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Memorandum

To: Commissioners
From: Samantha Horn Olsen, Planning Manager
Stacie Beyer, Senior Planner
Date: February 4, 2016
Re: Subdivision Rule Review, Location Discussion

Introduction and Focus Groups: The Commission is currently evaluating and rewriting its subdivision standards. The framework for working through the issues is illustrated in the figure on page 6. Currently, the Commission is preparing to move from the discussion of *standards, subdivision types and layouts* into a discussion of *location*. (In other words, where in the Commission's service area could someone locate a subdivision?)

At the December Commission meeting, staff updated the Commission on the progress of stakeholder focus groups. In these groups, stakeholders reacted to concepts about possible subdivision objectives, layouts and standards. Those focus groups have now concluded, and a summary of the focus group comments is attached to this memo, along with a revised set of objectives and design practices. The focus group process was valuable, and staff have learned important information and received excellent suggestions for new or improved "tools". The feedback was often from stakeholders' direct experience with the issues at hand and will improve the outcome. We appreciate the time and effort that the participants contributed.

One of the biggest changes was to separate objectives that are relevant across large areas from those that are relevant at the site scale. Using the same objectives and tools to address both of those scales at the same time can lead to confusion. Separating them will make it easier to design clear, efficient, and simple policies and regulations. This change has been made by rewriting the objectives into two groups that are labeled as such in the attached materials.

The "Regional/Statewide Scale Objectives" are newly drafted, and have not been through a

comment process with stakeholders, and therefore are likely to undergo substantial revisions as we continue our work. However, because these objectives are so intertwined with the issue of the location of subdivisions, it will be most productive to address them in the next phase of the process – the location discussion. One of the clear lessons of the focus group process was that there are a diversity of settings in the Commission’s service area, and a “one-size-fits-all” approach will not work. The considerations for both the location component and the layout and design component of this process will need to provide for flexibility based on the diverse subdivision development types and settings that require different regulatory and design approaches.

The Local Scale Objectives and design practices have had greater review. There are adjustments to continue to make here – for example, to make clear that the practices are a menu of items, and not a checklist for all subdivisions, and that on-site open space is not necessary or desirable in every case – but there seems to be agreement about many of the principles embedded in this set of objectives and practices.

Staff circulated the summary of focus group comments and the redrafted objectives and design practices to the focus group participants. The feedback we received indicates that the specific comments in the summary document seem to be an accurate reflection of the conversations. Regarding the redrafted objectives and practices, several landowner representatives submitted comments expressing concern that the document does not adequately capture the need for additional flexibility and opportunity for subdivision development. Their clear message is their desire for increasing the area where subdivisions are allowed without rezoning and reducing the regulatory burden associated with subdivision permitting. (These comments are included in Attachment 3) As one commenter notes, the objectives can be read in different ways depending on the lens through which they are viewed. Overall, staff’s intent is that they help establish a framework to provide for additional development potential in more areas and new flexibility for different types of subdivision development, and to do so thoughtfully – in a way that encourages appropriate residential, recreational, commercial and industrial land uses; that encourages and facilitates regional economic viability; and supports and encourages Maine’s natural resource-based economy and strong environmental protection. Staff will continue to work with stakeholders to refine the wording of the objectives so that they are as clear as possible going forward.

Location Discussion: Now that the focus group process is concluded, the Commission has the underlying information to turn to a discussion of *location* of subdivisions. The next question is how best to do so. At the outset of the subdivision rule review process, the intent was to improve the Commission’s subdivision layout and design standards, but not to examine or address adjacency as it relates to subdivision development. For example, there was a recognized need to review the community center concept and to provide for greater design flexibility within the Commission’s rules. Following the initial stakeholder meetings, the Commission was convinced

that there was a need to address location, which was to be addressed through review of those layout and design standards that influence subdivision location, or through creation of new zones that work within the existing adjacency framework. Among the topics for consideration was amending the level 2 subdivision standards by adding to the list of level 2 townships or modifying certain requirements such as the one that a level 2 subdivision must be located within 1,000 of a public road. The possibility of establishing a larger lot layout option and accompanying zone also was identified early in the process. This type of design option, for example, could allow subdivision development consistent with the historical application of the adjacency principle at a density similar to existing, dispersed camps developed on a 2-in-5 basis. A number of stakeholders, however, have indicated that examining the question of where subdivisions may be developed without also discussing revisions to the application of the adjacency principle will be too limiting. In other words, in their view, adjacency is a central, if not the primary, issue here.

Adjacency: The Commission's stated intent in taking on this project was to deal with subdivision layout and design and improve the permitting process. Limiting the project's scope in that manner and deferring a discussion of adjacency until the layout and design standards are revised, however, may not be the most efficient and effective approach for the Commission to address these two important and related issues, subdivision development standards and subdivision location. Nor is working through layout and design standards without also addressing adjacency and its shortcomings as historically interpreted and applied to subdivisions likely to be satisfactory for many of the stakeholders. Now appears to be the time to examine and refine the adjacency principle.

If the Commission chooses to take on refinements to the adjacency principle, it is important to acknowledge the significance of such a decision. The adjacency principle is one of the fundamental elements of the Commission's planning for development, and revising it should be done thoughtfully.

With regard to the [statutory] criterion that zoning changes be consistent with the Comprehensive Land Use Plan, past plans have expressed the need to encourage orderly growth within and proximate to existing, compatibly developed areas particularly near organized towns and patterns of settlement. The Commission's application of this concept has evolved over its history in response to changing trends and growing appreciation for the often counterproductive fiscal and economic impacts of dispersed development. The requirement that new development should be located near existing development is referred to as the "adjacency" principle. The Commission has generally interpreted adjacency to mean that most rezoning for development should be no more than one mile by road from existing, compatible development¹ — i.e., existing development of similar type, use, occupancy, scale and intensity to that being proposed, or a village center with a range of uses for which the proposed development will provide complementary services, goods, jobs and/or housing. (2010 CLUP, p.62)

¹ The Commission recognizes that there are certain instances in which a greater or lesser distance may be appropriate in measuring distances to existing developments.

In the 2010 CLUP, it is acknowledged that the 1 mile by road rule of thumb is a rough tool that both could and would be improved upon. (See, e.g., CLUP, p.128.) Now is an opportune time to make these improvements with regard to the location of residential subdivisions and other development activity. There is substantial information in the statute and the CLUP as to the purposes that the adjacency principle should serve. We have the tools we need for a good discussion about reworking adjacency, and it is certainly possible to make improvements so that rezoning for development can be applied in a manner that produces better results, including an overall increase in the land available for subdivision and other types of development, ensuring predictability as to where rezoning is or is not likely to succeed, and elimination of the rezoning step for different types of development in some areas.

Coordinated approach: When thinking about the interpretation and application of the adjacency principle, and therefore where certain types of development could be located, it is helpful to think about all types of development at once, rather than only certain types in isolation. This allows for better consistency in the Commission's thinking and equal consideration and fair treatment of all development types. For example, if we think about where subdivisions might go without also considering where commercial and industrial development might best locate, we could be losing economic development opportunities by locating residential areas in the places that are better suited to more intense development. Similarly, we could foreclose opportunities for coherent residential subdivision development by encouraging recreation infrastructure in places that would be more suitable for residences.

