

**STATE OF MAINE
LAND USE REGULATION COMMISSION**

IN THE MATTER OF)	
FISH RIVER CHAIN OF LAKES)	Pre-Filed Direct Testimony of
CONCEPT PLAN)	Noel A. Musson
ZONING PETITION ZP 768)	

On behalf of Aroostook Timberlands LP, Allagash Timberlands LLC, Maine Woodlands Realty Company, and their operating affiliate Irving Woodlands LLC (collectively, Irving), Noel Musson is submitting this pre-filed direct testimony in support of a Concept Plan for the Fish River Chain of Lakes in northern Aroostook County.

I. QUALIFICATIONS AND BACKGROUND

My name is Noel Musson. I am a professional Planner and principal of The Musson Group, a planning and land use consultancy located in Southwest Harbor, Maine. I have been working as a professional planner for over 15 years, both as a municipal planner and as a private consultant. I have a BA in Political Science from the University of Maine and attended graduate school at the Edmund S. Muskie School of Public Service at the University of Southern Maine for an M.A. in Community Planning and Development.

As a professional land use planner, I have been involved in multiple land planning projects including residential subdivisions, commercial site plans, and associated permitting at the local, state and federal levels. In addition, I have worked with several municipalities throughout the state of Maine on a wide range of projects including downtown master plans, public access projects, comprehensive plans, and land use ordinance re-writes.

My current workload includes managing a multidisciplinary team to develop a Management Plan for the Katahdin Woods and Waters National Monument (with Terrence J. DeWan and Associates (TJD&A)), comprehensive plan updates for the Towns of Cutler and St. George, a community development and workforce housing plan for Grand Lake Stream

Plantation, and a Downtown Master Plan for the Town of Greenville (also with TJD&A). My resume is included as Attachment A.

II. INVOLVEMENT WITH FISH RIVER CHAIN OF LAKES CONCEPT PLAN

I have been involved with developing the Fish River Chain of Lakes Concept Plan since 2012. My work has included all elements of developing the Plan including working closely with Terrence DeWan on the siting of new development areas, developing the zoning, and drafting application materials. In addition, as project manager I have worked closely with Irving staff, coordinated with multiple team members and stakeholders, and been the primary point of contact for LUPC staff throughout the project.

III. POTENTIAL RESOURCE IMPACTS, MINIMIZATION EFFORTS & CONSERVATION

After careful analysis, starting with an understanding of the existing conditions (natural resource constraints, existing development, recreational uses, topography, soils, etc.) within the Plan area, our project team developed a Concept Plan that provides a balance between future development possibilities and conservation measures. When taken as a whole, The Fish River Chain of Lakes Concept Plan:

- Facilitates orderly development patterns by establishing development areas in locations that are both appropriate in terms of location and adequate to meet existing and future needs in the area.
- Avoids unnecessary fragmentation of the existing working forest caused by sprawling and haphazard developed allowed under the current rules (including, primarily, the 2-in-5 exception to subdivision).
- Promotes a future that maintains the working forest heritage while allowing for a mixture of complementary uses (commercial, recreational, etc.), rather than only allowing new residential development.
- Addresses the challenges to service new developments in remote areas including provisions for improving road access and consideration of emergency services during formal development phases.

- Includes up front and fully enforceable conservation measures that permanently protect and provide public access to over 14,750 acres and approximately 16.9 miles of shoreline within the Plan area.
- Responds to deficiencies in the existing Chapter 10 rules related to hillside development and requires the use of sustainable forestry principles to protect habitat and aesthetic values.
- Provides for continued public access to the lakes and to the entire Plan area for traditional recreational activities, including meeting an identified need for better public access to Square Lake.

Overview. Concept Plans are a form of rezoning that encourages long-range thinking at a landscape scale to specify the types and amounts of development that should be allowed in a given area and to protect both natural and recreational resources. The Fish River Chain of Lakes Concept Plan encompasses approximately 51,000 acres in northern Aroostook County. The Plan area includes land within 6 unorganized townships: T17 R3, T17 R4, Cross Lake (T17 R5), T16 R4, T16 R5, and T15 R5. The Plan area includes substantial frontage on Long Lake, Mud Lake, Cross Lake, and Square Lake, as well as frontage along the thoroughfares that connect these lakes. The Plan area also encompasses three smaller bodies of water: Carry Pond, Dickey Pond, and Little California Pond, as well as several named and unnamed streams. The Plan area is traversed by two State roads (Route 161 and Route 162) and a network of forest management roads. Petitioner's Exhibit 1 shows the location of the Plan area.

