as more constraining or severe and other areas, the water
3 quality constraining. So that's going to have to play itself
4 out in the long-term development planning.

5 But you know, you can also see how close here the
6 adjacent ski area is. And not that we have any expectations,
7 but if there -- if the opportunity arose between now and
8 whenever a proposal actually came here that needs to be
9 combined or clustered and that, in or around that area, you
10 could see that there could be a lot of advantages to that.

11 But we're not suggesting that that be required; we're
12 just noting that if that option arose, there might be some
13 benefits to it.

14 MS. PINETTE: One thing to add to that. Our sense is
15 that the type of resort development being proposed and
16 supported as an economic driver of the region legitimately
17 needs to be of a certain scale.

18 Given the information that we have on the record
19 about the site constraints of this development zone, both with
20 respect to soil suitability and Class A stream limitations,
21 water quality on Burnham, et cetera, we're not convinced that
22 cutting off, you know, basically half this zone from
23 development would accommodate an 800-unit resort development.

24 So we are -- our thinking was here -- and the
25 recognition here is that this is a tradeoff. This is an area

1 where we recognize impact would occur, in particular to the
2 north portion of Indian Pond. And we are comfortable with that
3 tradeoff, so long as the changes are made to the configuration
4 of the zone as we proposed so long as the sequencing is in
5 place to assure that a resort will indeed occur and so long as
6 the conservation and the mitigation that we will talk about
7 later with respect to wildlife and recreational resources is in
8 place.

9 MR. LAVERTY: I have to express -- again, this is
10 qualitative, but I have to express a certain concern here in
11 this area as well as the Lily Bay area.

12 I think -- you know, the record is replete with the
13 economic impressions in Greenville and Moosehead area need or
14 economic revitalization, economic development opportunities,
15 jobs.

16 And I think generally speaking, from a landscape
17 perspective, if you look at where development probably is the
18 most appropriate in a general sense, it's got to be along the
19 west side of the lake, that corridor from Greenville to
20 Rockwood.

21 There are some exceptions, but generally speaking,
22 that makes some sense that Moose -- Big Moose Resort, I think,
23 associated with, you know, perhaps revitalizing Squaw Mountain
24 Ski Area, Moose Mountain Ski Area, hopefully they'll change the
25 name.

1 I mean, I can see all that and I buy that, I think
2 it's very important. But by the same token, I think we've got
3 to realize that the real tradeoff here is Indian Pond.

4 Now, Indian Pond is partially developed. There are
5 camps here. It's used quite extensively. The fishery,
6 essentially, has been compromised -- or at least some of us,
7 depending on what you like to fish for, say it has been
8 compromised by virtue of --

9 CHAIRMAN HARVEY: You're not a bass fisherman.

10 MR. LAVERTY: I grew up in Millinocket. I can't help
11 it. But none of that -- I mean, it's been altered, and I think
12 we need to know that.

13 But I also have to say that during our flyover a
14 couple of weeks ago in the helicopter of this area, I saw
15 something that I had never seen before in my life, and that was
16 coyotes driving deer out on the ice.

17 And they were feeding this -- it's kind of grotesque.
18 I know for a lot of people, this isn't the greatest thing in
19 the world. But if you wanted to see an extraordinary wildlife
20 situation, that was it.

21 That was in the northern part. It was just north of
22 the public boat launch ramp and in that area of Indian Pond.

23 So it seems to me that if you put a major resort in
24 that area, I think we have to accept that there are going to be
25 some -- that experience probably will not exist if this resort

1 is built 10 or 15 years from now. And that to me is one heck
2 of a tradeoff.

3 But -- and so I guess what I'm saying is, I think
4 looking at the idea that it could be an economic driver, a lot
5 of jobs, and I think looking at this as being, perhaps,
6 compatible with another development in this corridor, but I
7 think this is going to come at a cost and this is a real
8 tradeoff.

9 MR. WIGHT: But Ed, I -- you know, look at the
10 conservation around that area and look where the development
11 would be, and I don't think you're going to find a lot of
12 people in the wintertime going down to that boat ramp from the
13 resort.

14 So I think that your deer and your coyotes are still
15 going to have ample room to roam out there. I'd be surprised
16 if that scene changed very much.

17 I might have different views on increased boating in
18 the summertime, but certainly in the wintertime --.

19 CHAIRMAN HARVEY: Anything else on Moose Mountain?

20 We've got about --. Our lunch is supposedly served
21 at about 12:30, so we've got time maybe to go through Moose
22 Bay, and then we'll take our lunch break.

23 This was --. I don't recall this one being super
24 controversial in the hearing process, but you did throw us a
25 ringer here when you changed the zoning to allow a resort. So

1 maybe you better talk a little bit about why you did that.

2 I think you have, to some extent, already, but --.

3 MS. PINETTE: Sure. Reflecting back on the last
4 conversation, it really has to do with providing a resort
5 developer with the option, if the market conditions allow for
6 it, to site a resort-related development within the viewshed of
7 Moosehead Lake as opposed to within the viewshed of Indian Pond
8 and providing the incentives for that to happen and removing
9 constraints.

10 Our sense was looking at the location of Moose Bay,
11 which is a stone's throw away from the Town of Greenville,
12 which is tucked in behind Harford's Point, a heavily developed
13 area with respect to LURC jurisdiction, and abutting the
14 Route 6 and 15 corridor, our sense was that there was really
15 few other places within the plan area that were better suited
16 for mixed-use development for resort-related development, as
17 well as for residential development.

18 And that was our rationale for recommending that this
19 area be allowed to evolve into more than just a single-family
20 residential subdivision if that opportunity arose in the
21 future.

22 MR. KREISMAN: And just by way of example, Mr. Chair,
23 when we asked ourselves, well, why shouldn't there be a bed and
24 breakfast as part of a short-term accommodation unit allowed in
25 the one zone that's closer to Greenville than any other zone

1 and all the other reasons that Aga gave, not only could we come
2 up with no reason why they shouldn't, but there are all kinds
3 of reasons, in terms of travel distance or any development,
4 that it should be allowed.

5 And so while the term resort may have a negative
6 specter for some people, what we've really done here is
7 allowed, you know, the kind of development in the appropriate
8 place, that we think makes sense.

9 CHAIRMAN HARVEY: Do you have something, Evan?

10 MR. RICHERT: No. Ron actually said what I was going
11 to add. This might not be a full-blown resort in the sense
12 that Big Moose might be, but it could have some resort types of
13 accommodation units that would probably be perfectly
14 appropriate.

15 CHAIRMAN HARVEY: I'm assuming that the way this is
16 structured that this could be part of the Moose Bay. We're not
17 saying they have to be uniquely different or separate. It
18 could be a combination, using both areas in combination to
19 achieve a resort is also wanted, right?

20 MR. RICHERT: That's right.

21 MS. HILTON: Where is the railroad? Is this another
22 situation where the railroad -- the rail line cuts off water
23 access to the road?

24 MS. PINETTE: I think the railroad --

25 CHAIRMAN HARVEY: Do you want to give me the pointer,

1 Aga?

2 MS. PINETTE: You might want to do this. Let me know
3 if I get it right. I think the railroad --

4 CHAIRMAN HARVEY: It's right there (indicates). That
5 little bay is just the flowage off the lake. It's a very nice
6 spot, but it's fairly shallow and then you have to go
7 underneath a bridge to get to it, a low bridge. It'd be a
8 great place for kayaking, canoeing.

9 MR. WIGHT: Is there an opportunity for waterfront
10 access directly to the lake from the shorefront?

11 MS. PINETTE: Not from this area. The only water
12 access within Plum Creek's ownership.

13 CHAIRMAN HARVEY: Well, there is if you want to walk
14 across the railroad track, and you can. In fact, there's a
15 little sandy beach there, pretty nice, but it's pretty limited
16 access I would say.

17 MS. PINETTE: Yes. I'm sorry. To qualify, there was
18 no other waterfront access.

19 MR. WIGHT: I was just searching for an alternative
20 to Indian Pond for water access for the Moose resort. I guess
21 that isn't it.

22 MR. LAVERTY: As I recall, the topography in that
23 area is pretty rugged.

24 CHAIRMAN HARVEY: It is.

25 MR. LAVERTY: It may limit on-site development

1 design.

2 MR. KREISMAN: There's very limited resort-type
3 access here, as the chairperson said. We walked that
4 extensively and you have that little inlet there and really
5 that's it. And then you have to travel under a bridge.

6 It's pretty low, at this point, in order to get out
7 onto the lake. So if there's resort development here that
8 relies upon extensive Moosehead Lake access, there's some
9 pretty natural limits of what's available.

10 MR. WIGHT: Where's the nearest commercial marina?

11 CHAIRMAN HARVEY: Greenville.

12 MS. HILTON: I have another issue or concern. And
13 this is one that is relevant to probably a number of areas.

14 The concern has to do with commercial uses, like
15 businesses, and the desire -- like in this instance, the desire
16 to encourage that folks living in some of these areas will
17 actually go to Greenville and utilize businesses there,
18 balanced with the desire to have mixed-use developments where
19 people have, you know, a corner grocery or some other kind of
20 commercial use so that they aren't travelling in their vehicles
21 some distance to different places.

22 And I think in this area, you're proposing -- and I'm
23 not sure how walkable this is from this zone to Greenville
24 or -- I think you are proposing a limitation on
25 commercial/industrial in this area -- or commercial, I'm sorry,

1 not industrial.

2 MS. PINETTE: We're proposing a limitation pretty
3 much identical to the Lily Bay development area here where
4 there would be a size restriction on commercial uses, but there
5 would not be an aggregate limit acreage as we are recommending
6 in other places like Rockwood.

7 So this is fairly open with respect to the uses,
8 nonresidential uses, of a neighborhood scale and fairly open to
9 resort-related uses, which might include some commercial
10 ventures.

11 MS. HILTON: I don't know that area well enough to
12 know whether it's close enough to like downtown Greenville or
13 whether somebody might walk.

14 MS. PINETTE: It's not within walking distance.

15 MS. HILTON: It's too far away, isn't it? Okay.

16 CHAIRMAN HARVEY: Any other questions or comments on
17 Moose Bay?

18 Well, I think that backup alarm signals it's time for
19 lunch. We need a break, so we're going to try to -- since
20 it's -- we're going to leave a little early, let's try to
21 gather back here by quarter past 1 and get started again,
22 please.

23 We have to be out of here by 5:30 tonight, so we need
24 to stay on schedule as much as possible. Thank you.

25

1 (There was a luncheon break in the deliberation at
 2 12:25 p.m. and the deliberation resumed at 1:18 p.m.)
 3 CHAIRMAN HARVEY: Okay. We'll get started again.
 4 And I've been told that we're not broadcasting like I told you
 5 earlier in the day. We had some technical problems, so we're
 6 not being broadcast on the Internet, but we are -- obviously
 7 there's an audio recording of everything, so if your colleagues
 8 back at the office hoping to listen to this at home without
 9 having to move, then they're disappointed, I'm sure.

10 But there will be a recording they can listen to
 11 tomorrow -- by tomorrow morning we'll have a recording from
 12 each session for your perusal.

13 We will try -- I guess we're trying to correct that,
 14 but I'm not sure where we stand.

15 Also, I think it's our plan to start -- just so you
 16 know now, we're going to start a little earlier tomorrow. We
 17 made arrangements so we can be here by --

18 MS. PINETTE: We'll start at 8:30.

19 CHAIRMAN HARVEY: We'll start at 8:30 tomorrow to
 20 give ourselves a little better chance to make sure we get
 21 through this. So if you want to join us tomorrow, be here at
 22 8:30.

23 Anything else I need to -- administratively? Is that
 24 it?

25 Okay. We're going to go right back to our list and

1 continue down the development area discussion. I think we're
 2 now onto something called D-CI, commercial industrial
 3 development zone, which is approximately a 90-acre property
 4 just to the west of Route 6/15, I think some of you may recall
 5 this is an area we rezoned for sawmills several years ago. It
 6 never came to fruition.

7 I don't know if you have any questions. I think, in
 8 looking at it, it's pretty straightforward. There really
 9 aren't any substantive changes, if I'm correct, from what had
 10 been originally proposed.

11 MR. WIGHT: Route 16 corridor.

12 CHAIRMAN HARVEY: It's a little south of that, I
 13 think. I don't think it's on that map. Oh, yes, it is; I'm
 14 sorry, it is. There you go.

15 MS. HILTON: I'll ask a question.

16 CHAIRMAN HARVEY: Good.

17 MS. HILTON: With respect to the land use zoning and
 18 what you're proposing there, what do you see as the most
 19 significant of that advice, beyond maybe the obvious?

20 MS. PINETTE: What we're recommending -- really the
 21 only change we're recommending here to the proposal in this
 22 zone is the land use zoning where we are suggesting --
 23 currently Plum Creek is proposing to freeze or fix into the
 24 plan the list of permitted uses for the DC-I zone,
 25 commercial-industrial zone, that is currently in Chapter 10.

1 And what we are suggesting is rather than having that
 2 fixed list of permitted uses, instead referencing the DC-I zone
 3 as it may change from time to time.

4 Now, in my recollection, I don't believe the
 5 permitted uses have changed, certainly not in recent history,
 6 but there may be a need in the future to modify those permitted
 7 uses in that D-CI zone to clarify or accommodate new,
 8 unanticipated industrial uses.

9 And we simply don't feel that there is a need to
 10 administratively create a separate commercial/industrial zone
 11 separate from LURC's current Chapter 10.

12 MR. WIGHT: Aga, under development review process,
 13 the only substantive change from the Plum Creek proposal to the
 14 Plum Creek proposal seems to be the last few words there. It
 15 says as modified by pertinent recommendations.

16 Could you just explain what that is.

17 MS. PINETTE: Sure. This was just to highlight the
 18 fact that staff consultants are making recommended changes to
 19 the so-called pocket part of the land use standards.

20 And specifically, we're recommending changes to
 21 things like scenic impact standard, Q,3, the subdivision land
 22 use design standards; and also we want to -- if we get to the
 23 point of going through a second tier list of issues, there may
 24 be additional implementation added that we might want to
 25 recommend making changes to that pocket part.

1 So this is just highlighting for you that the land
 2 use standards would apply to this zone as Plum Creek is
 3 currently proposing, but we are also making some
 4 recommendations to change some of those standards.

5 MR. WIGHT: Thank you.

6 CHAIRMAN HARVEY: I don't see anybody else jumping
 7 in, so I think we can move on to the 6 -- Route 6/15
 8 development area just north of the DC-I, I think. It was the
 9 same map. There we go.

10 This is an area where we -- you're moving now into a
 11 two-step approval process at the subdivision level; right?

12 MS. PINETTE: This is an example of an area where we
 13 feel the acreage is large enough and there is enough excess
 14 capacity that it warrants looking at this development area as a
 15 whole through a long-term development process that we were
 16 recommending.

17 CHAIRMAN HARVEY: It has enough excess land? Is that
 18 what you said?

19 MS. PINETTE: Right. Approximately 25 units are
 20 targeted for this area and there are more or less 930 buildable
 21 acres here.

22 So this is an area that is a receiving area. It
 23 could potentially have more than 125 units developed here, and
 24 there was enough land there to -- our sense is to warrant
 25 looking at the circulation pattern as a whole, rather than

1 through a piecemeal subdivision-by-subdivision review.

2 CHAIRMAN HARVEY: Okay. Do you have some sense of
3 where these four water access points are?

4 MS. PINETTE: Yes. I can highlight --

5 CHAIRMAN HARVEY: There's a rather limited waterfront
6 there.

7 MS. PINETTE: There is a very limited waterfront
8 here. There's an area here with some fairly poor soils, but we
9 were envisioning the potential for one or two water access
10 points here as well as potentially this here.

11 CHAIRMAN HARVEY: Isn't that area surrounded by
12 residential development already?

13 MS. PINETTE: This area here?

14 CHAIRMAN HARVEY: Yeah. Isn't that already developed
15 in through there?

16 MS. PINETTE: Yes. There is quite a bit of
17 residential development here, as well as in this area, and on
18 the sand bar tract.

19 MR. WIGHT: Is there another one?

20 MS. PINETTE: We were envisioning that there would be
21 a water access point, perhaps a commercial water access point,
22 here in the southern portion of this zone.

23 And this is actually one of the few places that
24 Plum Creek has a viable water access point for Moosehead Lake.
25 So we were mentioning one or two water access points

1 would be down here (indicates), perhaps one here and one here
2 depending on soil suitability and other site constraints.

3 CHAIRMAN HARVEY: Were we -- wasn't this the area
4 where we had some issues with a game -- an old game sanctuary
5 or a State-initiated --? Are those issues dealt with then?

6 MS. PINETTE: What you're referring to is the status
7 of this development area, as well as other portions of the
8 Moosehead Lake lands between Route 6 and 15 and Moosehead Lake
9 shore frontage along this corridor that, I believe, through
10 statute has been identified as a game sanctuary, meaning that
11 no hunting is allowed.

12 And several witnesses, along with a number of members
13 of the public, raised concerns about the level of development
14 being proposed for this zone in the context of that designation
15 as a game sanctuary.

16 And we are not making any recommendations with
17 respect to that status, and I will defer to Jerry to explain
18 why that is the case.

19 MR. REID: My conclusions was that was a development
20 within the designated game sanctuary. It governs hunting and
21 trapping in the area, but there is development there. And
22 there's been development since the time that the game sanctuary
23 was created.

24 CHAIRMAN HARVEY: Thank you, Jerry.
25 Anybody else? Rockwood, Blue Ridge?

1 MR. WIGHT: Can you show us quickly the proposed
2 removals from this area?

3 MS. PINETTE: The only removals from this area are --
4 they're quite minor, and they involve the southwestern corner
5 of this zone where IF & W identified a waterfowl wading bird
6 habitat.

7 You will see reference to that same habitat when we
8 get to the Brassua peninsula. I believe it kind of straddles
9 both of those development areas. And we are recommending
10 removing that habitat as well as the 250-foot buffer around it
11 from the wetlands zoning.

12 MR. WIGHT: How about the north point of the
13 peninsula?

14 MS. PINETTE: Well, we're looking at the
15 Rockwood/Blue Ridge area right now. We are making some
16 recommended changes to the south peninsula, but that's --

17 CHAIRMAN HARVEY: Yeah, that's a separate issue.

18 MR. WIGHT: Separate issue. Got it.

19 MS. PINETTE: The other recommendation that we're
20 making is removing from M-GNM zoning the ridgeline of
21 Blue Ridge, which is this yellow area here, and placing that
22 into conservation.

23 CHAIRMAN HARVEY: So that would become part of the
24 easement? Is that what you're saying?

25 MS. PINETTE: Right.

1 CHAIRMAN HARVEY: So that would be -- not contiguous
2 with the easement; right?

3 MS. PINETTE: It would be one of the places where we
4 deviated from our cardinal rule on carve-out, the reason being
5 is that we felt that this area was inappropriate for
6 development because of the presence of that ridgeline, the
7 presence of, I believe, some unique natural resource values
8 there.

9 CHAIRMAN HARVEY: Well, as an M-GN zone, it couldn't
10 be developed anyway, could it?

11 MS. PINETTE: It couldn't be developed, per se, but
12 it could become the backlot -- it could become a portion of the
13 backlot for residential development that is within the
14 development areas, so it could still be part of the parcel.

15 We did not feel that that was an appropriate means to
16 protect the resources on site, particularly given that that is
17 a ridgeline and there may be risk of clearing for views.

18 MS. HILTON: I believe with respect to the
19 configuration of the zone along the west outlet there, I
20 believe one of the suggestions was to actually increase that
21 buffer wall on the West Outlet on that side of the road -- or
22 the river -- and also on the other side, I guess, a little bit
23 further on the north end.

24 You're thinking along the lines of -- with respect to
25 not including that?

1 MS. PINETTE: The reason that that was recommended,
2 and I believe that recommendation came from David Publicover,
3 who was a witness from -- with the Appalachian Mountain Club,
4 and if I'm recalling this correctly, he had recommended
5 expanding the balance easement in this area as well as in the
6 Route 6/15 corridor on the other side to increase protection,
7 to provide for added visual protection, for the West Outlet.

8 We looked very carefully at this area and Fred Todd
9 actually went on-site to see what kind of visibility one could
10 get from walk -- this is also called Long Pond, but I'll refer
11 to it as Little Long Pond -- and our sense was that the buffer
12 being proposed here adequately protects the viewshed of the
13 West Outlet.