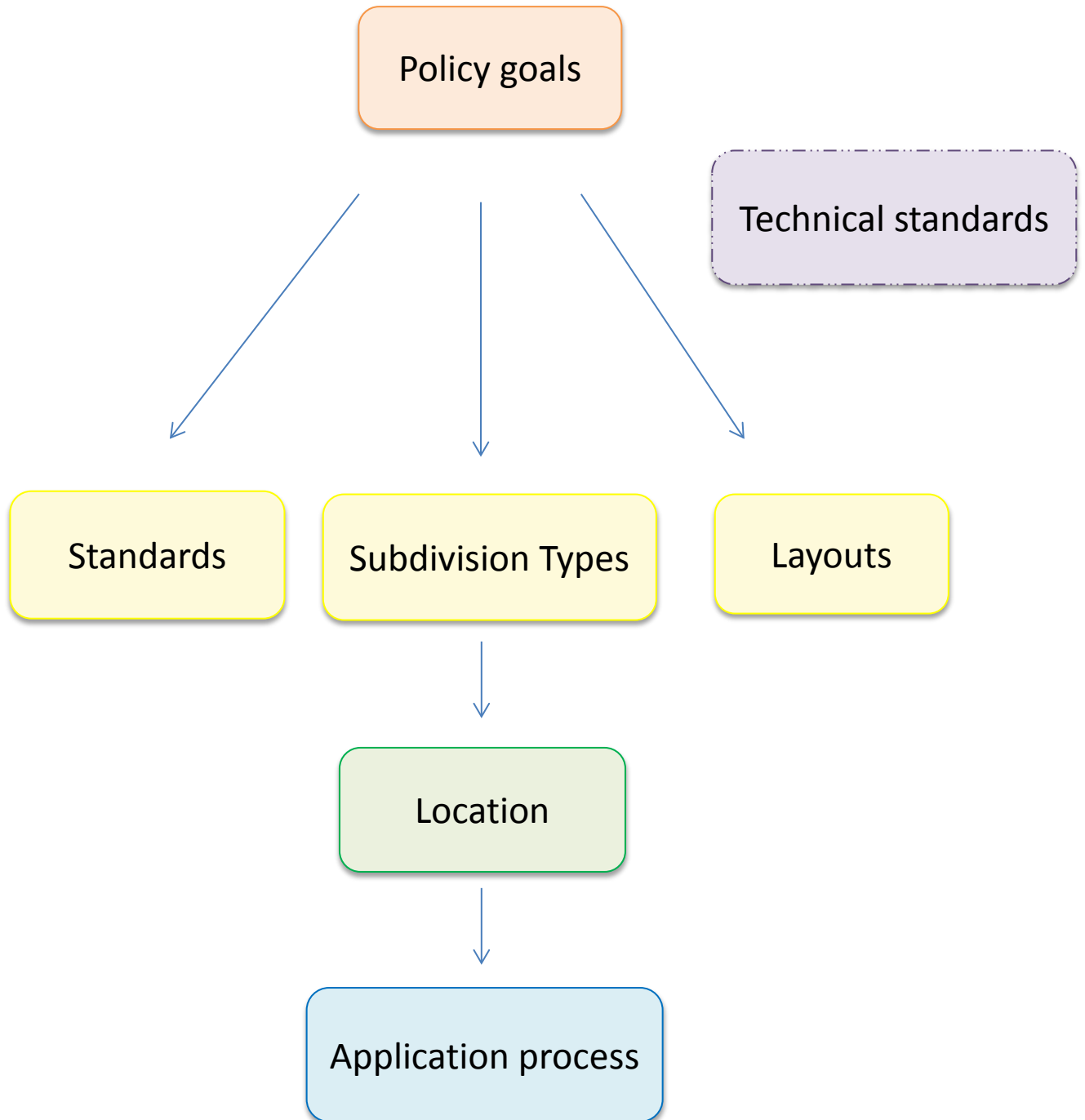
If we do not adopt a coordinated approach, we risk having a fragmented and potentially more complicated and confusing policy with regard to location. The Commission has already done a substantial amount of thinking about location in addressing recreational lodging and Aroostook County small business. We can capitalize on that work and also bring in information about residential development, recreation infrastructure development, forestry and agriculture-related businesses, and other commercial/industrial development and needs, as well as natural resource information. Bringing these pieces together is likely to yield a simpler, better, more durable product than only addressing one development type at a time.

Work on standards will continue: During the time that the Commission is actively working on location issues, staff will continue to work in the background to further develop the subdivision layout and design concepts that have been vetted with stakeholders. Staff will collaborate with individuals or small groups in developing the standards. Sometimes, having well-thought-out standards can provide assurance that more development or more types of development can be allowed in a given area, while still protecting the resources that make the place unique and valuable. As an example, we have prepared some information about the concept of a sketch plan phase for subdivision review, and a tool we are developing to make it easy for landowners to prepare a sketch plan. Such a tool would potentially help allow subdivisions in more locations

while also assuring that they are a good fit for the area. The background on that process is included in this memo at page 7.

Next steps: As we move to the discussion of location, staff recommends that we broaden the scope of the discussion and develop a refined interpretation of adjacency for all types of development. While looking at more than just residential subdivisions when evaluating the adjacency principle would add to the existing project, staff could begin immediately and continue with public stakeholder work in April. As noted above, some work on revising the subdivision rules could continue in the background, although likely at a slightly reduced pace. Should the Commission not wish to comprehensively address adjacency at this time, the staff could continue with the layout and design regulation changes and address location to the degree possible within the existing adjacency interpretation. Although possibly less time intensive, this approach may leave some important issues unresolved and prove unsatisfying to the stakeholders who expressed the most interest in the regulation changes to begin with. Alternatively, staff could work with the Commission to address adjacency solely in the context of residential subdivisions, recognizing this more piecemeal approach may have the limitations noted above. Staff will look for direction from the Commission at the February meeting.

Proposed Subdivision Rulemaking Process



Staff and Stakeholder Work on Subdivision Design “Tools” Example: Sketch Plan Process

Introduction

In the research that has been done for the subdivision rule review process, staff has received extensive feedback on the layout and design of subdivisions; key points for the discussion at the February Commission meeting include:

- Real estate agents acknowledged that undeveloped lots that fit well with the landscape have a better chance of success in the market.
- Landowners and design professionals indicated that it is important to get early input from the LUPC on proposed subdivision designs to improve efficiency and reduce frustration during the application review process.
- Most design professionals including land surveyors currently utilize early, conceptual plans (sketch plans) in their process for designing a subdivision.
- Landowners and professional design consultants raised concerns about the potential burden and cost associated with development of a detailed sketch plan, especially for small projects.

Municipalities typically include a sketch plan review step in their review of subdivisions with varying degrees of submittal requirements. However, the LUPC has not formally had that step in its review procedures.

Sketch Plan Review

Staff has done preliminary research on what could be involved in a sketch plan review step and how that step could work in the UT. A big focus has been on the concerns about burden and cost. A majority of the information that surveyors and engineers are using to develop early, internal conceptual plans comes from digital data that is readily available on the internet for mapping purposes to those with access to ArcGIS geographic information system software. However, most landowners interested in developing a small subdivision and receiving early input from the LUPC before incurring the costs associated with hiring a consultant, do not have access to the data or tools to use it. Therefore, LUPC staff started exploring options that would:

1. Allow landowners direct access to the sketch plan review step,
2. Ensure sketch plans have sufficient information for productive early input on conceptual designs, and
3. Minimize burden and cost for the landowner.

Subdivision Sketch Plan Web App

The idea that we are currently working on is a web-based application for sketch plan development. It is a mapping tool with built in data layers that could be accessed from the LUPC website by anyone with an internet connection. It would allow a landowner to navigate to their parcel, view the data, and sketch out a very conceptual subdivision design. The tool would have similarities with hand sketches that certain municipalities allow, but with the benefit of also showing resource information for the site. This tool is in the very early stages of development, but Staff would like to provide an informal introduction, so the Commission can visualize this potential option as further discussion in the subdivision rule review progresses. At the meeting we will provide a table showing what data we would like to include in the tool, the data source, and the current status of obtaining and incorporating the data. We recognize no decision on the use of a sketch plan review step or the sketch plan tool in subdivision review has been made. However, the step and the tool might solve many issues that have been raised in the subdivision rule review process in a way that is not too burdensome on applicants and landowners. The demonstration of the tool is meant to be an informal presentation for the Commission's information, but this may have a place in the final product for subdivisions.

Attachments:

1. Summary of Comments from Focus Group Meetings
2. Subdivision Objectives and Design Practices – revisions and original text
3. Comments on Revised Objectives and Design Practices

Subdivision Rule Review, Location Discussion

Attachment 1

Summary of Comments from Focus Group Meetings

LUPC Subdivision Rule Review

Summary of Comments from Focus Group Meetings Subdivision Design Objectives and Design Practices

General Comments

Should adjacency be addressed for subdivisions separate from the larger discussion of the issue?

Should the LUPC encourage, in its subdivision objectives, locating subdivision development in or at least adjacent to rural communities that have set goals for population growth?

Should there be an objective that considers the needs of/ impacts on small businesses in the design of subdivisions?

