



March 29, 2018

Tim Beaucage, Senior Planner
Land Use Planning Commission
22 State House Station
Augusta, Maine 04333-0022

**Re: Fish River Lakes Concept Plan, In the Matter of ZP 768
Outline of Proposed Updates**

Dear Tim:

Pursuant to Section II of the Fourth Procedural Order in this matter, we have prepared the following outline of updates to the proposed Fish River Lakes Concept Plan.

1. PLAN AREA - INCLUSION OF SHORELINE

In response to our discussions with LUPC Staff on the topic of undesignated shorelines (meaning, areas within 500 feet of a lake or pond that were not in the conservation easement or in a Development Area), the Concept Plan will be revised in the following ways:

- **Long Lake B.** The Concept Plan will be revised to include two small portions of undesignated shoreline at the north and south ends of Long Lake B as part of the Long Lake B residential development area. These areas will be within the D-FRL-RS zoning district, but will be restricted to open space that will remain essentially undeveloped. In addition, provisions will be added to indicate that the West Van Buren Cove Road cannot be extended through the northernmost open space. The change will be reflected on the revised maps and references will be included in the Concept Plan and Chapter 10, as appropriate.
- **Van Buren Cove.** The Concept Plan will be clarified to guarantee public access to the beach at Van Buren Cove, from Mud Brook on the west to the proposed Long Lake A Development Area on the east, for the life of the Plan in much the same way as it is used today. Irving will propose improvements to support public access and improve the aesthetics of the area within the small segment of the shoreline on the east side of the beach that will remain a P-GP zone.
- **Cross Lake.** The Concept Plan will be revised to include the shoreline and portions of the adjacent upland area between Cross Lake D and E as part of the Cross Lake E



development area. This area will be within the D-FRL-RS zoning district, but will be restricted to open space that will remain essentially undeveloped. The change will be reflected on the revised maps and references will be included in the Concept Plan and Chapter 10, as appropriate.

- **Square Lake West.** The Concept Plan will be revised to include the undesignated shoreline between Square Lake W and a point near the southern end of the existing camp lots. This area will be added to the Square Lake W development area and included within the D-FRL-RS zoning district, but will be restricted to open space that will remain essentially undeveloped. The change will be reflected on the revised maps and references will be included in the Concept Plan and Chapter 10, as appropriate.
- **Little California Pond.** Little California Pond will be included in the conservation easement in Cross Lake TWP and has been included in a revised boundary for the conservation easement.

2. HILLSIDE DEVELOPMENT

The Concept Plan will be revised to further regulate potential visual impacts from hillside development in the following ways:

- Timber harvesting within portions of the development areas within the viewshed of the lakes will be limited to selective harvesting (as opposed to clear cuts). This will allow the removal of up to approximately 30% of the standing timber on a selective (individual tree) basis, retaining the majority of the forest cover to provide a buffer from subsequent development activity.
- The Concept Plan will include additional standards designed to minimize potential visual impacts of proposed developments located on hillsides visible from a public viewpoint or water body. These include the following measures, some of which may apply specifically to certain development zones (e.g., Long Lake C; Cross Lake D and E; Square Lake W; and possibly Square Lake E and Yexas):
 - Developments must be designed to fit harmoniously into the visual environment when viewed by the public from public viewpoints. Site clearing must be minimized and vegetation must be retained or provided to minimize the visual intrusion of the development.
 - As part of an application for a new residential subdivision that may be visible from a lake or other public viewpoint, the developer shall submit design standards for new construction to ensure that new housing units, garages, roads, lighting, and other



components of the development will not have an unreasonable potential visual impact on scenic resources within and adjacent to the Plan area.

