

Moosehead Region Futures Committee

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Agnieszka Pinette, Senior Planner
Maine Land Use Regulation Commission
22 State House Station
Augusta, Maine 04333-0022

Re: Post-hearing brief for Zoning Petition ZP 707

March 7, 2008

Dear Ms. Pinette,

We are hereby submitting our post-hearing brief for Zoning Petition ZP 707. Steering Committee members contributing to the text of this brief include the following: James Glavine, Suzanne AuClair, George Bakajza, Robert Guethlen, Sandra Neily, Wendy Weiger, John Willard, and Joan Wisher. In accordance with established procedure, we are submitting one signed paper copy plus fifteen additional photocopies, with distribution of electronic copies by email to the service list.

As always, we thank you for your consideration of our work.

Sincerely,

Wendy Weiger, Coordinator
On behalf of the Moosehead Region Futures Committee

Moosehead Region Futures Committee
Post-hearing Brief for Zoning Petition ZP 707

March 7, 2008

SUMMARY

The following section summarizes the requests for revisions to Plum Creek's Concept Plan Application contained in this brief. Additional detail regarding each request, along with a supporting rationale, can be found in subsequent sections of the brief.

In submitting this brief, the Moosehead Region Futures Committee (MRFC) reaffirms our testimony submitted on August 31, 2007 and November 19, 2007. This brief expands on many issues addressed in that testimony in the context of new information presented during the hearing process. However, some issues discussed in our earlier testimony are not pursued further in this brief. In such cases, the MRFC would like to make it clear that we stand by our previous statements and wish them to remain in the record; these earlier statements should be understood to represent our current position with regard to their respective issues.

As stated in our August 2007 testimony, the MRFC continues to view the LURC evaluation process for Plum Creek's proposal as an opportunity to develop a framework that will secure a vibrant, sustainable future for the Moosehead region. We remain eager to work with LURC, Plum Creek, and future developers to create a world-class model of carefully planned development balanced by permanent conservation that will support the region's nature-based economy for generations to come. The requests presented in this brief, along with those included in our earlier testimony, are aimed at achieving this goal. They outline the revisions that are required in order for the MRFC to support approval of Plum Creek's application.

The MRFC makes the following general requests regarding revisions to Plum Creek's application: (see Introduction, pages 10-12)

- The revision process should be inclusive; it should not be a confidential process involving only Plum Creek's staff and supporters.
- It is very important to make all of the language in the application as explicit as possible and to make sure that the spoken "intentions" of Plum Creek are clearly and unambiguously defined in writing.

Direct support for the Moosehead region's nature tourism economy should be provided as follows: (see "Economic Elements of a Successful Gateway Community", pages 14-19)

1. Working with representative stakeholders, Plum Creek should conduct complete inventories of assets that support the area's famous brand of nature tourism and wildlife recreation.

These inventories should build on the GIS mapping and business interviews of the Moosehead Mapping Collaborative, discussed in MRFC testimony.

2. Based on these inventories, Plum Creek and stakeholders should remap prospective areas of development and conservation to fully respect nature tourism infrastructure. Examples of locations where proposed development would cause undue adverse impacts to nature tourism include the following: the northwest section of the Brassua Peninsula, the Lily Bay Peninsula, the north shore of Long Pond, Upper Wilson Pond, and Indian Pond.
3. The Moosehead Region Land Trust, a locally staffed and directed land trust developed exclusively to manage the Moosehead region's nature tourism and recreational assets, should be created upon approval of Plum Creek's application with a \$650,000 endowment from the applicant.
4. The Moosehead Region Land Trust will manage lands excluded from currently proposed development zones because of their high value for nature tourism as well as lands set aside for low-impact recreational activities to enhance quality of life for local residents (see "A model for identifying lands within proposed development zones that are actually suitable for rezoning to development", pages 19-23).
5. Further funding for the Moosehead Region Land Trust should be provided by a "Moosehead Stewardship Fund" that levies 2% of each initial and subsequent sale of all developed property (including resort condos and time shares) as well as a 2% lodging "Moosehead Stewardship" surcharge on resort rental accommodations. These funds will target stewardship in the areas most affected by rezoning. The Moosehead Stewardship Fund will consider requests for proposals in several categories related to nature tourism and outdoor recreation. The Moosehead Stewardship Fund will be managed by the Moosehead Region Land Trust.
6. As noted above, responsibilities of the Moosehead Region Land Trust will include management of selected lands excluded from currently proposed development zones and administration of the Moosehead Stewardship Fund. The Land Trust might also engage in various activities related to recreational planning and management (including collaboration with holders of the much larger Balance and Legacy Easements) and to promotion of nature tourism in the Moosehead region.
7. The Moosehead Region Land Trust Board of Directors will include a diverse group of stakeholders (see page 16 for details) and should be required to establish a working relationship directly with LURC.