14 There's also quite a bit of development on Little
15 Long Pond already where we felt that we would -- if there were
16 an incursion of some physical development through filtered
17 view, that that would not be egregious. So we did not feel
18 that there would -- that the expansion of this easement area
19 was warranted.

20 MS. HILTON: Okay. How wide is that band that is
21 shown there?

22 MS. PINETTE: It's a quarter of mile on the north
23 side and I believe a half a mile --

24 MS. HILTON: The one thing that strikes me about both
25 this zone and the one we just did is that we're proposing --

1 not really a lot of units for very large parcels. And I'm
2 trying to remember how that all came to be. There's not really
3 all that much developable land there, and maybe you could talk
4 about that just a little bit.

5 MR. RICHERT: If I may, there actually is a lot of
6 developable land here. This is one of the very large
7 development areas, based on S. W. Cole's soil survey, which is
8 a -- which is not high intensity entirely -- and this is only
9 an estimate, but there are probably in excess of 2,400
10 buildable acres in this development area.

11 But the development area consists of four distinct
12 parts that you can see somewhat in the coloration. One part
13 that's Brassua Lake oriented; a part that's hillside oriented,
14 some this way, quite a bit towards Moosehead; a part that is
15 out by the dam; and then Rockwood Village oriented.

16 So in a sense, there are different kinds of places,
17 and I guess staff and -- we weren't troubled by the fact that
18 it's large, it's kind of diverse and provides fair
19 opportunities. It's pretty well located.

20 What you will see in the recommendations as a result
21 of the size, though, is a requirement that at least half of it
22 be set aside for consideration beyond the 30-year period.

23 We don't specify which half, but as part of the
24 long-term development plan, the applicant would need to come
25 in -- and if the Commission believes that this is, in fact, an

1 appropriate place for development, we don't think it would be
2 efficient land use to allow the 160 lots that are proposed
3 here, or whatever else it might be here, because this is a
4 receiving area, to expand to fill the land available.

5 It should be treated -- it's appropriately located;
6 it should be treated as a precious resource for very long-term
7 needs beyond this concept plan.

8 And so it's suggested that 50 percent be reserved for
9 future consideration by the Commission and future generations.

10 MS. KURTZ: Evan, I'm sorry. Did you say that you
11 had thoughts on where that 50 percent would be or how it should
12 be allocated, or are you sort of leaving that up to the
13 applicants or --?

14 MR. RICHERT: We will leave it up to the applicant to
15 propose that as part of a long-term development plan to the
16 Commission.

17 We do think that it should be -- should not be Swiss
18 cheese kind of leftover land, but it should be lots of land
19 that should be well planned and developed in the future. But
20 where that would be, we would leave that up to the long-term
21 development review process.

22 MS. KURTZ: And would it have to be set aside for the
23 30-year plan at which point it can then be developed?

24 MR. RICHERT: Yes, then it would be up to the
25 Commission, 30 years hence, to decide how to zone that.

1 MS. PINETTE: Chair Harvey, if I may, this may be a
2 good place to contextualize the recommendations that the staff
3 and the consultants are making with respect to the long-term
4 development plan because this is really the area where that
5 flagged the need for us, both in terms of the efficient use of
6 land and the reservation of some of these excess lands.

7 So if -- if you're okay with that --

8 CHAIRMAN HARVEY: Go ahead.

9 MS. PINETTE: I would like to pass the baton to Evan
10 to kind of go over that, and that --

11 CHAIRMAN HARVEY: Are you going to talk a little bit
12 about the difference between excess land and undeveloped land
13 since the rules appear to be somewhat different?

14 MR. RICHERT: Yes. You'll recall, as I think was
15 mentioned this morning, that several months ago we did, in view
16 of the large sizes in the areas, an excess land analysis which
17 was, based on our assumptions, this is nothing that Plum Creek
18 has indicated was "excess," but we did look at different
19 scenarios of development that are typical of concept plans or
20 that would be typical of maybe a very large lot kind of
21 scenario, just to try to understand how much land may never
22 need to be appropriated into the proposed development.

23 We know that a lot of this area has been proposed to
24 be zoned the way it is to give the applicant lots of leeway in
25 locating and designing development, and we understand the

1 importance of that.
 2 Nevertheless, there would be significant opportunity
 3 to squander this land by cutting it up into Swiss-cheese kind
 4 of portions or to have excessive lot sizes and so forth. And
 5 heading into the future, which in an appropriately located
 6 area, we don't think is appropriate. So that's what we call
 7 excess land. It's land that is not -- not required to be
 8 incorporated into the development plans for this 30-year
 9 period.
 10 In several areas -- and on Page 58, we locate -- we
 11 indicate them -- Brassua Lake, south peninsula;
 12 Rockwood/Blue Ridge; Route 6/15 corridor; Moose Bay; Lily Bay;
 13 and Big Moose Mountain, the latter two being potential
 14 resorts -- those areas are large enough to suggest to us that
 15 there will be a phasing of development, and that phasing of
 16 development will want to have the various pieces lock into each
 17 other in some logical way because there will be need for
 18 circulation that connects, there will be a need for open space
 19 that connects, there will be need for on-site recreational
 20 amenities that connect.
 21 And the very typical way of doing this is through a
 22 long-term development plan. This is true everywhere that there
 23 are large-scale developments. It is not unique to this
 24 jurisdiction or to what we are proposing here.
 25 Once the first subdivision comes in, it needs to be

1 preceded by, or concurrent with, an indication of what the
 2 long-term development plan is so that the basic systems, the
 3 utilities and circulation and open space wildlife corridors and
 4 so forth, can be shown how these all connect in a logical way.
 5 So the long-term development plan for these six
 6 areas, two of which have been designated by the applicant as
 7 resort areas, will have to go through this process in which
 8 they, in the interest of efficient land use, in the interest of
 9 making sure that there are some on-site recreational
 10 opportunities that will relieve some of the pressures of some
 11 of the off-site recreational opportunities, in the interest of
 12 habitat preservation, which will relieve some of the pressures
 13 that we might otherwise be concerned about, and all those
 14 things are taken into account, and there will be some
 15 submission requirements for that -- for that long-term
 16 development plan that includes baseline descriptions of soils,
 17 natural resources of scenic areas, and so forth.
 18 Basically brings the opportunities and the kind of
 19 maps, indications of how community services will be provided to
 20 these developments over the long term and so forth.
 21 You'll see on Page 59 and 60 what we see as those
 22 submission requirements and I needn't go through all of that
 23 unless you have questions on it, but these are quite typical.
 24 And there are --. You'll see on Page 60 some
 25 additional submission requirements if the area includes a

1 resort.
 2 Finally, you will see that in two areas here at
 3 Rockwood/Blue Ridge, which we're talking about now, and on
 4 Brassua peninsula, southern peninsula, that those areas are so
 5 large compared with the development that's proposed, that we
 6 are proposing that a percentage, 50 percent here, 25 percent at
 7 Brassua, be set aside for the 30-year period so that the
 8 Commission, at that time, can decide, along with the landowner
 9 and the parties of interest, what the proper zoning and use of
 10 those areas should be.
 11 Does that put it in context sufficiently for you?
 12 MS. HILTON: (Indicates yes.)
 13 MR. LAVERTY: (Indicates yes.)
 14 CHAIRMAN HARVEY: Brassua and Rockwood are the only
 15 ones that you have this specific requirement for set-aside
 16 specified?
 17 MR. RICHERT: That's right. That's right.
 18 The other areas we expect there will be excess land
 19 that is not incorporated into any development plan or
 20 subdivision and that would similarly be treated, but these two
 21 areas are so large compared with the what's been proposed
 22 that -- and assuming that the Commission believes that these
 23 are appropriately located places, that that area, given that
 24 everything else is going to be permanently conserved forever
 25 and there will be no other opportunities, that these should be

1 regarded as important land, too.
 2 CHAIRMAN HARVEY: Okay.
 3 MS. HILTON: I am assuming that any discussion we're
 4 going to have about specific permitted uses and lot sizes,
 5 minimum lot sizes, we're reserving for the next part of this --
 6 these deliberations. I don't see anything in here, right? Is
 7 that correct?
 8 MS. PINETTE: We have --. Let me address those two
 9 issues separately because I think they're addressed in
 10 different ways.
 11 With respect to the lot sizes, we are making a
 12 recommendation, and this will come up under the discussion of
 13 10.25,Q,3, to eliminate language that Plum Creek proposes that
 14 gives the applicant the discretion to determine lot sizes.
 15 We do not feel that that is appropriate, and we do
 16 firmly believe that the Commission needs to retain its
 17 discretion to interpret the comprehensive plan policy on lot
 18 sizes, either at the long-term development planning stage or at
 19 subsequent subdivision review stage. So that is embedded in
 20 the recommendation related to 10.25,Q,3.
 21 With respect to permitted uses, what we are
 22 recommending to you in the zoning structure section is a list
 23 of examples of uses that we feel would be appropriate. So to
 24 the extent that you have concerns about any of those uses or
 25 want to discuss them, I do think that this would be an

1 appropriate time to do so.

2 For example, there has been a lot of controversy and
3 concern raised about a golf course at Lily Bay or a marina at
4 Lily Bay. Our recommendation, as you will see in the resort
5 optional zone, would be to allow those uses, but to constrain
6 them in the manner that has been set forth in that area,
7 meaning a criterion or a standard that limits their -- their
8 size, potentially but not, per se, prohibit that use.

9 To the extent that the Commission has concerns about
10 that, I do think that it would be appropriate to have a
11 discussion on permitted uses now as opposed to later in the
12 process.

13 CHAIRMAN HARVEY: You say you want to talk about
14 permitted uses right now?

15 MS. PINETTE: I was just saying now as opposed to
16 putting them in the category of second-tier issues. Sorry
17 about that.

18 MS. HILTON: You answered my question; that's what I
19 was trying to find out.

20 MS. PINETTE: And the appropriate place for that may
21 be when we get back -- when we circle back to the zoning
22 framework.

23 MS. HILTON: Okay.

24 CHAIRMAN HARVEY: Anything else on Rockwood/Blue
25 Ridge? Brassua?

1 MR. LAVERTY: This is an area that also caused me
2 heartache, particularly with the peninsula. I guess my concern
3 was I saw this as a real transition area between the Brassua --
4 the developed area of Brassua and the Moose River, the northern
5 part of Moose River that runs down to Long Pond.

6 I'm very much concerned about trying to preserve the
7 character of that Moose River, I guess you'd say west of
8 Brassua.

9 I was really concerned about having a really
10 intensive development on that peninsula because as you come
11 down the Moose River, you look right at that peninsula. And I
12 guess I feel a little bit more comfortable now with the
13 proposal to have some buffering, at least that's where I
14 understand that green to be, essentially, a buffered area that
15 would allow for more of that transition.

16 I was really concerned about the intensity of
17 development on that peninsula; however, looking at that in the
18 context of the development along the south shore, the concept
19 plan, which we approved for the north shore a couple years ago,
20 the class of the lake, and I guess, given the fact we haven't
21 gotten there yet somehow -- it's difficult to parse these out
22 in isolated areas, as we're going to get to the proposal
23 limiting development on Long Pond, particularly the North
24 Shore, I think if that occurs, then I could accept some of this
25 development on the Brassua peninsula.

1 But I have to say, this is another one of those
2 places. I don't know what I'm going to do about that, but it's
3 causing me a little -- I have some real concerns about that,
4 and I just want to make that clear up front.

5 CHAIRMAN HARVEY: The -- I would like to go to the
6 issue of the transferability. This one states it's capped, but
7 then there's a Footnote 44 which talks about this could be a
8 receiving area and there's one other reference in here that
9 kind of implied that it was a receiving area. So I'm kind
10 of -- can you -- can you enlighten me a little bit?

11 MS. PINETTE: Sure. This is the one area, capped
12 area, that we have identified as a place with apparently enough
13 developable acreage, even with the carve-out recommendations
14 that we're making, where additional development might be able
15 to be accommodated.

16 We're recognizing that this area has already been
17 proposed for quite a bit of intensive development and see it
18 and view it as appropriate for that level of intensity of
19 development.

20 So although we're not making any explicit
21 recommendations to increase the cap here, we just want to flag
22 for the Commission that, in terms of the total number of units
23 here, it's -- the intensity of development being proposed is
24 not an issue for the staff and consultants here and that this
25 could be -- if the Commission wished to view it that way, this

1 could be an extension of the Rockwood development area and
2 might have some potential of being another receiving area or
3 have some opportunity set aside for excess lands beyond 30
4 years.

5 MR. WIGHT: This is the place, I guess, where we need
6 to talk about where the line is, where the removal of some of
7 the development shorefront is.

8 Would you say it's that little peninsula at the very
9 toe of the boot there?

10 MR. RICHERT: Yes. On Page 41, there's a hand drawn
11 map -- it's not official, and that line should not be taken as
12 gospel but I'll tell you what the governing intent is -- could
13 you toggle back and forth between the two, Amy?

14 MS. HUDNOR: Sure.

15 MR. WIGHT: So it looks like the -- and I'm not sure
16 whether that pencil is on the arrow, but it looks like it's
17 pointing at that peninsula that I spoke of.

18 MR. RICHERT: That's right. What we're suggesting is
19 that the view corridor coming out of Little Brassua would be
20 defined by a ridgeline that runs, roughly, up here to this peak
21 and then down, so it's a little bit more than what -- the green
22 area there, and it would come up to this -- to a tip about
23 there.

24 At that point -- if you could toggle back now. At
25 that point, you can see we drew in some view corridors from

1 different vantage points of Little Brassua. And at that point,
2 change from that point over would probably not be visible.

3 MR. WIGHT: My question is, how are you going to find
4 that on the ground?

5 MR. RICHERT: It's very doable with the GPS or -- to
6 mark it in the same way of many of the other conservation
7 easements. This would be put in the balance easement, this
8 area, and so that would be located.

9 CHAIRMAN HARVEY: Okay. And so the intent would be
10 to put all of that -- everything up to the view corridor
11 demarkation, I guess, if you will, will go to the balance
12 easement?

13 MR. RICHERT: The balance easement. Whatever it is.
14 And I think -- and I'm not sure of this, and this may be
15 overstated; it might be -- you know, you'd come up a little bit
16 of the side slope there and so forth, but that can be more
17 precisely defined.

18 CHAIRMAN HARVEY: I guess the idea would be somebody
19 sitting on the water can't see over the top of the ridgeline,
20 so everything on the other side of the ridgeline is not
21 visible.

22 MR. RICHERT: That's right.

23 MR. WIGHT: And this was a real issue for the guides
24 in this area not to be facing development all the way up.

25 CHAIRMAN HARVEY: Are you clear on that, Ed?

1 MR. LAVERTY: Yes.

2 CHAIRMAN HARVEY: You want to just comment on the --
3 you talked about, in some parts of the development, having
4 limited shoreline structures and, in another area, no limits.

5 I assume this is a scenic issue, if we could just
6 clarify that, please?

7 MS. PINETTE: Yes, the limitations on the shoreline
8 structures here was -- I'm sorry, I'm blanking here.

9 I want to say it was -- frankly, I do need to look
10 back at my notes on this and check what the rationale was here
11 at this location. So if we could just defer that question, I
12 will get back to you with an answer.

13 CHAIRMAN HARVEY: All right. I'll let you do that.

14 MR. RICHERT: One of the things I wanted to mention
15 about this area that might help you is that it is a very large
16 area, a very important area. But it's a very large area.
17 There's probably on the order of 1,500 acres of developable
18 soil, even if you carve out the wetland areas, wildlife
19 habitat, and so forth. That's about 2.5 square miles.

20 Although it might seem like a lot of development, 250
21 is a lot. The intensity is not great, but it's a lot of
22 development and it's not intense given that kind of -- and so
23 here is where one year, as we suggested, the long-term
24 development should identify consciously where some excess land
25 might lie and let the future Commission decide about that.

1 MS. KURTZ: Evan, is the 25 percent being set aside
2 simply a function of -- as compared to the 50 percent, just as
3 developable land?

4 MR. RICHERT: That's true. That's exactly right.

5 MR. LAVERTY: Would you please explain the ability of
6 commercial development to take place? I know there was some
7 concern. Moosehead Futures had some concerns about the types
8 of commercial activity that might take place in this area.

9 I notice that you allow neighborhood-scale commercial
10 facility for uses by special exception. Would you just explain
11 what that means?

12 MR. RICHERT: Yes. This is related to the discussion
13 we had earlier. The concern in part was the proposed D-GN
14 zones that are in golden color there in the Plum Creek
15 proposal, and those are not small geographic areas.

16 I can't remember exactly how large they are, but
17 there's probably over 200 acres in total in both of them, and
18 the idea was that they would float. They weren't sure where
19 they should go, and so they get to -- until they get to
20 detailed layout of this development area, so that they would
21 float.

22 Here is where we have gone to more of a modest,
23 mixed-use idea in which there's no reason not to allow certain
24 convenience kinds of services, goods and services, scaled down
25 to what we're calling neighborhood level, but, you know,

1 2,500-square-foot style or smaller kinds of businesses. It
2 should be the artists' shops, it could be convenience stores,
3 it could be those sort of things. And we'd limit the aggregate
4 area of that.

5 First of all, it would come in by special exception,
6 so it would have to come before the Commission to demonstrate
7 what's being proposed and use justification that it would not
8 have adverse effects.

9 But secondly, the acreage aggregate is limited to 50
10 acres throughout, so there might be -- it might end up being in
11 a little core area, or there might be a -- it might be in a
12 couple or a few different places.

13 MR. LAVERTY: 50 acres throughout what?

14 MR. RICHERT: Throughout this whole South Brassua
15 peninsula development area.

16 MR. LAVERTY: Throughout the peninsula?

17 MR. RICHERT: Yes. No more than 50 acres of land
18 would be able to be devoted to this purpose and even that is
19 large. That's only for leeway.

20 You know, a neighborhood center, a convenience
21 center, that would be justified by the market here and that
22 would be good -- best practices for this kind of development is
23 probably is not going to require more than 5 or 10 acres.

24 MR. WIGHT: I was pleased to see that your -- again,
25 your footnote has laid out examples of what those things might

1 be. It seems to me at the hearings, people were concerned that
2 there were going to be nursing homes and things that sounded
3 rather large. Neighborhood scale and the list of
4 possibilities, I think, puts it in perspective.

5 MS. PINETTE: Our approach with respect to the
6 neighborhood scale uses was to really try to model it as much
7 as possible on LURC's current D-GN zone that allows for a range
8 of commercial uses but limits the size of those uses to a
9 square footage.

10 Chair Harvey, I found the response to your previous
11 question on docks if you want to entertain me for a minute.

12 The basis for recommending limitations here was
13 actually not to do with the soil constraints. The soils here
14 are quite good, and the shoreline access is quite good as well,
15 and Dave Rocque did not have any recommended restrictions.

16 However, Jim Palmer, in looking at the scenic -- as
17 part of his scenic assessment, did recommend and state that the
18 introductions of docks here ought to be mainlined so as to not
19 change the visual character of this lake or move it into more
20 of a rural class. So that was the basis of our recommendation
21 to limit the number of docks on the peninsula.

22 MR. SCHAEFER: Aga, while we're up on that, the
23 Rockwood/Blue Ridge shore, the -- that's no limitation, the
24 northeast shore is no limitation, but the peninsula is.

25 MS. PINETTE: The northeast shore has no limitation

1 because of the water access only aspects of that development.
2 And the Rockwood shore probably should have a limitation on it.
3 That was an oversight.

4 In retrospect, we probably should be restricting, for
5 that same reason, the number of access points. The shoreline
6 there is very limited and I think, if I remember correctly,
7 we're talking about this area here. I think it can only
8 accommodate two or three lots because of the limited shore
9 frontage.

10 I can check back on that, but it may be a non-issue
11 because of the size and the amount of shore frontage.

12 CHAIRMAN HARVEY: Aga, you need to speak right up.

13 MS. PINETTE: I'm sorry. Commissioner Schaeffer was
14 reflecting -- was asking why we were not recommending any
15 limitations on docks and water access points here, and the
16 reason is that this is a development area that we do think is
17 appropriate, but it is a water access only area, so it seems
18 logical to allow for that on each parcel.

19 And on this portion of the Rockwood shoreline, that's
20 the Rockwood development area that is on Brassua, my
21 recollection -- and I will need to double-check this -- is that
22 there is very limited shorefront available for development here
23 due to the nature of the road access in there.

24 So I think there's already a natural limitation to
25 the amount of shorefront access that would be available there,

1 but I will certainly check back on that.