- Subdivisions planning shall include professionals who are trained and have experience in the application of principles of visual quality management and hillside development. As part of the planning process, the developer shall identify areas with high and moderate visual sensitivity (both on and off the site), and take appropriate measures to avoid unreasonable potential visual impacts wherever necessary.
- Alterations to existing contours for roads, driveways, utilities, homes, and non-residential structures shall be kept to a minimum by using design and construction techniques that are appropriate to the natural topography of the site.
- Vegetated ridgelines shall be preserved to the extent practical by establishing limits to clearing and construction in certain areas (e.g., requiring existing vegetation and natural contours to remain intact; establishing minimum horizontal or vertical setbacks from ridgelines; and incorporating ridgelines into the required open space in a Cluster, Open Space, or FlexDesign Subdivision).
- The design standards to be provided by the developer shall include measures to address visual impacts from color, form, line and texture. This may include provisions that require:
 - o The use of colors and materials that minimize color contrasts with surrounding forestland;
 - o Lighting used for roadways and residential use must be shielded to prevent glare and off-site visibility (e.g., the use of shields may effectively block visibility of light sources);
 - o Consideration of limits on the amount of windows and other reflective surfaces that may be visible from lakes or other public viewpoints;
 - o Cleared openings for building sites, septic systems, roads, driveways, or community uses must have a minimal visual impact if seen from public vantage points (e.g., maintaining a vegetative buffer of a sufficient height, density and composition to make the cleared opening visually indistinct);
 - o Clearing for views may be allowed, but should be limited to minimize potential visual impacts, as seen from public viewpoints (e.g., narrow view openings between trees and beneath tree canopies downslope from development sites may be more effective than removal of mature trees);
 - o Buildings shall be designed to complement the site and topography (e.g., avoiding long unbroken roof lines; orienting buildings in the same direction of



the slope; stepping the building down the slope rather than creating building pads requiring extensive excavation and slope filling);

- Existing vegetation shall be preserved / maintained where practicable in areas necessary to help screen hillside development from public view points;
 - Slopes >20% should be avoided (e.g., wherever possible, development should be located in areas where sustained slopes are less than 15%; development may not be allowed on slopes in excess of 25%); and
 - Homes shall be sited to avoid extensive areas of steep slopes immediately below the homesite where clearing may expose significant portions of the building.
- Education and enforceability of these hillside development provisions will also be addressed.
- The hillside around Square Lake W, which was previously within an M-GN zone and where development in the future (beyond the life of the Concept Plan) could potentially be visible from Eagle Lake, will be included in the Conservation Easement.

3. YERXAS/SQUARE LAKE E DEVELOPMENT

The Concept Plan will be revised to address development in the Yexas and Square Lake E Development Areas in the following ways:

- Change the zoning for Yexas from D-FRL-RF to something similar to D-GN.
- The uses allowed in Chapter 10 will be modified to allow those that are primarily intended to support the recreational and community use of this area. In particular, the provision allowing greater residential development after 10 years if no recreational lodging is developed will be removed from the Plan.
- A triggering mechanism will require the development of a long-range conceptual plan for Yexas and the surrounding Square Lake E. The conceptual plan will be based upon existing site conditions and will provide a diagrammatic indication of areas for future housing; commercial/mixed-use development; trailered launch site and related activities; recreational area; buffers; roads and parking areas; and related uses.

4. SUBDIVISION STANDARDS

In response to our discussions with LUPC Staff on subdivision standards in Chapter 10, the Concept Plan will be amended by allowing these provisions to “float,” meaning that the Concept Plan will incorporate the then-applicable subdivision standards from Chapter 10, as they may be amended by LUPC from time to time. Any such standards that conflict with standards specifically adopted in the Concept Plan, however, will not take effect.



5. CLUSTER DEVELOPMENT DIMENSIONAL REQUIREMENTS

The Concept Plan initially proposed to expand the dimensional standards that could be waived by the LUPC for cluster developments. In response to our discussions with LUPC Staff, the Concept Plan will be amended to delete these proposed changes.

6. FLOODPLAIN CHANGES OVER TIME

The Concept Plan will be amended to ensure that protective zoning for floodplains may change as new floodplain data becomes available, thereby ensuring compliance with federal floodplain insurance requirements.

