

Maine Land Use Planning Commission  
Recreational Lodging Facilities Stakeholder Input: Meeting Two  
**Draft Meeting Report**  
Wednesday, October 17, 2012, Lincoln, Maine



Good Group Decisions

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*This report is organized by topic, not necessarily the order in which things were discussed.*

# About the Meeting

## ***Attendance***

- Patrick T. Patterson, Wheaton's Lodge
- Dale Wheaton, Wheaton's Lodge
- Doug McCafferty, Maine Sporting Camp Association
- Bryan Wentzell, Appalachian Mountain Club
- Don Lamson, Chewonki Foundation
- Greg Shute, Chewonki Foundation
- John Willard, The Birches
- Dave Potter, Eagle Lake Sporting Camps
- Tom Abello, The Nature Conservancy
- Joe George, Rangeley Planning Board
- John Rust, Maine Sporting Camp Heritage Foundation
- Tom Dubois, Main-Land Development Consultants, Inc.
- Cathy Johnson, Natural Resources Council of Maine
- James May, Commissioner, LUPC
- Samantha Horn Olsen, Planning Division Manager, LUPC
- Rod Falla, Permit and Compliance Group, LUPC
- Tim Beaucage, Senior Planner, LUPC
- Hugh Coxe, Senior Planner, LUPC
- Craig Freshley, Good Group Decisions
- Kerri Sands, Good Group Decisions

## ***Welcome***

Tim Beaucage welcomed the group with the following remarks:

- Welcome, and thanks for participating today, whether you were here last time or are new today
- We made quite a bit of progress last time, and we have been chewing on the feedback you gave us
- Jim May, one of our Commissioners, is here today; it's great that he can hear your comments first-hand
- We have hired a facilitator to guide us through this process, since it's both broad and deep, it's important to have a third party here to make sure we go forward productively

## ***Objectives and Process***

Craig Freshley, Facilitator, reviewed the overall project objective, today's meeting objectives, and the steps in this process.

## Overall Project Objective

At the end of the entire project, including stakeholder input, rule making, and Commission approval, our objective is to have in place a set of rules that efficiently and effectively regulate recreational lodging in LUPC's jurisdiction for the benefit of facility owners, visitors, and Maine residents, striking an appropriate balance between private enterprise and resource protection.

## Meeting Two Objectives

- Shared understanding of LUPC's role with regard to recreational lodging facilities and of this stakeholder input process.
- General consensus on the pros and cons of switching to an "impact-based" system for categorizing and regulating facilities.
- General consensus on the pros and cons of several specific conceptual solutions for issues identified at the first meeting.

## Steps

- Public Input before Rule Making
  - Meeting One
    - Input on top issues by type of facility
  - Meeting Two
    - Input on how to categorize facilities
    - Input on some proposed conceptual solutions
  - In between Meetings Two and Three
    - Staff will develop refined proposed approaches for consideration
  - Meeting Three
    - November 14
    - Reactions to specific approaches for regulating all facilities in all settings

Craig explained that this stakeholder input process is a precursor to rulemaking - LUPC thought it was wise to get advice first. There are three meetings in the process, and then LUPC staff will propose some new rules – which will have its own process of gathering public input.

## ***Agenda and Handouts***

Craig reviewed the handouts distributed at the meeting:

- Agenda
- Meeting Report from September 12 meeting of this group
- Emerging Guiding Principles – the conclusions from the last meeting
- Stakeholder Input documents
  - Two people offered input since the last meeting
- LUPC Staff-prepared reports of conceptual solutions: “Meeting One Assignment/Meeting Two Discussion Notes”
  - Executive Summary
  - Full Report

Craig reviewed the planned agenda for the day (see Appendix A), explaining the following:

- This meeting focuses on 3 things: getting up to speed and all on same page; how to categorize facilities, with the shorthand for the two primary approaches being “impact” or “type”; and working through the low-hanging fruit in the conceptual solutions staff document - these items are in reaction to many of the things that came up last time.

## ***Ground Rules***

Craig reviewed the following ground rules, things to keep in mind for an effective, efficient meeting:

- **All views heard** – We want to hear from everyone
- **Please be recognized to speak** – Raise hands, let me call on people
- **Staff are a resource** – LUPC staff are here to answer questions and clarify things – it’s not so much about them conveying, but receiving
- **Differing views welcome** - No need to agree; it’s okay not to have consensus
- **How should it be in the future?** – We are most concerned about how it should be in the future; if we have grievances about the past, we are not interested in finding fault or assigning blame; stay focused
- **Private enterprise AND resource protection** – A reminder of the balance in our objective
- **A few laughs won’t hurt us**
- **Neutral facilitation and report** - I don’t have a view on what the rules should be; I’ve been asked to simply be neutral and create a good process. The same is true of the report, it will reflect back what we heard said, from a neutral perspective

## ***Things We Love About the Unorganized Territory***

During introductions, participants were asked to share one thing that they loved about living and/or working in Maine's unorganized territory. Here is a brief summary of what was said:

- Quietness
- Remoteness
- Peace and solitude
- Getting away from noise and lights
- Wild lands and nature
- The scale of the wilderness
- Fly fishing
- Changing seasons and diverse recreational opportunities
- The people
  - Authenticity
  - History
  - Shared passion
  - Caring
  - Pretty special
  - Meaningful engagement
- Great schools and communities - a great place to raise a family
- Different regions within the unorganized territory
- Traditional recreational activities
- The woods
- Wildlife and daily spectacular events of nature
- Rare collection of world class resources

## **About LUPC and this Project**

Tim Beaucage provided a brief overview of LUPC responsibilities and the goals of this project, focused on revising regulations pertaining to recreational lodging facilities. His remarks are summarized here:

- About LUPC
  - LUPC deals with planning and recreation for Maine's unorganized territories: towns, townships, and plantations
  - For some without their own local government, we do land use planning and zoning work – those that choose to have us handle this work
- Our rules look daunting but are pretty basic
  - Sub-districts: zones with pre-identified uses
    - Each has standards for setbacks, clearing, lot size, etc.