2 MS. KURTZ: Aga, I have a question. I don't know if
3 it's something that we discuss at this level or the next tier,
4 but I'm mentally sort of adding up the number of potential
5 launch areas as you've gone through the day and thinking about
6 each one of them as being a vector for invasive species.

7 And I'm wondering, will those all be -- I'm just
8 wondering -- I guess I'm concerned that they -- that those
9 launches be somehow specifically included in this invasive
10 species and wildlife protection fund, that as we add these,
11 that they are -- you know, the effort is made to ensure that
12 they don't become a liability from an invasive species and that
13 somehow funding -- that the funding be recognized, the increase
14 in launches and somehow address that.

15 MS. PINETTE: Okay. Thanks.

16 CHAIRMAN HARVEY: Okay. Anything else on Brassua?
17 Long Pond? I guess the major change here, obviously, was the
18 recommendation that the north shore be removed from the
19 development zone. And a few other adjustments to recognize
20 some wetland areas on the south shore.

21 Other than that, the recommendations look like
22 they're in line with all the others in terms of zoning,
23 designation, and how we review the process, et cetera,
24 et cetera.

25 Anyone have any comments on Long Pond?

1 MR. LAVERTY: I would just say that if I recall the
2 record correctly, Maine Department of Inland Fisheries &
3 Wildlife, as well as the U. S. Fish & Wildlife Service, gave us
4 some pretty specific testimony here with regard to the adverse
5 impacts to such development on the north shore of Long Lake
6 would have. This is a unique habitat -- where deer and other
7 wildlife traverse areas.

8 I mean, in my history as a regulator, I have very
9 rarely seen the Maine Department of Inland Fisheries & Wildlife
10 be so specific in terms of their recommendation that no
11 development take place, so I think that the record strongly
12 support removing these two areas -- and again, I'm referring to
13 the areas of the north shore of Long Pond and south -- I mean,
14 I think that that's pretty well established in the record,
15 their support in the record.

16 CHAIRMAN HARVEY: Yeah, I would agree, Ed, the
17 record's pretty clear about this one. And it wasn't just
18 wildlife. There was a huge wetland up there, Natural Areas
19 Program, and of course the archeological concerns as well.

20 MR. WIGHT: The number of residential units in total
21 was cut in half. Was that because of the two southern areas?

22 MS. PINETTE: That's right. Originally Plum Creek
23 was targeting somewhere in the range of 55 to 70 units on the
24 north shore, and we are recommending cutting that in half.

25 We think that actually 55 units is probably not

1 achievable on the south shore because of the site constraints
2 on that area; however, as you will see when we talk about the
3 total number of units, we're not making a recommendation to cut
4 the total number of units in the plan down.

5 What we are envisioning here is that those 55-plus
6 units that cannot be accommodated on Long Pond be transferred
7 to other places such as the receiving areas that are identified
8 in our recommendations.

9 MR. SCHAEFER: Of those 55, those were waterfront
10 lots. In the context of the receiving areas, is there any room
11 to make up that difference or not?

12 MS. PINETTE: It's fairly limited. I think the one
13 place that would have potential room would be at the Brassua
14 south peninsula. And that might actually require the
15 Commission to consider scaling back its dimensional
16 requirements with respect to shorefront, its minimum shorefront
17 requirements.

18 So, for example, if you wanted to assure that the
19 lost value to Plum Creek on the north shore be replaced
20 equivocally by shorefront units, some portion of those may be
21 located on -- might be able to be accommodated in the Brassua
22 south peninsula.

23 But my sense -- and this is sort of a back-of-the-
24 envelope kind of estimate -- is that in order to accommodate
25 all 55 shorefront units, you might need to reduce the minimum

1 shore frontage requirement below what is currently proposed,
2 which is 150 feet.

3 MR. LAVERTY: Isn't it true, though, that the
4 uncapped areas provide opportunity certainly for replacement of
5 the acreage?

6 MS. PINETTE: Absolutely, yes.

7 MR. LAVERTY: But it's just the amenities that -- the
8 shorefront?

9 MS. PINETTE: Yes, there is penalty of excess land to
10 accommodate an acre-for-acre replacement of these units in
11 other areas, you know, Rockwood, Beaver Cove, Moose Mountain
12 area, et cetera.

13 I was just highlighting, in terms of shore frontage,
14 it is fairly limited. And this plan, over the course of the
15 three years, has transitioned from a shorefront-focused
16 development plan to one that is much more constrained with
17 respect to shorefront development.

18 MR. WIGHT: We might have to look at that as
19 clustering and common docks in that location.

20 MS. PINETTE: Right.

21 MR. WIGHT: I didn't realize that -- is it Chapter 10
22 that gives the 150 feet of shore frontage --

23 MS. PINETTE: That's right. And in the addendum to
24 Chapter 10 that Plum Creek is proposing, Section 10.27(b) --
25 I'm sorry, Section 10.26, includes some modifications to the

1 dimensional requirements, and one of those proposed changes
2 involves a reduction of shore frontage.

3 MR. WIGHT: That's for all of their shorefront lots?

4 MS. PINETTE: For all of the shorefront lots.

5 MR. LAVERTY: And I feel compelled to say that I
6 have -- I had mentioned that I have some concerns about this.

7 I think that given that we're dealing with the
8 concept plan, which specifically reserves shorefront from
9 development, that this would be -- that the frontage limitation
10 that we use generally throughout the jurisdiction may not be as
11 warranted as long as there are substantial design requirements
12 also in place to ensure that within the developable area, we
13 don't get maximum shorefront linear development.

14 I mean, that's what we've been trying to avoid. So
15 as long as that is covered, there is a real design criteria
16 that represents clustered development.

17 And again, I'm not a planner and I don't know exactly
18 what that should look like, and I -- as long as this has come
19 up, I just want to state that I have some real concerns about
20 that.

21 Because we have approved, in the past, in other
22 concept plans very close to this area, supposed cluster
23 development. As we flew over the areas, I didn't see much
24 evidence of clustered development.

25 So I guess what I'm worried about is not so much the

1 concept of limiting or allowing for a reduced shorefront area,
2 but how that's going to implemented and what that bodes for
3 precedence for the future.

4 MS. PINETTE: This may be a good place to highlight
5 for you our recommendations with respect to 10.25,Q and the
6 subdivision layout and design standards, which I think goes
7 right to the points that you're making, Commissioner Laverty.

8 MR. LAVERTY: What page are you on?

9 MS. PINETTE: This is on Page 62.

10 CHAIRMAN HARVEY: Page 62.

11 MS. PINETTE: And I won't reiterate this, but our
12 view essentially is that there are several purposes to the
13 layout and design standards that we see are important and need
14 to continue as part of subsequent development within this
15 concept plan area; however, there is one that we feel has been
16 effectively achieved -- or would be effectively achieved --
17 through the proposed conservation measures, and that is the
18 protection of undeveloped shoreline.

19 So to the extent that the Commission, as it reviews
20 incremental subdivision proposals on lakes, has relied on
21 section 10.25,Q,3 to again avoid that ring-around-the-lake
22 phenomenon and preserve, for all kinds of purposes, open space
23 on the shoreline, we feel that the conversation measures here
24 on each of the lakes targeted for development achieve that
25 purpose.

1 And for that reason, we are much less concerned about
2 a development pattern, for example, on Brassua Lake, that may
3 have significant segments of -- lengths of shoreline
4 development on the peninsula, rather than the broken-up designs
5 that may otherwise emerge as a result of interpreting 10.25,Q,3
6 in the absence of a comprehensive plan framework.

7 MR. LAVERTY: I guess the design criteria, which I
8 haven't had a chance to look at -- I mean, I know that we now
9 have a policy that's directed towards cluster development.

10 I understand the proposal here is to remove the
11 village center concept from that; is that correct.

12 MS. PINETTE: That is Plum Creek's proposal. That's
13 not what staff is recommending.

14 MR. LAVERTY: That's not what you're recommending,
15 retaining that village concept cluster development.

16 MS. PINETTE: We're recommending reinstating the
17 language of Section 10.25,Q,3 as it currently exists.

18 MR. LAVERTY: As it currently --. Okay.

19 MS. PINETTE: However, we wanted to highlight for you
20 that in the context of interpreting that within this concept
21 plan, we see one of the three objectives of those standards as
22 having been met through the conservation elements of the plan.

23 So again, for example, looking at Brassua Lake, the
24 objective of trying to preserve shoreline, we feel, is better
25 met at the landscape scale as opposed to on that peninsula.

1 And that would allow for a more compact development pattern
2 that, in some cases, might involve, you know, incremental
3 shorefront development within that development area.

4 But we have assurances through the conservation
5 components that that will not be a development pattern that
6 infuses the entire lake.

7 MR. LAVERTY: Right. And again, I'm willing to
8 acknowledge that. I guess I'm just a little bit jaded in that
9 we've been advocating clustered development and I don't really
10 see much of it.

11 I don't know why that's the case, and I just would
12 like to make sure that if we're going to make this exception,
13 that we understand that this isn't just based on a reduction in
14 shore frontage, it's based on a reconceptualization of how
15 residential units along the lakefront should be developed.

16 MS. PINETTE: Yes, that's absolutely right. For
17 example, I would not be an advocate of applying this
18 interpretation of the Q,3 standards to a future subdivision
19 that may come in before the Commission because that objective
20 of preserving open space might not be achieved in the context
21 of incremental subdivision review.

22 And what we were trying to highlight is that in this
23 context with this concept plan, it makes sense to us to focus
24 the design standards on the type of goals and objectives that
25 we've laid out in the long-term development plan

1 recommendations, meaning the efficient use of lands, good
2 circulation patterns, a connectivity and a wholeness to the
3 development scheme, rather than a prescriptive approach of
4 trying to preserve 500-foot stretches of open space within a
5 development area in the context of a lake that is otherwise
6 protected from development.

7 MR. LAVERTY: Right. And I wouldn't want to go to
8 the other extreme, encouraging the development of kingdom
9 shorefront lots. I think it ought to be developed, but in the
10 size of conservation of development land.

11 MS. PINETTE: Right. And this is -- that's a very
12 good point, and this is where we were making the recommendation
13 that I referred to earlier with Commissioner Hilton's question
14 on lot size discretion.

15 We do feel it's quite important for the Commission to
16 retain its ability to decide what lot sizes are and are not
17 appropriate in the context of a long-term plan. And to us that
18 doesn't mean that all of the lots have to be 1-acre lots; to
19 the contrary, the lands should dictate what the lots ought to
20 be.

21 MR. LAVERTY: Well, part of my willingness to go
22 along with the recommendation on Upper Wilson Pond is my
23 assumption that the design characteristics of that development
24 will be based on clustered development, village --.

25 Is that a fair assumption on my part?

1 MS. PINETTE: Upper Wilson is not an area that we're
2 recommending be part of the long-term development plan simply
3 because of the number of units being proposed. But we may want
4 to consider writing that if that is an important component to
5 your way of thinking.

6 MR. LAVERTY: Well, what would be the purpose of the
7 shorefront restrictions on development on Upper Wilson Pond?
8 What would be the -- the required lot size --

9 MS. PINETTE: The minimum shore frontage?

10 MR. LAVERTY: Right.

11 MS. PINETTE: Right now what Plum Creek is proposing,
12 and we're not objecting to it, is a minimum 150-foot
13 shorefront.

14 MR. LAVERTY: But with no clustered development.

15 MS. PINETTE: With -- with no --.

16 Let me step back a little bit because the term
17 clustered development, in context of LURC regulations, is very
18 different than what it means from a planning perspective.

19 MR. LAVERTY: Well, I'm not sure I know either
20 context, so enlighten me, please.

21 MS. PINETTE: The clustering provisions in the LURC
22 Chapter 10 really only mean one thing. They incentivize but do
23 not require smaller lots, and they allow for, for example,
24 development on a common shorefront are commonly owned parcel so
25 that you could get a more -- a tightly knitted development

1 pattern. But there is no requirement to do that anywhere.

2 The only requirement that exists is in places like on
3 Class 4 lakes where a preservation of shore frontage and net
4 developable acreage is required as sort of a set aside of open
5 space, which doesn't necessarily lead to, you know, the
6 village-type clustered development vision that, you know, that
7 kind of a planning practice might have in mind.

8 MR. LAVERTY: Well, I don't want to beat this to
9 death, but I mean -- but I'm a little confused. How do we then
10 prevent linear development along the shorefront with 110-foot
11 frontage?

12 MS. PINETTE: Well, 150-foot for --. You don't
13 necessarily prevent it, and we're not recommending that you
14 prevent it. What we are recommending is that the standards
15 that currently apply to development, meaning the community
16 center objectives, still apply.

17 MR. LAVERTY: As recommendations or as requirements?

18 MS. PINETTE: As requirements.

19 MR. LAVERTY: Oh, okay.

20 MS. PINETTE: Okay. And minimum shore frontage
21 requirements would be as well.

22 MR. LAVERTY: I guess I misunderstood. I thought you
23 said they were voluntary, they were recommended design, but
24 weren't required.

25 MS. PINETTE: The voluntary component of our current

1 Chapter 10 standards involve clustering in the true sense of
2 the word, meaning common -- "common" shore frontage and a
3 density of development that is below the minimum dimensional
4 requirements. And when I think of clustering, that's the
5 vision that I have in my mind. But I just -- I probably
6 muddled the issue.

7 MR. LAVERTY: No, no. You didn't.

8 MS. PINETTE: But I did want to make a distinction
9 between what clustering means in the LURC regulations and what
10 it means to planning practice for change --

11 MR. LAVERTY: So the units that are proposed for
12 Upper Wilson Pond will end up being sited in a linear fashion
13 along Upper Wilson Pond?

14 MS. PINETTE: The units proposed at Upper Wilson Pond
15 could include a linear component, like any development could
16 right now in LURC jurisdiction, so long as it also includes a
17 community center.

18 In order to meet a community center standard, there
19 needs to be a form and a function between -- a relationship
20 between the community center and the units.

21 MR. LAVERTY: But anywhere else in LURC jurisdiction,
22 you're not allowed to do 150-foot shorefronts; right?

23 MS. PINETTE: The 150-foot shore frontage is a change
24 to the dimensional requirements, you're absolutely right. That
25 would be changed.

1 MR. LAVERTY: I don't want to get way sidetracked
2 with this, but I just --

3 MR. RICHERT: I think we're hearing you,
4 Commissioner.

5 I just do want to note what you've acknowledged and
6 so I don't want to restate the obvious except that -- think
7 about this, as we have, at two levels. One is a resource
8 level, the lake level, where the ring-around-the-lake at Upper
9 Wilson is simply impossible because they have put such a large
10 percentage of it in the conservation that if you think of
11 clustering in the lake level, they've done it in spades.

12 So then you come to the site level. So you've taken
13 care of the resource level, and now you come down to the site
14 level. And the question is: What should the standards be at
15 the site level, given the 140 acres or whatever it is -- I
16 don't have the actual number here, but that's from memory -- of
17 buildable area; how do 32 lots get arranged on that 140 acres
18 and those many feet, which is a small percentage of the entire
19 shoreline?

20 And even there, you want the thing to hang together,
21 not to put undue pressure on the shore, allow a circulation
22 system to work internally even for a 32-lot subdivision.

23 And so that's where your questions come in.

24 I think that it is entirely possible to have 125-foot
25 or 150-foot shoreline frontage and come up with a better design

1 in that regard than simply say everything's got to be 250 feet,
2 let's say.

3 And I think that's why, as Aga mentioned, the hope is
4 to give the Commission some discretion when they review these
5 things and encouragement to the applicant to have some design
6 that is simply not 32 lots strung along that remaining
7 frontage.

8 MR. LAVERTY: Well, again, if that's the case, again,
9 why say 150 feet? Why not say the frontage will be determined
10 based on the design characteristics and the -- the other
11 opportunities for conservation that have already taken -- the
12 characterization of the shorefront. I mean, what --

13 MR. RICHERT: Yeah, I mean, I'm all for flexibility
14 in design. Sometimes if you're completely open-ended, there
15 may be -- it may be too much administratively, but I don't
16 think there's anything magic about 150 feet. I think there is
17 a minimum below which you shouldn't go.

18 MR. LAVERTY: What would that be, do you think?

19 MR. RICHERT: Oh, probably in the shoreline context,
20 it would be in the -- I'm just pulling this out of the air,
21 making this up in a sense -- but, you know, it would probably
22 in the 75- to 80-foot, 90-foot range; enough so that there
23 would be a winding pathway and some privacy with side yards,
24 setbacks, and you've already got the 100-foot buffer which
25 applies regardless of the width of the shoreline, so that

1 100-foot buffer will always be a visual analysis. But, you
 2 know, on these lots you have to think about septic systems, and
 3 so there's got to be enough space for things.

4 But in terms of the overall design of the subdivision
 5 itself, I don't think there's anything magic. We tended to
 6 raise these numbers like 150 and 200 feet through shoreland
 7 zoning and then through other things to some mystical level
 8 when it really isn't.

9 Given this concept plan in which a huge percentage of
 10 the entire shoreline is conserved, you could not have that if
 11 that weren't the case because septic systems and leaching
 12 fields and everything else would simply overwhelm the resource.
 13 But here we're in a different situation.

14 MR. LAVERTY: I accept what you're saying. I still
 15 have a problem, just a little -- just a slight problem, and I
 16 just want to register that, because it's like the whole as a
 17 reduction is marginal and I can understand the concept. And it
 18 sounds good at the landscape or the resource level, but you get
 19 down to designing --.

20 I mean, we've seen way too many lakes and ponds in
 21 the state of Maine where you've got tremendously constant
 22 development, Brassua Lake.

23 Right there on the shore of Brassua, look at the
 24 concentration of development. I mean, it's almost -- and I
 25 hesitate to characterize it this way because I'm sure the

1 owners of these camps would take offense, but it's almost like
 2 a ghetto-ized, you know, development and I don't think it's
 3 fair to pick particularly low-income people that are going to
 4 be left with the narrow shorefront lots and others are going to
 5 be -- you know, have access to kingdom lots.

6 That's it. This just seems to be a larger issue than
 7 is being -- just --. I'll leave it at that.

8 MR. RICHERT: We're -- we're hearing you.

9 MR. LAVERTY: Okay.

10 MS. HILTON: Can I jump onto that? I guess it's one
 11 that concerns me as well, particularly with the Brassua
 12 peninsula, and the reason there is we've got such a long
 13 shoreline.

14 I mean, I don't know how long that is. We're talking
 15 about 250 units and, I mean, it's just long.

16 And I mean, I understand the principle, what you're
 17 proposing, and it makes sense, but I'm just wondering if it
 18 isn't -- you know, maybe in some instances, more complex than
 19 what we need to look at.

20 The other thought with respect to the -- related to
 21 this, is that this -- I think we need to talk about it a little
 22 bit more in general, what you're proposing with respect to the
 23 subdivisions -- shorefront subdivisions, and I guess that's
 24 pretty obvious based on Ed's comments.

25 And I'm thinking if we could just have -- I don't

1 know, like sketches on a pad or something might make it a
 2 little easier for us to understand what we're talking about
 3 here. The difference between, say, a clustered subdivision and
 4 what our rules say and conservation subdivisions or some
 5 concepts here that might be a way to approach it.

6 MR. RICHERT: That's a good suggestion. Let me just
 7 add that a variety of things come into play here when you're
 8 talking about shorefront minimums and so forth.

9 But when you combine -- I'll just throw this out, not
 10 to negate or even argue, because we're listening and not
 11 arguing at all, but when you combine the shoreline buffers,
 12 vegetative buffers that you have, and you combine that with
 13 suggested limitations on common docks -- on docks, it'd be one
 14 thing if you had 125- or 150-foot frontages and everybody had a
 15 dock.

16 That's very different than if you had 125 frontages
 17 and you only saw 10 common docks stretched over a mile or a
 18 mile and a half. The image, the impact, is just very
 19 different.

20 Where the views are very filtered of the structure to
 21 begin with and the evidence of development on the shore is
 22 limited by the common dock. There you've now mitigated two
 23 important things, and it simply makes the frontage requirement
 24 less important than it might otherwise be.

25 That does not diminish your argument or thoughts

1 about design of subdivision because that's important for a
 2 whole bunch of other reasons as well. And hopefully 10.25,Q,R
 3 will allow the Commission the discretion it needs to ensure a
 4 sound design.

5 MS. PINETTE: Chair Harvey, what I might suggest is
 6 that we tee this discussion up for tomorrow, a continuation of
 7 this dialogue for tomorrow where perhaps we'll have some
 8 opportunity to come up with some illustrations of these
 9 concepts that make this a little more meaningful.