The planning process for the Fish River Chain of Lakes Concept Plan involved a multi-layered approach that examined the location of areas suitable for development, appropriate types and levels of development, suitable development standards and an overarching conservation framework. Our work included field observations, public meetings, and a thorough analysis of the physical (topography, soils, etc.) and natural resource characteristics (wetlands, streams, habitat, etc.) of the Plan area and development patterns (including regional services, existing roads, and infrastructure). When combined, the elements of the Concept Plan

will prevent haphazard growth, protect against or minimize potential resource impacts, and promote an appropriate level of conservation.

Location of Proposed Development Areas. One of the most important elements we considered when developing the Concept Plan was to determine the location of potential development areas. We sought to guide development away from areas where it would not be appropriate and toward those areas where it would be most appropriate. This perspective is supported by the Comprehensive Land Use Plan (CLUP), which states “[t]he principal development issue is not the amount of development taking place in the jurisdiction, but rather where it is located.”¹

To do this we started with a “landscape” perspective (e.g., where is the existing development already? What are Irving’s needs in terms of unfragmented forest blocks?) and integrated an understanding of existing resources (e.g., where are the natural and recreational resources and how can we avoid them or minimize impacts to them?), as well as site specific considerations (e.g., what is the feasibility of developing each development area given topography, soils, etc.?) into our planning. Information from Irving’s Unique Areas Program (which includes data from State and federal agencies and staff from the Irving organization) was instrumental in this process in identifying critical habitats, wildlife corridors, and other significant natural resources. See Petitioner’s Exhibit 8 for more information on the Unique Areas Program.

Types of Development. Another element of the Concept Plan was to provide the regulatory framework for allowing opportunities for a diverse range of uses – including seasonal and year-round homes, recreational lodging, remote campsites, and small businesses. This concept is also supported by the CLUP as a way to enhance and diversify the unorganized territories (UT) and the surrounding region.

¹CLUP, Chapter 4 page 125.

Through zoning, the Concept Plan specifies what types of uses will be permitted and in what areas those uses would be permitted. The zones within the Plan area include the following (see also Petitioner's Exhibit 9 for maps showing proposed zoning in the Plan area):

- **M-FRL-GN Zone.** This zone is modeled after the existing M-GN subdistrict. This zone was created to protect the existing traditional working forest uses and recreational activities with minimal interference from unrelated development. Therefore, the M-FRL-GN zone prohibits residential development and other uses that are not generally compatible with large-scale forestry operations and recreational activities. As a result, approximately 96% of the Plan area will remain in active forest management.
- **D-FRL-RS Zone.** This zone is modeled after the existing D-RS subdistrict and was created to permit uses normally associated with residential development. The D-FRL-RS zone encompasses 10 new development areas as well as the existing camp lots that are licensed or leased within the Plan area.
- **D-FRL-YX Zone.** The D-FRL-YX zone creates a framework to allow a mixture of compatible development within the Square Lake Yexas development area. The D-FRL-YX Zone is a new zone that does not currently exist in Chapter 10. Permitted land uses will include a range of residential and commercial uses, including recreational facilities that are compatible with the recreational nature of Square Lake. The zone is intended to encourage, but does not require, development of a recreational lodging facility at the site of the former Yexa's sporting camp, as well as a public or commercial trailered ramp to provide public access into Square Lake. Prior to development in this zone, a Schematic Design Plan will be required to illustrate how the zone will be developed. This process will include reserving areas for residential use, commercial activity, recreation facilities, public water access, parking for Square Lake W, and other facilities.
- **Commercial Zones.** The Plan includes a D-FRL-CI and 3 D-FRL-GN zones that will allow for a mixture of commercial development within the Plan area along the

Route 161 and Route 162 corridors. They are modeled after existing subdistricts in Chapter 10 as well.