Should LUPC encourage more development on/ close to existing roads to minimize impacts on un-fragmented habitat, the cost of road maintenance, and burden on the County? If yes, which objective should address this?

The focus appears to be on seasonal development; shouldn't the LUPC encourage more year-round development in the UT?

Should the LUPC be encouraging more lease lots and remote camps in places where permanent subdivisions aren't appropriate?

Should the objectives for high value resources and recreational resources be combined?

LUPC should tie the objectives to values that are unique to the UT; those that make it different from the OT.

The UT has a lot of land – LUPC shouldn't treat the UT as a limited resource, because it is not.

The rest of the discussion won't matter if subdivisions can't be developed on land that is currently not adjacent to other similar development.

Zoning already takes care of protecting public resources.

There are public values associated with land in the UT that need to be considered.




LUPC's role is to protect public resources balanced with private landowner rights.

Landowners need more flexibility to design for the market and they need additional area where subdivisions are an allowed use.

There are no objectives on the list that address the needs of existing small businesses in the UT.

Subdivisions can impact rental cabin businesses; recreational users do not need to rent lodging once they purchase a lot for themselves. This also impacts guides and the likelihood they will be hired.

Anything that will make permitting and constructing a subdivision more cost effective will positively affect the value of appraisals, which is helpful regardless of whether the landowner wants to actually develop. If subdivisions are too expensive to permit and construct, then kingdom lots become the highest and best use.

-  Key policy questions
-  Other comments relative to the objective
-  New ideas/ additions for consideration

The objectives are missing a reference to “utilizing sound planning principles.”

Consideration for locating subdivisions within an appropriate context should be included up front.

LUPC should encourage the use of a subdivision design process in which high value resources are identified up front.

Construction of permanent structures should be restricted in some areas.

Quality Subdivision Design

Objective:

Should LUPC look at scale in deciding how to address subdivision development and rule revisions?

Should the objective ensure a design is responsive to the market or just ensure standards do not prevent marketable designs?

Are there other aspects of minimizing failed subdivisions that are not a function of marketability?

This objective lacks clarity on what it is intended to address.

Are people moving to the UT looking for quality subdivision designs?

People move to the UT for privacy not community.

Failed infrastructure is a function of marketability.

The current rules force subdivision types that are not marketable.

Flexibility for how lots can be developed is important to marketability in the UT.

Are marketability and adequate infrastructure two separate objectives?

Marketability should be what the landowner says is marketable.

The market varies by region and time; referring to it as a single thing is not appropriate.

Large lots should not have building envelopes – it is important for marketability to retain flexibility.

There needs to be more incentives for small subdivisions.

Part b of the objective is important to focus on in the UT.

Part b of the objective should be deleted.

Get rid of the word “quality.” What does it mean? There is more to a quality subdivision design than what is listed. The word “quality” should be in the title for the list of all objectives.

The objective should include “not at the expense of core values and guidance in the CLUP.”

Quality design includes a) marketability, b) infrastructure, and c) design resiliency for extreme weather events.

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

The rules should focus on the current market, but also look at where the market could be 3 years from now.

After a) in the objective, add “in part” responsive to the market and strike language on privacy.

Strike the “minimizing failed subdivision” language, because it is a function of marketability.

Is the primary concern for marketability minimizing failed infrastructure?

If the ultimate goal of this objective is to minimize burden on surrounding property owners and the community, the objective should be reworded to give that more weight.

The first objective needs language to encourage placing these developments in locations that minimize impacts to large blocks of undeveloped land. Remoteness and very large blocks of open land is what makes the UT so special.

This objective is missing “takes into account where high value resources are located on and adjacent to the subdivision.”

The objective does not address the issue of impacts from failed infrastructure on the natural resources that brought people there. Infrastructure needs to be properly located and designed to protect natural resources.

The LUPC should add provisions for designing and maintaining infrastructure to protect water quality and addressing extreme weather events.

The words “maintains or improves property values” should be added to the objective.

Designs should protect neighboring property owners’ privacy as well as that of the lot owners.

This objective applies to all subdivision design options, but design practices to meet the objective do not cover all layout options.

Design practices:

LUPC should require land owners to have a sketch plan review, explicitly stating that engineered plans are not acceptable as sketch plans; it should be tied to allowing subdivisions in more areas without rezoning.

The Commission should consider some type of standards for the quality of the buildings as well as the subdivision infrastructure.

Can CLUP discussions, e.g. Transfer of Development Rights and other implementation strategies be brought into the process?

Depending on the county, much of the waterfront may be gone and buyers are moving to back lots with water access. In other places, there is still waterfront left and it is often selling.

Lot owners do not want people behind them, or to have lots between them and the water.

It is better to have lots set back from the water and have common lots for lot owner access to the water to keep the cost of lots down and minimize driveways near the water.

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

Linear lot placement with gaps is appropriate in certain circumstances. Some suggestions were in rural areas not close to larger service areas, or class 3 and 7 lakes.

Large lots in a line have limited impacts on resources because there is so much frontage associated with that layout.

Do not impose layout standards from Southern Maine, unless the area is already heavily developed.

Density limits could be established by zone. Where density is higher it makes sense to care about layout.

The Commission should consider model language for deed covenants

Existing Character

Objective:

How is existing character defined?

Protection of existing character is most important in open, more visible areas.

Owners of more expensive lots will care more about character and vice-versa. There will be more variation on lower priced lots.

People will want flexibility in what they can do on their lot.

Camps in remote areas match existing character in the UT.

Less dense development may fit harmoniously in the UT

Extending public access into some areas of the UT could change its character.

This objective is subjective; it needs more specifics and examples for clarity.

This objective is missing language on “fits with surrounding uses” or “does not interfere or conflict with existing uses.”

Fitting development with existing cultural features needs to be included. Add “and culture” of the area.

Development that is fairly similar to each other will better protect character – a structure that looks very different will stick out, especially in open areas and with dense development.

Design Practices:

Character varies by region and the existing patterns should be allowed to continue.

Matching existing development pattern works for more densely developed areas, but may be too permissive for large lots.

Buffers on roads may not be helpful in all situations. Buffers can push development away from roads impacting more habitat.

Matching development to topography is important.

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

Limited Resources

Objective:

Are any land resources including shorelines limited land resources in the UT?

Are remote ponds a limited resource?

Should limited resources include only public roads or also those private roads used by the public for access?

Should limited resources also include publically accessible trail systems?

Are large lots a sound planning principle? Use of large lots is a concern. The market shouldn't be allowed to override sound planning principles. Large lots can have a place, on the edges of the OT, for families to use as homesteads and farmland. They should be on existing roads and limited in scope. Lots less than 40 acres may be okay in very limited places.

This objective initially leads to thoughts of adjacency; not land use efficiency.

This objective speaks to density; proximity to service centers. Is the objective to have compact development?

Encouraging people to move to the UT may take growth away from municipalities that need it. The vitality of "fringe" communities is an issue.

Moving subdivisions back from the road onto internal roads to efficiently use road frontage can also fragment land for wildlife purposes if they are pushed back too far.

If the intent is to apply the objective on only one site, it should be reworded. The current version brings in larger scale issues and implies the tools will address the larger scale. The second half of the objective should be rephrased so that it doesn't jumble with the larger scale issue, while still explaining the "why" behind the objective.

Acceptability depends on existing level of development and impact on existing uses, i.e. if a lake is already developed and equipment [jet skis] is already in use, it may be okay. LUPC needs to control access and use to protect the existing character, so that the existing character is not changed.

Add "efficient use of" or "strategic use of" limited resources to the heading.

The word "unique" may apply in this objective.

Clarify what is meant by "public access roads" in the objective.

Include access points for managing the harvestable areas of the parcel as a consideration in this objective.

Design Practices:

For linear subdivision designs, how will "where necessary" be determined?

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

Linear lots can be okay if the development does not consume the entire shoreline. Consider the extent of the shoreline proposed for development and where open space is needed to provide/ protect resources (erosional areas, high value natural resources and habitats, where noise and lights may disrupt wildlife [nursery areas]).

Linear development doesn't prohibit later development of back lots. Linear lot development could be allowed on certain class lakes.

Grouping lots is highly desirable, but is there a market for clustered development in the UT?

Large lots should be further restricted from subdivision by deed restriction.