- For environmental reasons, buffering, compatibility, and to prevent undue impact among neighbors and to resources
  - Definitions
    - Starts with statute – state law
  - There are also LUPC guiding statements that provide direction, purpose and scope
- Over the last few years we have seen a collection of issues around recreational lodging: proposals for rental cabins, outpost cabins, etc.
  - The list got long and we decided it was time to launch a process to change rules to help you stay vibrant and protect resources
- This process
  - The staff and the Commission hope to solve as many problems that we are aware of as possible
  - We want to be clear that we won't be able to solve every problem in this process – maybe some are too big to tackle here and need a separate process, or might require going to the state legislature and asking for revisions
  - Since this process is fairly limited, we have tried to identify those issues that really need this back and forth dialogue. So when you see the package of proposed rule changes, you will notice other items which we didn't discuss here – we are not trying to sneak anything in, but wanted to give our time here to issues which require working through

Hugh Coxe added the following comments:

- The Commission heard from staff about what the issues were in the spring and weighed this issue against other priorities. They gave us until the end of the year to come up with ideas for rulemaking.
- It does not mean that at the end of this year we will never address these issues again.
- We all recognize that recreational opportunities and recreational facilities are a historic and cultural gem and a strong economic driver.

## **Review of Meeting One and Stakeholder Comments Received**

Craig reviewed what was discussed and concluded at the first stakeholder meeting:

### Emerging Guiding Principles (as of September 12, 2012)

The following guiding principles were developed and revised on the screen during the meeting. After discussing, the group agreed to let the following summary stand as the conclusion from the meeting:

- Categorize facilities based on impact.

How they impact the resource and how they impact traditional uses.  
Look at:

- Overall size
- Number and type of buildings
- Amount of use (number of people)
- Type of use
- Location

Consider looking at performance-based impact rather than regulated-use-impact, with specific attention to human impact (number of people)

- Facilities should be regulated based on impact (bullet #1 above) AND where they are located (Development, Management, or Protection zone)
- Provide predictability AND flexibility
  - Assess impact by looking at a facility's long range development plan
  - Allow flexibility and trade-offs between activities and uses that result in more or less impact
  - Within categories, allow for easy changes
  - Fewer restrictions on private facilities than public facilities
- Relax regulations in light of new technology, new customer demands, and other realities, yet balanced with protecting the resource and traditional uses
  - Relax the 10,000 square foot maximum cap
    - Simplify and improve the fairness of how it's counted
- Preserve the tradition of sporting camps by allowing them to rebuild on traditional sites and consider separately regulating their non-traditional uses
- It's really helpful when LUPC staff have an attitude of "we're here to help you plan" rather than "we're here to regulate you."

Two stakeholders provided comments following the September 12 meeting. Comments were distributed to the group and Craig showed the following summary on screen:

Stakeholder Comments (received just after September 12, 2012)

- Recreational camps with wilderness activities should be allowed in the MGN Zone
- Limited number of short-term cabin rentals should also be allowed in the MGN Zone
- Proposed restrictions for the following in the MGN Zone
  - New and existing campgrounds
  - New recreational wilderness lodging

- Existing recreational lodging
- Many things could be implemented quickly and without controversy
- Large-medium-small categories are hard to work with – there’s so much overlap
- Impact can be lessened by “time-shifting”
- Specific suggestions about
  - Accessory uses, Gas/oil
  - Supplies/services
  - Guides
  - Signage
  - Conversions
  - Designations
  - 10,000 square foot cap
  - Remote Cabins
  - Camp Replacement setbacks

## **How to Categorize Facilities**

In full group discussions, table discussions, and a multi-vote exercise, the group explored details, pros, and cons of various approaches to regulatory categorization of facilities.

## ***Emerging Conclusions***

In order to categorize recreational lodging facilities for regulatory purposes, the LUPC should consider the following prioritized factors in light of the environmental conditions and resource protection goals where it exists.

1. Overnight occupancy capacity - number of beds/pillows/campers
2. Type of use (such as)
  - a. Motorized or not
  - b. Group activity or not
  - c. Managed or not (guided or led)
  - d. Onsite vs. off site
  - e. Resource dependency
3. Footprint of buildings
4. Noise / Intensity of Use
5. Proximity to other facilities
6. Amount of on-site use area
7. Visibility
8. Square footage of living area
9. Management structure (onsite oversight)
10. Set back from water

11. Solid waste disposal
12. Footprint of clearing

## ***Discussion***

Craig opened the discussion with the following remarks:

- Categories are important; regulations apply differently to different categories
- For example, the “Sample Recreational Lodging Facility Categories” table in the Staff document [see Appendix B] categorizes facilities according to numbers of cabins or buildings, etc.
  - It measures the facility whether there are people there or not. This is perhaps the more traditional view
- A different view is to factor in the number of people using the facility
- Both methods are imperfect – they are both proxies for assessing impact. We can’t assess every single impact of every activity. These are ways to make educated guesses.

Comments:

- We don’t automatically fit into categories – there are inherent problems
  - The only use of categories is for LURC to get their regulatory head into managing us
  - It’s not like things with a scientific base – like sewage system accommodations
  - Where you run into issues is something that is amorphous or differs from lake to lake or region to region
  - Bureaucratically, you can’t make decisions based on flexibility; you are trying to take a situation and put it into a template
  - 10,000 sq. ft. had no magic in it
  - Every single sporting lodge has uniqueness
  - It’s a tough challenge with a situation that is largely subjective
  - You have dilemma in how to deal with us, and we have dilemma because of the category mentality
- What if you were to articulate what resource goals are in each particular situation – for each pond or lake? Are the goals for undeveloped shoreline? For economic expansion? Is the lake already compromised? If the goals were clearly thought out, you would have an easier time trying to regulate.
  - Have more localized goals for smaller regions
  - Someone trying to do something on a particular lake would be evaluated according to those goals
  - Over years we have hit on this again and again
  - We are on the right track with adjacency