7. USES IN M-GN AFFECTING PROPERTY OWNERS IN D-RS AREAS.

To further limit the impacts of forestry operations that may occur in the M-FRL-GN Zone on residential property owners in adjacent D-FRL-RS Zones, the Concept Plan will be revised to require – as part of a subdivision design – provisions to ensure that the subdivision includes a sufficient buffer to provide visual separation and some sound attenuation from future forest management operations.

8. MINIMUM LOT SIZE

In response to our discussions with LUPC staff on the topic of minimum lot size, the Concept Plan will continue to allow the minimum lot size to be 20,000 square feet, but only if the lot will be served by an offsite wastewater disposal system.

9. ASSURANCE OF PUBLIC BENEFITS

To provide greater assurances of public benefits, the Concept Plan will be amended in the following ways:

- The Concept Plan will outline the mechanisms for guaranteeing the long-term public access to the Cross Lake Boat Launch. This will include provisions for Irving's commitment to maintenance responsibilities, including who will operate the site, how public access will be assured, how the site will be maintained, and how the site will be managed.
- The Concept Plan is committed to maintaining public access to Van Buren Cove. Revisions to the plan will include mechanisms for maintenance of the beach and associated infrastructure; commitments to develop a site improvement plan (within 3 years); and commitments to improvements to the beach area to address water quality issues, access, parking, and site aesthetics.
- Based on feedback from the resource agencies, the hand-carry boat launch proposed for the northwestern end of Mud Lake will be removed from the Plan.



10. TRAIL ACCESS

The Concept Plan will be revised to clarify that, although Irving may close trails for safety or environmental reasons, the public will be guaranteed a consistent level of trail access throughout the life of the Plan and within the easement area.

11. CD AREAS

In response to our discussion with LUPC Staff on the Community/Economic Development areas, and recognizing the appropriateness of more dispersed commercial development in this area's rural context, the Concept Plan will be revised in the following ways:

- The overall size of CD-2 will be reduced to eliminate most of the areas that may contain wetlands (according to the NWI mapping). The Plan will keep 72± acres that a) are closest to the Sinclair Sanitary District and b) have some topography and therefore offer higher probabilities of better soils on a site-specific basis. The number of allowable lots for CD-2 will be reduced to 5.
- CD-3b and CD-3c will be eliminated from the Plan. The number of allowable lots for CD-3a will be reduced to 2. CD-3a will be retitled CD-3.
- CD-4 will be reconfigured to include a larger area of suitable soils to the west while removing areas of wetter soils to the east, resulting in an area of essentially the same size (approximately 73+/- acres). The Plan will also change the zoning in CD-4 from D-FRL-CI, which allows industrial development, to D-FRL-GN, which is more of a commercial zone that would also allow a variety of commercial and community uses that would complement the existing and future development along Route 161. The number of allowable lots will be reduced to 6.

12. LAND DIVISIONS

In response to our discussion with LUPC Staff on the topic of land division, the Concept Plan will be revised to address the following:

- The Plan will eliminate the traditional 2-in-5 exemption to subdivision reviews, thereby eliminating the threat of unplanned development throughout the life of the Plan.
- The Plan will be revised to make certain divisions more efficient by providing that the sale of all or part of development areas, the sale or expansion of camp lots, and the development of specified remote rental cabins, remote campsites, and publicly accessible water access sites shall not require subdivision approval.



- In addition, the Plan will be revised to require certain declaration elements to be recorded in the deeds for Plan parcels that advise the public of the application of the Concept Plan.

13. CONSERVATION EASEMENT

The Conservation Easement will be amended in various ways, including the following:

- The Conservation Easement will further restrict the allowable structures and uses that can be developed, including eliminating the potential for transmission lines, restricting the size of potential gravel pits, both individually and in the aggregate, eliminating the potential for water extraction to serve development areas, and restricting emergency structures in the easement area to within 1 mile of Square Lake West.
- The Conservation Easement strengthens the role of the easement holder in determining whether structures and uses will be allowed by expanding the requirements to obtain the holder's consent for gravel pits, roads, and utility structures. Consent shall only be granted upon a determination that the project minimizes the amount of protected property affected and minimizes any undue adverse effects on the conservation values of the easement.