Design practices need to prevent leapfrogging development out into remote areas.

High Value Resources

Objective:

Is protection of high value resources appropriate at the site scale? It speaks to a larger scale.

Does zoning take care of protecting high value resources?

Is habitat connectivity an important consideration or should more emphasis be placed on protecting large blocks of un-fragmented habitat?

Should publically available trail systems or other public recreational areas be included as high value resources?

The level of scale should be carefully considered.

High value resources are what make Maine, Maine.

This objective is important for critical natural resources.

Interconnectivity of trails is an important issue.

Flexibility in protecting open space, including provisions for off-site preservation, is important for subdivision design.

Allowing off-site open space or an in-lieu fee program is encouraged unless the on-site resources are high value and need protection.

It is appropriate to look at how the development interacts with its surrounding locale in terms of resources and open space.

Protection or creation of public trails should be considered mitigation for the loss of land from subdivision development.

Small open space parcels in a subdivision can be hard to manage for harvesting: irregular shape, difficult to access, small size, and close to residences. It can also be hard to manage the legal vehicle for them.

Land that is owned collectively is hard to manage and hard to get permission to cross.

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

High value resources are different from unbuildable areas.

Wildlife and fisheries need to be added as separate high value resources. There should also be a connection between this objective and hunting, including the idea that maintaining habitat can provide land for hunting.

Use the word “continuous” instead of “interconnected.”

Lakes are important high value resources.

Ensuring sufficient space for harvesting and safe access into and out of harvestable woodlands should be included in subdivision design.

Tree Growth standards identified that 10 acres is sufficient for forestry.

11 acres aren't manageable on their own – 20+ is when it starts to become manageable for timber. Mixing wooded areas and development makes it difficult to harvest – better to put development on one side of the parcel and open land on the other. In smaller lot situations, the location of the building envelopes matters in whether harvesting will happen or be tolerated.

The objective should apply to both small woodlots and industrial working forests.

Using the term “working forest” is limiting. Forests are also important for their ecological value such as carbon sequestration.

Use “important” or “significant” farmland. Prime farmland only applies to good soil types. Farmland of state-wide importance is another good list that is different than prime farmland soils.

Replace “scenic vistas” with “scenic resources-.” The scenic resource could be smaller than a “vista.” For example, it could be Shelter Island, a tiny quintessential place.

Include the term “iconic.”

Revise to protect “high value resources and cultural integrity.”

Design Practices:

Offsite open space may be more important for subdivisions near service centers. Onsite open space may be more important near high use lakes. Onsite vs. offsite is site specific. Onsite open space with connection to adjacent open space is a good option. Open space does not have to be in the center of a development. Back land connected to other open space is valuable.

Deed restrictions are easier to set up, but difficult to enforce. Conservation easements work better, but need an endowment to be successfully managed. Requirement for an endowment may incentivize use of an in lieu fee or other off-site conservation option. Some sort of 3rd party system for protection of open space is needed.

Max road setback and max lot size can be useful tools.

Use MDOT wildlife road kill data for establishing needs for travel corridors.

Recreational Resources

Objective:

Should protection of existing, onsite public recreational resources be required, incentivized or encouraged? (Example – access to a stream for fishing, even though access to a non-navigable stream is not guaranteed)

Is it appropriate in any circumstance to require public access into or through a subdivision development?

Where there is more than one publically accessible recreational area in the region, should interconnecting these resources be required, incentivized or encouraged?

Can LUPC protect existing features instead of requiring public access to the features?

Consideration should be given to how subdivisions fit in with and impact existing recreational resources in the area.

Suitable access for all lot owners to existing, off-site public recreation areas should be a consideration in the design of subdivisions.

You don't want to do anything that will discourage landowners from allowing a trail on their land today out of concern that it might become a regulatory liability in the future.

It is one thing for a landowner to want to interconnect with the ITS. It is another thing to say a landowner has to build a public trail.

The objective implies a need for ensuring public access, is that constitutional? The last two tools in the tool box may be an issue.

To be constitutional, ensuring public access needs to be incentivized or used as mitigation, not required.

One option is to provide incentives in the subdivision process if the landowner makes provisions for future trail development across the property. Instead of requiring trails to be protected, it may be reasonable to ask landowners if they have a plan for the existing trail. It may be an option to ensure subdivision design does not preclude the ability for a trail to cross the property in the future.

The economy of the UT is based largely on recreation. Affordable opportunities need to be protected.

Land gentrification is a concern. Pay to access may be coming. Rec lodging is becoming expensive already.

Including a sketch plan process with public notification may help to identify important cultural features within a community.

If the developer advertises access to trails, clear access to the trail should be required.

Generally, the LUPC should not encourage new boat launches on a lake. Fewer launches provide fewer breaks in the shoreline and are easier to monitor. However, a large number of ramps at a single launch site would be out of character.

For large lots, hunting should be considered. Large areas filled with 10 acre lots will be very difficult to hunt in because of how many landowners you need to get permission from. It takes 10 acres to turn a bird dog, maybe more for a bear dog.

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

Need to include language on “respecting long-standing, traditional patterns of use and access.”

Having open space within walking distance misses the mark in the UT. Even in dense areas, recreational users are not generally walkers. They need access to multi-use trails without conflicts.

Informal trail building to connect to nearby trails is a reality and can impact neighboring parcels/owners. This should be addressed in the subdivision plan

Large acreage projects have more impact on public values and recreational uses. These projects should have a higher burden to show impacts to public values will be mitigated.

Compact developments of smaller size are not as big of an issue for recreational resources except for the need to get lot owners off-site for recreation.

How do you interconnect small subdivisions on large parcels?

A focus on existing recreational resources may be too narrow – the Commission may want landowners to build new opportunities.

The establishment of a subdivision should not unduly affect the neighboring property owners’ opportunity to hunt on their own land.

Delete the word “by” and add a comma instead. There are two separate points in the objective.

Revise the objective to read maintain or “enhance” overburdened nearby resources.

Define what is meant by overburdening a public resource. An increase in users is not necessarily a burden.

The last developer in could be saddled with addressing an overburdened resource. Should the public pay for overburdened public resources?

Adequate Infrastructure

Objective:

Should subdivision development be allowed in areas remote from public services, and if so what type(s)?

What involvement should the LUPC have in ensuring provisions for public services in remote areas?

What is the right setting in which to rely on a “Code of the West”-style approach?

Are impact fees payable to Counties appropriate for development of remote subdivisions?

It is interesting that the LUPC approves subdivisions but another agency has to provide services. Should that be more of a point in the objective? There needs to be collaboration with counties on providing services.

Should subdivision developers address who owns private roads used for access to subdivisions, and how they will be maintained?

When and where is it important to include provisions for escape routes, or road and utility interconnectivity for a subdivision?

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

How do we address infrastructure standards for water or air access only subdivisions?

Increased residential development in the UT does increase burden on counties for providing services including road maintenance, fire protection and waste disposal. This is particularly true if houses are put in where there weren't any before.

Counties get non-stop complaints about the condition of roads in the UT.

Counties are receiving more requests for snow removal for year-round access to remote areas.

For some counties, it is difficult to say "no" to taxpayers. Other counties felt that they could resist pressure to accept new roads.

If a culvert washes out, people pay attention to this objective.

Money is not the only issue for counties. Decreasing year-round residents is putting strain on having enough people to cover services, including volunteer firemen.

Current emergency services are not effective if residences are more than 10 miles in on a gravel road (Fire, EMS). Developers should cover the cost of providing services if more than 10 miles in. Structural fire suppression is not provided in many areas of the UT currently. Contracts for fire services are often contingent on passable roads.

If the developer has to cover the cost for services, it may affect the location of proposed new development (i.e. include fire ponds, helipads, etc.).

Maine has a brochure similar to the Code of the West- "Moosebec Fishing Community of Beals and Jonesport." This covers what it means to live in a fishing community.

Waste disposal is provided by the counties. Drop off sites are limited, often through contracts with multiple towns, and are typically far away from homes. Providing dumpsters has been problematic, so that has been largely discontinued.

At some point, depending on length of road, there should be provisions for connecting roads, unless there is abutting conserved land or other limitations on additional development. If connectivity is a requirement, landowners may be more willing to discuss future phases.