- That's where we were headed at the end of the last meeting, asking, "What are the protection goals? Is it groundwater quality, service water quality? What is the municipality looking at?"
- Question: We are talking about regulations for existing camps, not for building new camps, right? Has anyone applied for a permit on an undeveloped lake recently? These seem like two different things. If someone wanted to build where there never was a camp before, that would be a different animal.
- And with the 10,000 sq. ft. cap, who would even apply?
  - LUPC staff responded:
    - There have been some new proposals recently
    - We are trying to establish rules for both and recognize that they might be different – while keeping fairness in mind
- From our perspective, our facility wasn't categorized correctly, as many aren't. We have outgrown the system. Although I'm torn because use/performance based criteria is important. We must ask: what are we using it for?
- If we stay with some level of categorization, please make sure it fits.
- Some facilities have multiple uses, there are impact performance differences – i.e. roads or no roads
- We are all unique and could all have our own category – but there does need to be some categorization
- I don't care what a facility calls itself, we care about the impact – is it polluting the lake or not?
- There are two stages to categorizing impact:
  - Assess impact of a certain activity
  - Then assess where can those activities go
  - Sounds like current system is not refined enough
  - Must figure out both sides of that equation
- Question: When planning, municipalities look at individual bodies of water – all lakes, streams, rivers, ponds. Do you have info at that level? Is your zoning based on that level of specificity?
  - LUPC staff responded:
    - Every great pond and lake was assessed for wildlife value, scenic value, etc., back in the 1990s. As a result each was given a certain resource class.
    - This doesn't have an impact on zoning itself but it does have an impact on allowed uses.
    - This approach may not be as fully integrated as the municipal model.
- I like the concept of having LUPC regulatory structure get out of people's business, in terms of saying "this is what has to work for you, or else". For example, could you try building regulating around these three issues:
  - Water Quality
  - Resource Impact
  - Visual Impact
  - Then any proposal would have to explain how it would impact those three issues.

- There is much that can be done in terms of design to minimize visual impact. A larger-than-10,000 sq. ft. building that fits the landscape in terms of materials, colors, etc. should be allowed. Proposals would need to show LUPC what visual impact would be; could use a computer generated model.

Craig showed the group a worksheet example with a potential formula for a performance-based, impact-assessment measurement system:

$$\text{Activity Weight} \times \text{Number of Annual Person-Days} = \text{Impact Score}$$

*Regulations depend on a facility's Impact Score, where it is located, and whether or not it is a traditional sporting camp*

- I like that you are including number of persons and days
  - One of the components is also “when”
  - July impact might be different than November
  - Compatible uses also change with seasons
  - For example, with a rafting operation, there are three factors:
    - Actual activity on river – this is already regulated by IF&W
    - Access – road use, how long people stay there
    - Facility itself – activities there vs. out in the area
- We need to decide whether the impact is about people walking around, or the infrastructure itself. Issues around phosphorus and water quality etc. are there whether the people are there or not.
  - A big facility with a big footprint that is used by one person for one week a year would still get a low score even though there might be a lot of impact.
- Impact can be measured in a number of ways; the score from this chart could be combined with something else
- Number of “person-days” is concerning; there is a different kind of impact from a group of 50 people all doing one activity vs. one person at a time
  - What's different about it?
    - For one thing, the impact on other potential users. If 50 people go by, others do not have a wilderness experience
    - 50 x 1 is not the same as 1 x 50
- LUPC Staff:
  - Hearing what we heard last time and considering an impact-based approach along with the ability to convert to other types of business (i.e. a sporting camp converting to residential use). How do you think about a use-impact calculation for a conversion, but also provide flexibility? What does building in flexibility do to this model? Flexibility means different things to different people – there are many different big-picture goals.
- Life gets way too complicated. Simplicity is golden.
  - The more simplified we can make the categorization, the more flexible it will be, down the road.
  - Think of impact on the resources where the facility exists, not off-site, that's a

different issue.

- You have to factor in buffers and setbacks
  - 10,000 sq. ft. is not the same 100 ft. from water vs. 500 or 1000 ft. from the water
- LUPC Staff:
  - We are considering a few different problems here:
    - Environmental protection, where it's easier to think about tangible outcomes
    - Planning – for the benefit of people who live in area; making sure there are viable places for forestry, recreating, etc. These priorities are much harder to measure.
  - Perhaps there needs to be a combination of ways to measure
  - Consider scale
    - If developments are at a certain scale, perhaps it's worth providing extra flexibility even though it would take more work at the front end; maybe at the lower end of the scale it would be more efficient to be more standardized.
- Group size is a factor
  - Your proposed chart can accommodate ALL these things AND simplify it
    - For example, human-powered (hiking, hunting, kayaks) vs. motorized
    - Within each activity,
      - Small or large group
      - Where
      - What type of infrastructure needed
        - Boat launch, dock
        - Gravel path
- We are trying to address carrying capacity and how to quantify it
  - This is a valiant effort; I'm trying to understand how we would use the worksheet? Would a person who is applying fill this out? Or would it be blatantly in the regulations?
- It could be used as worksheet – but must be in line with other criteria developed separately for hiking trails, water, etc.
  - Wilderness can be violated at very low levels of use
  - A facility with a score that might fit on Moosehead or Chesuncook might not fit on "Pinochle Pond"

Craig summarized the discussion at this point with the following statement and diagram:

Impact of each facility should be assessed by looking at both these things [structures and people] in light of resource protection goals for area – while keeping it simple and allowing for flexibility.