14. SUSTAINABLE FORESTRY PRINCIPALS

The Conservation Easement will be amended to provide more information about how forestry will be conducted throughout the Plan area for the life of the Plan and in the area protected by the Conservation Easement in perpetuity, including the following:

- In response to our discussion with LUPC Staff and others on the topic of sustainable forestry principles (a.k.a. Outcome Based Forestry, or "OBF"), the Concept Plan will be supplemented in various ways to better illustrate the policies and metrics that will apply to forestry in the Plan area. This will include a table that compares the goals, policies, and outcomes of OBF with those currently used by the Maine Forest Service and others, as well as including anti-degradation and anti-backsliding provisions. Additionally, the plan will be amended to clarify that if the 5-year OBF agreement isn't renewed, or if the land is sold, any landowner would have to meet standards at least as stringent as the Irving OBF agreement.
- The Forestry Management Plan referenced in the Conservation Easement will be relocated from Volume 1 of the application materials to Volume 2. This will ensure that it is part of the Concept Plan directly, and not only included in the applicants' Petition. The Management Plan will also be amended to reflect the additional provisions outlined above.



15. ACCESS ISSUES

In response to our discussion with LUPC Staff on the topic of ensuring access to Square Lake W, which currently requires travelling over a state-owned roadway to reach by vehicle, the Concept Plan will be revised to include provisions for a reserved parking area to serve development at Square Lake W for those owners who would reach that development area by boat. The reservation of space will be triggered when a public access point is created at Square Lake E/Yexas. Construction will be triggered as part of the sale/development of lots at Square Lake W. In addition, the Plan will also include a provision for a boat landing to serve residents of Square Lake W who may chose to leave a vehicle at the aforementioned parking area.

16. SERVICE PROVISION

In response to our discussion with LUPC Staff on the topic of service provisions to the development areas (including emergency services and sewer extensions where applicable), we anticipate that these issues will be addressed at the time of application for subdivision approval. The amended Concept Plan materials will include a matrix showing the Irving-owned roads outside of development areas that will likely require upgrade and maintenance as part of future development proposals. Future standards may vary depending on how many units each road will serve.

17. ALLOWED USES

In response to our discussion with LUPC Staff on the topic of allowed uses, the Concept Plan will be revised in the following ways:

- The provisions of the P-WL Zones will be revised to allow development of remote rental cabins and remote campsites without a Plan amendment provided a) the developer can demonstrate that the structures will be built in uplands and b) the developer obtains a zone amendment.
- Remote camps, which were originally added in the M-FRL-GN zone as a use allowed subject to standards, will be deleted as a use listing.
- The term “marina” will be further refined to distinguish between private and commercial use. Commercial marinas will not be allowed in the D-FRL-RS zones. The new provisions will address allowed uses, prohibited uses, uses allowed as a special exception, limits on the number of boats, and provisions to minimize potential visual impacts on the associated waterbody.

18. RECREATIONAL BOATING NUMBERS

In response to our discussion with LUPC Staff on the topic of recreational boating numbers, an amendment to Appendix C – Evaluation of Recreational Resources will be provided to clarify the



methodology used to predict potential recreational impacts on the lakes within the Concept Plan area.

19. PHOSPHORUS

In response to our discussion with LUPC Staff and DEP Staff on the topic of phosphorus within the Plan Area, the following changes will be made to the Plan:

- CD-3b and 3c have been eliminated. The number of lots within CD-3a (now identified as CD-3) has been reduced from 4 to 2.
- CD-4 has been reconfigured and the number of lots has been reduced from 30 to 6.
- A study prepared by Stantec will be included in the Plan submittals to evaluate the potential phosphorus (“P”) export from development areas. Based upon comments from DEP Staff, the study concentrated on activity within the Cross Lake watershed, which includes the potential for residential development at Cross Lake A, B, C, D, and E, and Community/Economic Development activity at CD-3 and CD-4. The study evaluated the worst-case scenario for P sources from activities allowed under the Concept Plan (i.e., house lots, community commons, roads, commercial development, and new/upgraded roads). The study also considered the potential P export from non-Concept Plan sources (new/upgraded logging roads and homes built beyond the life of the Plan).
- The Plan will be revised to propose a system for Irving and the resource agencies to track anticipated P exports to Cross Lake so the net effect will be within the allowable limit set by DEP.