There are places in the UT, especially near service centers and in neighborhood development, where road connectivity and access management make sense, such as along Rt. 1 in Baring. Road connectivity for transportation efficiency, safety and emergency access should be addressed.

Trails could be used for interconnectivity/ escape routes.

Provision may also need to be made for extending utilities to future development. This is common in town review of development.

Where public services are applicable, efficient access is important.

Counties have a stake in this and do not want subdivision standards to be reduced to lower costs.

Legal access is an issue. If a landowner shuts off a private road, the lot owners will ask the County to take over the road.

The LUPC does need to get a handle on road and access issues.

The CLUP discusses a need for a comprehensive road policy for the UT.

Should we look at standards for telecommunication in subdivisions? That may be an issue of scale and may cause an issue with expectation for services.

Counties and LUPC need to work more closely on development review – it helps if the Commission posts permit applications online. Coordinating with 911 addressing officers early in the process is especially important. Counties would like the opportunity to review at a sketch plan phase to provide local knowledge and comment on service provision and emergency response time. Post sketch plans online so locals can review them.

Underground utilities cause dig safe problems for the counties for future road maintenance and sign installation.

Escape routes should be provided after a certain length of road – 2,000'? Alternatively, it might be based on number of units. This is especially important in the UT because of limited firefighting services and the risk of forest fire.

Interconnected roadways should not be a consideration in the UT.

There isn't any language here on protecting natural resources.

Add "for emergency access" to interconnected roads.

Add purpose of "emergency response" to the objective.

What will it cost to provide services to the development? LUPC should ask this question in the application to determine impact on public services. Then, the developer should do an analysis to show whether taxes will cover the cost of services. If they won't, somehow the gap should be addressed upfront.

LUPC should address stormwater with recent patterns of extreme precipitation events. The northeast is experiencing an increase in extreme weather events. If culverts are too small and washout, landowners will call their County UT Coordinators.

Standards also need to include defensible space around homes for fire protection.

Should subdivision design also address onsite power generation facilities? The state needs more decentralized, renewable energy supplies. Standards could include incentives to orient lots for solar and wind access.

Design Practices:

Owners of woodlands are looking at the long-term and tend to self-regulate construction of quality road systems. However, subdivision developers do not generally plan for the long-term and do not self-regulate. LUPC needs to make sure road systems in subdivisions work for the long-term and work for Maine.

- Key policy questions
- Other comments relative to the objective
- New ideas/ additions for consideration

Smaller roads are better for water quality as long as erosion issues are addressed.

Road standards need to be implemented with common sense.

The requirements for road turnouts may be too stringent for certain projects.

Either require bonding for complicated roads on difficult soils or don't approve these roads.

In an emergency, roads need room for equipment and volunteer responder parking- eight foot wide roads are irresponsible.

Practices 2 and 3 could be combined to minimize the focus on the issue of road connectivity.

Homeowners associations should be required. HOA documents need to include provisions to allow the HOA to place liens on properties. Membership has to be mandatory.

The issuance of BPs should be tied to making sure infrastructure is completed for access to the lot.

Stormwater management tools need to be included.

Need space for back up wastewater systems.

Should there be requirements for sprinklers in remote buildings?

Should remote subdivisions be required to have a landing pad for life flight? What burden and what cost do remote subdivisions place on life flight?

Subdivision Rule Review, Location Discussion

Attachment 2

Subdivision Objectives and Design Practices

LUPC Subdivision Rule Review

Subdivision Design Objectives and Practices

Regional/Statewide Scale Objectives:

- Encourage subdivisions near existing development and services to increase capacity for residential units and minimize expansion into more remote areas away from public services.
- Protect wildlife and other natural resources by maintaining large, relatively unfragmented blocks of land to allow for habitat connectivity and resilience as habitat conditions change over time.
- Ensure overall patterns of development that encourage the continued economic viability of commercial forestry, agriculture, recreation industries, and existing small businesses. The pattern may vary by region, but will generally focus development in areas where additional residents may help provide economic growth and will not generate land use conflicts with the growth of these sectors.
- Expand the geographic areas in which residential subdivision may occur while also protecting important resources and values by creating a more refined set of principles for locating specific types of development.

Local Scale Objectives:

- ⌘ Good Fit. Ensure well thought-out subdivision designs and quality infrastructure construction that are consistent with the local area's character, culture, land uses, and housing market; and fit into the landscape so as to minimize the footprint and complexity of infrastructure, improve resiliency in extreme weather events, and protect existing resources. Good fit recognizes the diversity of different regions.
- ▲ Limited Resources. Provide for efficient use of limited land resources such as shorelines, frontage on public roads, and suitable soils to encourage more capacity for residential development in appropriate locations and create efficiencies in the provision of services such as roads, communication infrastructure, emergency services, schools, solid waste disposal, and recreation.
- ◆ High Value Resources. Protect on-site and nearby high value resources including working forests, important farmlands, scenic resources, cultural features, wildlife habitat, waterbodies, and other natural areas through good design, open space connectivity, and off-site conservation where appropriate.
- ⊛ Recreational Resources. Ensure that subdivision designs provide adequate access to on-site or off-site recreational opportunities to accommodate new residents and prevent negative impacts on existing public or private recreation resources, and encourage designs that provide access to a variety of and interconnectivity between recreational opportunities.
- Adequate Infrastructure. Ensure adequate infrastructure that has been designed to efficiently and effectively maximize public health and safety, allow efficient provision of public services, and minimize the cost of operation and maintenance including provisions for systems that have interconnectivity, sufficient capacity, and storm resiliency.

Design Practices: The following design practices are “tools” that could be used when designing a subdivision in order to achieve the objectives. They form a menu to facilitate a discussion of “what type of subdivision,” “where” and “with what standards.” Not all of these design practices would be used in any one situation. The design practices are conceptual in nature, and rule language would have to be written prior to implementation.

GOOD FIT

- ⌘ Compact lots with relatively high depth to width ratios.
- ⌘ Large lots.
- ⌘ Variable lot sizes.
- ⌘ Access and building envelopes that fit with the existing topography.
- ⌘ Protection or enhancement of key features or unique characteristics of the site.
- ⌘ Establishment of short-term and long-term provisions for infrastructure maintenance.
- ⌘ Drainage structures designed with adequate capacity to handle extreme storm events.
- ⌘ Use of lot sizes that match the existing pattern of development.
- ⌘ Preservation of vegetated buffers along public roads.
- ⌘ Preservation of open space area on-site.
- ⌘ Use of minimum and maximum road setbacks that match the prevailing development pattern and character of the area, except where other considerations, such as future road-widening, may come into play.
- ⌘ Use of a sketch plan step that includes a site inventory in the subdivision review process.
- ⌘ Provide a size limitation on structures that matches the prevailing development pattern and character of the area.
- ⌘ Use of model language for deed covenants.

LIMITED RESOURCES

- ▲ Use of a grouped arrangement of lots.
- ▲ As an alternative design, where appropriate, use of limited linear groups of lots with reserve area(s) for access to future back lots.
- ▲ Designation of a maximum lot size.
- ▲ Reduced minimum road frontages and road setbacks.
- ▲ Relatively short narrow side roads and alley ways.

HIGH VALUE RESOURCES

- ◆ Protection of high value resources in common open space.
- ◆ Protection of high value resources through conservation easements or deed restrictions.
- ◆ Protection of open space that maintains an existing natural resource corridor through the site.
- ◆ Protection of open space that maintains suitable interconnectivity to off-site open space area(s).
- ◆ Use of maximum road setbacks.

- ◆ Lot clearing limitations.
- ◆ Limit the length of interior roads to minimize encroachment into blocks of unfragmented habitat.
- ◆ Restriction on further subdivision of lots.
- ◆ Use of a transfer of development rights or an in-lieu fee strategy to protect off-site high value resources.
- ◆ Maintain access points for managing harvestable areas of the parcel.
- ◆ Ensure that areas intended for small woodlot management or small-scale agricultural use have adequate configurations to allow efficient operation of equipment and minimize conflicts with other uses.