- I don't want to lose the issue of conversion
  - My perspective on what might be allowed is highly colored by whether something might be converted to condos in 3 years
- One problem with looking at people and type of impact is that it can be very fluid – especially with changing ownership
  - For example, if someone buys an ATV-focused place and then says, “We are just going to go hiking and kayaking, so we can build 5 more cabins, right?”
- How to enforce?
  - Counting and monitoring human impact is going to be harder; it's harder to count people than buildings
- How to establish appropriate limits - where is the science?
  - You may have the science on necessary protection for an eagle's nest, but what about on 100 people near a rare plant community?
  - LUPC Staff responses:
    - Yes, right now we do not have some of that scientific information
    - We would be concerned about turning LUPC into a recreation

- manager
    - Simplicity is key - cookie cutter models that can be applied easily by field staff. Perhaps give someone with an existing business the ability to grow to a certain level, by going only through their field office, then after a certain point they must go to the Commission office.
- If you are going to permit based on use, it would be smarter to take the total number of beds, and the average occupancy rate for that industry. Those figures are available.
- Another side of this problem is neighbors finding out you are permitted for a particular number of boats, etc.
  - LUPC Staff response:
    - A reminder that enforcement is expensive for everybody. When the burden of proof is on an agency vs. an applicant, it's more expensive and creates a tax burden that no one wants. It can also be expensive for property owner too.
- LUPC Staff:
  - We know we need to somehow expand use listings
  - This is complex enough, how do you also factor in that some operations have multiple components?
- Assessment tool should also take into consideration location
  - We agreed that everything will consider location
- Would this tool lift the sq. ft. cap?
  - The table [see Appendix B] contemplates the general idea, but does not specifically include commercial sporting camps – because of the traditions
    - They could easily be included
- No matter what size a traditional sport camp is, it might have a whole new category
- Sq. footage is a piece of it, and total carrying capacity is another piece, i.e. overnight stays, overnight accommodations, like beds. This is an objective way to assess human impact.
- The tool should consider:
  - Number of buildings
  - Number of separate structures
  - Amount of cleared land
    - Also consider that a youth camp or some types of campgrounds might want fields for group outdoor activities
- In the Lakes Classification System, there are seven 1- 7 classes. Would types A, B, C, and D fit to Lake Classification?
  - LUPC Staff response:
    - My gut reaction is that we could get them working together
    - There are some facilities that are not on a lake
- Is it safe to say that most facilities are on a water body?
  - LUPC Staff response:
    - Most
    - But maybe not all
- Is accessibility to water body (i.e. a road to the lake) considered in classification?

- LUPC Staff response:
  - Limitation only on one resource class – “remote pond”
  - Yes, access is a considering in classifying the lake
  - Each lake is ranked “Outstanding”, “Significant”, “Absent”, etc. for several categories

Towards the end of this full-group discussion, the group agreed that location, and particular resource goals for each location, matter.

### Table Discussions

We broke into small group discussions, by table, to answer the question:

**What are the most important 3 factors that should be used to guide how LUPC regulates activities?**

Reports from each table are summarized here:

#### Table One

1. Development footprint including buildings and clearing
2. Number of people measured by bedrooms; occupancy
3. Water quality (phosphorus standards)
4. Proximity to other facilities
5. Visual impacts
6. Adequacy of wastewater disposal
7. Adequacy of solid waste disposal
8. Soil suitability
9. Intensity of activity promoted at the facility (danced around how to get at noise)

#### Table Two

1. Visual impact
2. Total occupancy
3. Grouping; group size – how people come and use the facility
4. Noise impact
5. Uses – intensity
6. Amount of cleared land
7. Density of buildings
8. Management structure on the ground – is there activity oversight? This impacts sensitivity to the resource

#### Table Three

1. Acreage of overall use areas – onsite use area vs. offsite

2. Sq. ft. of living area – similar to building footprint but more narrow
3. Type of use – type of activity
4. Setbacks – mostly from water bodies; could also be considered from property line
5. Visibility – different than visual impact – measure how much of a development you can see from a vantage point – how glaring the color scheme is
  - a. Visual impact implies that you know the context - what the goal is in terms of sensitivity

The group confirmed that all of the measures imply “in light of the surroundings” – all of these things are relative to context.

- How would we measure these things, keeping it simple for the staff and for those filling out permit applications?
  - Type of Use
    - Human-powered vs. motorized
    - Large group activity or individual activity
    - Are they managed
      - i.e. guided or led activities
    - Do they stay on site most of the time or do they go off site
      - Examples:
        - Guided hunting trips where the impact would be traffic to and from the lodge, but the actual activity is somewhere else - vs. a rifle range where the activity is all onsite
        - A dining room where you have 200 people eating there every night, or a hall where people gather for one meal and then are off on a wilderness trip
  - On site or off site
    - What if we could agree that we are taking about on-site uses and not try to regulate off-site activity?
      - What we need to know is where they are staying that night
      - People who spread out into the woods still do have an impact
      - Let’s say you have a very small facility, primarily used by ATVs or snowmobiling. They don’t have much impact on the facility itself, but it’s a high impact activity nearby
  - Bedrooms
    - Amount of pillows?
    - Amount of beds?
    - We really want to know the number of people sleeping there per night
  - Campgrounds
    - Do owners limit the number of people per night for own purposes?
      - There can be many different scenarios – RVs, group sites, individual sites, etc.
      - Yes, there are limits on people per site
      - Currently there is not a limit to number of total sites for

- campgrounds
  - Length of stay
    - Campgrounds where people stay for the whole summer are different
  - Water quality
    - Every facility can objectively measure their phosphorus output
    - Phosphorus is linked to soils and wastewater and solid waste issues
    - They are pertinent to local conditions can be measured scientifically
    - Can we remove them from this list since we are recognizing that these other measures are proxies to measure intensity?
      - LUPC Staff:
        - We could use planning-tool type measures from a zoning perspective, and performance-based measures to allow or not allow certain activities
- There have been so many changes in activities since the 1960s – how do you allow someone to change from a hiking lodge to a snowmobiling lodge if we had a standard that was based on a build-out of facility?
  - LUPC staff:
    - This gets at the issue of whether the use is on-site or not
    - What if a group is smaller but highly motorized?
    - I am concerned that very quickly LUPC would be characterized as trying to regulate recreation
    - Part of what we struggle with is that our categories of zoning are really broad. If we require finer restrictions, which sometimes mean hard decisions about uses – this might have an impact on flexibility down the road.