20. ROADS

In response to our discussion with LUPC Staff and DEP Staff on the topic of roads within the Plan Area, the following changes will be made to the Plan:

- The Concept Plan will be revised to clarify that road access rights for parcels must be identified and approved by LUPC prior to sale. All lots will be sold with deeded access rights out to a public road.
- The Concept Plan will be revised to specify that existing road/homeowner associations will be used wherever they exist and are functioning adequately.
- The Concept Plan will be amended to add, as part of subdivision review, a demonstration that roads will provide adequate access for emergency services, as



appropriate given the character of the specific development area.

- The Plan will include language that would require road access to Barn Brook Road prior to development of Long Lake C development area.

21. OTHER

- In response to a request from a LUPC Commissioner through LUPC staff, the amendment will include a map illustrating Irving ownership in the immediate vicinity of the Concept Plan area.
- The Concept Plan will be amended to provide the most recent Outcome Based Forestry Agreement #2015-1 between Irving Woodlands and the Maine Forest Service.



22. MAP AMENDMENTS

- The Concept Plan Maps will be amended according to the following table:

Map	Title	Adjustments to the Concept Plan Maps
5	Existing LUPC Subdistrict	Show shoreland zone (P-SL1) on Mud / Cross Lake Thoroughfare
6	Existing LUPC Subdistrict	Show shoreland zone (P-SL1) on Mud / Cross Lake Thoroughfare
21	Concept Plan Summary	The Conservation Easement (CE) (dark green) will be expanded to include three additional tracts to make a more continuous band around Square Lake. The area in the vicinity of Cross Lake Bog will no longer be included in the easement area. The map also shows several areas of dedicated open space as extensions of proposed residential development areas. Adjustments have been made to the Comm/Econ Development areas (CD-2, CD-3a/b/, CD-4). See details for Maps 22-26 below.
22	Development Areas: Detail Area A	<ol style="list-style-type: none"> 1. Include the small portion of undesignated shoreline and adjacent uplands at the north end of West Van Buren Cove Road into the Long Lake B residential development area. Also include the small section of shoreline south of Long Lake B to the boundary of Mud Brook into Long Lake B. These parcels will be restricted to open space, and will increase the area of Long Lake B to 76± acres. 2. Notes will be added indicating beach improvements at Van Buren Cove to address water quality issues, access, and site aesthetics.
23	Development Areas: Detail Area B	<ol style="list-style-type: none"> 1. Reduce the configuration and size of CD-2 to 70± acres. 2. Remove conservation easement surrounding Cross Lake Bog on the west side of Route 162 from CD-1 south to the boundary of CD-4 and the transmission line on the north side of Route 161 (approximately 1,950 acres). 3. Eliminate the Proposed Hand Carry Launch on Mud Lake.
24	Development Areas: Detail Area C	<ol style="list-style-type: none"> 1. Remove CD-3b and CD-3c. Rename CD-3a to CD-3. 2. Reconfigure CD-4 to include additional frontage along Route 161 and reduced frontage along Route 162. The area of CD-4 remains the same (73± acres). 3. Remove the conservation easement on the west side of Route 162 from CD-1 south to transmission line on the north side of Route 161. 4. Increase the size of the conservation easement to include land within 400' of Cross Lake west of West Side Road and south of the Cross Lake A development area (an additional 144± acres).
25	Development Areas:	Include the undesignated shoreline and adjacent upland