RECREATIONAL RESOURCES

- ⊗ Provision for a variety of useful common areas on-site within walking distance of all lots.
- ⊗ Provision for multi-use trails connecting subdivision lots with on-site common areas or off-site public resources.
- ⊗ Inclusion of a large, interconnected common recreational area(s) on-site.
- ⊗ Provision for access to a nearby public resource with sufficient capacity for all lot owners.
- ⊗ Creation of a suitably located, public access easement across the parcel.
- ⊗ Creation of a nearby publically accessible recreation area.
- ⊗ Use of a design configuration that would allow for continued hunting in the subdivision and on neighboring properties.
- ⊗ Use of a design configuration that allows for voluntary future trail development.
- ⊗ Address the access needs of lot owners in order to avoid informal trail building across neighboring properties.

ADEQUATE INFRASTRUCTURE

- Provision for two escape routes from a subdivision for emergencies, escape routes could include a multi-use trail or a navigable waterbody.
- Provision for future road connectivity.
- Use of road design and rights-of-way that accommodate reasonably foreseeable related or connected development.
- Provision for a County impact fee to cover the cost of public services in remote areas.
- Use of onsite public safety provisions such as defensible space around structures, fire ponds, sprinkler systems, or helipads in remote areas.
- Allocation of sufficient suitable soils for wastewater disposal.
- Ensure primary roads can support the subdivision as well as potential future development.
- Locate wells and septic systems so as to not encroach on development capacity of neighbors.
- Locate utilities and rights-of-way to facilitate future expansions to neighboring properties if developed.
- Early collaboration with the County and local service providers on road names, infrastructure design, and public service, including emergency response, provisions.

- Orientation of lots for maximum solar and wind access.
- Locate the subdivision less than a maximum distance from fire/EMS services.
- Provide potential buyers with information about the lack of public services.
- Use bonding for complicated roads on difficult soils.
- Design roads to accommodate emergency vehicles.
- Creation of a home owners association that can place liens on subdivision lots when necessary.

LUPC Subdivision Rule Review

DRAFT Subdivision Design Objectives and Practices

November 17, 2015

The following is the LUPC's original draft list of subdivision design objectives and practices developed for discussion during the 2015- 2016 focus group meetings.

- ⌘ Quality Subdivision Design. Ensure well thought-out subdivision designs and quality construction that: a) is responsive to the market through consideration of consumer desires for privacy and a rural Maine setting; and b) minimizes failed subdivisions with inadequate infrastructure that burdens surrounding property owners and the community.
- Existing Character. Encourage development that harmoniously fits within the existing character of the area, recognizing the diversity of different parts of the jurisdiction and that a one-size-fits-all approach to subdivision design does not account for regional differences.
- ▲ Limited Resources. Provide for efficient use of limited land resources such as shorelines, road frontages on public access roads, and suitable soils to encourage more capacity for residential development in appropriate locations and therefore minimize expansion of development into more remote areas away from public services.
- ◆ High Value Resources. Protect the high value resources of the Commission's service area including working forests, prime agricultural land, scenic vistas, cultural features, and natural areas by ensuring for the long-term the functionality and interconnectivity of open space in the regional landscape.
- ⊗ Recreational Resources. Encourage sound use of recreational resources by ensuring existing public resources are not overburdened, and access to a variety of and interconnectivity between recreational opportunities is maintained.
- Adequate Infrastructure. Ensure the availability of adequate infrastructure that has been designed efficiently and effectively to maximize public health and safety, allow efficient provision of public services, and minimize the cost of operation and maintenance including provisions for an interconnected roadway system and sufficient capacity for wastewater disposal.

QUALITY SUBDIVISION DESIGN

- ⌘ Quality Subdivision Design. Ensure well thought-out subdivision designs and quality construction that: a) is responsive to the market through consideration of consumer desires for privacy and a rural Maine setting; and b) minimizes failed subdivisions with inadequate infrastructure that burdens surrounding property owners and the community.
- ⌘ Compact lots with relatively high depth to width ratios.
- ⌘ Large lots.
- ⌘ Variable lot sizes.
- ⌘ Access and building envelopes that fit harmoniously with the existing topography.*
- ⌘ Protection or enhancement of key features or unique characteristics of the site.*
- ⌘ Establishment of short-term and long-term provisions for infrastructure maintenance.*

EXISTING CHARACTER

- Existing Character. Encourage development that harmoniously fits within the existing character of the area, recognizing the diversity of different parts of the jurisdiction and that a one-size-fits-all approach to subdivision design does not account for regional differences.
- Use of lot sizes that match the existing pattern of development.
- Preservation of vegetated buffers along public roads.
- Preservation of open space area on-site.
- Use of access and building envelopes that fit with the existing topography.*
- Use of minimum road setbacks that match the prevailing development pattern and character of the area, except where other considerations, such as future road-widening, may come into play.*

LIMITED RESOURCES

- ▲ Limited Resources. Provide for efficient use of limited land resources such as shorelines, road frontages on public access roads, and suitable soils to encourage more capacity for residential development in appropriate locations and therefore minimize expansion of development into more remote areas away from public services.
- ▲ Use of a grouped arrangement of lots.

- ▲ As an alternative design, where necessary, use of limited linear groups of lots with reserve area(s) for access to future back lots.
- ▲ Designation of a maximum lot size.
- ▲ Reduced minimum road frontages and road setbacks.
- ▲ Relatively short narrow side roads and alley ways.

HIGH VALUE RESOURCES

- ◆ High Value Resources. Protect the high value resources of the Commission's service area including working forests, prime agricultural land, scenic vistas, cultural features, and natural areas by ensuring for the long-term the functionality and interconnectivity of open space in the regional landscape.
 - ◆ Preservation of high value resources in common open space.
 - ◆ Preservation of high value resources through conservation easements or deed restrictions.
 - ◆ Protection of open space that maintains an existing natural resource corridor through the site.
 - ◆ Protection of open space that maintains suitable interconnectivity to off-site open space area(s).
 - ◆ Use of maximum road setbacks.
 - ◆ Lot clearing limitations.
 - ◆ Restriction on further subdivision of lots.

RECREATIONAL RESOURCES

- ⊗ Recreational Resources. Encourage sound use of recreational resources by ensuring existing public resources are not overburdened, and access to a variety of and interconnectivity between recreational opportunities is maintained.
 - ⊗ Provision for a variety of useful common areas on-site within walking distance of all lots.
 - ⊗ Provision for walkways and/or trails connecting on-site common areas and/or off-site public spaces.
 - ⊗ Preservation of large, interconnected common recreational areas on-site.
 - ⊗ Provision for access to a nearby public resource with sufficient capacity for all lot owners.
 - ⊗ Creation of a suitably located, public access easement across the parcel.
 - ⊗ Creation of a nearby publically accessible recreation area.

ADEQUATE INFRASTRUCTURE

- Adequate Infrastructure. Ensure the availability of adequate infrastructure that has been designed efficiently and effectively to maximize public health and safety, allow efficient provision of public services, and minimize the cost of operation and maintenance including provisions for an interconnected roadway system and sufficient capacity for wastewater disposal.
 - Provision for 2 escape routes from a subdivision.
 - Provision for future road connectivity.*
 - Use of road design and rights-of-way that accommodate reasonably foreseeable related or connected development.*
 - Allocation of sufficient suitable soils for wastewater disposal.
 - Ensure primary roads can support the subdivision as well as potential future development.
 - Locate wells and septic systems so as to not encroach on development capacity of neighbors.*
 - Locate utilities and rights-of-way to facilitate future expansions to neighboring properties if developed.*

Subdivision Rule Review, Location Discussion

Attachment 3

Comments on Revised Objectives and Design Practices



Maine Forest Products Council

The voice of Maine's forest economy

Companies represented on the MFPC Board

American Forest Mgmt.
Anderson Equipment
Baskahegan Co.
BBC Lands LLC
Cross Insurance
Family Forestry
Farm Credit East
Fontaine Inc.
Hancock Lumber
H.C. Haynes
Huber Resources
Innovative Natural
Resource Solutions
J.D. Irving
JM Cote Co.
Katahdin Forest Mgmt.
Key Bank
LandVest Inc.
Limington Lumber
Louisiana Pacific
Maibec Logging
Nicols Brothers
Pingree Associates
Pleasant River Lumber
Plum Creek
Prentiss & Carlisle
ReEnergy
Richard Wing & Son
Robbins Lumber
Sappi Fine Papers
Southern Maine Forestry
Stead Timberlands
Timber Resource Group
Timberstate G.
Verso Paper
W.T. Gardner & Sons

February 3, 2016

Stacie R. Beyer
Senior Planner
Land Use Planning Commission
106 Hogan Road, Suite 8
Bangor, ME 04401

Dear Ms. Beyer,

We appreciate the opportunity to work with LUPC and remain committed to the process, but we're disappointed to see that despite considerable input to LUPC from MFPC, the concerns of landowners still are not adequately addressed in the draft subdivision objectives and design practices.