Sustainable forest management must be guaranteed as follows: (see "Economic Elements of a Successful Gateway Community", pages 14-19)

1. There must be a Forest Management Plan for easement lands that includes:
 - Planning for wildlife habitat
 - Planning for forestlands that include a healthy diversity of tree species and age classes

- Planning for forestlands that will attract carbon market buyers
 - Planning that encourages sustainable biomass harvesting for new bioproducts development
2. The Forest Management Plan must be approved and supervised by Maine agency staff (Dept. of Inland Fisheries & Wildlife, Dept. of Forestry, etc.). The currently proposed system of “advisory” supervision, under which Plum Creek is not compelled to follow recommendations, is insufficient.
 3. There must be an open public process to ensure that Plum Creek is complying with the Forest Management Plan.
 4. Easement language should be redrafted to include financial consequences for failure of Plum Creek to comply with the Forest Management Plan.

The vibrancy of the second and retirement home industry should be promoted by the following measures: (see “Economic Elements of a Successful Gateway Community”, pages 14-19)

1. Plum Creek should guarantee that all construction resulting from its rezoning request will be done in accordance with the most current “LEED” or Energy Efficient practices and utilize Sustainable Certified materials.
2. Resort and subdivision plans should be required to establish open space and green corridors that support adjacent wildlife corridors, and should be required to include trail systems that will, eventually, become part of a region-wide network of motorized and people powered trails.

The following benefits should be provided to local communities: (see “Economic Elements of a Successful Gateway Community”, pages 14-19)

1. Plum Creek, working with state and county economic development entities, as well as regional telecommunications companies, should create a plan for immediate broadband access within and near the communities of Beaver Cove, Greenville and Rockwood.
2. Plum Creek, working with the Maine Department of Education, local governments and schools, should be required to support a genuine effort to make schools attractive to families who might choose to relocate to the region.

The MRFC requests that the total acreage proposed for rezoning to development be significantly reduced, to a level consistent with the amount of development that has been proposed. The following criteria should be used to identify lands within proposed development zones that are actually suitable for rezoning to development: (see “A model for identifying lands within proposed development zones that are actually suitable for rezoning to development”, pages 19-23)

1. Locate development on suitable soils (based on S.W. Cole’s soil suitability rating and depth to seasonal water table). Exclude from rezoning to development all lands with unsuitable soils (based on S.W. Cole’s soil suitability rating) and all lands predominated by somewhat poorly drained soils.
2. Protect areas indicated by Maine Natural Areas Program as unsuitable for development.
3. Locate development in accordance with local needs and values as expressed in:
 - a) The MRFC Citizen Solutions map. [The Citizen Solutions guidelines and map were Exhibits 1, 2 and 3 of the testimony filed by MRFC witness James Glavine on August 31, 2007.]
 - b) Any information gathered from additional interviews and correspondence with local citizens and business owners (including public comment and testimony submitted to LURC as part of these proceedings).
4. Modify development zones as indicated by current or future data regarding high-value areas for nature tourism and wildlife recreation.

The MRFC requests that the lands in currently proposed development zones that are deemed to be unsuitable for development be donated as conservation. Management of these additional conservation lands would fall under one of the two following categories: (see “A model for identifying lands within proposed development zones that are actually suitable for rezoning to development”, pages 19-23)

1. Moosehead Region Land Trust: The Board of Directors and staff of the Moosehead Region Land Trust would identify lands of high value for the region’s nature tourism and wildlife recreation economy and would consult with local citizens to identify lands that might be set aside for low-impact activities in order to enhance quality of life for residents of area communities. The selected lands would then be managed by the Moosehead Region Land Trust for low-impact uses (e.g., bicycle and walking trails, primitive campsites, natural areas, wildlife protection zones, significant archeological and historical protection zones, water access areas) or for limited, appropriately located motorized trails.
2. Balance easement: Lands excluded from currently proposed development zones that were not selected for management by the Moosehead Region Land Trust would revert to the Balance Easement.

With regard to the Rockwood area, the MRFC recommends rezoning as follows:

(see “Rockwood Rezoning Recommendations”, pages 23-31, and Exhibit 1, a map indicating the recommended boundaries of development zones in the Rockwood area)

1. Adjacent to Rockwood Village: Positive location for commercial development / community center (D-GN3M)

2. South side of Blue Ridge Mountain: Positive location for mixed uses (D-GN3M, D-RS2M, D-RS3M)
3. Brassua Lake Peninsula: If developed at all
 - o Change to modified Residential Recreation (D-RS3M)
 - o No development on northwestern section
4. West to East Outlets:
 - o Change to modified Residential Recreation (D-RS3M)
 - o Locate development nearest to Rockwood Village

For the entire Rockwood area:

- Phase build-out
- Reduce development zone sizes and return excess land as donated conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20)

With regard to the development proposed for the Lily Bay Peninsula, the MRFC requests that Plum Creek: (see “Areas inappropriate for development”, pages 31-37)

1. Remove the resort and large-scale residential development proposed for Lily Bay.
2. Reduce the total number of development units by the number of units removed from Lily Bay (units eliminated from Lily Bay should not be relocated elsewhere).
3. Add the acreage excluded from development at Lily Bay to donated conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20).