- **Protection Zones.** The Plan also adopts all the protection zones that are already within the Plan area.

Amount of Development. As part of the planning process we evaluated the amount of development that would be allowed in the Plan area as a way to manage the intensity of development within specific areas. This is particularly important for the capacity of a development area to handle on-site subsurface wastewater. To understand this, we reviewed a soils analysis. In addition, we also evaluated the capacity of the existing systems/services, including solid waste, education, law enforcement, transportation, and emergency services. Responses from local service providers are included in Volume 1, Tabs 9 and 10 of the application materials.

Based on our investigations and communications with resource providers, we restricted the overall level of development that will be appropriate for each new development area and lake. The total number of new residential units that can be created during the life of the Concept Plan is capped at 330, many of which will be located away from the shore of the lakes. These units are distributed around Long Lake (maximum of 75 units), Cross Lake (maximum of 125 units), and Square Lake (maximum of 130 units). Based on early feedback from environmental groups and others, there is no development proposed on Mud Lake. Additional measures restrict the number of units that can be constructed in each of the new development areas.

We also compared our proposed levels to those which could be achieved using the existing regulatory framework. In contrast to our approach, under the current rules landowners are allowed to create 2 lots every 5 years in each township without subdivision approval. This allows for potentially unregulated growth that could result in dramatic changes to the Plan area. While this approach has traditionally been used to create the occasional camp lot, the 2-in-5 exception could result in significant number of new unregulated, residential lots over the 30-year life of the Concept Plan, most of which would probably be located on the

shore of the lakes. According to an analysis done by TJD&A for this project, at maximum build-out, given the large amount of land area included in the Concept Plan, the landowner could create more than 900 lots this way. Even a more limited scenario concentrating development along undeveloped portions of shoreline (much like the historic development patterns), could result in close to 200 new, unplanned lots over a 30-year period. An additional option would be for a developer to propose Level 2 subdivisions, as allowed in Chapter 10, which could yield up to 180 new lots in clustered developments off Route 161 in T17R4 Township and Cross Lake Township.

Overview of New Development Areas. By applying a multi layered approach we were able to identify 15 areas that could support some level of development, while also avoiding resources and minimizing fragmentation of the surrounding working forest. Of the 15 areas, there are 10 areas that are specifically zoned to permit residential uses, 4 that would allow commercial uses, and 1 that allows for a mixture of uses focused on supporting recreational activities and adjacent residential uses. Each of these is discussed below. See Petitioner's Exhibit 10 for maps showing Development area.

Residential Development Areas. The majority of the new development areas are sited in upland locations away from undeveloped shorelines and other sensitive areas. Most are located near existing similar development and have easy access to major public roadways (State Routes 161 and 162) or established forestry roads. The types of residential uses anticipated already exist on the Petitioners' land and on other lands surrounding Long Lake.

- **Long Lake.** There are 3 development areas on or near Long Lake - Long Lake A, Long Lake B and Long Lake C. All of the new development areas were sited to be adjacent to or within 500 feet of existing compatible developed areas. The Concept Plan limits the number of units for all 3 residential development areas proposed for Long Lake to 75.
- **Cross Lake.** The Concept Plan is proposing 5 residential development areas on or near Cross Lake – Cross Lake A, Cross Lake B, Cross Lake C, Cross Lake D, and Cross

Lake E. All of these areas were sited to be either adjacent to or within 500 feet of these existing compatible developed lots, within one mile over existing roads from existing compatible developed areas, or within one road mile of existing compatible developed areas if a road were to be constructed. The Concept Plan limits the number of units on Cross Lake to 125.