When we all restructured LURC to LUPC, we made a commitment to some fundamental changes reflected in the revised purpose and scope of the enabling legislation:

"To support and encourage Maine's natural resource-based economy and strong environmental protections; to encourage appropriate residential, recreational, commercial and industrial land uses; to honor the right and participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the state" and also "to encourage and facilitate regional economic viability."

I mention these changes to remind all parties that we have an obligation to think differently, and progressively about the future of the region. Southern Maine's sprawl is northern Maine's opportunity and we have a long way to go before we encroach into the interior of the jurisdiction. We see no intent to encourage land uses or regional economic viability in the Regional Statewide Scale Objectives.

Sarah Medina of Seven Islands, a member of MFPC's Landowners Committee, has written about those concerns in detail in her comments and you will hear from other members individually.

However, the essential problem is the same as noted in our presentation last fall. For decades, the public policy of Maine has essentially been to keep the unorganized territories an undeveloped wilderness. The current rules for subdivision and development are clearly onerous, but we hoped this review would begin to encourage subdivisions, including those with large lots, near existing development and services.

We recognize some areas are not suitable for development, but many are. There's

room for residential development and also places where wood processing facilities would be suitable and welcome, especially with jobs so scarce in many areas of the UT.

Yet despite all the statewide concern about boosting Maine's rural economy, these rules provide very few avenues to do so. We would like to see the subdivision objectives and design practices be in keeping with those of rural municipalities, which don't over-regulate, adding time and cost

The economic implications of various requirements – improve resiliency in extreme weather events? – should be weighed against the benefits and some assumptions should be questioned. For example, are common areas really needed when it's so unlikely that they'll be used? Why must subdivision roads be over-designed compared to the woods roads that lead to them?

It is our hope that the subdivision objectives and design practices will be revised to:

- Increase the area where subdivision is listed as an allowable use (no rezoning necessary).
- Allow flexibility to create types and size lots for our market.
- Insure LUPC identifies areas for planning and zoning similar to rural Maine municipalities.
- Provide an economically viable path through the subdivision process.

Thank you for your consideration, and we'll be glad convene our group and continue this conversation.

Sincerely,

A handwritten signature in black ink that reads "Patrick J. Strauch". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

Patrick Strauch
Executive Director
Maine Forest Products Council



February 2, 2016

Ms. Stacie Beyer, Senior Planner
Ms. Samantha Horn Olsen, Planning Manager
Land Use Planning Commission
18 Elkins Lane
22 State House Station
Augusta, ME 04330

RE: LUPC Subdivision Rule Review

Dear Ms. Beyer and Ms. Olsen:

Thank you very much for the opportunity over the past year to assist the LUPC with revising its subdivision rules. I feel this is a very important undertaking for the Unorganized Territories. I have reviewed the focus group comments and the revised subdivision objectives (dated 1/28/2016) that Stacie Beyer sent me recently by email. I have some comments I would like to submit for your consideration as this process moves forward, and I hope my perspective is helpful to you as you continue to revise the subdivision rules.

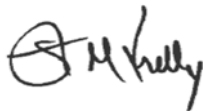
First, I think it is of utmost importance to recognize the need for flexibility and discretion in the subdivision rules and objectives, and I feel the current draft of the objectives fails to do so. There are a variety of situations that trigger a subdivision review, including year-round residential development, rural/remote seasonal recreational development, large lot development, and lease lot developments, and it is certainly a challenge to address all of these situations across 10.4 million acres with a single set of rules. The needs of the different types of subdivisions vary widely, and flexibility to address diverse development situations should be included in the subdivision rules.

Many of the objectives on the January 28th revision seem to favor year-round residential development on smaller lots near existing organized areas over other types of development, and situations such as lease lot developments or seasonal recreational waterfront developments will be further restricted or prevented with the revised objectives. In order to fulfill the mission to ease the subdivision rules to encourage additional development, we must be mindful of the vast area in question, and the large township-sized tracts of land in the UT. Many of the comments and objectives appear to discourage development that is not in close proximity to public services and underestimates the size of the land base in question. For instance, it is likely inappropriate to require open space provisions, high-capacity roads and common space on a 24,000 acre timberland tract with three to fifteen proposed 1-acre lease lots. The very nature of the vast forested landscape available to the future occupants of the proposed development far exceeds the benefits received from a 1-acre common lot.

I would strongly encourage the LUPC and Staff to continue working with large landowners of the UT to encourage flexible subdivision development options. I think the current draft of the objectives requires further revision to address the lack of flexibility, as I feel the current objectives will further restrict the types of development that are likely the most appropriate for the unorganized territory.

I appreciate the opportunity to participate in the rule revision process, and I look forward to discussing this issue with you further. As always, I can be reached at our Bangor office at (207) 942-8295, or by email at jmkelly@prentissandcarlisle.com.

Sincerely,
Prentiss & Carlisle Management Company, Inc.

A handwritten signature in black ink that reads "J M Kelly". The signature is written in a cursive style with a large, stylized initial "J" and "M".

John M. Kelly
Forester

LUPC Subdivision Rule Review Subdivision Design Objectives and Practices

Regional/Statewide Scale Objectives:

- Recognize market demand and consumer desires for privacy and a rural Maine setting (reinserted from 11/17/15 draft) Afford potential developers opportunity for creativity in meeting demand.
- Encourage subdivisions near existing development and services to increase capacity for primary (year-round) residential units and minimize expansion of year-round residences into more remote areas away from public services.
- Steer recreational residential and large lot subdivision to areas within three townships of recreational hubs and service centers, (i.e. the fringes of the jurisdiction)
- Protect wildlife and other natural resources by maintaining large, relatively unfragmented blocks of land to allow for habitat connectivity and resilience as habitat conditions change over time.
- Ensure overall patterns of development that encourage the continued economic viability of commercial forestry, agriculture, recreation industries, ~~and~~ existing small businesses, communities and rural regions. The pattern may vary by region, but will generally focus development in areas where additional residents may help provide economic growth and will not generate land use conflicts with the growth of these sectors.
- Expand the geographic areas in which residential subdivision may occur ~~while also protecting important resources and values~~ by creating a more refined set of principles for locating specific types of development. *(The areas meriting special protection have been identified over the past 45 years. Need to now proactively identify areas for potential growth.)*
- Weigh the economic implications of various zoning and dimensional requirements vs. benefit.

Local Scale Objectives:

. Good Fit. Ensure well thought-out subdivision designs and quality infrastructure construction that are consistent with the local area's character, culture, land uses, and housing market; and fit into the landscape so as to minimize the footprint and complexity of infrastructure, improve resiliency in extreme weather events, and protect existing resources. Good fit recognizes the diversity of different regions. *(resiliency in extreme weather events?? – what does this mean/ entail? –regardless, wouldn't it*

belong under design standards rather than here?)

. Limited Resources. Provide for efficient use of limited land resources such as shorelines, frontage on public roads, and suitable soils to encourage more capacity for residential development in appropriate locations and create efficiencies in the provision of services such as roads, communication infrastructure, emergency services, schools, solid waste disposal, and recreation.

. High Value Resources. Protect on-site and nearby high value resources including ~~working forests~~ *(not all working forests are high value and working forests certainly are not scarce)*, important farmlands, outstanding scenic resources, cultural features, significant wildlife habitat *(everything is habitat for something)*, waterbodies, and other significant natural areas through good design, open space connectivity, and off-site conservation ~~where~~ when appropriate for mitigation of significant effects on a high value resource.

. Recreational Resources. Ensure that subdivision designs provide adequate access to on-site or off-site recreational opportunities to accommodate new residents and prevent negative impacts on existing public or private recreation resources, and encourage designs that provide access to a variety of and interconnectivity between recreational opportunities where appropriate.