10 CHAIRMAN HARVEY: Okay. That would be fine.
 11 I don't know -- we lost Long Pond somewhere along the
 12 way.

13 MS. HILTON: I can take us back to Long Pond.

14 CHAIRMAN HARVEY: Do you have some more questions?

15 MS. HILTON: I have -- yeah.

16 CHAIRMAN HARVEY: All right.

17 MS. HILTON: I'm going to be pretty straightforward.

18 On Page 44, this has to do with limitations of
 19 shoreland structures, and it says -- it's the last line on the
 20 right-hand side, recommendations. No limitations recommended
 21 in the southwest shore area. Why?

22 MS. PINETTE: This is a very small development area
 23 being proposed right here, and the acreage and amount of shore
 24 frontage is very minimal, and it's really in-fill development
 25 to a pattern of development that extends along the entire

1 length of this shoreline, and our sense was that there was no
2 unique need here to limit the number of docks, for example, in
3 that area.

4 I think the area's targeted for five lots that are
5 intermixed with a development pattern of, you know, existing
6 units, existing camps along here. And you know, if you use
7 the -- sort of the Jim Palmer discordant element principle,
8 we've way crossed that one already on that portion of the lake.

9 MR. KREISMAN: It's self-limiting. It's a tiny
10 little space.

11 MS. PINETTE: Right.

12 CHAIRMAN HARVEY: All right. Anything else on that,
13 Long Pond?

14 That takes us, in my book, to total number of units.
15 You probably know what's interesting in this one.

16 Okay. The staff is, I think, kind of prepared to
17 talk to us a little bit about this if you wish them to in terms
18 of how they ended up with -- you know, with basically, you
19 know, not making any changes here from what was seen
20 originally.

21 If you would like to hear some of their thinking
22 before we start that, they can do that. So Aga, who's going to
23 do that?

24 MS. PINETTE: I'm going to ask Evan to take the lead
25 and Ron and I may fill in.

1 CHAIRMAN HARVEY: Okay. That would be fine. Thank
2 you.

3 MR. RICHERT: In some ways, we arrived at this
4 through the -- kind of sum of the perks analysis where you look
5 at each one individually and you think about what will work and
6 what might not work and you reach certain conclusions.

7 But let me also come at it from the other way, which
8 is this idea of cumulative impact. And when you're thinking at
9 this scale, how you think about cumulative impact and how can
10 we be comfortable in recommending that the total number of
11 units proposed is okay based on everything that's on the
12 record, and I will emphasize that our conclusions come
13 exclusively from what the record tells us.

14 The first question is: Cumulative impact on what?
15 You know, what's the current character of the region that is
16 being impacted and against which we should measure the future?

17 And here it is -- we felt it important in our
18 internal discussions to move as far away as we could from the
19 impressionistic objective sense of what this area is so that
20 is -- we can't do that entirely -- and towards a -- finding a
21 mechanism for objective analysis as to what this area is.

22 It's one of the reasons we went to Jim Palmer and
23 Mark Anderson, for example, to help us understand -- help the
24 Commission to understand, what the character of the region is
25 from an arm's length, analytical point of view.

1 And you will recall that a mechanism that they
2 arrived at to describe this is the Recreation Opportunity
3 Spectrum, which is a mechanism used by the U. S. Forest Service
4 and others to describe high value recreational areas.

5 And you will recall that this is a spectrum that runs
6 from urban settings at one end of the spectrum to primitive
7 settings at the other end. And in the middle are different
8 words and terms depending on the author, but they're
9 semi-primitive, citing the different kinds.

10 There are, in the rural setting, different kinds --
11 rural developed, rural natural, roaded and natural, that sort
12 of thing, in the middle between those two ends.

13 And the various consultants tended to characterize
14 this overall area as roaded natural, that is, sort of in the
15 middle, not unlike what you would expect for an industrial
16 forest.

17 But overall, a roaded natural setting -- and I'm just
18 going from the notes -- is a setting that has a modified
19 appearance but still natural appearing, an area where there are
20 people, where there are the sights and sounds of civilization
21 and human beings, but those sights and sounds are usually not
22 out of harmony with the natural environment. Interactions
23 among recreational users are low to moderate.

24 In these areas, trail uses are managed, usually in
25 designated corridors of various kinds. It is an area in which

1 motorized and mechanized uses are common and inspected, and an
2 area that -- where timber harvesting is compatible with that
3 setting.

4 So if you were to characterize this overall area,
5 according to various consultants and other parties who
6 testified along these lines, it would be characterized as sort
7 of in the middle of that spectrum. It is not primitive, it is
8 not wilderness.

9 There are areas of this region that would be -- fall
10 into the semi-primitive portions of that spectrum, such as
11 Little Moose Mountain and portions of Sugar Island and
12 certainly the Roaches and so forth. But that's the overall --
13 that's the overall tone.

14 There are also some areas that would be explicitly
15 rural under this spectrum. Rockwood is explicitly rural.

16 There are portions of some of the developed lakes
17 here that are -- that are at the rural part of the spectrum.

18 So if you accept that -- and, of course, you have
19 great discretion as to whether to accept that kind of metric or
20 not -- you then start to ask questions. You start to
21 deconstruct all of the potential impacts and ask and study each
22 of those individually.

23 Scenic, recreational, forestry resources, wildlife,
24 community services. And you ask the question: What does
25 2,000-plus or 2,025, or 2,325, depending on what all you're

1 including in here, what will the cumulative impact of those
2 things be on these various components of the landscape?

3 And that's what we did. And I can go into -- I can
4 answer questions about each of those areas if you would like.

5 I can spend the next three hours talking about them
6 if you like -- I know you wouldn't -- but suffice it to say
7 that with respect to the scenic, we do believe that there will
8 be areas that will shift in that spectrum from roaded natural
9 to into more rural developed.

10 There will be a shift within development areas, and
11 in some cases, the adjacent lakes and the public -- areas of
12 public value.

13 But we think also that those can be modified,
14 mollified, and mitigated to a significant extent with the
15 proper vegetation clearing standards and other standards that
16 we have discussed and are proposing, in our recommendations.

17 We also believe that there will be and are other
18 areas that, through the conservation easements, will be forever
19 protected in their current state and will not experience that
20 kind of shift.

21 With respect to recreation facilities, we also think
22 that there will be some shift from the rural natural or roaded
23 natural place on the spectrum to something that is more
24 developed within the developed areas. This will happen
25 unevenly. It will happen at Indian Pond. East and West

1 Outlets will receive greater use. But other areas will be
2 embedded within the landscape level of this plan that will, in
3 fact, be able to absorb and more than absorb some of the
4 spillover without any change in character.

5 There is not an awful lot of pontification in the
6 record about this but there is some. And so, for example,
7 Mr. Daigle's -- Dr. Daigle's analysis listed the many
8 destinations that are today underused; even more used, would
9 not lose their primitive recreational resource opportunities.

10 So there is a place, there is ample area, in our
11 view, for some of the recreational opportunity that we lost in
12 a place like the Big Moose Mountain area to shift elsewhere.

13 Some of those would be close in, like Prong Pond.
14 Some of them will be areas just beyond the concept plan area
15 like KI. Some of them will be within the concept plan area,
16 like the Roaches and Spencer Bay. But there appear to be ample
17 areas.

18 One of the places -- one of the parties that did try
19 to quantify this was Maine Audubon, NRCM's witness, Mr. Christ,
20 who actually developed a set of formulas based upon what he
21 called logic and what he called the worst-case scenario because
22 he had to assume the worst-case scenario in the absence of
23 detail.

24 But the bottom line of his analysis was that taking
25 into account all of the development, not just at Lily Bay but

1 all of the development throughout, he estimated that there
2 might be, on an average summer day, something on the order of
3 300 vehicles striking out to the various -- for various, what
4 he called, wilderness recreational activities.

5 That does not strike us as a cumulative impact that
6 will overwhelm this area. When you think about all of the
7 destinations which, based on his reckoning, 300 -- it was
8 actually fewer than 300 vehicles might go, there simply seems
9 to be an awful lot of capacity in this 400,000-acre region to
10 absorb that kind of -- that kind of activity.

11 When you look at traffic, which is another way to
12 think about cumulative impact, we had a great deal of testimony
13 from witnesses on both sides of the issue. And we have talked
14 about some of that cumulative impact earlier today.

15 Suffice it to say that in the areas beyond the
16 boundaries out into the boundaries of the wilderness areas,
17 Kokadjo and points north or up Twenty Mile Road, or up the KI
18 Road, there is no evidence that those vehicle counts will rise
19 to a level that will be a significant threat to wildlife.

20 We are concerned about wildlife impacts in the
21 immediate area of Lily Bay and you saw that in our
22 recommendations with respect to that development area; but in
23 the wilderness areas, as Mr. Christ called them, north of
24 Kokadjo, for example, Twenty Mile Road and so forth, those
25 impacts simply do not seem to be so large that it cannot be

1 absorbed within the development area.

2 I'd be glad to answer other questions and give you
3 more detail. The impression I wanted to leave you with is that
4 we carefully looked at the record in each of these functional
5 areas of wildlife, forestry, recreation, visual impacts
6 measured against the existing character of this area and what
7 people appear to value about this area.

8 And we could not find evidence that a cumulative
9 impact of the proposed units would exceed the carrying capacity
10 of this area as a whole. We think there will be some shifts in
11 the specific development areas and it is why the conservation
12 easements, both the balance and legacy easements, are so
13 important to absorbing that shift.

14 Mark Anderson, our consultant -- our recreational
15 consultant, Jim Palmer, our scenic visual guy, and others
16 testified to the importance of those as absorbing the shift,
17 the dynamic shift that always goes on in the world of
18 recreation, outdoor recreation.

19 So that's a brief summary of how we went around --
20 about this process. And I think suffice it to say we're quite
21 confident that the area can absorb the impacts that are being
22 offered here.

23 MR. KREISMAN: Mr. Chairman, I just wanted to ask --
24 add one concept to what Evan said.

25 The analysis that we did was not an analysis based on

1 development previously proposed at Big W, at Prong Pond, on the
2 north shore of Brassua, on the north shore of Long Pond, on any
3 number of remote units, on conversation that started at 11,000
4 acres, et cetera, et cetera.

5 I think it's very important and deeply embedded in
6 Evan's analysis was getting this amount of development in what
7 we believed to be the right locations for the region.

8 And those locations do not involve, in our view as
9 currently recommended, a sprawled, rural development pattern in
10 which these number of units are -- are put out in a much
11 different landscape picture than is being put out with the
12 changes that Plum Creek made and the further recommendations
13 that we made.

14 MR. RICHERT: Yeah, I'm glad Ron supplemented my
15 comments with that because we started out at landscape level
16 and where is the -- are these appropriate places for
17 development and the long evolution over three or four years of
18 those appropriate places.

19 I want to say also that we looked at other things.
20 We looked at the question of boating traffic and these various
21 elements and tried to square them with standards that the
22 Commission has, for example, on whether a water body surface
23 acreage, for example, of a water body faces overuse as a result
24 of the amount of development.

25 For the most part, I think universally, you're way

1 under the metrics that you have as a Commission for that sort
2 of thing. I'm going to leave it there. I'm not overly trying
3 to convince you; that is not my purpose. I just want to --
4 what we want to say is that we went through a systematic,
5 analytical process here to arrive at the conclusion as to
6 whether this was acceptable within the criteria that you will
7 be measuring this concept plan by.

8 MS. PINETTE: Just one final remark on this issue.

9 I do want to highlight that our conclusion on the
10 total number of units is very much dependent and tethered to
11 the recommendations we are making.

12 So as Ron mentioned, the recommendations we are
13 making with respect to the location of development is critical
14 in terms of thinking about whether the total number of units is
15 appropriate here.

16 Likewise, our recommendation on the long-term
17 planning approach to the scenic standards, et cetera, are quite
18 tethered to our conclusion that if these recommendations are
19 accepted, then we feel that the cumulative impacts will be
20 added, will be addressed and managed.

21 MR. LAVERTY: Mr. Chairman, I would just like to say
22 that I'm very pleased that Evan is involved in this project.

23 In his previous life as director of the State
24 Planning Office, before he heard the clarion call to
25 controlling sprawl in the state of Maine, I think his

1 credentials in addressing this area also were very effective in
2 GrowSmart Maine.

3 I think he's established a track record of a person
4 that not only understands the notions of sprawl, but he's been
5 sort of a forward thinker in the state of Maine as to how do we
6 address it. So I think your analysis is much more than just a
7 statement by a consultant, and I want to thank you for that.

8 I would like to also, perhaps, to -- has anybody
9 looked at the relationship between the projected infrastructure
10 impacts, particularly the public's infrastructure impacts and
11 the potential generation of property tax revenues?

12 At the landscape level, what kind of burden -- and
13 again, just counting jobs available and economic activity and
14 all of that, but in terms of just property taxes generated,
15 types of site development, are we anywhere close to seeing a
16 match between infrastructure costs and revenues generated by
17 developers?

18 MR. RICHERT: Based on staff's requests to the
19 applicant and caution to the applicant that this would be a
20 very major question, just what you asked, they hired Eastern
21 Maine Development Corporation and then Planning Decisions to do
22 this analysis.

23 They did an analysis based on a scope of work that we
24 actually designed, you know, we wanted to make sure that this
25 was not a rhetorical fluff piece but actually got down to hard

1 numbers and those analyses were -- are part of the record.

2 And the conclusion was that the potential tax revenue
3 generation all depends on legislative bodies setting mill rates
4 and everything else. But all things being equal, given today's
5 conditions, the tax revenues generated from property taxes,
6 sales taxes, and income taxes would be many multi-fold the cost
7 of servicing the proposed developments.

8 That was not even; there was some unevenness here in
9 that the unorganized territories in the counties will be
10 especially large-scale beneficiaries of that tax revenue. And
11 other places like Greenville and Jackman, because the
12 development is able to get some spinoff development, but
13 dealing with the direct development, will be marginal
14 beneficiaries of that revenue.

15 So the revenue will be there to -- potentially to pay
16 for the costs of services that this development will demand.

17 The bigger question is will that revenue reach the
18 specific agencies that need it, because it would -- where those
19 agencies don't have direct control over the revenues being
20 generated.

21 So will the Maine Forest Service get the revenue it
22 needs? Will the Maine Land Regulation Commission get the
23 revenues it needs for code enforcement and so forth.

24 But that's a bigger political decision that is not up
25 to the landowner to answer. The revenue will be there if those

1 agencies wants to allocate them to the places that are
2 necessary to deliver the services.

3 The resorts themselves will, by the proposal of the
4 applicant and by testimony on the record, pay directly to
5 accommodate the services that they would be demanding -- the
6 major services that they will be demanding -- and will do that
7 either by providing them themselves or buying those services.

8 There are a couple of areas where I do have concerns
9 and -- because I'm not positive how --. The dollars will be
10 there, but I don't know exactly how the dollars will flow to
11 the place that it has to be to get the job done.

12 And I think primary among those would be the Rockwood
13 Fire Service, which is all volunteer, and it's a very small
14 department now. A lot of development will occur in its
15 jurisdiction, its service area, and that level will generate
16 revenues, potentially, to pay for an upgraded fire department.
17 But exactly how you do that -- because it's not just equipment
18 that you've got to buy, you've got to have the volunteers, the
19 people, the human resources.

20 And will those come from the year-round workers that
21 will be attracted to this area because they're building homes
22 and supplying services to the hotels and things like that?
23 Don't know.

24 I think this is a place where at the subdivision
25 level the Commission might want to think about standards or

1 requirements like residential sprinklers and that sort of thing
2 that will reduce some of the public service requirements.

3 But on the whole, there's been a very careful look at
4 this question, community services, revenues, costs and how the
5 money flows. And we believe that for the purpose of rezoning,
6 there's ample evidence that the development can be served.

7 At the subdivision level, the Commission will have to
8 look at this each time and get absolute assurances in writing
9 from the various service agencies -- providers -- that they
10 will be there to provide services to that particular
11 subdivision.

12 MR. SCHAEFER: Evan, back to your overview, this
13 question has no real answer, I don't think, but when you did
14 your projections -- and I know you probably discussed it -- it
15 was probably based on, believe it or not, \$3 gasoline or maybe
16 even 2.50; I don't know when it was done.

17 How in your mind does 4 and \$5 gasoline play into
18 your overview of this, and is there flexibility in these plans
19 that will allow for -- it's -- I mean, it's on everybody's
20 minds in this room to get over that. Everybody's changing a
21 little bit.

22 So how did you rationalize that or how do you feel
23 about that? Believe me, like I said, I know there's no answer;
24 it would be a prediction.

25 MR. RICHERT: Yes. We did not --. It's on

1 everybody's minds, as you say, but we did not condition our
2 review and our recommendations on energy prices, simply because
3 it's beyond our capacity to do so.

4 I think from a market point of view it could have
5 great implications, but I currently don't know if it's to the
6 benefit of a development like this or to its disadvantage.

7 It could put a big premium or more self-containment,
8 on the capacity to come to a place, park the car, and never
9 have to be in it for any substantial purpose.

10 So the idea of compactness and so forth will play out
11 here, just as it does in year-round -- regular year-round
12 metropolitan areas. It could be a great discouragement to
13 resort developers taking a chance that people will want to
14 drive from Providence, Rhode Island up into the Greenville area
15 for a week-long vacation. I don't know how it will play out.

16 It will take somebody smarter than I am or time for
17 me to really do some careful market analysis as to what the
18 effect would be.

19 I think it's going to put a premium on energy
20 efficiency on the greenness of the development from
21 single-family homes to commercial and lodging facilities.

22 MR. SCHAEFER: That would be market driven, so we're
23 trusting --. But, like 300 trips a day, would probably go
24 nowhere but down, probably, with each uptick of the price of
25 gas.

1 MR. RICHERT: I think that is a good supposition.

2 CHAIRMAN HARVEY: Anything else? Gwen?

3 MS. HILTON: I guess for me, this is a -- this is
4 probably a huge issue, and I have struggled with it a lot
5 because obviously this development is going to have a huge
6 impact on this region.

7 You know, in trying to make a decision about how much
8 impact, you know, these many units are going to have on this
9 area is the one that I'm most anxious about.

10 And I guess -- and I really appreciate that we've got
11 some evidence or some information that's in the record that
12 gives us some guidance on this.

13 I'm wondering, Evan, are you --. Where is the
14 tipping point? I mean, if this is not it, I mean, how much --
15 what would be the tipping point? And then I also wonder, you
16 know, what other development is going to occur in this area?

17 If a ski resort is built, and maybe we can't even
18 take that into consideration, but there's certainly a lot of
19 developable land in Greenville, depending on how they have it
20 zoned. There could be a lot more growth than what we're
21 looking at here in this region.

22 Well, what's your response to that? I mean, what are
23 your thoughts?

24 MR. RICHERT: It's a great question. And it's
25 probably not possible for us to exactly quantify it, but I can

1 give you some examples, some thoughts, because we did look at
2 this, both on an area-by-area basis and on an overall basis.

3 Maine Audubon suggested that a tipping point would be
4 2,000 vehicles per day, AEDT, on the road system. In the end
5 we couldn't find enough evidence to suggest that that was a
6 valid tipping point.

7 The evidence suggested that it would be something
8 greater than that in parts of the network and perhaps 2,000 in
9 other parts of most -- you know, most parts of the network, but
10 it seemed that for some species, 2,000 was too much and for
11 some species, it's not really significant.

12 But I would guess that if the evidence was strong,
13 for example, that there would be 3- or 4,000 vehicles per day
14 as a result of this development up at Kokadjo or beyond, or up
15 Twenty Mile, you would have reached the tipping point.

16 We looked really hard to understand this traffic flow
17 issue and impact on wildlife and we just couldn't find those
18 levels as measured against the guidelines that we think were
19 established in the record.

20 But that might be a tipping point. It might be a
21 tipping point specifically for Lily Bay or it might be a
22 tipping point for the entirety of the development. A lot of
23 that depended, remember, on trip assignments where Tom Errico
24 estimated that 7.5 percent of all the traffic generated on the
25 Brassua peninsula and Long Pond would end up going past

1 Lily Bay up to Kokadjo, on average.

2 Whether that's true or not -- I'm very skeptical if
3 it is -- but we think that it might be and it deserves some
4 further analysis as time goes on.

5 But in general, traffic is one of those metrics that
6 you can see permeating the area and for which you can estimate
7 the tipping point. And I think that would be fair.