	Detail Area D	between Cross Lake D and Cross Lake E in the Cross Lake E development area as restricted open space. Increase the total area of Cross Lake E to 229± acres.
26	Development Areas: Detail Area E	<ol style="list-style-type: none"> 1. Increase the size of the Square Lake W development area to include areas of steep slope to the northeast of Square Lake W as restricted open space. Increase the total area of Square Lake W to 169± acres. 2. Adjust the conservation easement to include the land between the Eagle Lake Public Reserve Land and the Square Lake Road, (approximately 600 additional acres).
27	Proposed Land Use Zones: Detail Area A	<ol style="list-style-type: none"> 1. Extend the D-FRL-RS to include the small portion of undesignated shoreline and associated uplands at the north end of West Van Buren Cove Road. This land will be restricted to open space for Long Lake B Development Area. 2. In a similar manner extend the D-FRL-RS to include the small section of P-GP and P-WL1 at the southern end of West Van Buren Cove Road. This land will be restricted to open space for Long Lake B.
28	Proposed Land Use Zones: Detail Area B	<ol style="list-style-type: none"> 1. Reduce the configuration and size of the area designated as D-FRL-DG for CD-2. 2. Show the P-SL1 shoreland zone on the west side of the Mud/ Cross Lake Thoroughfare. 3. Eliminate Proposed Hand Carry Launch in Mud Lake.
29	Proposed Land Use Zones: Detail Area C	<ol style="list-style-type: none"> 1. Remove the D-FRL-GN designated on the east and west sides of Route 162 near the intersection with Route 161. 2. Change the designation of CD-4 from D-FRL-CI to D-FRL-GN. Reconfigure the size and shape of this area.
30	Proposed Land Use Zones: Detail Area D	<ol style="list-style-type: none"> 1. Extend the D-FRL-RS zone designated for Cross Lake E to the southern boundary of Cross Lake D. This area will be restricted to open space for Cross Lake E. 2. Retain the existing D-RS designation for the Cross Lake Boat Launch that was accidentally omitted from the application materials due to an error in the data layers.
31	Proposed Land Use Zones: Detail Area E	<ol style="list-style-type: none"> 1. Enlarge the D-FRL-RS designation for Square Lake W to include the land on the northeast side of Square Lake W to the southern end of the existing camp lots. This area will be restricted to open space for Square Lake W. 2. Replace the note on the west side of the lake to read: "D-FRL-RS to extend to the western side of the Square Lake Road and include existing camp lots." 3. Change the zoning for Square Lake Yexas from D-FRL-RF to D-FRL-GN.



33	Remote Campsites and Remote Rental Cabins	Change the conservation easement as described on Concept Plan Summary (Map 21).
34	Publicly Accessible Water Access Sites	<ol style="list-style-type: none"> 1. Long Lake – Van Buren Cove callout. Add a note re: improvements to the beach area to address water quality issues, access, parking, and site aesthetics. 2. Drop callout note re: Mud Lake Hand Carry Boat Launch. 3. Change color for Cross Lake note to indicate Existing Water Access Site. Remove 'Privately operated' from note.
35	Mud Lake Water Access Irving Ownership	<ol style="list-style-type: none"> 1. Drop this page 2. Create new map showing Irving-owned land in the immediate vicinity of the Concept Plan area.
36	Access to Development Areas	<ol style="list-style-type: none"> 1. Adjust Notes to eliminate reference to CD-3b and 3c. Change CD-3a to CD-3 in Notes and on map. 2. Adjust shapes of CD-2 and CD-4 as described above. 3. Eliminate CD-3b and 3c. 4. Add callout indicating general location of parking area for possible boat access to Square Lake W. 5. Add Note 3: Development of Square Lake W may require a dedicated parking area for possible boat access for Square Lake W residents in the general vicinity of Square Lake E. 6. Add connector road to gain access to western (lower) portion of Cross Lake E.
47	Back Lots: Square Lake	<ol style="list-style-type: none"> 1. Modify westerly limit of proposed D-FRL-RS zone to the west side of Square Lake Road. 2. Adjust note below Square Lake Road to read: "Limit of D-FRL-RS to be west side of Square Lake Road."

Sincerely,
The Musson Group

Noel Musson, Principal

cc: Service List