- **Square Lake.** The Concept Plan is proposing 3 development areas on or near Square Lake – Square Lake W, Square Lake E and Square Lake Yexas, which is discussed in the bullet below. There are approximately 19 lots within a one-mile radius of Square Lake W. Square Lake E is about 4.6 road miles (and 2.3 “as the crow flies” miles) to the nearest residential development, which surrounds the Cross Lake boat launch, picnic area, and beach at the end of Landing Road on Cross Lake, and approximately 5.4 road miles to Route 161. The Concept Plan limits the number of units on the lake to 130.
- **Square Lake Yexas.** The current D-GN zoning in the area occupied by the Yexas Camps already recognizes that development is appropriate in this part of Square Lake. The new Square Lake Yexas zoning refines this concept to reflect a mixture of uses that are more compatible with the recreational nature of Square Lake and that would support future residential development by creating a focal point for recreational and limited community services. Prior to development at Square Lake Yexas, a Schematic Design Plan (see discussion below) will be required to illustrate how the land will be developed, including reserved areas for residential use, commercial activity, recreation facilities, public water access, parking for Square Lake W, and other facilities. The zone is intended to encourage, but does not require, development of a recreational lodging facility, as well as a public or commercial trailered ramp to provide public access into Square Lake.

The following table summarizes the Residential Development Areas.

Area	Development Area Sub Caps	Approximate Size (acres)	Zone
Long Lake A	50	129	D-FRL-RS
Long Lake B	15	75	D-FRL-RS
Long Lake C	25	120	D-FRL-RS
<i>Development Area Cap for Long Lake: 75</i>			
Cross Lake A	30	110	D-FRL-RS
Cross Lake B	30	91	D-FRL-RS
Cross Lake C	30	57	D-FRL-RS
Cross Lake D	35	187	D-FRL-RS
Cross Lake E	60	229	D-FRL-RS
<i>Development Area Cap for Cross Lake: 125</i>			
Square Lake E	85	278	D-FRL-RS
Square Lake W	30	169	D-FRL-RS
Square Lake Yexas	67 (≤ 50 units in recreational lodging)	51	D-FRL-YX
<i>Development Area Cap for Square Lake: 130</i>			

Community and Economic Development Areas. The methodology behind the Community and Economic Development Areas (CD Areas) was to provide locations that would allow compatible commercial and industrial activities within the Plan area near existing similar uses and/or have direct access to either Route 161 or Route 162. This would reduce the potential for sprawl and forest fragmentation, while also promoting potential economic development that could provide services and jobs to the area.

- **CD-1** is approximately 281 acres in size and has direct frontage on Route 162. It is located within 500 feet of an existing commercial campground and, while technically outside the current jurisdiction of the Sinclair Sanitary District, it does abut their treatment facility, which may allow access in the future. CD-1 is 1.6 miles from the commercial services located in Sinclair. CD-1 will provide the opportunity for

commercial, industrial, or other forms of development that will benefit from easy road access, relatively level topography, existing woods roads, and proximity to an established village (Sinclair). The D-FRL-CI zone provides the opportunity for commercial and industrial uses that may not typically be compatible with residential uses in other zones. Development density in this zone is capped at a maximum of 30 lots.

- **CD-2** is approximately 72 acres with direct frontage on Route 162. This area has been reduced from the original submission to eliminate most of the areas that likely contain wetlands (according to the NWI mapping). CD-2 is still within close proximity to the Village of Sinclair. It is closest to the Sinclair Sanitary District and has some topography that indicates higher probabilities of better soils on a site-specific basis. The D-FRL-GN zoning for this site is modeled after the D-GN subdistrict, which permits smaller scale commercial development and also complements much of the existing commercial uses in the area. The number of allowable lots for CD-2 is limited to 5.
- **CD-3** is approximately 11 acres surrounding the existing commercial development on the southeast side of Route 161 that includes a general store, gas station, and a recently-installed electrical substation. This is essentially an infill area and could offer options for expansion or limited scale new development. CD-3 will be zoned D-FRL-GN, which allows for a variety of commercial uses that will complement the existing uses in the area. The allowable number of lots for CD-3 is limited to 2.
- **CD-4** is approximately 63 acres located less than 0.5 miles west of the existing commercial development on Route 161. It is immediately adjacent to a recently installed electrical substation at the intersection of Routes 161 and 162. Its southern boundary is the transmission line located on the north side of Route 161. As part of the planning process we have also included an allowance for the existing transmission line to expand by 200 feet in width. Zoning for CD-4 will also be D-FRL-GN that allows for a variety of commercial uses that will complement the existing uses in the area. CD-4 has been reconfigured based on feedback from Staff and

others to include a larger area of suitable soils to the west while removing areas of wetter soils to the east. The number of allowable lots is limited to 6.