8 If you're in the 3,000-plus range in these very
9 wildlife sensitive areas, I think that would be a tipping
10 point.

11 I think another tipping point would be if the amount
12 of development exceeded your metric for surface area of lakes,
13 either individually or cumulatively. What your standard is, is
14 there should not be more than one shoreline dwelling per 10
15 surface acres of lakes.

16 Your policy is that once you reach that point, you
17 are inviting conflict on lakes. And this development is way
18 below that in almost every instance. And even if you take a
19 place like Lily Bay and just think of Lily Bay as a lake unto
20 itself, you do not exceed that level. So that's the tipping
21 point that is not exceeded.

22 You could --. Some things don't lend themselves to
23 tipping point questions as much as are we avoiding things that
24 can be avoided. So instead of plopping a boat right down in
25 the middle of Nahmakanta lakes territory where there had been

1 actual sightings, you move it out and you put the boundary
2 someplace else. So that's another area.

3 I think the idea of recreation opportunities spectrum
4 is a very interesting mechanism by which you can measure
5 tipping point. And that tipping point would be somewhat
6 subjective, and you have the discretion to decide, okay, if
7 it's roaded natural now, as defined in that spectrum, we don't
8 want it to go to the next place; we don't want it to go to the
9 rural where the interaction between, you know, recreationists
10 is more common, where the sights and sounds of development are
11 more likely to be unacceptable.

12 But by our calibration, per Anderson and Daigle and
13 Palmer, if the conservation easements are in place covering
14 such a large area, there is a capacity to absorb this
15 additional development and some shift on the spectrum in some
16 very specific places without having reached the tipping point.

17 You have great discretion to decide whether that is
18 so or not. You have great discretion to decide whether
19 development at Big Moose, 800 resort accommodation units, given
20 the vegetation standards that we are recommending, given the
21 limitations on docks, given limitations on other things that
22 reduce the impact of that development, and nevertheless reaches
23 a tipping point in terms of this recreation opportunity
24 spectrum. So this is not a completely unanswerable question,
25 and we did look at these things.

1 MS. HILTON: Yes. I appreciate all of that, really.

2 I think what I heard Aga say earlier is that all this
3 fits together, in other words, the recommendations that you
4 made for the conservation areas are part of the balance.

5 MR. RICHERT: You cannot -- you can't -- you're
6 talking about these in isolation, but they cannot be done in
7 isolation.

8 If any of these pieces were missing -- if the
9 vegetation standards weren't there or the easements weren't
10 there, the limitations on docks weren't there and other things
11 weren't there, then I think we would be closer to a tipping
12 point then, potentially.

13 MS. HILTON: Okay. Thank you.

14 MR. LAVERTY: I would just like to -- I don't know
15 what -- we talk about the character of this region and sort of
16 the tipping point beyond which we begin to negatively affect
17 the character.

18 And I guess what I'm wondering about is, I think --.

19 First of all, I think character is in the eye of the
20 beholder. Many people have, maybe, a sense of what they view
21 the character of this region to be and if you ask them to put
22 it into words, it gets a little mushy.

23 I have to say, I view the character of this region in
24 a slightly different lens, and I would be surprised if Bart
25 didn't as well. And that is that I view the character of this

1 region, over my 60-year life span having lived in that
2 region -- and you mention the human capacity to run the
3 volunteer fire station at Rockwood. We're losing population.
4 We're losing public capacity in that area, and the record is
5 replete with the impacts of the hospital, the potential impacts
6 on the hospital, the schools, the ability to maintain young
7 people in the area to keep it vital -- vital socially and
8 civically.

9 And when I was young -- and Bart will attest -- there
10 were farms and shops. The shops -- like, for example, there
11 was a shop -- and all of us have shops; there's shops in
12 Millinocket -- there was a shop in Greenville Junction that ran
13 24 hours a day. There was a blacksmith's shop that turned out
14 boom chains and turned out pickeroons and turned out camp
15 docks. And the Pittston Farm, there were hundreds of horses
16 there, not just a few. And there were hundreds of men into the
17 woods.

18 Now, granted, because of the less intense forestry at
19 the time, there were fewer people residing in the area, the
20 quality of the environment, one might argue, maybe was
21 enhanced. But when I look at what's going on in that region,
22 it seems to me that part of what needs to be factored in
23 here -- and it doesn't seem to get factored in as fully as I
24 would like to see it -- is the idea of what's happening to the
25 people in the region, and there has to be some development

1 there of some sort.

2 And so when I look at development, I'm just not
3 looking at the impact on recreation or the impact on visibility
4 and the impact on wildlife. I'm also looking at the impact on
5 what's becoming a rare, threatened endangered species, and that
6 is the residents, the working residents of the Greenville
7 region.

8 So I hate to sound like I'm carrying back on -- you
9 know, economic development at any cost, because I certainly am
10 not, but I think that the area deserves and can absorb a
11 substantial amount of economic development.

12 And we could even get into the whole thing about when
13 the Kineo House was running and all of the different resorts
14 and the vibrancy of the railroads bringing sportsmen in from
15 Boston and New York. Even forgetting that, I think that
16 there's room here for economic development.

17 So I just -- I really choke at the number of units,
18 but I think that compared to the lack of economic development,
19 I think that I am willing to at least consider this,
20 particularly as you pointed out, in light of the very
21 substantial gains in conservation, with conservation easements
22 in perpetuity here. So I think there's a balance that can be
23 struck.

24 So I look at that tipping point in a slightly
25 different way and that's a look at the 60-year history, as I've

1 seen it, in that area, as opposed to a lot of people who have
2 come recently and look at it as it exists today. I don't know
3 if I'm making that point well, but --.

4 CHAIRMAN HARVEY: It's pretty clear to me. I'm
5 sympathetic to what Ed says. We're probably all -- the number
6 of units is obviously one of the most visible aspects of the
7 whole development and the one that people have discussed the
8 most. And some have railed at it the most and some have
9 supported it, obviously. It's the easiest thing to get your
10 hands around. And it is a big number.

11 The question in my mind is, of course, will they ever
12 all get built? And in light of the discussions you and Steve
13 had a minute ago may have some impact.

14 And I think that we -- I'm willing to listen to the
15 discussion as we go along here, and --. But I agree with you
16 that all the other aspects of this development have to be in
17 place to make this function; it can't exist on its own.

18 With that, at --. I don't want to cut this
19 discussion off, but Ron had a very specific request to have a
20 break in two hours, and so I'm going to honor that.

21 And it's -- we'll come back at 3:30, and we'll pick
22 up with this discussion again if we want to.

23 (There was a break in the deliberation at 3:16 p.m.
24 and the deliberation resumed at 3:34 p.m.)

25 CHAIRMAN HARVEY: You folks already to go again? I

1 don't see my attorney here, but I guess we're all set.

2 Unless there is any more on the total units question,
3 we can move on, and tomorrow, if you want, after you thought
4 about it overnight we can circle back to review some of the
5 issues that you want to go to, okay.

6 The next one -- the next issue is the land use
7 zoning, land uses, and I'll remind us that we had quite a
8 discussion this morning, particularly the new development
9 zones. We've kind of worked that one on development, but we
10 didn't talk about the management zones and the protection
11 zones, if you have any questions or concerns that you want to
12 mention about that.

13 I notice there's some additional uses that have been
14 added to the management zones that had been taken out in
15 previous iterations. And we want to make sure that you
16 understand what those are.

17 They look like they deal -- one of them deals with
18 the hut-and-trail system. The other one is to allow
19 campgrounds as a permitted use in a management zone. And that
20 wouldn't -- these management zones principally are in the
21 easement areas, I take it.

22 MS. PINETTE: They would not be exclusively in the
23 easement areas. We're recommending to remove the M-GN zones
24 and put them either into conservation or into development.

25 CHAIRMAN HARVEY: Or into development.

1 MS. PINETTE: Like at Beaver Cove, for example, we're
2 recommending those two zones be development zones.

3 CHAIRMAN HARVEY: So there wouldn't be campgrounds
4 allowed on those zones at this point in time?

5 MS. PINETTE: Well, as a permitted use, there
6 probably could be.

7 CHAIRMAN HARVEY: In a development zone?

8 MS. PINETTE: In a development zone.

9 CHAIRMAN HARVEY: Oh, they are allowed in that new
10 development zone?

11 MS. PINETTE: I believe campgrounds are typically
12 allowed in the development zone.

13 MR. WIGHT: How about the M-GNM? That's the
14 modified, Plum Creek, you're going to keep that as is?

15 MS. PINETTE: There would really be no need for that
16 M-GNM zone. We would apply current LURC M-GN zoning as it
17 applies to the jurisdiction in the conservation easement areas,
18 with a couple of modifications, which are listed on Page 53.

19 MR. WIGHT: Okay. Right. So what then would you
20 call it? Would it be M-GNM? Because it has those
21 modifications?

22 MS. PINETTE: We could come up with a creative name;
23 M-HGN. How's that?

24 MR. WIGHT: There you go.

25 CHAIRMAN HARVEY: Okay. Anything else on those?

1 Any concerns about the protection zones, particularly
2 those embedded in the development area which were proposed to
3 be frozen -- the boundaries were proposed to be frozen; right?

4 If not, the staff is going to be insulted if we don't
5 ask them any questions; right?

6 MR. WIGHT: Is there anything about protection zones
7 that we need to talk about or --? There are some changes to
8 those zones as well.

9 MS. PINETTE: Yes, we have made several recommended
10 changes as to how to deal with protection zones that are
11 surrounded by or adjacent to development areas. And if you
12 would like me to provide them.

13 MR. WIGHT: 25 words or less?

14 MR. KREISMAN: The 25 words or less is, this
15 testimony was all labelled "freezing protection zones."

16 What was actually being proposed by Plum Creek is
17 actually broken down as to 1, 2, and 3 on the left side. Your
18 balancing competing policy goals here --

19 MR. WIGHT: What page are you on?

20 MR. KREISMAN: I'm on Page 54, Commissioner Wight.

21 In the 25 words or less, staff consultant efforts on
22 Page 54 were to capture and make enforceable the testimony that
23 came in from Counselors Kraft and Hempelmann right at the end
24 of the fourth week of earlier testimony as to what Plum Creek
25 was prepared to do in terms of complying with laws that might

1 be changed at the time.

2 So I'd be happy to answer some questions on that.

3 That's what we tried to capture and to essentially put a
4 development application through its paces, applying the
5 standard that they articulated and what we attempted to capture
6 in Footnote 61.

7 MR. WIGHT: Was the natural resources inventory
8 something that was recently added?

9 MR. KREISMAN: That inventory would come in at a
10 subdivision phase so you would be able to see exactly what's
11 there and what current law would protect that might be over and
12 above the "frozen protection zones," for which they are
13 proposing to meet requirements one way or another.

14 So you'd have that in front of you. It'd be
15 transparent, it would be visible.

16 MR. WIGHT: Thank you.

17 CHAIRMAN HARVEY: So I guess that the idea is that
18 regardless of whether it's a protection zone or not, at the
19 time of the application, the applicant proposes to meet
20 whatever standards apply, inside and outside of the freeze
21 zone?

22 MR. KREISMAN: Well, meet them, but as defined by our
23 language, which is they could demonstrate that they're not
24 important and don't need to be met, the protections are there,
25 or there are other ways to meet the intent of it.

1 But they have to address protections that are in
2 place at the time. And they can't just say, sorry, those are
3 new, those weren't here 25 years ago, get lost.

4 And then the other side of that, which we just state
5 on Page 55, is that they're proposing no alteration of
6 protection zones in the easement areas. This is in your
7 introduction, this is in the development zones.

8 CHAIRMAN HARVEY: The next one is the design
9 components within development areas.

10 Did we talk about this earlier? Some parts of it, I
11 guess.

12 MS. PINETTE: Yes. Evan went through a brief
13 overview of our thoughts on the long-term development plan. I
14 think we've gone through that in some detail already.

15 We have had discussions on both the excess lands
16 issues related to limiting the -- expanding the balance
17 easement upon buildout, as well as the standards -- the changes
18 proposed to Section 10.25,Q,3 subdivision land and design
19 standards, which I flagged as an item to circle back to
20 tomorrow.

21 MS. HILTON: Aga, would you repeat that? I think the
22 fans are blowing and it's --

23 MS. PINETTE: Sorry. I will try to be a little
24 louder.

25 CHAIRMAN HARVEY: Get right up to the microphone,

1 Aga.

2 MS. PINETTE: Will do.

3 MS. HILTON: Aga? Would you repeat that again?

4 MS. PINETTE: Sure.

5 MS. HILTON: I think the fans are blowing --

6 MS. PINETTE: Yeah, it's gotten a little louder with

7 the air conditioning in here, but I think we all appreciate it

8 being on today.

9 Evan has gone through a brief description of the

10 long-term development plan. I believe it was in the context of

11 the Big Moose Mountain discussion. And -- I'm sorry -- in the

12 context of Rockwood and Blue Ridge, and that's where the

13 minimum land reservation requirement comes in as part of our

14 recommendations.

15 And we've also had some opportunities to discuss the

16 rationale for our recommendation for limiting the expansion of

17 the balance easement at buildout, which is on Page 61.

18 And lastly, I have flagged for further discussion

19 tomorrow the recommendation regarding the design standards,

20 10.25,Q.3. I think that's the current status of discussion on

21 this topic.

22 MR. KREISMAN: There's one point here that

23 Commissioner Kurtz brought up earlier today on employee housing

24 and interpretation that we said we'd get back to, so I just

25 wanted to do that. That's on Page 58.

1 Recommendation or -- not recommendation, but element

2 No. 4, four development areas in which resort accommodations

3 are proposed, a demonstration that it needs to create a demand

4 for employee housing for temporary and seasonal employees.

5 And I think you had a question about what that

6 language, the intent of that language or --. I can't

7 remember --

8 MS. KURTZ: I think I had a question about who

9 determines the need or how is that determined to be sure that

10 it's -- that the need is there? It's more than a --.

11 There's a difference, I think, in my mind between a

12 need and a want or a demand. If there's a need -- if you've

13 got people travelling 40, 50 miles to come -- or 30 miles,

14 whatever it is, to come work at a resort, in my mind there's a

15 need to house them there so that they're not paying half their

16 wages just getting to and from work.

17 So that's just -- in my mind, I don't know how you

18 determine need for employee housing. I just wanted to know

19 what mechanism that would be.

20 MR. KREISMAN: That's a good question. I assume what

21 would happen -- never having done this before, I assume what

22 would happen, going back to Commissioner Laverty's apparently

23 either favorite or least favorite word, there's a metric here

24 that you look at the stand-alone resorts, Sunday River or

25 Sugarloaf or Ogunquit or wherever and the number of seasonal

1 employees that will be housed, their wage structure, a

2 percentage that can be given towards housing, you do a survey

3 in the area of rental or other housing within a reasonable

4 detachment area that's available or not, that's affordable.

5 So -- and then they will make a showing of whether

6 sufficient units are available or if not and what kind of

7 dormitory or multi-bed or whatever kind of structure they're

8 going to house people in.

9 My sense is this is pretty standard fare at this

10 point, at this time, especially when, as we know, it's not --

11 it's often not 30, 40, 50 miles away; it's 3,000, 4,000, 5,000

12 where people are coming from on guest visas.

13 MS. PINETTE: Commissioner, first what I would

14 suggest is if the Commission finds this recommendation

15 acceptable and necessary in the second-tier portion of this

16 process, the staff could go back and assess whether more

17 detailed language that fleshes out what exactly might be

18 necessary here is warranted.

19 MS. HILTON: Yes. I'm on Page 58. Is that where

20 we're at?

21 MS. PINETTE: Yes, exactly.

22 MS. HILTON: A moment of "where are we."

23 CHAIRMAN HARVEY: Good a place as any.

24 MS. HILTON: Yes. Is there anywhere in here where we

25 ask for some consideration of how this proposed long-term

1 development plan for a particular area is compatible with

2 adjacent developed areas? Or, you know, I'm thinking in

3 particular of any areas that are either adjacent to either

4 Rockwood -- or actually even Beaver Cove or any of these other

5 areas, how -- sort of a -- how they're -- what the relationship

6 is between the proposed area and the existing area.

7 I think there's some language I'm hearing about

8 interconnective traffic and pedestrian ways.

9 And I guess what I'm thinking, in addition to that,

10 is how the development abuts -- maybe what kind of economic

11 impacts from a business --.

12 I'm concerned about, you know, businesses in these

13 new areas and how they're going to affect our -- the service

14 centers situated that close by. I will just kind of throw that

15 out.

16 MR. RICHERT: I think we note that concern. It's a

17 very legitimate one.

18 The primary way we have paid attention to adjacency

19 is through circulation of open space/wildlife corridor

20 connections, all of that stuff.

21 We have had in our minds that there's a hierarchy of

22 commercial activity. You know, in the very best urban lens --

23 to paradigm, there is this hierarchy that goes from the four

24 corners to the convenience to the neighborhood to the community

25 to the regional to the super regional centers.

1 And they all have a role to play, they all have a
 2 very -- the tend to have a very familiar mix of activities in
 3 each of those cases. They all tend to have a certain scale to
 4 them. And our -- in our mind's eye and what we hope would come
 5 through in the final zoning language is that these areas would
 6 be very much four-corner convenience center oriented because
 7 that's what can play off of and live off of and serve
 8 neighborhoods of 100, 200 units but that would not be the next
 9 level up in that hierarchy which ought to be at the Rockwood
 10 and in the Greenville and in the Jackman regions.

11 But your concern, the fact that you noted the
 12 concern, means that we should -- that that should be duly noted
 13 and be part of your recommendations.

14 MS. PINETTE: What we are not recommending here is a
 15 set of prescriptions, for example, for Rockwood. We have
 16 thought about this, whereby we direct commercial development of
 17 a particular area within that zone.

18 Rather, we would prefer to see an approach whereby
 19 the Commission, in the course of evaluating its long-term plan,
 20 see whether all the pieces fit together.

21 So, for example, in assessing the long-term plan for
 22 Rockwood Village and determining whether there is an efficiency
 23 to the design of the plan, you might have some comments to the
 24 developer on, you know, where the commercial hub ought to be --
 25 hub or hubs or whatever.

1 MS. HILTON: That is fine, that makes sense. And I
 2 don't know whether any additional wording is needed just to
 3 reflect.

4 CHAIRMAN HARVEY: Rebecca?

5 Okay. Traffic --. Is that the next --? Oh, scenic.
 6 We don't want to forget that. Scenic standards. Lighting,
 7 scenic and noise. I see you recommended against rock concerts.

8 I basically understand the recommendation here is
 9 that we took back the control of scenic to us, right, by
 10 removing it from -- disallowing view corridors, particularly
 11 with amorphous language?

12 MS. PINETTE: What we are recommending as sort of a
 13 broad scale here is that the Commission develop a set of
 14 prescriptive standards that, to the extent possible, have some
 15 sense of familiarity and potentially mimic the vegetation
 16 clearing standards that are currently in place.

17 I do want to comment here that that objective, first
 18 of all, is not intended to create a no-visibility standard
 19 here. In other words, in our thinking about scenic impacts in
 20 assessing the proper location of development and making the
 21 recommendations -- and really going back to the cumulative
 22 discussions that Evan set forth -- we had no intention -- and
 23 we still don't have any intention -- of developing a set of
 24 standards whereby development from public places will not be
 25 visible at all.

1 What we are trying to achieve here is to develop a
 2 set of prescriptive standards that provides for filtered views
 3 of the development from the resource and from the development
 4 to the resource. So it's a two-way street.

5 And we think that that, in combination with the
 6 recommendations that we're making on the location of
 7 development, will serve to minimize that shift that Evan was
 8 talking about from a semi-primitive or a roaded landscape to a
 9 rural one.

10 With that, I do want to highlight one footnote here
 11 that I think is quite important to point out. And this is on
 12 Footnote 67 on Page 67 where we've laid out a number of
 13 prescriptions or elements that we think need to be part of
 14 these standards.

15 But I do want to highlight the note that's at the
 16 bottom of Page 67. We really are asking for your permission to
 17 take a closer look at these prescriptions once the standards
 18 are drafted in coordination with our scenic consultants and
 19 potentially assess those in the field to make sure that they
 20 achieve the intended objective, that they do provide for that
 21 filtered view, that filtered protection that we're talking
 22 about here.

23 Because this is an area where, really, this approach
 24 is unprecedented and we have not been able to find any
 25 models --. Our consultant hasn't been able to find any

1 comparable models nationwide that could apply here, and we want
 2 to make sure that we do this right and that it works.