Craig summarized this dilemma:

- Uses might change – on-site or off-site activity; size of groups
- LUPC could regulate based on what's on the ground, but that's a poor proxy for actual impact
- If you want realistic proxy for actual impact, then you have LUPC in the business of regulating activities
- You won't fit 50 snowmobilers in a place with 12 beds. Everything is based on infrastructure – how many people you can fit in the beds. If you have that many beds, figure that they might be doing any number of activities.
- It's difficult to put LUPC in position of being recreation manager, like it's a park. It's not. But most of the impact in the unorganized territory is off-site, on someone else's land.
  - If everyone's recreating around each other there could be some clashes
  - But whether I build in particular place, knowing someone else is there now - that should be a business decision left up to the marketplace vs. something that is regulated
- A change of use can mean a change in resource protection goals – if you cater to XC

- skiers and hikers you might not need a fuel tank and all the protections around that
- With use, it seems like an issue of permitting something new, i.e. all the potential new uses on a body of water; ask: is having a new facility there going to bring all kinds of new uses?
  - Along the lines of permitting a new facility, the market can go so far, but people are going to build on the property they buy – they might not care as much about the existing businesses nearby.

Craig summarized this construct: “Should LUPC regulate or categorize a facility just based on what’s on the ground, or should they factor in use?” and reminded the group that we are not making any final decisions.

### Multi-Vote on Categorization Factors

Working from a refined list of items from the table discussions, each participant (excluding LUPC staff) voted for the top three things that they thought should guide how a facility is categorized. The results of the vote were further refined into the Emerging Conclusion as shown above, which the group agreed to let stand as guidance to LUPC staff during preparation of the next version of the proposed rules.

The following comments were made before and after the voting exercise:

- These are ALL important!
- One of the confusing parts of this is that we are not delineating between the values trying to protect and the issues that are causing impact.
- There are some basic standards that have to be enforced no matter what:
  - Phosphorus, endangered species, etc.
  - Keep these items on voting list – this doesn’t mean that these are the only things
  - How to best accomplish these goals in conjunction with performance based goals?
  - We all know you can’t make algae blooms, but there is some gray area about what is environmental protection?
- Let’s recognize it would be nice if we didn’t have to categorize but as a practical matter we need to. Our discussion today is more about how to measure the impact of a facility.
- Are footprint and buildings considered same as beds and pillows?
  - No – they are both proxies for number of people
- Is there already a height restriction?
  - Yes
- Differentiate recreational lodging vs. inns and hotels
  - Is the use resource-dependent? Does it need to be in that location - or could people be anywhere and just need a place to stay?

## Conceptual Solutions

Based on the last meeting, Tim and the LUPC Staff had prepared 8-12 potential solutions to particular issues. The group reviewed and discussed several of the items. For each item, Tim provided a brief overview, then the group discussed, and then Craig captured group sentiment in emerging conclusions, which were refined together on screen.

### *Emerging Conclusions*

- A. Commercial Sporting Camps
  - a. Relax the square footage cap
    - i. Consider raising the cap to 20,000 in areas where appropriate but not in all areas. The cap should be different in different areas, sensitive to local factors.
    - ii. The max applies to the most developed areas and not all areas
  - b. Specify how to calculate
    - i. General agreement with the proposal
    - ii. Consider counting “non-principle” “accessory” buildings if over a certain size.
  - c. Consider the zone in which each facility exists, adjacency, and sensitivity of the resource
  - d. Allow existing. Traditional uses to continue
- B. Outpost Cabins
  - a. Outpost cabins traditionally used by existing, traditional sporting camps should be able to be rebuilt no matter how far from the main lodge
  - b. Outpost cabins should not count toward square footage if they are ½ travel time (by foot, road, water) from the main lodge
- D. Change of Use
  - a. Changing to allowable uses within the zone and for your category of facility, should be allowed
- E. Conversion
  - a. Changing use that causes the facility to be in a different category, requires a conversion
  - b. Consider listing “incentivized uses” in advance where conversion would be more streamlined
    - i. Recognizing that incentives would be fairly minor

#### F. Accessory Uses

- a. Allow incidental retail and define it along the lines proposed
- b. Clarify that this would apply to sporting camps and campgrounds
- c. Need to be careful that retail stays “incidental” and not a primary activity

#### G. Transient Occupancy

- a. The current 120 day standard should stay in place and apply to campgrounds
  - i. Trailers/campers need to move off a particular campsite after 120 days
    1. Alternative 1 - the trailer/camper may stay elsewhere on the property for longer
    2. Alternative 2 - the trailer/camper must leave the property after 120 days
- b. Ask campgrounds about standards

### **Discussion**

- Commercial Sporting Camps – Size Limitation
  - Tim:
    - A good example knowing that we might think of sq. ft. limits differently
    - Relax the cap since 10,000 sq. ft. is not enough
    - No exact number presented; rule would increase cap and specify how it would be calculated; exclude sheds but include main lodge and sleeping areas
  - Why a 50% increase in size in semi-remote areas? That’s a huge jump.
    - In most of these cases businesses are not adding more people, they are serving clients who are asking for more room to be more comfortable
  - But there’s no mention of that in this proposal – so in theory this change COULD increase the number of people
  - When we bought an old sporting camp and converted it to a youth camp, we needed to increase the space for kids, staff, etc. Almost everything we built was a simple cabin – no water, able to be taken down. And we needed to increase our cooking and cleaning area to meet health standards. We also had to count woodsheds boathouses generator sheds etc.
  - A 60 x 80 ft. building is already 4800 sq. ft. Then you add a few cabins and that’s 11,520 sq. ft. before you even have shower houses, gift shops, etc. I don’t think 20,000 sq. ft. is unreasonable in this day and age. If I could afford a property to build a new sporting camp, it would have to be that big to support a staff.
  - Location is really important here. And conversion is weighing on my mind. There are some places where a 20,000 sq. ft. place would be inappropriate.
  - Increasingly people are looking for bathrooms in cabins ,which increases the

