

Land Use Planning Commission
Application of the Adjacency Principle
Staff Proposal – Parts One and Two Combined

I. EXECUTIVE SUMMARY

The Commission is currently reviewing the adjacency principle, which is a policy that guides where new zones for development can be located. The purpose of the review is to find out if there are better ways to account for different situations when deciding where to encourage or allow new development. For example, good locations for a residential subdivision, a manufacturing facility, and a kayak rental business may be very different from one another.

In recent decades, the Commission has interpreted the adjacency principle to mean that areas to be rezoned for development must be within one road mile of existing, compatible development (2010 CLUP, pg. 62). However, the CLUP recognizes that refining the adjacency principle to account for different situations is desirable. The new system should achieve objectives that relate to supporting the economy and natural resources of rural Maine, and benefit rural Maine communities and the people who live, work, own property, and recreate there. In considering how to change the application of the adjacency policy, the Commission has done substantial research and outreach to potentially affected individuals and organizations, including a survey that garnered over 2,000 responses with excellent representation from residents and property owners in the area served by the Commission.

The proposal for refining the adjacency principle presented in this document would replace the one mile rule of thumb for all of the Commission’s service area. The proposal addresses the issue of adjacency, which is only about the location of rezoning for development. It does not change the law or rules regarding the development of single dwelling units on single lots. Adjacency has frequently been a major factor in rezoning, however, it is not the only factor. The other rezoning standards in statute will continue to apply, including consistency with law and with other portions of the CLUP. In conjunction with this adjacency proposal, revised subdivision regulations will also be proposed, as the two components must be used together to arrive at a rational and effective outcome regarding the location of this type of residential development.

Because of the extensive and detailed local input in the Rangeley prospectively zoned area that predate this adjacency effort, prospectively zoned areas will not be rezoned except as described in the rules and plans specifically adopted for those areas. Areas that have completed Community Guided Planning and Zoning should be considered when making decisions about this proposal.¹

This proposal consists of (i) a set of general criteria in rule to guide the adjacency policy system and, (ii) more specific policies and regulations for certain types of uses. It emphasizes using proximity to public roads and populated areas that provide services to locate most types of residential subdivision and commercial activities. The goal of locating these uses near towns, townships and plantations with substantial retail activity (called “retail hubs” in this proposal) is to provide services in a cost-effective manner and avoid the

¹ The Commission intends to discuss with Washington and Aroostook Counties how best to mesh the proposal with the D-RB systems developed in recent Community Guided Planning and Zoning efforts.

negative effects of development in distant areas. The negative effects of distant development include increased costs for services such as fire, ambulance, sheriff, solid waste, education, and roads; disruption in land needed for timber, agriculture and recreation economies; impacts to wildlife habitat; uncertain future private road access; and reduced viability of local communities that need a “critical mass” of people in the area to support hospitals, schools and other community services.

The proposal is to allow most residential and commercial uses in areas that are generally no more than 10 miles from a retail hub and 2 miles from a public road. Some subdivisions could be located up to 5 miles from a public road if a legal right of access and emergency services are available. These are referred to as primary and secondary areas. Most subdivisions would require rezoning, however, some subdivisions within one half mile of a public road and not on a lake would be allowed by permit. The proposal also considers rezoning for “low density” subdivisions that have lots in the 12-25 acre range, which is a substantial departure from past policy. This overall approach to development near retail hubs would result in about 2.4 million acres in the primary and secondary areas, however, a substantial portion of those areas would not be developed due to site conditions, conservation easements, or landowner intent.

Some uses would be regulated differently. Large commercial/industrial facilities that rely on three-phase power would be sited on a case-by-case basis using the general criteria that would be incorporated into rule. Home based businesses are also considered in this proposal, and would be regulated like today, but with some additional options to expand in size or to have farm stands in some places where they are not presently allowed.

Not all uses can locate “near town” in one of the areas within 10 miles of a retail hub: some uses are resource dependent. Examples include operations that process forest products to reduce bulk and make it cost-effective to transport, extraction of natural resources such as water and gravel, the rental of gear on-site for recreation in areas that are distant from town, trail centers that need certain kinds of terrain and a lot of open space to operate, and residential subdivisions that are tied to a recreational resource and would not exist but for the presence of that recreational opportunity. These resource dependent uses should be located in a manner that does not undermine the quality of the surrounding natural resources or unduly increase the demand for services. The proposal identifies types of locations for each use and establish criteria.

In particular, residential subdivisions near lakes and ponds that are distant from retail hubs need careful consideration. Outside of the primary and secondary areas, the proposal would limit adjacency for new subdivisions on waterbodies to only those waterbodies that already have a certain level of development, rather than waterbodies that are undeveloped or lightly developed.

Some problems could arise as a result of the proposal. Strip development, habitat impacts, loss of control over the pace of development in some places, and residential subdivisions in some areas that are distant from retail hubs are all risks that the proposal seeks to avoid through specific mechanisms in the application of the adjacency principle or in the accompanying subdivision rules.

The next steps are to hold a public comment opportunity at the April Commission meeting and to move to the formal rulemaking process over the late spring and summer.