3 So we are asking for you to consider and accept the
 4 approach that we're suggesting, this filtered-viewed approach,
 5 achieved by a set of prescriptions and giving us an opportunity
 6 to test that out and make sure that it actually does what it's
 7 intended to do.

8 MR. LAVERTY: So you're confident in the approach
 9 that you're recommending?

10 MS. PINETTE: Yes.

11 MR. LAVERTY: You just want to make sure that the
 12 application does what it's intended to do without undue
 13 adverse, unintended consequences?

14 MS. PINETTE: Yeah, we want to make sure that it
 15 works both in terms of providing a filtered view for the
 16 development. That is a critical component of making this
 17 hillside development marketable, which was clear throughout the
 18 testimony.

19 But we also want to make sure that it provides the
 20 protection screening that we feel is necessary to minimize that
 21 shift.

22 MR. LAVERTY: Would you, Aga, just quickly summarize
 23 the differences between the prescriptive approach that you're
 24 proposing and that which either currently exists in regulation
 25 to that which is proposed by Plum Creek?

1 MS. PINETTE: Right now --. Well, let's start with
2 what LURC has on the books right now. We have a general scenic
3 impact standard that basically reads like a no undue adverse
4 impact standard. I can pull it out, but more or less, it's a
5 no undue adverse impact to scenic resources.

6 And that -- what I'm referring to is Section
7 10.25(e), scenic character, natural and historic features. And
8 you know, this is how it reads: The design of proposed
9 development shall take into account the scenic character of the
10 surrounding area. Structures shall be located, designed, and
11 landscaped to reasonably minimize their original impact on the
12 surrounding area, particularly when viewed from the existing
13 roadways or shorelines.

14 What we're really trying to do is take that
15 objective -- this is an objective-case approach where the
16 Commission evaluates whether a development meets that on a
17 case-by-case basis and a developer could meet it in any number
18 of ways.

19 What we're recommending here is a set of
20 prescriptions that operationalize that goal, and so that there
21 is certainty both for the Commission and for the developer in
22 the future as to what the Commission means by protection of
23 scenic character in the Moosehead Region and in these
24 development areas specifically.

25 MR. LAVERTY: Is it fair to say that our current

1 approach was designed primarily to address visibility from the
2 shoreline a certain distance from the road, whereas now we're
3 talking about backlots, perhaps high backlots, where the scenic
4 view for them is a primary concern and we're looking at,
5 perhaps, different types of scenery than we currently deal
6 with? Is that fair to say?

7 MS. PINETTE: Absolutely. I think the evolution in
8 the LURC approach toward scenic impacts has been incremental
9 and our vegetation clearing standards, in part, were
10 developed -- the buffering requirements on the shoreline were,
11 in part, developed to maintain the scenic character of the
12 shoreline. And that has functioned quite well.

13 And both Jim Palmer and Saratoga Associates, who did
14 an analysis on this, agreed that that is a good set of
15 standards to use for that purpose.

16 And it's a function that served the Commission quite
17 well in those places where the development pattern is
18 predominantly focused on shoreline development.

19 We know that as land uses change and as development
20 has sort of taken up, you know, lake frontage and conservation
21 of lake frontage, there has been an increased interest by
22 developers to develop, within -- on the hillsides to capture
23 views.

24 This is, you know, quite apparent in the Rangeley
25 area, and I think it's beginning -- has begun in the Moosehead

1 Region and other parts of the jurisdiction.

2 And we have this broad objectives-based approach to
3 addressing that, but the regulations have yet to catch up to
4 that development pattern, that development pattern and the
5 issue it creates.

6 So my hope would be that the standards, the
7 prescriptions that evolve out of this proposal and out of this
8 project could be taken, potentially, through a rulemaking
9 process and applied jurisdiction-wide.

10 MR. LAVERTY: Do they also include lighting
11 standards? Are we using visibility to incorporate lighting?

12 MS. PINETTE: Absolutely. We have -- actually, we
13 have a pretty good set of exterior lighting standards that are
14 already in Chapter 10 and would apply here. And Plum Creek is
15 recommending some additional prescriptions to that which we
16 have no objections to.

17 MR. LAVERTY: So we're retaining our current lighting
18 standards?

19 MS. PINETTE: That's right.

20 MR. LAVERTY: But modifying our visibility standards?

21 MS. PINETTE: Enhancing our visibility standards to
22 address hillside development scenarios.

23 MR. LAVERTY: In your view, do our current lighting
24 standard address hillside development as well?

25 MS. PINETTE: Yes. Especially with the cut-off

1 fixture provision, I think it does a satisfactory job.

2 MR. LAVERTY: I'm sorry; what was the cut-off
3 provision?

4 MS. PINETTE: There's a provision that the cut-off --
5 that all lighting has to be full cut-off so that you don't
6 have --

7 MR. LAVERTY: Oh, okay. Thank you.

8 MS. KURTZ: Aga, I just wanted to sort of chime in.
9 I had a significant amount of -- Ed said angst, I'll
10 say heartburn -- about the idea of these view corridors.

11 Not only from a scenic perspective, but the potential
12 for the pathways to erosion. That if you -- you know, if you
13 clear the canopy and you create a corridor on a hillside,
14 everything, you know, the water is just going to cascade into
15 the lake. So I was very pleased to see that your proposal is
16 to delete that.

17 And living in Rangeley -- or in Rangeley Plantation,
18 I can attest to the impact that having sort of an unregulated
19 hillside cutting, or a clearing, has done to the character of
20 one particular shoreline, so I'm very much in favor of what you
21 guys are proposing, a prescriptive and field-tested approach to
22 this.

23 CHAIRMAN HARVEY: Aga or Evan, could you just speak
24 to the -- on the scenic standards on the last -- Page 68 of the
25 Lily Bay, Indian Pond, low impact zones? There's a statement

1 of impose a no-visibility standard.

2 My question is, is that -- that basically, in my
3 mind, almost says, no, we won't allow any development there.
4 Is it going to be possible to save something that can't be
5 seen?

6 MR. KREISMAN: Yeah. Let me explain, Mr. Chairman,
7 what our intent was there.

8 Our intent there -- and those words may not be the
9 most artful -- we are recommending that structures be allowed,
10 albeit on a very limited square footage, 10,000 square foot.
11 We talked about that some.

12 But structures be developed -- not right smack dab in
13 the middle of the balance easement. That's the only place
14 that's being proposed. On a hillside that's visible up and may
15 be visible down from various trails.

16 So it strikes us there that there needs to be a
17 heightened sense of awareness of scenic impacts.

18 It may be, on reflection, that no visibility is
19 overkill. And this may be a situation of the left hand and the
20 right hand needing to coordinate it a little bit, but you'll
21 notice -- and we'll discuss this when we get to the
22 conservation easement -- that there are a number of impacts
23 that are really pushed through the mesh of no adverse impact
24 conservation values.

25 And I think we could go in that kind of direction on

1 the scenic impacts that occur to -- that are allowed for this
2 low impact zone, if you choose -- if you choose to allow
3 structures, these, in the easement.

4 I think we need to think of it -- in other words,
5 what we're saying is we need to think of it as essentially a
6 small-scale set of allowable structures in the easement. And
7 the way you're dealing with other allowable structures in the
8 easement, you might want to think about the same way here.

9 That's the explanation. It's not perfect, but that's
10 our thinking.

11 CHAIRMAN HARVEY: Anything else on noise or scenic?

12 I guess the next one is the Department of
13 Transportation traffic permit. And the discussion there really
14 is around what the -- what traffic permit applies to what DOT
15 did compared to what we have to do.

16 And I guess what you're saying here is that we have
17 to look at a lot of other things with respect to traffic that
18 DOT doesn't and that that's part of the analysis.

19 MR. WIGHT: Can I step back for a second to 69?

20 I notice there's a note on lighting on the chart. It
21 says -- it's talking about samples, CCRs and it says it
22 prohibits spotlights. Are spotlights the same as flood lights
23 in this instance?

24 MS. PINETTE: That's a great catch. I'm going to
25 defer that to Evan.

1 MR. RICHERT: We thought about that very question and
2 looked it up in the dictionary.

3 MR. WIGHT: And --?

4 MR. RICHERT: They're opposites of each other.

5 MR. WIGHT: I know. But I don't think people buy
6 spotlights anymore. I think they buy floodlights.

7 MR. RICHERT: Floodlights go like this, and this
8 requires those to be cut off. Spotlights are something that
9 aim at a specific object and illuminate a specific object and
10 those would be prohibited.

11 MR. WIGHT: Floodlights would not be prohibited?

12 MR. RICHERT: Floodlights would not be prohibited;
13 they are allowed subject to the cutoff so it doesn't spillover.

14 MR. WIGHT: Okay. Thank you.

15 CHAIRMAN HARVEY: Is there anything, Aga, that you
16 want to add to what -- on the traffic permit?

17 MS. PINETTE: No. I think you've got it.

18 CHAIRMAN HARVEY: Okay. If that's all we want to
19 talk about on traffic, then that brings us to the conservation
20 easement pieces. And we start with the balance easement,
21 although we keep in mind that a lot of the provisions in the
22 balance easement we apply to the legacy easement as well.

23 And the goal is to get the language as close as we
24 can. At least that's what the recommendation is.

25 This is a little different. I don't know how you

1 want to go through this, Ron?

2 MR. KREISMAN: Well, I'm going for this one with help
3 from Aga and Evan.

4 The way we've organized this -- which may or may not
5 work for you, we made this starting-off point -- is there are
6 certain structural elements of the balance easement and
7 structural elements of how the balance easement relates to the
8 conservation framework, meaning the legacy easement, the
9 Roaches' property, and No. 5 Bog.

10 And those structural -- for example, those structural
11 elements are things like what you said, are the terms the same
12 between them, when do they occur, who's the holder, who's the
13 back-up holder, is there a stewardship fund.

14 All of those kinds of issues that really are the kind
15 of architecture of the thing, I would say. Architecture
16 individually of the balance easement and then architecture as
17 the balance easement interrelates to the other proposed
18 conservation elements.

19 So that's kind of (i) with a bunch of subpoints.

20 And then (ii) is the really specific terms of the
21 balance easement that are everything from the management
22 advisory team to the amendment process to all of those things,
23 the very specific terms, that we then -- that we proposed, as
24 you saw, just in the balance easement with the suggestion, for
25 reasons that we didn't get into, the recommendation that they

1 flow through the legacy easement.
 2 So it may be --. And then there are -- maybe it's a
 3 third element, or maybe it's really part of the second.
 4 There's some attached documents -- proposed attached documents
 5 to the balance and the legacy easement, which is the concept --
 6 the management plan and then some other documents that
 7 Plum Creek attached to it in terms of how they do their forest
 8 practices today.

9 In may be best -- just a suggestion -- that we talk
 10 about those big structural elements and answer your questions
 11 on the architecture, when it occurs, how they interrelate,
 12 who's the holder, and that -- my guess is that will probably
 13 take us towards 5:30 or not. But at least we can get your
 14 questions answered on that and your initial thoughts.

15 And then that might set up for tomorrow, if we can't
 16 get there, getting to some of the specific terms why we have
 17 been proposing one thing or another having to do with the
 18 management advisory team or the assignment of the easements or
 19 those kinds of very specific things.

20 CHAIRMAN HARVEY: Okay. Sounds good to me. I guess
 21 that -- are we going to be talking about both easements at the
 22 same time here? I'm just trying to follow you.

23 MR. KREISMAN: I think it depends. I think the issue
 24 of timing relates to the balance easement and the three
 25 conservation framework pieces: The legacy, the Roaches'

1 property, and No. 5 Bog. And that may be worth discussing
 2 separate, you know, as a stand-alone piece.

3 CHAIRMAN HARVEY: When you say timing, you mean how
 4 these would be -- how we would -- these easements would be
 5 implemented?

6 MR. KREISMAN: Really when they would be implemented.

7 CHAIRMAN HARVEY: When they're implemented.

8 MR. KREISMAN: Yes. Because we're recommending some
 9 quite significant changes.

10 CHAIRMAN HARVEY: Yes, you are.

11 MR. KREISMAN: That was really presage of the
 12 discussion this morning and early this afternoon. But it may
 13 be getting all that context straight is the place to start --
 14 or not.

15 CHAIRMAN HARVEY: Okay.

16 MR. LAVERTY: I say start.

17 CHAIRMAN HARVEY: Pardon me?

18 MR. LAVERTY: I say start. I agree with the
 19 suggestion. Ron, I would appreciate it if he would begin his
 20 explanation.

21 CHAIRMAN HARVEY: Yes.

22 MR. KREISMAN: All right. Well, let's talk about --
 23 I think we should talk about timing first and how they relate
 24 together.

25 As I think -- I guess the Commissioners know, as we

1 laid out the -- and let's leave aside for a question, just an
 2 initial minute -- the size of these easements that will quickly
 3 come into play.

4 But as the Commission knows, it was in Plum Creek's
 5 proposal, it is only the balance easement that is granted to
 6 the holder and put into effect at the time of concept plan
 7 approval.

8 The other three components that Plum Creek is
 9 proposing is additional conservation benefit, which goes under
 10 the label of conservation framework, meaning the legacy
 11 easement, 266,000 acres -- and it might be worth getting the
 12 map up here -- what you see, Commissioner, in the light green,
 13 not the beige, not the yellow -- not the dark yellow, not the
 14 light yellow.

15 What you see in the green and in the --. Yes, it's
 16 in the green only. I was looking at whether it had the -- is
 17 the 91,000 acres plus or minus balance easement.

18 That is the only conservation offset that Plum Creek
 19 is proposing be adopted at concept plan approval. And
 20 incidentally, concept plan approval, we take that definition --
 21 let's just put that in the bin and add some specifics to what
 22 exactly we mean by concept plan approval, but we'll come back
 23 to that.

24 The areas in yellow, light yellow, pale yellow --
 25 well, I think it's good enough -- in pale yellow are the

1 266,000-acre "legacy easement." And in the far right, the
 2 29,000-acre, plus or minus, Roaches' property. What is not
 3 shown in this map is the 45,000-acre No. 5 Bog property which
 4 is southwest.

5 What Plum Creek proposed here, as part of the
 6 purchase and sale agreement with The Nature Conservancy, is
 7 that in -- I believe it's five separate potential closings over
 8 a five-year period, it was either four or five, I can go back
 9 and check, that there was up to five years to close, after the
 10 concept plan was approved on the Roaches, the legacy easement,
 11 and the No. 5 Bog, although there was a required payment very
 12 early on -- I think it was the equivalent of \$15 million worth
 13 of land so some of it would have come quite quickly.

14 The operational effect of that is that development
 15 could proceed without some or all of the legacy, Roaches, and
 16 No. 5 Bog actually having been protected, either by easement or
 17 fee sale.

18 And it left -- if there was nonpayment by TNC or
 19 potentially by AMC on the Roaches, it left enforcement of the
 20 purchase and sale agreement to Plum Creek.

21 What staff and consultants are proposing is that upon
 22 finalization of the concept plan, within 45 days, the balance
 23 easement needs to go to the holder; the 266,000 legacy easement
 24 needs to go to the holder; and the Roaches' sale has to go all
 25 the way through to TNC and to AMC, and with some additional

1 requirements on the Roaches' property.
 2 In order, in our opinion -- and it's spelled out in
 3 several footnotes or one particular footnote, one footnote
 4 under the legacy and one footnote under the Roaches -- in our
 5 opinion in order to satisfy various regulatory criteria.
 6 We do not feel that same way about the No. 5 Bog
 7 property, not because it isn't an ecologically highly valuable
 8 piece of property, but the record did not establish the nexus
 9 between its protection and the regulatory criteria.
 10 So we're expressing, I think it's fair to say, a
 11 recommendation of indifference to when that closes, and frankly
 12 even if it does close, although it's covered by the purchase
 13 and sale agreement, so there's no reason to upset that.
 14 So that's really -- I mean, there are more details of
 15 the timing, and I don't want my summation to be thought of as a
 16 replacement or substitution of the details.
 17 But that is how the major elements of the
 18 conservation fit together when you go beyond what is being
 19 proposed timing-wise by Plum Creek.
 20 CHAIRMAN HARVEY: Anybody have any questions for Ron?
 21 MR. LAVERTY: What about the roads to be conveyed by
 22 easement?
 23 MR. KREISMAN: The roads are handled differently and
 24 Evan will want to speak on that. It's a good point because
 25 that is an easement piece that we don't think is subject to the

1 same regulatory conclusion that we drew for the easement of the
 2 fee sales and that is discussed on 113.
 3 Evan, why don't you do that?
 4 MR. RICHERT: This is a situation in which the
 5 pressures that would call for the easements on these roads that
 6 come into play, they're very much tied to actual development
 7 occurring.
 8 And so we have proposed the recommendation that a
 9 certain set of roads have their easements executed when the
 10 first 200 residential or resort accommodation units on the east
 11 side of Moosehead Lake are developed, and then another set of
 12 roads when the first 200 on the west side are developed, and
 13 the final set when another 200 on the west side, very much tied
 14 to the fact that the demand or the use of these roads is tied
 15 to the activity of the concept plan.
 16 MS. PINETTE: I do want to make note of another
 17 correction that needs to occur on this page, and that is with
 18 respect to the stretch of road from the Prong Pond -- from
 19 along the Prong Pond Road from Lily Bay Road to Upper Wilson
 20 Pond, which was unintentionally omitted from the list of
 21 recommendations.
 22 The gist of our recommendation is that all of the
 23 roads proposed to the east on the east side of the lake should
 24 be -- the easements should be executed concurrent with the
 25 approval of the first 200 units. That was one stretch of road

1 that was omitted from that first bullet.
 2 MR. LAVERTY: That's Prong Pond up to -- what was it?
 3 MS. PINETTE: That's Prong Pond Road --. It's the
 4 one with the -- under the second bullet in Plum Creek's concept
 5 plan proposal summary. Just a minor correction.
 6 MR. KREISMAN: So what the timing -- what the
 7 implications are of our recommendation if you adopt on the
 8 timing is that within 45 days of concept plan finalization --
 9 and let me explain now what I mean by that term.
 10 By concept plan finalization, we mean the end of all
 11 possible appeals of approval of the concept plan. So even
 12 though Plum Creek's language in their concept plan potentially
 13 was unfavorable to the balance easement, they were proposing
 14 that within 45 -- or within -- I don't remember the days, it
 15 was 30 or 45 days -- immediately upon concept plan approval, as
 16 I read it, by you, the balance easement would go to the holder.
 17 We don't think that's appropriate because there may
 18 be appeals. And so once those appeals are resolved fully and
 19 finally, if there are any, within 45 days and before any
 20 subdivision development is approved by the Commission, you
 21 would have in place a combined balance and legacy easement
 22 which would be the largest conservation easement by just a few
 23 acres over what Commissioner Schaefer assisted in -- but it
 24 would be the largest conservation easement in the state of
 25 Maine, and you would also have, in effect, a transfer in fee of

1 the 29,000-acre Roaches' property to AMC with, immediately
 2 thereafter, some easement restrictions that would assure the
 3 uses that they testified that they wished to make of those
 4 properties would remain in perpetuity as recreation mitigation.
 5 That's the essence of the timing.
 6 And then, assuming the purchase and sale agreement
 7 goes to its fullness, the No. 5 Bog properties, the southwest
 8 there, would be acquired by TNC in due course, which could be
 9 at the same time or it could be up to the allotted time allowed
 10 under the purchase and sale unless there were reasons that the
 11 parties eventually didn't have that happen.
 12 MR. LAVERTY: My understanding here with regard to
 13 the easements is that the easements are available to serve a
 14 number of purposes within this concept.
 15 The first is that they are authored by Plum Creek,
 16 for at least the balance easement, to meet public benefit and
 17 provide conservation to balance development. But they're also
 18 made available to provide for mitigation for visibility
 19 impacts, recreation impacts, and scenic impacts.
 20 MR. KREISMAN: If I may interrupt, I don't think
 21 that's how they were really offered by Plum Creek. Plum
 22 Creek's position was that the balance easement alone fully
 23 satisfied all regulatory requirements that you might have that
 24 went to land offsets.
 25 MR. LAVERTY: Right.

1 MR. KREISMAN: As additional public benefit, which
2 was offered but not required, there was both the conservation
3 framework plans and -- we'll get to it -- the additional plan
4 elements.