The development potential within the CD areas was driven more by location than site suitability. The result is that some sites will be limited based on the high level soils analysis that we have conducted to-date. However, in reviewing adjacent development patterns (which are located on similar soils in most cases) and discussing options with our Soil Scientist, we concluded that each site would likely include inclusions of more suitable soils that could support development. These areas would have to be identified with site-specific analyses at the time of development during permitting. In addition, there are many engineering techniques commonly employed that could address soils limitations. We therefore sized the CD areas in such a way and placed limits on the amount of development to further the likelihood of successful development on these sites. Based on our continued conversations with LUPC staff and others, we made further adjustments to the CD areas to better account for site limitations and the culture of rural development within the unorganized territory

Development Standards. The Chapter 10 Addendum for the Concept Plan adopts the great majority of the existing requirements from the existing Chapter 10. However, through the planning process and continued discussions with LUPC staff we identified issues that were not adequately addressed through existing rules. These issues related more specifically to mitigation of development impacts rather than location, use or intensity of development within the Plan area. Therefore, we developed several new rules to address them, including:

- **Hillside Development Standards.** The existing hillside development standards were identified by staff as a deficiency in the existing Chapter 10. For the Concept Plan we worked with staff to add new standards to address this issue. First, we added standards that prohibit clearcuts in development areas that are within the viewshed of any lake within the Plan area. Second, development on hillsides will need to address visual impacts when viewed from public viewpoints, and minimize site clearing and vegetation removal. As part of an application for a new residential

subdivision the developer shall also 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 visual impact on scenic resources within and adjacent to the Plan area. See Petitioner's Exhibit 11 for proposed language on hillside development standards.

- **Schematic Design Plan.** Within the Square Lake Yexas development area, prior to the conveyance of any parcels, whether by sale, lease or otherwise, or any development, a Schematic Design Plan must be approved by the Commission. The purpose of the Schematic Design Plan is to provide an interim step for the Commission to review the general layout of the uses proposed for the Yexas Development Area, to discuss overall phasing of future development, and to identify issues that may pertain to the goals and objectives of the Concept Plan before making further investments into detailed development applications. The Schematic Design Plan process is intended to be conceptual in nature, but must contain enough information to guide how the zone will be developed in the future, and how the intended uses will relate to each other and the Square Lake environment.
- **Sustainable Forestry Principles.** The Concept Plan requires that all forest management activities be subject to sustainable forest management practices that are based on ecologically sound, economically appropriate, and socially responsible outcomes. The foundation for this is through the Outcome Based Forestry (OBF) program that has been authorized by statute at 12 M.R.S. § 8869(3-A). These standards include watercourse and wetland buffer requirements that meet or exceed current LUPC and DEP regulations, aesthetic timber harvesting practices to minimize the visual impact of harvest operations, maintenance of biological diversity to maintain healthy populations of flora and fauna, and promotion of overall forest health. See Petitioners Exhibit 12.
- **Forest Management Activities within Development Areas.** To manage the potential impacts of forestry operations that may occur in the M-FRL-GN Zone on residential property owners in abutting D-FRL-RS Zones, the Concept Plan requires as a part of a

subdivision's design provisions that a sufficient buffer is maintained or provided as visual separation and sound attenuation from future forestry operations.

Additionally, forest management within development areas will be required to use aesthetic management practices within identified areas around the four lakes that are highly visible (hillsides). Within these identified areas, selective harvesting techniques will be used to retaining the majority of the forest cover. The outcome is a harvesting operation that removed only 30% of the standing timber on an individual tree basis resulting in sufficient buffering to minimize visual impacts from ongoing forest management operations.

