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Memorandum

To: LUPC Commissioners
From: Samantha Horn, Planning Manager
Stacie Beyer, Chief Planner
Ben Godsoe, Senior Planner
Date: March 25, 2019
Re: Proposed Rule Revisions: Revised Application of the Adjacency Principle and Subdivision Standards – Deliberation and Consideration for Adoption

I. Background

The adjacency principle is a policy. It is an initial screen to guide where requests for new zones for residential subdivision and commercial development may be considered. Full rezoning review is required for proposals that satisfy the adjacency screen. If a new zone is requested for residential subdivision, and if the rezoning is approved, the Commission's subdivision layout and design rules apply to how the subdivision ultimately is constructed.

The Commission began review of its subdivision rules in 2014 and review of the adjacency principle in 2016. Since initiating these reviews, the Commission has worked to ensure that individuals interested in the Commission's work and who care about the UT have had an opportunity to participate and provide input. The Commission and staff also have actively engaged with land owners, neighboring municipalities, county governments, environmental organizations, trade groups sportsman groups, and planning organizations through individual meeting, focus groups, and facilitated workshops. The rulemaking [process](#), and the review, analysis, and outreach that preceded the development of draft rule language, has been inclusive and comprehensive. The evolution of the rules reflects the value of this input.

Most recently, the Commission held the second of two public hearings on January 10. Since then, staff have analyzed comments and prepared additional revisions to the proposed rules for Commission consideration. In addition, staff have continued to engage with stakeholders, the public, and the media, including an appearance on a [recent episode of Maine Calling](#) devoted to adjacency.

At the regular business meeting on April 2, the Commission will have the opportunity to review possible revisions, deliberate, and consider adoption of the proposed adjacency and subdivision rules.

II. Materials Accompanying this Memo

A. Draft Basis Statement with Summary of Recommended Revisions

Staff prepared a draft basis statement for Commission consideration. The statement discusses the policy basis for the rulemaking, summarizes the comments received on the draft rules as part of the January public hearing, and explains the changes that were or were not made in response to the comments. The rule changes shown in redline at the end of each section of the draft basis statement reflect the changes staff recommend following the hearing.

In addition, the draft basis statement presents three questions for the Commission to consider, whether:

- The secondary location should extend 5 miles from a public road or be modified to extend 3 miles;
- Argyle Township (Penobscot County) should be removed from the primary and secondary locations; and
- T7 SD BPP (Hancock County) should be removed from the primary and secondary locations.

Staff note these questions and potential related changes to the rules in response to public and Commissioner feedback. All three are shaded in gray in the draft basis statement. Staff offer no recommendation as to whether these potential changes should be adopted. These changes, along with any others of interest to the Commission, may be considered during deliberations at the upcoming meeting. To assist the Commission, two maps have been prepared:

- [Map 1](#): Primary and Secondary Locations, Comparison of Possible Removals and December 2018 Draft
- [Map 2](#): Primary and Secondary Locations with Possible Removals as Noted in March 25, 2019 Draft Basis Statement

The draft basis statement is comprehensive and instead of including the document as an attachment is accessible [here](#) on the Commission's website.

B. Draft Rule with Recommended Revisions

A revised version of the draft rule has been prepared and is available [here](#). This version includes the revisions recommend by staff as set out in the draft basis statement. Language associated with the three questions noted above is highlighted in gray.

C. Adjacency Summary: Planning for the Future in Rural Maine

See Attachment A.

D. Summary of Changes Since the First Draft of Rules

See Attachment B

III. Recommendation

Staff recommend the Commission adopt the draft adjacency and subdivision rules and accompanying draft basis statement, and that as part of this adoption decide whether to:

- i. Keep the secondary location as originally proposed, or reduce the scope of this area from 5 miles from a public road to 3 miles;
- ii. Include or exclude Argyle Township within the primary and secondary locations; and
- iii. Include or exclude T7 SD BPP within the primary and secondary locations.

Revised Application of the Adjacency Principle
and Subdivision Standards

Commission Memo

Attachment A

Planning for the Future in Rural Maine

LUPC's Refinement of the Adjacency Principle

PLANNING

- Encourages most new development to locate near town
- Supports Maine's changing forest and recreational economies
- Minimizes service costs for taxpayers
- Protects buyers of subdivision lots by guaranteeing legal access



OPPORTUNITY

- Provides new possibilities for in woods processing
- Allows farms to grow and diversify
- Offers options for new recreational businesses like trail centers and equipment rentals
- Supports small business owners seeking to grow business at home

PROTECTION

- Eliminates development leap frogging into remote areas and onto undeveloped lakes
- Considers impacts to scenic byways
- Provides for wildlife passage for the first time
- Creates a way to measure progress and make any changes, if needed



Credit: USFWS

Revised Application of the Adjacency Principle
and Subdivision Standards

Commission Memo

Attachment B

Key Changes Since the First Draft of Rules

(May 2018 draft to March 2019 draft)

Chapter 10, Revised Application of the Adjacency Principle & Subdivision Standards

| TOPIC | CHANGE |
|---------------------------------------|---|
| Rural Hub Designations | Removed 7 towns and 1 plantation. |
| Primary and Secondary Locations | Primary Location: Reduced distance from edge of rural hub by 30%. Now 7 miles, previously 10 miles. |
| | Primary Location: Reduced distance from public road by 50%. Now 1 mile, previously 2 miles. |
| | Secondary Location: Reducing distance from public road by 40% under consideration. May change to 3 miles, presently 5 miles. ¹ |
| | Customized primary and secondary locations by adding and removing specific townships. |
| Resource-based Development | Created standards that allow resource-based commercial business activities in appropriate locations and protect neighboring uses. |
| | Added a trailhead definition and revised the definition of permanent trail to improve predictability. |
| | Limited new residential or commercial development associated with trails to locations near trailheads for permanent trails supporting vehicular or equestrian use. |
| | Revised natural resource extraction definition to clarify what uses are allowed with/without rezoning. |
| Low-density Development | Added options for timber harvesting by standard. |
| Subdivision Standards | Changed the definition of net developable shorefront, language on legal right of access, standard for access to existing recreational trails, uses allowed in common open space, and standards for road design, all to ensure a good fit between subdivisions and the surrounding area. |
| Home-based Businesses | Provided more opportunity; increased square footage limits. |
| Agritourism & Agricultural Processing | Added and revised standards for agritourism and ag processing activities to allow farms to diversify their revenue stream. |
| Scenic Byways | Added additional consideration for scenic byways in the scenic character standard. |
| Hillside Development Standards | Added distance criteria for considering scenic resources in applying the new hillside standards to improve predictability. |

¹ The Commission likely will discuss and consider the size of the secondary location at its April 2, 2019 meeting.