. Adequate Infrastructure. Ensure adequate infrastructure that has been designed to efficiently and effectively maximize public health and safety, allow efficient provision of public services, and minimize the cost of operation and maintenance including provisions for systems that have interconnectivity, sufficient capacity, and storm resiliency *(??)*. Design standards should be practical and in harmony with those in the area and for the intended use.

Design Practices: The following design practices are “tools” that could be used when designing a subdivision in order to achieve the objectives. They form a menu to facilitate a discussion of “what type of subdivision,” “where” and “with what standards.” Some, but not all of these design practices would be used in any one situation. The design practices are conceptual in nature, and rule language would have to be written prior to implementation. *(“Not all” infers most would be used, maybe 1 or 2 wouldn’t be. Clearly state the intent.)*

GOOD FIT

- . Compact lots with relatively high depth to width ratios.
- . Large lots.
- . Variable lot sizes.
- . Access and building envelopes that fit with the existing topography.
- . Protection or enhancement of key features or unique characteristics of the site.
- . Establishment of short-term and long-term provisions for infrastructure maintenance.
- . Major Drainage structures designed with adequate capacity to handle extreme storm

events.

- . Use of lot sizes that match the existing pattern of development.
- . Preservation of vegetated buffers along public roads.
- . Preservation of open space area on-site.
- . Use of minimum and maximum road setbacks that match the prevailing development pattern and character of the area, except where other considerations, such as future road-widening, may come into play.
- . Use of a sketch plan step that includes a site inventory in the subdivision review process.
- . Provide a size limitation on structures that matches the prevailing development pattern and character of the area.
- . Use of model language for deed covenants.

LIMITED RESOURCES

- . Use of a grouped arrangement of lots.
- . As an alternative design, where appropriate, use of limited linear groups of lots with reserve area(s) for access to future back lots.
- . Designation of a maximum lot size.
- . Reduced minimum road frontages and road setbacks.
- . Relatively short narrow side roads and alley ways.

HIGH VALUE RESOURCES

- . Protection of high value resources in common open space.
- . Protection of high value resources through conservation easements or deed restrictions.
- . Protection of open space that maintains an existing natural resource corridor through the site.
- . Protection of open space that maintains suitable interconnectivity to off-site open space area(s).
- . Use of maximum road setbacks.
- . Lot clearing limitations.
- . Limit the length of interior roads to minimize encroachment into blocks of unfragmented habitat.
- . Restriction on further subdivision of lots.
- . Use of a transfer of development rights or an in-lieu fee strategy to protect off-site high value resources.
- . Maintain access points for managing harvestable areas of the parcel.
- . Ensure that areas intended for small woodlot management or small-scale agricultural use have adequate configurations to allow efficient operation of equipment and minimize conflicts with other uses.
- . Limit designation of common space that is unlikely to be used, in favor of keeping it in timber or agricultural production, i.e. minimize withdrawal of land in the subdivision from Tree Growth or Farm & Open Space taxation.

RECREATIONAL RESOURCES

- . Provision for a variety of useful common areas on-site within walking distance of all lots.
- . Provision for multi-use trails connecting subdivision lots with on-site common areas or off-site public resources.
- . Inclusion of a large, interconnected common recreational area(s) on-site.
- . Provision for access to a nearby public resource with sufficient capacity for all lot owners.
- . Creation of a suitably located, public access easement across the parcel.
- . Creation, use or support of a nearby publically accessible recreation area.
- . Use of a design configuration that would allow for continued hunting in the subdivision and on neighboring properties.
- . Use of a design configuration that allows for voluntary future trail development.
- . Use of a design configuration that recognizes common areas are not likely to be used or necessary in all types of subdivisions.
- . Address the access needs of lot owners in order to avoid informal trail building across neighboring properties.
- . Recognition of adequate public resources in the area and/or surrounding land uses that enhance the subdivision without the need for recreational resources within the subdivision.

ADEQUATE INFRASTRUCTURE

- . Provision, in highly unique situations, for two escape routes from a subdivision for emergencies, escape routes could include a multi-use trail or a navigable waterbody. *(two routes in the UT is overkill – towns do not require this)*
- . Provision for future road connectivity.
- . Use of road design and rights-of-way that accommodate reasonably foreseeable related or connected development.
- . Provision for a County impact fee to cover the cost of public services in remote areas.
- . Use of onsite public safety provisions such as defensible space around structures, fire ponds, sprinkler systems, or helipads in remote areas.
- . Allocation of sufficient suitable soils for wastewater disposal.
- . Ensure primary roads can support the subdivision ~~as well as potential future development.~~ *(That's trying to look into a crystal ball. Upgrade the primary road as part of the next project, if ever proposed.)*
- . Locate wells and septic systems so as to not encroach on development capacity of neighbors.
- . Locate utilities and rights-of-way to facilitate future expansions to neighboring properties if developed.
- . Early collaboration with the County and local service providers on road names, infrastructure design, and public service, including emergency response, provisions.
- . Orientation of lots for maximum solar and wind access.
- . Locate the primary (year-round) residence subdivision less than a maximum distance

from fire/EMS services.

.Provide potential buyers with information about the lack of public services.

.Use bonding for complicated roads on difficult soils.

.Design roads to accommodate emergency vehicles.

. Design infrastructure that fits with similar infrastructure for comparable uses in the region. *(for example, subdivision roads are often far over-designed compared to the woods roads that lead to them. Notably excessive use of turn-outs, rock sandwiches and bridges/culverts.)*

.Creation of a home owners association that can place liens on subdivision lots when necessary.

Maine Land Use Planning Commission Subdivision Objectives

–1/29/16 DRAFT (additions and comments by Sarah Medina, reviewed by Maine Forest Products Council Landowner Committee)

From: [Ken Lamond](#)
To: [Beyer, Stacie R](#)
Cc: [Horn-Olsen, Samantha](#); [Hank McPherson](#); [Elgin Turner](#); [Gordon Gamble](#); [Mark Doty](#); [Luke Muzzy](#); [John Kolenik](#); [Peter Triandafillou](#); [Bill Ferdinand](#); [Eugene Mahar](#); [Patrick Strauch](#); [Kelly, John M.](#)
Subject: Re: LUPC Subdivision Objectives and Design Practices
Date: Tuesday, February 02, 2016 6:05:04 PM

Hi Stacie:

This seems like anyone can read these documents however they choose. I can read that it opens opportunity or restricts opportunity for subdivisions. For instance, landowners believe 20 miles is close to services in that part of Maine. The standard for adjacency could as easily be 20 miles as it is 1 mile. Others, I am certain, will disagree. Examples like this are everywhere in both drafts. It seems to me that this is getting more restrictive, more complicated, and less clear as time goes on.

The bottom line is:

- 1. Increase the area where subdivision is an allowable use. (no rezoning necessary)**
- 2. Adjacency for subdivisions is met in that area.**
- 3. Flexibility to create types and size lots for our market.**
- 4. LUPC functions similar to rural Maine municipalities.**

If we can get to this in fewer words it would be better. I know there are many hours of work, and competing interests that you are considering. Landowners need to get somewhere close to this outcome to have their interests served for the first time in two or three decades. We are hopeful for meaningful change.

Thanks,

Ken Lamond

On Fri, Jan 29, 2016 at 2:20 PM, Beyer, Stacie R <Stacie.R.Beyer@maine.gov> wrote:

Good afternoon,

In response to all of the feedback that the LUPC received during the recent focus group meetings, we have prepared a revised set of subdivision objectives and design practices. Attached to this e-mail message, we are providing all participants in the focus group meetings a revised draft, as well as a copy of the November 2015 draft language for

reference. The revised draft will be presented to the Commission at its regular business meeting on February 10, 2016. We also plan to discuss next steps in the subdivision rule review process with the Commission at that meeting.

If you have questions or would like to discuss the revised draft objectives and practices, please feel free to contact Samantha Horn Olsen, or myself in advance of the Commission meeting. Again, thank you for your time, interest in the LUPC subdivision rule review process, and comments on the subdivision objectives and design practices. Your input has been very helpful as we move forward in the review of the LUPC subdivision rules.

Stacie R. Beyer

Senior Planner

Land Use Planning Commission

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