- **Roads.** While development areas were sited to provide a means of access from a main road to the new development area, there are also other road related issues that need to be addressed. To help plan for future road maintenance and management, the Concept Plan requires that future unit owners join road associations. The associations will have responsibility for managing and maintaining roads and associated stormwater management infrastructure. These associations may be combined in some cases with owners associations that may be necessary to manage common areas within subdivisions, such as water access sites. In situations where there are existing and effective owners or road associations already in place, every effort will be made to use such associations for these purposes. The plan also recognizes the need to make sure that roads are adequate to serve new development and associated access needs. Therefore, as part of any subdivision review the Concept Plan requires that the applicant demonstrate that roads will provide adequate access for emergency services, as appropriate given the character of the specific development area. The analysis will include access roads from the subdivision out to an existing public roadway, even if this extends beyond the boundaries of the subdivision being proposed. The level of such service shall be appropriate to the setting, and thus may vary throughout the Plan area. Given its remote character, the analysis to a public road will not be required for development in Square Lake West, although there shall nonetheless be required an analysis of the

feasibility to provide some level of emergency services to the area. See Petitioners Exhibit 13 for a map showing access to Development areas.

- **Water Access Sites.** The Concept Plan discourages multiple private docks along the shoreline for the new development areas. Instead, the Plan creates new rules that limit the number of water access sites that can be constructed to serve the new development areas. In addition, to mitigate the impacts from these common access points the Plan adds standards for property line buffering, parking areas, and visual screening from the water. See Petitioners Exhibit 14 for sketches that illustrate water access sites.
- **Back Lots/Lands.** Many of the existing camp lots are located in close proximity to waterbodies, are frequently nonconforming with current standards, and have less-than-ideal soils. The Concept Plan requires, for the majority of the camp lots, that when they are sold the lot will be expanded to include some additional land, referred to as a back lot. This additional land will make the camp lots less nonconforming and could be used for a variety of purposes, including siting replacement subsurface waste water systems outside of the shoreland zone. Furthermore, if adequate soils cannot be located on either the original camp lot or the new back lot, in most cases the landowner will be required to make available sufficient rights to site replacement subsurface waste water systems in back lands that may be located within 400 feet of the shoreline and up to 2,500 feet of the nearest boundary of the camp lot. This process will substantially improve the odds of locating suitable soils in areas farther from the lake and outside the shoreland zone than current rules would allow, thereby allowing for potentially beneficial redevelopment of camp lots, while providing greater protection of water quality in the Fish River Chain of Lakes.² See Petitioner's Exhibit 15 for a graphic illustrating the

² While the great majority of camp lots would be eligible for back lots and access to back lands, in some cases, because of site-specific factors, it may not be practicable or even necessary to do so. For example, camp lots that have at least 40,000 square feet are already conforming, and thus will not need back lots. In other cases, the configuration of nearby camp lots precludes the addition of back lots or the camp lot is not actually located on the shoreline of a water body. Regardless, all camp lots will still have to meet all applicable requirements for

back lot provisions. Maps 40 through 47 in the application materials address back lots more specifically.

- **Phosphorus Budgets.** Due to existing water quality issues caused primarily by activities outside the Plan area, including agriculture, the impact of development on lake water quality was determined to be more sensitive on Cross Lake than on the other lakes in the Plan area. Because of this, the Concept Plan implements a phosphorus control plan to help protect the water quality of Cross Lake that accounts for an upper limit of 125 residential units in the 5 Cross Lake development areas, full build out of the two CD areas in the Cross Lake watershed, impacts from current and anticipated forestry operations, including road building, and even possible future residential development in other areas within the Cross Lake watershed after the Plan expires. The phosphorus control plan adopts a budget set by Maine DEP for the total amount of phosphorus export to Cross Lake that will be protective of water quality and cannot be exceeded from lands owned by Petitioners. The total phosphorus budget will be managed by Petitioners, but carried out through permitting by LUPC and MDEP, by allocating portions of the overall budget for Cross Lake to various residential and community/economic development areas in the Cross Lake watershed. Once the budget is reached, no further development in these areas will be permitted. Irving and future developers will also have the option of mitigating phosphorus export by requiring steps to manage phosphorus, either within development areas (such as through the use of vegetated buffers) or in areas outside the development areas (such as restoration projects that reduce export from roads or other developed areas), so long as the total export numbers remain below the allocated budget for the Petitioner's portion of Cross Lake as a whole. See Petitioners Exhibit 16 for an illustration of the phosphorus allocation for the Cross Lake watershed.
- **Commercial development near roads or residential uses:** The Chapter 10 Addendum contains provisions to mitigate potential scenic impacts from CD areas

replacement subsurface waste water systems, including those of the Department of Health and Human Services, which licenses their installation.

that have frontage on 161 and 162. This includes reducing the maximum height limit to 35 feet for any structure located within 250 feet of the travelled portion of Route 162; establishing a minimum setback of 100 feet for most structures from the travelled portion of Route 162; and requiring a buffer strip to minimize the visual impacts on surrounding uses.