- square footage.
- Composting toilets and handicapped accessibility features also.
  - How do we incentivize and make it easier for existing sporting camps to be successful instead of forcing them to do something bigger in a different location?
  - Some facilities are shoehorned in
  - Perhaps some will not have to be called a commercial sporting camp
  - The second part of the proposal – way of calculating – we are OK with it; but the first part – 15,000 sq. ft? Where did this come from?
    - It seems like we shouldn't count the furnace room, the background facilities for the composting toilet, the generating shed, etc.
    - Is the point to limit the number of people on site by having a limit on sq. ft.?
    - The concept of usable living space is going to limit the number of people. We found that there was more and more that was unusable for living space but had to be counted.
    - If I choose to serve bare bones clients, I can serve more people.
  - When you look at commercial sport camps, they are in development zones; others are in protection or general management zones. Looking at size in protection might have different thresholds. We might build in the ability for people to apply for rezoning or a new level of scrutiny to go for a larger size.
  - Maybe it can get to a size where a generator shed or a storage area SHOULD be counted. A “not to exceed” clause. There is so much variability.
  - A rec hall or an activity hall would be included in living space. How about a staging area for an activity?
    - If it's absolutely required for services
  - If a sporting camp goes into a development PGP zone it has gone through certain steps to get permission to be there
    - Some of these were grandfathered or allowed as non-conforming
    - A benefit to commercial sporting camps in development or PGP – they can rebuild existing structures in the event of damage, in order to keep their businesses
  - One of the implications is whether something stays as a commercial sporting camp or converts to development. It might become a magnet for other development – this is a concern. We need to challenge ourselves to think beyond what exists today for the rules. It is important how big it is to the sensitivity of resources in the areas – category matters because of potential for conversion.
  - Is the 10,000 sq. ft. limitation applying to both development and general management zone?
    - Yes
  - If you called it something else would it be held to maximum of 10,000 sq. ft.?
    - Sort of
  - It seems unfair to have something in a development zone have the same restrictions as something in a general mgmt. zone

- My zoning resulted from someone sitting at a desk saying, “let’s put it here”. It might even have been an accident. There has to be a way to account for zoning for places like mine that have been there since 1930.
- Commercial Sporting Camps – Outpost Cabins
  - Tim:
    - The idea was intended to be helpful, but has been problematic; has become a loophole around the sq. ft. limitation
    - Those that are truly out there and not served by main lodge services should not count towards sq. ft.
    - We don’t want to encourage sprawl and cabin clusters everywhere – but we want to make sure they are allowed.
  - Clarification of Outpost Cabin in B vs. C?
    - Others have struggled with this. LURC identified the definition of traditional sporting camp and part of that definition is that there is an onsite caretaker/mgmt. – there’s a guide.
    - Self-contained cabins seem to conflict with this – not that they are a bad idea, but simply is the outpost cabin functional as housekeeping cabin? With kitchen facilities?
    - Sounds like many of them do
    - Most have kitchens and bathrooms
    - AMC Medawisla Camp example – the cabins have kitchens; people can cook for themselves or eat in the main lodge; Other cabins are farther out and do not rely on lodge services.
    - There are some permits out there for commercial sport camps to have housekeeping cabins right on site
    - There are outpost cabins under B, under C, and then just rental cabins which are not affiliated with commercial sport camps
      - Rentals are covered in the Table earlier – our rules do not cover them
      - Perhaps rental and outpost cabins under B and C ought to be thought of as a group
      - Right now commercial sport camps have the ability to rebuild. If you call a facility just a “rental cabin” then you lose that ability
  - Our clientele is changing – they don’t want to walk to an outhouse. We are talking about amenities to a changing clientele.
  - If a self-contained cabin is part of a sporting camp, it has the sporting camp type benefit
  - Let the owner decide:
    - If cabin is part of sporting camp, it counts as sq. ft. but you get to reconstruct.
    - If not, it doesn’t count against sq. ft., but you don’t get to reconstruct in the same place
    - Opportunities for loopholes!

- Is there a limit on the number of outpost cabins? If there's a limit to main site sq. ft., what's to stop construction of 20-50 outpost cabins?
- We expect it will be quite some time before rules that affect things existing today are changed but it IS an ongoing cycle and it will change at some point.
- The protection for a traditional camp being able to rebuild is what we are trying to save. There should be a distance requirement.
  - Doug M. offered to ask the membership of the Maine Sporting Camp Association about this
- A self-contained cabin: if it's close, if it's part of our main sporting camp collective location, if there are other guests there, if they can use canoes, see the staff, etc.
- Two ways to look at outposts:
  - One - someone says, "Want to buy my cabin?" and you acquire an existing facility. It seems like a no-brainer to NOT include this in sq. ft. You are not really adding anything new.
  - Two - new cabins. You say it's unlimited for you to purchase existing cabins (traditional), but how to handle construction of new cabins? One idea is to build things that are not permanent on the landscape. In 20 yrs. you can take it down. If you needed to remove it, you could do it easily and the landscape would grow back.
- It's an essential part of a business to be able to rebuild on something you purchase
  - People are not going to go out and build lots of new buildings
  - There is an island example where if a cabin burned down it could NOT rebuild given current setbacks
- Outpost, rental, self-contained questions:
  - There is difference between existing and new
  - Does it count towards sq. ft. or not?
  - Specific mileage; distance?
  - Shared activity or no shared activity?
- LUPC Staff:
  - We can put together a proposal – that might be easier for folks to react to
  - If you have a specific solution in mind – we will hear any and all suggestions
  - "No shared activity" is going to be harder to implement
  - Consider ½ hour as a typical transit time between main lodge and outpost cabin. Walking, paddling, or driving takes a ½ hour. You could measure it once and categorize it rather than constantly monitoring activity.
- Change of Use and Conversion
  - Tim:
    - Change of Use is when your operation changes seasonally – such as summer youth camp to self-contained cabins in fall and winter.