5 MR. LAVERTY: Right.

6 MR. KREISMAN: But neither of those were offered for
7 recreation, wildlife, or scenic. That is what the plan
8 proposed. That is not the conclusion that staff is
9 recommending.

10 MR. LAVERTY: I understand. I'm just trying to parse
11 out --

12 MR. KREISMAN: I understand.

13 MR. LAVERTY: -- the logic for the easements.

14 Now, one of the things that we have done in the past
15 concept plans was -- and we're not very specific about the
16 purposes for which the easement -- or the regulatory purposes
17 of the easement was to meet.

18 One of the things, I think, that's really important
19 about this concept plan is that the placement of the balance
20 easement has come a long way, because the original easement
21 that I remember being proposed was concentrated above Lily Bay
22 and that area there.

23 MR. KREISMAN: May I interrupt you? The original
24 easement was not there at all. In round 1, or version 1 of
25 this, there was not that -- I think it was about 60,000 acres

1 around Lily Bay. What you're thinking of is the second round
2 where that was proposed, this 60,000-acre matrix block.

3 MR. LAVERTY: But what I'm suggesting, though, is
4 that the difference, or a precedent, it seems to me, in forming
5 a useful precedent that this concept plan establishes is that
6 part of the easement property is to be used to limit sprawl.

7 It's a buffer -- not to be confused with buffer
8 easement -- but it is essentially a buffer where development is
9 prohibited and therefore, the land transaction values won't
10 encourage -- or the buffer will prevent that from leading
11 toward sort of a natural sprawl development.

12 So I think in my view, one of the benefits of this
13 approach is that it is -- part of the easement is directly
14 related to limiting the sprawl.

15 The other parts of the easement, it seems to me --
16 and I know you're recommending changes in the easement.

17 Well, first of all, with regard to the record, it
18 seems to me -- if I'm summarizing this correctly, what you have
19 proposed -- staff has proposed a modification in the
20 on-the-ground configuration of the balance easement, but not
21 necessarily its size, in order to accommodate for visibility
22 mitigation; that also, it partially is to provide for wildlife
23 mitigation and recreation mitigation.

24 However, the information in the record indicates that
25 while the balance easement, as reconfigured by your

1 recommendation, may meet the visibility mitigation, it doesn't
2 necessarily -- it is insufficient to meet wildlife mitigation
3 and recreation mitigation.

4 Therefore, the first one was considered -- well, what
5 if we increased the size of the balance easement. But the
6 record is not specific as to how much additional acreage would
7 be necessary to meet those mitigation requirements.

8 As a matter of fact, some people, including
9 Plum Creek's witnesses, implied that all of these things would
10 be taken care of if you just count the legacy easement. So
11 we're kind of at a --.

12 So it seems to me that what we're saying here is that
13 we are going to take -- we're not going to require -- well,
14 we're going to require that the legacy easement be concluded at
15 the time that the concept plan is approved to provide the
16 public benefit, but we're not --.

17 I want to make sure I've got this -- we want to
18 make --. Well, I won't get into the whole thing about access
19 to legacy funds and whether it's -- how it's designated for
20 regulatory purposes, but it seems to me that what we've got
21 here is the balance easement takes care of the buffering, so to
22 speak.

23 My understanding is it sort of takes care of
24 visibility. It doesn't accommodate all the needs for
25 recreation or wildlife mitigation.

1 Consequently -- consequently, we are taking, again,
2 cognizant, I guess, or -- that the legacy easement will provide
3 those mitigation requirements, although we're not specifying
4 specific acreage. Is that --? Am I --?

5 MR. KREISMAN: Well, I think I --. I would invite
6 Aga and Evan to jump in here.

7 I think I agree with most of what you're saying but
8 not all of what you're saying.

9 MR. LAVERTY: Please enlighten me.

10 MR. KREISMAN: Let me try. The essence of this is
11 reduced to -- and I'm going to expand on the footnote on
12 Page 98, Footnote 91.

13 I think the place to start this discussion is as
14 follows: Staff and consultants felt a significant amount of
15 sympathy for Plum Creek as they were trying to figure out the
16 appropriate location and amount of conservation.

17 And as I went back and reviewed previous concept
18 plans in the amount of conservation, the location of
19 conservation, the rationale and -- to use your word -- the
20 metric for the conservation, I will say to you, putting on my
21 outside consultant hat and ducking from any arrows that are
22 shot in my direction, I could not find a uniting and coherent
23 theme to carry forward here other than the regulatory
24 standards.

25 I think the decisions that were done were a very

1 case-by-case, what are they offering, okay, basis. We looked
2 at this in previous concept plans quite carefully.
3 So, as I said, the place to start, I believe quite
4 strongly, is that you had an applicant that was proposing
5 conservation, knowing that they were proposing development on a
6 scale that eclipsed other concept plans significantly and did
7 not have the paint by numbers, the ground rules, the place to
8 start. That's number one.

9 We believe there are four regulatory requirements,
10 three of them in the P-RP zone -- in the P-RP subdistrict --
11 and one of them statutorily that have implications or have bite
12 on this issue. And they're all mentioned in this footnote, and
13 I just want to repeat them because how we think of this
14 conservation, where it should be, is drawn directly from the
15 regulatory requirements and not, you know, a wish list so to
16 speak.

17 One is waivers of adjacency require comparable
18 conservation, and we've done a lot of thinking on what does
19 comparable conservation mean.

20 And Evan may want to comment on this, I'll try to
21 summarize for the purposes of moving on, but we believe
22 comparable conservation means controlling the predictable
23 secondary sprawl, as you were saying, Commissioner Laverty,
24 that goes from pushing out adjacency or pushing out development
25 beyond the points of adjacency.

1 And therefore, for instance, should you approve 400
2 units at Lily Bay, even within the contained zone, we think
3 that over the course of time, it is almost automatic that, but
4 for protections, you will see significant hillside sprawl
5 development as people visit those 404 units and say this is a
6 really nice place, how much does that hillside cost. Okay?

7 So point number one is comparable conservation, as
8 we're interpreting it, is essentially the control of
9 predictable sprawl from waivers of adjacency.

10 Our view is that the 91,000 acres in location and
11 scale is close but not complete. So that's the first point,
12 Commissioner Laverty, where I would respectfully say what
13 you're saying doesn't cover staff thinking.

14 We think that there may be plus or minus -- and it's
15 very location specific, it's a mountaintop here, et cetera, et
16 cetera, a boundary there. There may be 10- to 20,000 acres
17 that could be additionally included.

18 Coincidentally, those acres that would be included to
19 meet that criteria are all contained within the legacy
20 easement. Okay? They are not outside of either the balance
21 easement or the legacy easement. That's point number one.

22 Point number two is the issue of undue adverse
23 impact. Witnesses here, in our view, have identified the
24 potential for undue adverse impact to primitive recreation
25 resources, we've discussed that today, and wildlife impacts

1 caused by development.

2 IF & W was quite strong on this, including the
3 comments on November 20th, on the need to protect the lands
4 covered by the legacy easement to avoid undue adverse impact to
5 wildlife, Dr. Daigle for recreation.

6 Again, Evan and Aga can add to this.

7 As we said, hopefully carefully in Footnote 91, it
8 could well mean that all the lands in the legacy easement are
9 not required for this mitigation. But it's not clear from the
10 record what lesser portion of the legacy easement, if anything,
11 is required for this mitigation.

12 Similarly with the Roaches, we believe the testimony
13 is quite clear, the record evidence is quite clear, that
14 protection of the Roaches in the manner that AMC testified,
15 both in writing and orally, that it intended to protect it is
16 necessary for avoiding undue adverse impacts to recreation --
17 primitive recreation, as well as the attributes of the Roaches
18 that I think the Commission is aware of. So that's how we got
19 to the Roaches.

20 In addition -- and I'll let Evan speak on this --
21 there's the final criteria of a publicly beneficial balance --
22 there's actually four criteria, the fourth one is it's got to
23 be long-term protection of it. And a previous version of this
24 plan only offered protection that went for as long as the term
25 of the concept plan.

1 So it's kind of fallen from the public vista, but the
2 long-term in perpetuity is driven by one of P-RP subdistrict
3 regulatory requirements in our view.

4 And Evan, do you want to comment on the publicly
5 beneficial balance?

6 MR. RICHERT: Yes. This is the one area where you
7 can look to previous concept plans for some precedent and
8 instruction, because at the level of previous concept plans
9 which were not landscape level, they're just based on a
10 resource, a lake, typically, or a close grouping of lakes.

11 The idea of -- and where there was virtually no
12 waiver of adjacency. So the question of comparable
13 conservation came into play only minimally or not at all.

14 The one thing that it focused on was the publicly
15 beneficial balance and the idea, we gather, from those previous
16 decisions, was that the return for the benefit that the
17 developer gets that would not ordinarily be there in terms of
18 greater amounts of development on that resource, the public
19 would get a balance -- and assuming that was appropriately
20 located. Remember, the standard is publicly benefited balance
21 between appropriate development and conservation.

22 In return, the public got conservation of the rest of
23 the shoreline and public access to that shoreline. That was
24 the basic formula of these smaller scale -- it wasn't
25 exclusively that, but that was the basic formula of these

1 smaller scale projects.
 2 But that -- that logic extends here, too, and
 3 Plum Creek, I think, tried to queue to that logic in its
 4 earlier submissions and has kept to it where the balance of
 5 shoreline that is in its control that is not part of the
 6 development areas gets put into conservation and that isn't for
 7 comparable conservation because of waiver of adjacency, it's
 8 not for mitigation, rather it's for that publicly beneficial
 9 balance.

10 And they have added other things to round out that
 11 balance -- trails, hiking trails, and the like -- which we may
 12 view as necessary for mitigation, but may also be adding to the
 13 publicly benefitted -- as I said, it's providing something to
 14 the public to which it is not otherwise entitled, as they are
 15 able to get something to which they are not otherwise entitled.

16 MR. LAVERTY: So in terms --. If that's the reason
 17 why -- that we are asked the timing of the confirmation of the
 18 legacy easement and the Roaches' easement is so important
 19 here --

20 MR. KREISMAN: To argue regulatorily, that's exactly
 21 right.

22 The alternative possibility, some would say specter,
 23 is that development goes forward with only the balance
 24 easement. Certain recreation and wildlife mitigation is not
 25 achieved. And those deals, for whatever reason, are not

1 consummated. And it could be for any number of reasons.

2 We have what I now refer to as a Bear Stearns moment
 3 in the nonprofit world. We have Plum Creek deciding that it --
 4 you know, can get a better deal and may not enforce it.

5 And so what we're saying is, in our view with our
 6 recommendations, development can and should go forward, as
 7 we've talked about today, but only if that conservation -- not
 8 the road easements and not additional plan elements, there's
 9 the road easements and obviously things like the Community
 10 Stewardship Fund coming into effect afterwards -- but on the
 11 land side, it's all there before any development is approved.

12 MR. LAVERTY: So, without conservation of the legacy
 13 easement and Roaches' easement, we would not be able to make a
 14 finding of no adverse -- well, of public benefit, no adverse
 15 impact; is that what you're --

16 MR. KREISMAN: And -- and comparable conservation
 17 because the balance easement is, in our view, close but not
 18 entirely -- that is our recommendation.

19 MR. LAVERTY: 22,000 acres.

20 MR. KREISMAN: That is our recommendation to you,
 21 yes.

22 CHAIRMAN HARVEY: It's as we discussed before, it's
 23 part of the total package. Without it -- and without it being
 24 secured, it makes it awful difficult to consider those 2,000
 25 units we just started to talk about briefly and said, you know,

1 maybe that's okay, right? You and I did anyway. I don't know
 2 what the rest of the Commission thinks.

3 For me, without those easements, those 2,000 units
 4 certainly become a much different number and certainly the
 5 testimony supports the idea that those easements have to close
 6 almost simultaneously to make the value of it --.

7 So I'm comfortable with that recommendation because
 8 it makes the package complete.

9 MR. LAVERTY: Yeah, I think the previous discussion
 10 about how many units are appropriate all has to be seen in
 11 light of the easements, and so it's essential.

12 CHAIRMAN HARVEY: It's the essential piece of the
 13 whole package. If you're going to say that 2,000 units is
 14 okay, there's got to be -- that's a lot to swallow. So there's
 15 got to be something on the other side of the equation, for me
 16 anyway. I don't know if any others want to weigh in.

17 MR. SCHAEFER: Yeah, I totally agree. It's going to
 18 be remembered 30 years from now probably not for the village,
 19 but for the easement, so that's the legacy we have to struggle
 20 with.

21 One question about publicly beneficial. There's --
 22 there was some talk at the hearings about gravel pits and
 23 sludge disposal as almost a public benefit to the local
 24 communities that may or may not be approved here.

25 So does that come under public benefit, or is that

1 kind of an infrastructure discussion?

2 MR. KREISMAN: Great question. We'll --. We can
 3 either talk about that now at the conceptual level and the
 4 specifics when we get to the terms -- the specific terms --
 5 because we are recommending some modification.

6 But I do think the recommendation that we're
 7 proposing, which is the scaled-down version of both septic
 8 spreading and gravel use as low as possible in the easement,
 9 does fit under the publicly beneficial balance. And I think
 10 that's one very good way to look at it.

11 MR. SCHAEFER: Yeah, I think we can touch on the
 12 details later, but as long as it's part of the context.

13 MR. KREISMAN: Evan, I don't know whether you want to
 14 add anything to that.

15 It might be useful then --. That really deals
 16 with -- I'm on Page 75, the location, size of the easement.

17 I do want to note as a footnote that while we've
 18 talked about the 91,000 acres for the balance easement, if you
 19 adopt our recommendation, there will be a few thousand acres
 20 added to that. So we might be at the 95,000 acres.

21 If you add that to the 266-, you're talking roughly a
 22 combined easement area, if you agree to the recommendation of
 23 similar terms, of about 360,000 acres.

24 In terms of the inclusion in the P-RP district,
 25 Plum Creek -- and I think it would be -- I'm not sure how this

1 discussion eventually -- the best way to try to organize it,
2 but let me take a try here.

3 Plum Creek proposed, if you look at -- and maybe we
4 can put up the map, Amy, if we have it, of all the
5 conservations so that the map you had before of the different
6 areas, the summary conservation map --.

7 Plum Creek's proposal was that all the darker green
8 areas, which are the balance easements and the lighter green
9 areas which make up the legacy and, to the far right, the
10 Roaches' pond tract, all be part of the new concept plan P-RP
11 subdistrict.

12 We are recommending mostly, but not entirely, yes to
13 that. We are recommending -- we can either talk about it now,
14 or if we're talking about it -- addressing it holistically or
15 when we get to the Roaches, maybe I'll just flag it here, that
16 the Roaches not be part of the P-RP subdistrict.

17 We feel like we're mixing a little bit of apples and
18 oranges. We can get into that. It's a different fee owner,
19 different purposes, et cetera, et cetera.

20 But at least as far as Page 75 in the balance
21 easement, we're not recommending any changes to the
22 subdistrict. For the No. 5 Bog, which is southwest on the map,
23 there was never a recommendation that it be included in the
24 P-RP.

25 The land use zoning for the balance easement, same

1 issue for the legacy easement, I'm not sure there's anything to
2 talk about there. The question here is what zone applies.

3 We're recommending -- and this goes to an issue that
4 Commissioner Hilton and others have raised -- that there be
5 some changes to the permitted uses to allow campsites, for
6 instance.

7 MS. HILTON: I'll try not to interrupt your train of
8 thought here, but I have a question.

9 MR. KREISMAN: Go for it.

10 MS. HILTON: Back on Page 75, there's a footnote
11 there. Could you just explain what that's all about?

12 MR. KREISMAN: Sure. This is an instance where staff
13 and consultants are not recommending adoption of an IF & W,
14 Maine Natural Areas Program recommendation exactly as it is.

15 There were certain areas of significant land size
16 within both the balance and the legacy easement that had
17 unique, ecological attributes that they were recommending be
18 pulled out of the easement lands and donated, in fee, to the
19 State of Maine.

20 And so not be managed as Plum Creek owned eased lands
21 with certain forest practices and other restrictions on them to
22 preserve their ecological values.

23 What that footnote is about is that is not our
24 recommendation. And the core of our recommendation or the
25 synopsis of our recommendation, although there's three steps in

1 it, the core thinking is that an easement of the scale that
2 we're talking about -- 360,000 acres, 60 percent of the size of
3 the state of Rhode Island -- is going to have in it both now
4 known and to-be-discovered unique natural areas, exemplary
5 natural areas, et cetera, et cetera.

6 And the terms of that easement have to be elastic
7 enough, sensitive enough, to be able to manage those kinds of
8 ecological situations within the easement.

9 And the answer is not to yank them out as fee, of
10 which this, we believe, is only a partial solution because
11 there are going to be other areas that are going to be
12 discovered, we believe -- yank them out as fee automatically
13 and provide them to the State of Maine.

14 I think -- I guess we feel that that may be one
15 solution, but it shouldn't be the only solution.

16 MS. HILTON: What's an example of one of those?

17 MR. KREISMAN: Aga, do you want to discuss this?

18 MS. PINETTE: Sure. There were several areas
19 highlighted by the Maine Natural Areas Program in particular
20 that -- where they recommended the exclusion or the fee
21 donation -- fee land donation to the State.

22 One of those areas -- if you can just go to the
23 development zone areas -- was on Big Moose Mountain. The sort
24 of upper heights of land on that mountain includes a forest
25 community that I think qualifies as an old growth stand, which

1 is quite unique in this region. And this was by way of example
2 that IF & W recommended to be donated to the State.

3 MS. HILTON: So what you're saying, then, is that you
4 believe that it will still be protected?

5 MR. KREISMAN: Well, we're not saying -- having --
6 that's a good question because I do want to get into the
7 details of this right now. And I think in fairness to the
8 State agencies, the reason they were suggesting that dramatic
9 solution is, as they have testified on the record, they have
10 not had particularly good success having those areas protected
11 in the normal course of harvesting business.

12 And so their reaction, they would argue, is a
13 perfectly natural reaction -- and I'm not making a comment here
14 on Plum Creek or any other landowner. I'm saying I think their
15 general reaction is one of concern for these unique areas.

16 So we are -- we are proposing three changes to try to
17 meet their concerns and landowner concerns about losing a
18 significant amount of acreage where it might not be necessary
19 to have it donated.

20 One is that the way the easement is written right
21 now, all of these -- or at least a fair reading of these --
22 maybe not the only reading, but a fair reading of the easement
23 term when you get to it -- I can show you exactly where it
24 is -- a fair reading is that if these unique areas -- naturally
25 ecologically important areas have not been identified when the

1 baseline report is done, that's it. If they're discovered ten
2 years later on the survey, it's too late.

3 So one recommendation is to have that identification
4 on an ongoing basis using objective standards; the second
5 recommendation is that it does receive special management
6 protection; and a third recommendation is that in the second
7 tier that we're going to go through, if you approve these
8 recommendations or some other, that very specific language be
9 worked out as determined by the staff and then coming back to
10 you with specific recommendation as to the nature of that
11 special protection so everyone understands what can be done.

12 So it's not -- on the one hand, it's not saying yes,
13 this has to be protected by fee and that's the only way; you
14 can take it as a given, but these are old growth and very
15 unique areas. On the other hand, it's not saying don't worry
16 about it.

17 MR. WIGHT: So Ron, will it be the responsibility of
18 the easement holder, then, to act as steward of the property?

19 MR. KREISMAN: Yes. These special -- these unique
20 areas would be defined. The management plan would say type of
21 harvesting practices that would be allowed in known and
22 to-be-discovered special management areas. That's how it would
23 be handled.

24 MR. WIGHT: As they are discovered, will the easement
25 be modified or an addendum added to it or something?

1 MR. KREISMAN: I think the management plan would be
2 modified, and that would be one of these implementing pieces of
3 language, among many, once we get direction from you if that's
4 what you want to do.

5 MR. WIGHT: Thank you.

6 MR. KREISMAN: But that's -- Commissioner Wight, that
7 is a primary example of what you would do to ensure that --
8 that and other harvesting practices are adhered to.

9 MR. SCHAEFER: I just have one. How much of this
10 easement area has been adequately inventoried? None? 10
11 percent? 50?

12 MR. KREISMAN: Inventoried from this point of view --
13 this aspect that we're talking about?

14 MR. SCHAEFER: Yes.

15 MR. KREISMAN: I think the Maine Natural Areas
16 Program will tell you some, but certainly not all, in terms of
17 the level of specificity.