- **Land Divisions.** The Concept Plan substantially revises the lot creation rules to eliminate the potential for haphazard, unplanned development through use of the traditional exception allowing the creation of two lots every five years without subdivision approval. The new rules eliminate the two-in-five exemption, as well as some of the other traditional exemptions, by redefining a subdivision for purposes of the Concept Plan as the division of an existing parcel into two or more lots, whether by platting, sale, or lease.

In sum, the Concept Plan proposes zoning that will allow for well-planned, measured growth in the Plan area that is diverse, limited, and controlled, and is therefore appropriate for the region. The Concept Plan also limits the intensity of development that could occur on Long, Cross, and Square Lakes by placing restrictions on the total number of residential units that could be constructed on each lake over the life of the Concept Plan and eliminates the potential for new residential development on Mud Lake.

Conservation Framework. To balance the allowable development outlined above, the Concept Plan proposes a comprehensive landscape-scale conservation framework that protects against threats to the natural and cultural resources within the Plan area, preserves and improves public access, provides strict land use regulation, and includes a significant Conservation Easement. These measures more than outweigh the limited additional development allowed under the Concept Plan. See Petitioner's Exhibit 17 for a summary of development and permanent conservation statistics.

The following is a list of fundamental conservation elements of the plan.

- **Maintain Public Access to the Plan Area.** Public access to the woods, ponds, streams, and lakes in and around the Plan area is a way of life in this part of Maine and this concept of equitable access is an important theme in the Plan. Boating, fishing, hunting and other forms of traditional low-impact recreational activities will continue to be allowed throughout the life of the Plan (and, in the conservation easement area, in perpetuity) in over 96% of the entire 51,000 acres. The Plan also includes provisions to allow for remote campsites and rental cabins to provide opportunities for future recreational access in the Plan area and the continued allowance of motorized access (cars, trucks, ATV's, snowmobiles) using established rules will maintain the tradition of accessibility for all types of recreational user groups.
- **Public Access to Lakes.** Another form of equitable access is to ensure that the public can have access to the lakes. The Plan has several provisions for access including commitments to maintain public access, maintenance and management planning for Van Buren Cove and Cross Lake Boat Launch. For the beach at Van Buren Cove the Plan commits to develop a site improvement plan in cooperation and coordination with the current leaseholder (Town of Van Buren). The plan will be designed to support public access, address water quality, and improve the aesthetics of the beach area. For Cross Lake, the Plan outlines the mechanisms for guaranteeing long-term public access to the Cross Lake Boat Launch and includes 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. For Square Lake, the Concept Plan has provisions for development of a public launch.
- **Establishes Permanent Fully Enforceable Conservation Easement.** The Concept Plan establishes a 14,750± acre working forest conservation easement over more than 28% of the total Plan area. The conservation easement was developed to include large blocks of diverse landscapes including upland areas, significant wildlife habitat

(eagles nests, deer wintering areas, etc.), smelt streams and smelt habitat, unique areas such as Limestone Point, and a significant amount of undeveloped shoreline. There are 34.5 miles of shoreline owned by the Petitioners within the Plan area. Of that, 9.4 miles are already developed/occupied and 25.2 miles are undeveloped. The Concept Plan allocates approximately 2.6 additional miles of shoreline for potential development, making the total developed shoreline within the plan area approximately 12 miles (or 35% of the total shoreline). Of the remaining 22.6 miles of undeveloped shoreline, the Concept Plan places 16.9 miles within a permanent Conservation Easement, which is almost half (49%) of the total shoreline in the whole Plan area and 75% of the remaining undeveloped shoreline. Of the remaining 5.7 miles of undeveloped shoreline, 1.3 miles have been designated as Permanent Open Space that will be incorporated into future subdivisions (see earlier discussion). See Petitioner's Exhibit 18 for a map illustrating the proposed easement area and existing mapped resources.