- The idea was for it to be pretty flexible and easy to do. Maybe if you are a Type A facility in a certain zone, you can change your use to a different, allowable type, without a permit.
- Conversion is when it's hard to switch back, such as converting to residential.
  - Maybe there would be higher standards or a permit involved.
- This might create problems where people build sporting camps and convert them to subdivisions – allows people to circumvent rules
- Is converting to condos the same as to a subdivision?
  - For condos, it's if you sell all your cabins to 18 different people but still have it operate as a sporting camp to some degree. Owners can rent out their cabins. Technically if they want they can take their dwelling out of the rental pool.
- What about if you have 8 family members and you die and you want to leave two cabins to each person?
- Sugarloaf has the Grand Hotel where a different person owns each room and the rooms must be in the rental pool; the rooms can't be lived in.
- Rules need to allow for a reasonable exit strategy – rather than walking away and letting the whole thing rot and fall down.
- Right now people would have the opportunity to seek permits to convert, or seek to rezone. But imagine that you are in dire financial straits - you don't have any cash to go through a rezoning petition.
- Also, there should be ways for sporting camp owners to have an end game that's legally possible – say, if you want to keep something operating a long time and your kids aren't interested in inheriting it.
- LUPC Staff:
  - It's a question of the balance point. When regulations have been relaxed to encourage development to promote a particular use, what happens when someone wants to convert to something that's not on that list of uses?
  - If a particular incentive use isn't going to be successful, maybe there are other uses that can be appropriately incentivized, rather than throwing the doors wide open to uses.
- I've seen many camps go out of business because they were not viable. They were ripped down because the land was more valuable. Is it in the public interest to preserve some sporting camps?
- If it's in the same category and same zone, a change of use should be relatively easy. Maybe there are incentivized uses that make converting easier – but we want the sporting camps to continue to exist. Otherwise you are stuck with trying for zone change or permission.
- What kind of incentives?
  - LUPC Staff:
    - The reconstruction ability that is offered to sporting camps
    - Maybe a permitting structure that is streamlined for some preapproved uses

- Minor incentives along lines we already have – greater permitting flexibility
    - We are not really in a position to start giving tax breaks
  - When the ability to reconstruct was put in place, by the legislature, we presumed that legislature felt that traditional sporting camps are important to the State of Maine, that they would allow the rebuilding in trade for being a benefit to economy – that was the incentive.
  - So in this regard can we pre-identify other uses to incentivize, presuming that these other uses are viable.
  - If you take public benefit out of equation...?
  - We also need locational flexibility – subdivisions are not allowed in the MGM zone. These are not low-intensity.
- Accessory Uses
  - Tim:
    - Retail: a campground that wants to have a camp store to sell candy, patches, bait, gas, etc. This makes sense, they are valuable.
    - They shouldn't be allowed to mushroom out, they should be tied to the facility.
    - Proposed definition of a camp store or incidental retail prevents quickie-marts from springing up all over the jurisdiction.
  - Should we allow incidental retail according to this definition?
    - Yes
  - Are commercial sporting camps and commercial campgrounds allowed to have stores?
    - LUPC Staff:
      - Currently they are not allowed as part of campground/camp - they would need to get a separate commercial retail permit
  - Almost everyone has one. They make a lot of their money this way. Fishing tackle, bug dope. In winter a lot of them survive on serving snowmobile industry.
    - Yes, it needs to be clarified
  - Would this definition work for all the current camp stores?
    - I worry about the prepared foods part – health regulations
  - Is there a point where we can head off at the pass someone's attempt to circumvent?
  - I like the tenor and term "incidental retail". It implies that it serves guests. I would hate to see the sporting camps become gas stations serving people in transit through the territories.
  - The retail should be secondary to primary use.
    - This depends on how you measure it – retail could be 49% of income, for example.
    - I wouldn't want to see a lodge become a big kayak or clothing retail dealer.
  - Keep the focus on the intent of incidental retail

- We are thinking of an integrated closet-size space
  - In remote areas, it will be limited by number of people going through – if you are talking about dirt trails miles from nowhere, you won't have quickie marts. If you are closer to a development area, you might get a quickie mart
  - You don't want to come down heavy-handed on an industry that relies on people traveling through.
- Transient Occupancy
  - Tim:
    - The state statute defines campsites for transient occupancy as “not more than 120 days per year”
    - We had agreement on the difference between occupancy on a stand-alone campsite vs. within a campground proper
    - Campgrounds rely on seasonal clients. The number of days would not apply to sites within a commercial campground proper. As a balance point, allow owners to place limits.
  - This has been used as proxy for intentional development – toolsheds and sun porches – these structures become dilapidated over time.
  - We use this statute to clean up our campgrounds. People weren't happy about it and it cost us some income, but it was really important to re-vegetate areas that had several layers of carpeting. We appreciated the statute – it gave us the leverage to do something that needed to be done.
  - Seasonal folks deserve to leave their vehicles there, but not on the sites
  - 120 days is too long – having trailers there forever is not good for the environment or for the camping experience.
  - 120 days is based on May through September. The camping season in Maine is extending for hunters, ATV riders, etc. A little longer might not be a bad thing. Make them move so you don't get the porches, etc. This is guaranteed revenue – people rent for a whole season – their activities are so weather-dependent. This way they can rent it once and they're done.
  - It can be a problem trying to find appropriate places so the RVs can move without having to go all the way back to Connecticut or wherever.
  - Each situation is different if people are following hunting or fishing seasons
  - There's a shell game: You can move a camper to another site for a day and then move it back.
  - There are two issues – making sure RV is registered (keeping it up, knowing it can be moved), and allowing them to decommission right on site or move to a corner designated for sitting
  - Could the shell game aspect be resolved by saying 120 days “in the campground”?
  - Storing RVs nearby sounds like an economic opportunity for people in nearby towns
  - Campsites also need to be used by others
  - Campground owners would be very unhappy about this and afraid of losing business

- Make it so you can't just move for a day and move back
- This is about exclusive use - giving others a chance, and also about degradation of the site – if the camper is leaking oil or whatnot
- Make it so you have to move in a way that clearly opens it up for others
- Sounds like we are rejecting G1, and keeping G2.
- Evolution of ownership is the issue. It's only so long before there's a push to condo-ize a campground. We are talking about very small lot size.
  - Should this be part of new regulations?
  - Let's go to the campground owners associations and see what they think – the folks in this room are mostly representative of sporting camps.