18 And their testimony is that -- and one indication of
19 that, Commissioner Schaefer, is that their testimony is that
20 when, on the development side, not talking about the easement
21 area, on the development side, when a particular subdivision
22 comes in front of you, they want to make sure that the
23 applicant has to take that very specific inventory on the
24 development side.

25 So I think they're feeling that there's been some

1 inventory. There was a contract around 2000 with Plum Creek to
2 do some inventory, but the sense we get is between that
3 inventory and the fieldwork that Woodlot did, they know some,
4 but certainly not all, of it, which is, I think, what's behind
5 their concern that there be this ongoingness to identifying
6 that area.

7 MR. RICHERT: I want to go -- to back up Ron's
8 explanation in response to you, that Woodlot Alternatives was
9 contracted by Plum Creek to produce a natural resources
10 inventory over portions of this easement area. And it's
11 contained in a very large notebook, I think dated 2006,
12 perhaps, and that is available.

13 But I think they and everybody else would submit that
14 that was not a 100 percent inventory.

15 MR. KREISMAN: And their focus was really on the
16 development side.

17 MS. PINETTE: And just for clarification, there were
18 several reconnaissance level surveyed -- surveys --
19 walk-through surveys done of the easement lands, one in 2006
20 and then an addendum to that in 2007, both in the development
21 areas and the conservation areas. And the level of detail is
22 at that reconnaissance level.

23 MS. HILTON: Page 77, I think this makes sense to
24 talk about this next. When we talk about the holder or the
25 recommendation of the holder of the balance easement and the

1 legacy easement should be the same entity, it sounds like a
2 good idea to me. And also you're also saying that it should be
3 a State agency, preferably DOC, Bureau of Parks and Land?

4 MR. KREISMAN: Let's take them one at a time.

5 In terms of the holder of the easement, we do believe
6 that if these easements are to be managed as they're going to
7 have the same terms and everything else, that -- you know,
8 you're not going back to the map. You're not looking at a map
9 where if you draw a vertical line down through Moosehead Lake
10 down through the middle of Greenville, you have one easement on
11 one side and one easement on the other. You have a balance
12 easement that is, you know, almost intermixed with the legacy
13 easement.

14 So we believe that there should be one holder for
15 both. That's number one.

16 Regarding the -- who that holder is, we set forth two
17 options, we believe. And we tried to explain our reasoning for
18 both of those options here.

19 The reason -- the reasoning for a State of Maine
20 entity is really captured in Footnote 75, and I'm not going to
21 repeat it. That was our effort to spell out that rationale.

22 Having said that, there are both policy and
23 operational reasons where you could choose a different entity
24 to be the holder because of its mission focus, et cetera,
25 et cetera, although we do believe that these easements are so

1 imbued with public values that the public accountability of how
2 that other holder is operating would need to be significantly
3 addressed.

4 So that's -- that's the essence of what we're seeing
5 on that page.

6 MR. LAVERTY: You know, I -- this is an area where I
7 strongly feel that the easement holder should be a public
8 entity because, as you suggested, the tremendous public rights
9 and the need for public accountability involved here -- and I
10 mean no disrespect whatsoever to the Forest Society of Maine or
11 Alan Hutchinson. I certainly don't mean to imply that.

12 I just think that this is not -- I mean, there are
13 easements, and there are easements. We talked about one that
14 was recently consummated through the efforts of
15 Commissioner Schaefer. Those are, in a sense, private
16 easements by private or quasi public entities, and they are not
17 to achieve a public benefit in exchange for extraordinary
18 development rights.

19 So it seems to me that this public interest -- it's
20 important that this public interest be realized and protected
21 in perpetuity as the easement runs in perpetuity.

22 The public entity, at least, has a reasonable
23 probability of existing in perpetuity. A private organization
24 may come or go. Also the function, the mission, of a private
25 entity or a quasi private entity may change over time.

1 I am quite concerned that the primary easement holder
2 here be the Bureau of Public Lands or some appropriate State
3 entity. And I see where you're going with suggesting that if a
4 private entity become the easement holder, that the third-party
5 back-up holder should have the same rights as the initial
6 holder in that the -- that the back-up holder should be able to
7 take action in order to enforce the terms and conditions of the
8 easement if the easement holds -- the primary easement holder
9 is either unwilling or unable, for financial reasons or a
10 change of missions, to do so.

11 So I'm very concerned here about this. I think it's
12 very important to recognize that this -- this easement
13 arrangement is distinctly different from other easement
14 arrangements and it's imbued with a notion of public trust.

15 And I'm very concerned that public responsibility
16 be -- in order that the basic deal here is represented by a
17 potential approval of this concept plan is protected over time.

18 That's my position. I --

19 MR. WIGHT: I'm not convinced that the easement is so
20 different from any other easement itself by anyone at the
21 various land trusts around the state, nor am I convinced that
22 the State has the capability to monitor all of the easements
23 that it has.

24 I would think the State would need to be the
25 third-party back up, no doubt about it. But I don't think I'm

1 ready to jump in and say that a private land trust couldn't do
2 the job.

3 MR. LAVERTY: Do you think that the State -- the
4 back-up landholder should have the same rights of easement
5 enforcement as the primary easement holder?

6 MR. WIGHT: Oh, sure. Yeah, that's why the
7 third-party holder was there. The third-party holder has to
8 pick up the ball.

9 If the primary holder of the easement doesn't do the
10 job or more likely if for some reason the primary holder ceases
11 to exist, then the State would pick it up.

12 But I think the State would have to hope that all of
13 these 100 land trusts that we have around the state don't go
14 out of business because there's a lot of work out there.

15 MR. LAVERTY: Well, I can understand your concern
16 about preserving public land trust, and they really have a
17 major role to play in the state of Maine.

18 It's just that this easement is different, in my
19 view, in that it is being offered in return for extraordinary
20 development rights; And therefore, in order for that public
21 benefit you can realize over time, there has to be assured
22 public accountability.

23 MR. SCHAEFER: That could be reached in a different
24 way than having the State be the monitor, though.

25 Under the funding pressures of the State, the

1 manpower, I think they'd be hard pressed to effectively, you
2 know, steward a 400-and-some-thousand acre easement at this
3 point.

4 MR. LAVERTY: I would suggest that maybe the Forest
5 Society of Maine might be in the same position. I mean, I
6 think we need to talk about a stewardship fund or a fund
7 associated with maintaining the easement.

8 MR. KREISMAN: Fellows --

9 MR. LAVERTY: I guess what I'm concerned about, as I
10 understand it, the original proposal was that the third-party
11 back-up easement holder would operate more in an advisory
12 capacity than any kind of meaningful capacity oversight.

13 So I mean, if I can be assured that that was, in
14 fact, the case, I might -- whether it's held by the State or
15 not, might be less important, but I mean, that to me is
16 absolutely crucial -- that public accountability notion is very
17 important.

18 MR. KREISMAN: Just to be clear on our either/or
19 recommendation, I turn your attention to two things.

20 First of all, Footnote 76 on Page 77, where our
21 recommendation is if you want to go in the direction of a
22 non-State entity, the holder, that it go further than simply
23 the back-up holder having the same rights as the primary
24 holder. And the reason is this public accountability issue.

25 And then third party holder, which essentially has no

1 funding, we are recommending should have the right to replace
2 the holder if BPL or another State agency determines that
3 they're not adequately performing.

4 So it doesn't have to be year-in and year-out, please
5 do what you're supposed to do.

6 At some point, given that this is in perpetuity, the
7 State of Maine, under the public accountability function, would
8 say enough is enough. You're out of business or you're not
9 competent or you're not doing your job and there needs to be an
10 alternative.

11 That's one point I want to make. Not one way or the
12 other, but just to clarify the other part of our recommendation
13 is I think it is -- we're recommending, and you may not -- none
14 of you may agree -- that it go further than just putting the
15 holder in exactly the shoes -- the third party exactly in the
16 shoes as the holder.

17 MR. WIGHT: You're saying the third party would be
18 responsible for assuring that a competent holder was there --

19 MR. KREISMAN: Absolutely.

20 MR. WIGHT: -- but not have to be there.

21 MR. KREISMAN: Absolutely. And that there would be
22 performance standards and everything else.

23 Secondly, though, we are proposing, regardless of who
24 the holder is, that there be a stewardship monitoring
25 enforcement fund; and so to the extent you don't want to go to

1 the State agency because they don't have sufficient funding, I
2 think that's a problem that can be cured by having that fund
3 remain "offshore" at the Maine Community Foundation so that
4 certain hungry legislators aren't using it for other purposes,
5 and Alan Stearns -- not that that ever occurs, of course -- and
6 Alan Stearns has testified that that is a structural
7 arrangement that they are already using.

8 So our view is that the funding issue -- and State
9 not having funding -- could be solved. That doesn't get to
10 some of the other issues that some of you have raised. I just
11 wanted to clarify. Those are our recommendations.

12 MR. LAVERTY: Ron, in terms of your recommendation of
13 the option of a non-State entity hold the easement, how does
14 that jive with your recommendation that the easement holder be
15 the same entity?

16 You've already stated in your previous footnote, 74,
17 that The Nature Conservancy, in order to qualify for legacy
18 funding, can then transfer the easement to BPL. If that
19 actually occurs, then we're going to have BPL holding one
20 easement and maybe the Forest Society of Maine holding the
21 other easement. Isn't that a contradiction in terms of your
22 recommendation?

23 MR. KREISMAN: I'm not sure it's a contradiction; I
24 think it's a significant issue.

25 If you are in the position of taking the position

1 that you want to be No. 1, the same holder for both for reasons
2 that we're recommending, and No. 2 that you wanted to be the
3 same non-State entity, that would be your recommendation, and
4 then you would have a comment period of 30 days to see whether
5 the parties were prepared to live with that or not.

6 If they're not, that comes back to you potentially to
7 make another decision.

8 If The Nature Conservancy decides that it will not
9 seek forest legacy funding or some other arrangement can be
10 made, it may be that their desire to transfer this to BPL goes
11 away.

12 So I don't think it's inherently a contradiction, but
13 I certainly agree, Commissioner Laverty, that it is an issue
14 that based on the record evidence we have in front of us now,
15 cannot be harmonized right now. That's how I would put it.

16 MR. WIGHT: Speaking of harmonizing, I think we would
17 have to talk to the parties before we made any decision anyway.

18 MR. KREISMAN: Well, I think, you know, Jerry may
19 want to jump in. My understanding of how you appropriately
20 want to get the feedback you want is the process where we
21 established, that you established, where you set up these
22 recommendations, whatever they are, and then you get -- they
23 talk to you in this 30-day comment period.

24 Jerry, I don't know if you want to add anything.

25 MR. REID: That's what I was going to say.

1 CHAIRMAN HARVEY: Ron, I just ask for a point of
2 clarification. I guess I had misinterpreted what you had
3 written here.

4 When you said the holder should be the same entity, I
5 read into that BPL and that was the only choice. I gather from
6 the conversation I heard that that might not necessarily be the
7 case; it could be that both easements could be held by a
8 private entity.

9 MR. KREISMAN: We think these easements, Mr. Chair,
10 should be managed as one integrated unit.

11 CHAIRMAN HARVEY: Right, I agree with that. I saw it
12 as a one-way street, I guess, going to the State. I guess what
13 I just heard here was that you're saying that potentially -- we
14 might say it potentially could go the other way, too.

15 MR. KREISMAN: Well, we're not saying anything. Our
16 recommendation is making the holder a State of Maine agency,
17 preferably DOC, is consistent with the purpose of creating an
18 easement in this very large scale. That's, you know, we
19 believe that for the reasons that are stated in Footnote 75.

20 CHAIRMAN HARVEY: Obviously the much larger easement
21 is going to the State according to the TNC. That is the
22 record.

23 MR. KREISMAN: That is the record evidence right now,
24 that TNC -- they didn't say it's going to the State; they said
25 their plans were to apply for forest legacy funding and to

1 transfer it to the State.

2 Whether they, in the absence of that from your
3 recommendation, would change their plans, we do not have record
4 evidence. That's as far as we can go.

5 MS. HILTON: I'm not clear on why we might have the,
6 say, the Forest Society or a land trust, what would be the
7 benefits of doing it that way?

8 I think somebody mentioned fund raising but we seem
9 to have another way of addressing that issue. Are there other
10 reasons why we might go that route?

11 MR. KREISMAN: Well, I'm going to say a few words on
12 this which is really just repeating what you said in this, and
13 then I think you and your fellow Commissioners have a lot of
14 experience in this realm.

15 There are strengths and weaknesses of a State agency,
16 and we can talk about that; there are strengths and weaknesses
17 of a nonprofit.

18 As we noted here their strengths would be they're
19 mission driven, their focus. That may or may not be sufficient
20 for you.

21 I think it's important -- and this will come out as
22 we're walking through the terms, and Commissioner Wight alluded
23 to on one specific issue -- the holder is given a lot of powers
24 under these easement.

25 As they say, make no mistake. The holder is going to

1 be given very significant power, whether it's the issue that
2 Commissioner Wight talked about, which is making sure the
3 forestry and unique areas is correct, whether it's any number
4 of a number of other things. And so it's an important decision
5 as it is in any, who does it.

6 MS. HILTON: So at some point we shouldn't be making
7 that decision until after we've seen some of these other
8 aspects?

9 MR. KREISMAN: I think you should decide when you
10 have understood the issues at play here and consistent with
11 what I understand the Chair is doing, you then get them all
12 fleshed out, more or less, and then put them in the bin and
13 move on. You can all determine when you're at that point.

14 MR. WIGHT: I guess I follow what you're saying, but
15 I would think -- this is really up to us to name the holder --
16 I'm not sure that it is, maybe it is -- wouldn't it be some
17 sort of a bid process?

18 Wouldn't we want to interview people before we just
19 pulled a name out of the air and say we thought you guys would
20 do it?

21 It seems like if we're to make this decision today or
22 tomorrow or whenever, we're operating with very little
23 information.

24 MR. KREISMAN: I understand what you're saying. I
25 think it also is important, one of the things in our thinking

1 is there's a difference that's often lost -- I'll just offer

2 this -- between who is the legal holder of an easement and who
3 actually does the day-to-day management, monitoring, and
4 everything else.

5 MR. WIGHT: It's contracted out.

6 MR. KREISMAN: It could be, and so often those things
7 are considered as one and they may be two in which your
8 question may go to more who's doing the day-to-day stuff than
9 it is to the holder.

10 Jerry, do you want to comment on this process?

11 MR. REID: Yes, I do. Commissioner Wight, I don't
12 think you should be asked to make a decision here based on what
13 appears to be in some ways incomplete information, but that's
14 what the notice and comment process is obviously going to
15 resolve for you.

16 So really what you're trying to do now is to come up
17 with a coherent proposal that the Commission agrees, put that
18 out to public comment, and the interested parties will let you
19 know what they think about that.

20 That will complete the picture and allow you to make
21 a decision based on what you feel is the complete record.

22 The record is still evolving, but again, through
23 comments in response to this proposal being developed, it's
24 very much a part of the record and you may want to take that
25 into account before you make any final decision.

1 CHAIRMAN HARVEY: Okay --

2 MR. WIGHT: It doesn't do any goods to carry that on
3 further. I just don't think we know anything about any of the
4 parties.

5 CHAIRMAN HARVEY: I think if we had to make decision
6 now, the record would support the Bureau of Public Lands on the
7 legacy and the FSM on the balance easement because that's the
8 way I interpreted the testimony, anyway, is that those people,
9 it was left with the understanding that those were the party
10 holders at this point; right.

11 MR. KREISMAN: FSM is proposed by Plum Creek as the
12 holder of the balance easement; TNC is the holder of the legacy
13 easement. They are purchasing the easement from Plum Creek.
14 They are the holder.

15 There is no back-up holder and their record evidence
16 testimony is that their plans were to transfer that easement to
17 BPL. That's, I think, a summation of the record.

18 CHAIRMAN HARVEY: The document in the record says
19 that the State of Maine is a limited third party. You remember
20 that discussion.

21 MR. KREISMAN: I do. That's for the balance
22 easement.

23 CHAIRMAN HARVEY: I think with that --

24 MS. KURTZ: Wait, wait, wait. Can I ask a question?

25 CHAIRMAN HARVEY: Yes, if it's a quick one.

1 MS. KURTZ: In my other life I worked with a
2 government agency, and because the way the government is
3 structured, projects that they do cost four to five times more
4 than could be done on a private level.

5 I was just wondering if you could provide us
6 information about the stewardship and the monitoring and the
7 care of these lands from a private perspective versus a public,
8 we're going to have a fund that's developed to carry out all
9 these activities, where are we going to get more bang for our
10 buck? What's the most cost effective way to use that fund, by
11 a private entity or public?

12 MR. KREISMAN: I'll leave it Jerry to advise you as
13 to whether we provide you that information during the comment
14 period or whether that issue is subject to comment from State
15 agencies and private parties.

16 MR. REID: I think the latter approach is the way to
17 go. Hopefully all the parties were listening intently for your
18 request for information, and they'll have an opportunity to
19 educate the Commission on that subject.

20 It's an entirely appropriate subject for parties to
21 comment on.

22 CHAIRMAN HARVEY: I think with that, Aga, we probably
23 better not launch into another long discussion.

24 MS. PINETTE: I think that's a good idea.

25 CHAIRMAN HARVEY: We have five minutes left. We'll

1 never make it.

2 MS. PINETTE: Given the dialogue, maybe I can quickly
3 run through the list of issues that we have identified as what
4 the Commission wanted to circle back to and continue dialogue
5 on to make sure I haven't missed anything so that we can do
6 some planning with respect to how we will time tomorrow's
7 discussion.

8 What I have on my list is continuing discussion on
9 Lily Bay, discussion on 10.25,Q,3 the subdivision layout and
10 design standards, which we will be prepared to provide you with
11 some illustrations that contextualize the approaches we're
12 talking about.

13 I was unclear whether the Commission wished to circle
14 back to further discuss the total number of units at this
15 point.

16 CHAIRMAN HARVEY: If everybody's happy, I'm happy.

17 MS. HILTON: I think I would like to just put that on
18 the list sort of at the end, okay.

19 MS. PINETTE: Sure. And then I'm assuming that this
20 issue of who the holder of each of the easements should be. It
21 should be a discussion item to revisit perhaps after we get
22 through the terms of the easements and the issues related
23 thereto.

24 CHAIRMAN HARVEY: We still have a lot of easement
25 stuff to talk about.

1 MS. PINETTE: We will keep an ongoing list, and
2 please let me know if I've missed anything. Of course I would
3 suggest that we continue going through this document starting
4 tomorrow morning and then circle back to the issues that are on
5 my list.

6 MR. KREISMAN: Mr. Chair, if I could make a
7 recommendation just to move things along on the balance and the
8 legacy, which is we've been moving page-by-page on these
9 issues, which, we have identified, made necessary to go
10 page-by-page, but I think the staff and consultants would be
11 happy just if there are issues that Commissioners want to know
12 about that can test whether that -- take some things off the
13 table or maybe everything on the table we really do need to go
14 there.

15 CHAIRMAN HARVEY: Okay, thank you. We'll see you
16 tomorrow morning at 8:30. Thank you.

17 * * * * *

18 (The deliberation was suspended on May 27, 2008 at
19 5:30 p.m.)

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21 (The deliberation resumed on May 28, 2008 at
22 8:36 a.m.)

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24 CHAIRMAN HARVEY: All set, Rebecca. Good morning
25 everyone. Just before we start I'm going to try to explain

1 something I know nothing about, it's the computers. What we
2 think the problem was yesterday was we were trying to broadcast
3 on the Internet, and when all of you showed up and turned your
4 computers on, we sucked up all the broadband, whatever that is,
5 the capacity that's in the building.

6 So for -- this also works on the wireless system, and
7 what we've done is we really need to have you -- if you are
8 on-line, if you just want to record, you can turn off your
9 wireless that would be helpful.

10 If you need to be on-line we've somehow set up
11 another room that has another network on it that you can go to
12 and you can hear everything that's going on, you just won't be
13 able to see us, which is probably something that's not of
14 concern to you anyway. As long as you can hear what we have to
15 say.

16 I think if we can use the use of the -- let this
17 network have what it needs to operate, we will be able to
18 successfully broadcast to the rest of the world. The same goes
19 for our own computers, here. Make sure you turn off your
20 wireless because these will connect automatically if you don't.

21 Is that a sufficient explanation?

22 All right, with that said, I guess there's nothing
23 else. We're going to go all day if we need to, and we have no
24 restrictions on getting out of here tonight other than our own
25 capacity to be here.