Through our discussions with Staff and the proposed holder of the easement, Forest Society of Maine (FSM), the conservation easement has been improved in various ways, including the following:

- Based on feedback from FSM, the layout of the conservation easement was modified to include larger, unfragmented forest blocks using boundaries that will be readily identifiable in the field to maximize its ecological value and to improve the ability of the easement holder to monitor the protected area.
- Further restrictions were added on 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. This is in addition to the

restrictions that already prevented all residential development and most types of commercial or industrial development.

- The role of the easement holder was strengthened 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 and otherwise requiring that any development be consistent with the conservation values of the easement. 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.

Noel M

Noel Musson

Date: May 2, 2018

STATE OF MAINE
COUNTY OF HANCOCK

Personally appeared before me the above-named Noel Musson and made oath that the foregoing is true and accurate to the best of his knowledge and belief.

Dated: 5/2/2018

Robert Selfry

Notary Public



My commission expires:

10/20/22

ATTACHMENT A



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NOEL MUSSON Planner • Principal

Noel Musson has over a decade of experience working on planning, economic development, and permitting projects. Over that time he has worked with a range of clients from both the public and private sectors. Mr. Musson holds a MA in Community Planning and Development from the Edmund S. Muskie School of Public Service at the University of Southern Maine, and a BA in Political Science from the University of Maine.

As a professional land use planner, Noel has been trained to identify strategic alternatives to development issues through a comprehensive understanding of the physical and natural landscape, community trends and desires, and economic conditions. Noel has a participatory planning approach that involves clients, government officials, citizens, and other experts in creating livable and sustainable projects. He has experience with multiple regulatory sectors (state, regional, local), downtown revitalization projects, coastal harbor planning, grant writing, land use studies, code review, permitting, and project management.

Noel is an expert in relating complex issues to the public and managing projects from conception to completion. He is a trained facilitator and has is experienced using Geographical Information Systems (GIS) and other tools to help explore land use trends and analyze development opportunities.

Prior to establishing The Musson Group, Noel was a Project Manager and Planning Manager for CES, Inc., a state wide multi-disciplinary engineering firm. In this role, Noel oversaw all aspects of the company's planning and economic development business unit. Noel served as Branch Manager for the company's offices on Mount Desert Island and Auburn and was the Marketing Director for the company. In these roles, Noel was responsible for office staff, quality control, and business development and marketing initiatives. As the Planning Director for the Town of Harpswell, Noel helped establish the town's first planning department. He was responsible for administering the Town's Land Use Ordinances, code review with the Planning Board, staffing other town committees, and for developing the town's GIS database. Noel grew up on Mount Desert Island and has a lifelong connection with the coast of Maine and Acadia National Park.

EDUCATION

- Masters in Community Planning and Development
Edmund S. Muskie School of Public Service, University of Southern Maine
- BA, Political Science
University of Maine



PROFESSIONAL BACKGROUND

- Principal/Owner at The Musson Group: June 2012 to present
- Project Manager/Planner/Branch Manager at CES, Inc.: July 2004 to June 2012
- Marketing Director at CES, Inc.: 2005 to 2009
- Planner for Town of Harpswell, Maine: 2002 to 2004
- Part Time Planner for Kennebunk, Maine: 4 mos
- Land Use Team Intern at Maine State Planning Office: 9 mos
- Planning Intern for Regional Planning Commission: 4 mos
- Forum Coordinator for Harvard University's Institute of Politics: 1 yr
- Program Coordinator for Kennedy School of Government Executive Programs: 3 yrs
- Case Worker for a US Congressman: 1 yr

CERTIFICATIONS

- Certified Community Development Block Grant Program Administrator
- Certified MaineDOT Local Project Administrator
- Facilitative Leadership: Maine Institute of Civic Leadership

PROFESSIONAL MEMBERSHIPS

- Member, Maine Association of Planners
- Member, Northern New England Chapter of the American Planning Association
- Member, American Planning Association
- Board Member, Harbor House Community Center