## Conclusions and Next Steps

Craig briefly reviewed today's conclusions and the group discussed next steps.

- There were two types of conclusions from today's meeting:
  - How to categorize facilities
  - Clarification on some specific issues, as far as we were able to get through them
- The next meeting is for stakeholders to react to more specific proposals
- Tim announced that the proposed date (November 14) is squarely in the middle of deer season, and he has gotten some pushback
  - Tim plans to poll all stakeholders to see whether this date should be retained or whether the meeting should go into early December.
- Tim also asked the group whether they needed as much detail in the Staff Documents for next time, or did they just want to see the topic and the proposed solution?
  - The general consensus was that the detail and rationale was appreciated; please include it next time.

## Closing Comments

A chance was offered for those who wished to share a brief closing comment; reflections on the meeting or lingering hopes or concerns.

- One of the issues is that my cabins were built in 1930 and they are beginning to need to be rebuilt. The public wants private bathrooms in each cabin. I wonder if the rules would allow me to make them 10-20% bigger, otherwise I need to take away from floor space that's already too small.

Tim Beaucage offered the following closing remarks:

- Thanks to Craig and Kerri for their hard work – it's key to this process
- This meeting was impressive. This opportunity and discussion is very productive. I hope you are getting the same value out of it as we are.

The meeting adjourned at 3:30 pm.

## Appendix A: Planned Agenda

### Maine Land Use Planning Commission Recreational Lodging Facilities Stakeholder Input **Meeting Two Agenda** Wednesday, October 17, 2012, Lincoln, Maine

#### Overall Project Objective

At the end of the entire project, including stakeholder input, rule making, and Commission approval, our objective is to have in place a set of rules that efficiently and effectively regulate recreational lodging in LUPC's jurisdiction for the benefit of facility owners, visitors, and Maine residents, striking an appropriate balance between private enterprise and resource protection.

#### Meeting Two Objectives

- Shared understanding of LUPC's role with regard to recreational lodging facilities and of this stakeholder input process.
- General consensus on the pros and cons of an "impact-based" system and of a "size-based" system for categorizing and regulating facilities.
- General consensus on the pros and cons of several specific conceptual solutions for issues identified at the first meeting.

#### Agenda

9:30

##### **Opening**

Welcome

Maine Land Use Planning Commission staff

About the Meeting

Craig Freshley, Facilitator, Good Group Decisions

Introductions

9:50

##### **All Up to Speed**

About LUPC and this Project

Tim Beaucage will provide a brief overview of LUPC responsibilities and the goals of this project focused on revising regulations pertaining to recreational lodging facilities.

#### Review Meeting One

Before getting into today's discussions, Craig Freshley will review what was discussed and concluded at the first stakeholder meeting. There will be a chance for questions and clarifications.

#### Review of Stakeholder Input

We will quickly review some stakeholder comments that were received in writing following Meeting One

10:15

#### **How to Categorize Facilities**

There appear to be two leading alternatives under consideration:

##### 1. Impact-based (Performance-based)

To help clarity emerge, we will explore the performance based approach by beginning to design the assessment system. If facilities were categorized and regulated by impact, how would we actually assess impact? We will actually discuss and weight "factors of impact" which will give us a chance to assess if this will be a better way to categorize facilities.

10:45

or so

**Break**

##### 2. Size-based (Tier Approach)

We will also explore the Tier Approach and imagine categories as proposed in the staff assignment.

12:30

#### **Lunch**

1:15

#### **Conceptual Solutions**

We will work through the "Low-Hanging Fruit" section of the Staff Report clarifying and gathering input on each of the items as we go.

3:00

#### **Conclusions and Next Steps**

To the extent they are clear, we will review conclusions and finalize plans for next steps.

3:15

#### **Closing Comments**

This is a chance for brief closing comments; perhaps reflections on the meeting or lingering hopes or concerns.

3:30

#### **Adjourn**

## Appendix B: Sample Recreational Lodging Facility Categories

*\*\* For discussion purposes only \*\**

### 2. Develop categories of facilities – Tier Approach

This approach sorts facilities into tiers based on approximate impact but employs square footage and either number of sites, or cabins, etc as a substitute for measuring impact.

Sample Recreational Lodging Facility Categories				
	Type A	Type B	Type C	Type D
Activity	campground [1- _____ sites]	campground [1- _____ sites and < _____ ft <sup>2</sup> of permanent structures]	campground [_____ - _____ sites and < _____ ft <sup>2</sup> of permanent structures]	campgrounds [> _____ sites and < _____ ft <sup>2</sup> of permanent structures]
	remote rental cabins [< _____ cabins or < _____ ft <sup>2</sup> ]	NA	NA	NA
	rental cabin 1	rental cabins [< _____ cabins or < _____ ft <sup>2</sup> ]	rental cabins [< _____ cabins or < _____ ft <sup>2</sup> ]	rental cabins [< _____ cabins or > _____ ft <sup>2</sup> ]
		backcountry hut [< _____ rooms or < _____ ft <sup>2</sup> ]	backcountry hut [< _____ rooms or < _____ ft <sup>2</sup> ]	NA?
		group camp [< _____ ft <sup>2</sup> ]	group camp [_____ - _____ ft <sup>2</sup> ]	group camp [> _____ ft <sup>2</sup> ]
			inn [< _____ rooms or < _____ ft <sup>2</sup> ]	inn [< _____ rooms or < _____ ft <sup>2</sup> ]
			bed and breakfast [< _____ rooms or < _____ ft <sup>2</sup> ]	NA
			hotel / motel [< _____ rooms or < _____ ft <sup>2</sup> ]	hotel / motel [< _____ rooms or < _____ ft <sup>2</sup> ]
				resort