The MRFC requests that any development on the Lily Bay Peninsula be limited to the following: (see “Areas inappropriate for development”, pages 31-37)

The MRFC’s consensus position with regard to development of Plum Creek’s lands on the Lily Bay Peninsula was expressed in our Citizen Solutions map. [The Citizen Solutions guidelines and map were Exhibits 1, 2 and 3 of the testimony filed by MRFC witness James Glavine on August 31, 2007.] This map indicates an area that the MRFC judged as potentially suitable for limited residential development consistent with smart growth principles (shared water access, clustered housing) and existing development in the immediate area (mostly traditional camps). The MRFC maintains its position that limited residential development of the type we have described might be reasonable, provided that the following conditions are met:

1. Within the boundaries marked on the MRFC Citizen Solutions map, the following land should be excluded from rezoning to development:
 - a) Land with unsuitable soils.
 - b) Land for which the Maine Natural Areas Program has recommended protection.
2. Given the sensitivity of this remote location, and the potential adverse impacts of additional development there, the MRFC believes that Plum Creek should be required to provide a detailed plan (including highly specific building design standards and subdivision layout) before any land on the Lily Bay Peninsula is rezoned for development.

3. The MRFC requests that the following potential adverse impacts be considered in evaluating any such plan:
 - a) Adverse impacts on the experience of visitors to Lily Bay State Park.
 - b) Adverse impacts on remote recreational experiences on the Lily Bay Peninsula, with resulting adverse impacts on the nature tourism industry.
 - c) Adverse impacts on Canada lynx.
 - d) Adverse impacts on traffic on the Lily Bay Road.

With regard to the development proposed for the north shore of Long Pond and Upper Wilson Pond, the MRFC requests that Plum Creek: (see “Areas inappropriate for development”, pages 31-37)

1. Eliminate all development proposed for the north shore of Long Pond and Upper Wilson Pond.
2. Reduce the total number of development units by the number of units removed from the above areas (units eliminated from these areas should not be relocated elsewhere).
3. Add the acreage excluded from development in the above areas to donated conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20).

With regard to the Big Moose Mountain Resort, the MRFC recommends the following: (see “Big Moose Mountain Resort”, page 37)

1. The resort zone must encompass ALL infrastructure associated with the use of the resort including the waste disposal system.
2. The location and number of units must be designed so they will NOT degrade class A streams.
3. The low impact resort accommodation currently proposed near the shore of Indian Pond should be located away from Indian Pond, with access to Indian Pond via a discrete footpath.

With regard to the proposed easements, the MRFC requests the following: (see “Easements”, pages 37-40)

1. Lands in currently proposed development zones that are unsuitable for development must be donated as conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20). These include: the proposed development zones on the north shore of Long Pond and Upper Wilson Pond (in their entirety) and land excluded from proposed development zones on the Lily Bay Peninsula and in the Rockwood area.
2. The Legacy Easement lands must be added to the Balance Easement.
3. Commercial and industrial activities must be removed from easement lands and located outside of the easement area.
4. Subdivision of the easement lands must be kept to a minimum.
5. The State of Maine should be the holder of the easement; the management could be contracted to a group such as the Forest Society of Maine.
6. The easement should conform closely to the LURC Model Easement.
7. The road easements should be granted upon approval of the concept plan.

With regard to the peak-to-peak hiking trail easement, the MRFC recommends the following: (see “Peak-to-peak hiking trail”, page 41)

- The peak-to-peak hiking trail easement should be held either by the state or by the proposed Moosehead Region Land Trust (see “Economic elements of a successful gateway community”, pages 14-19).
- The easement must be rewritten to make it a viable trail in accordance with accepted trail development standards.
- The terms of the easement and trail building standards should be written with consultation and approval of noted trail developer Ken Spaulding of RESTORE, the Appalachian Mountain Club, and the Bureau of Parks and Lands.
- Plum Creek should fully fund the trail building. The funding should not be the responsibility of the Stewardship Fund and repayment should not be required.

With regard to subdivision design, the MRFC recommends the following: (see “Subdivision design”, pages 41-42)

1. All of the development in the concept plan should be clustered and non-linear, as defined by smart growth principles and LURC standards.
2. With regard to shoreline development:
 - a) All development should be clustered away from the shoreline.
 - b) There should be a common dock for the whole subdivision.
 - c) Shoreline cutting/thinning should meet or exceed current LURC standards.
 - d) A common area should be established for pedestrian water access, swimming, picnicking, etc.
 - e) Boat moorings should be disallowed or strictly regulated.
3. Subdivision plans should be required to establish open space and green corridors that support adjacent wildlife corridors, and should be required to include trail systems that will, eventually, become part of a region-wide network of motorized and people powered trails.

With regard to the use of mitigation as a tool to prevent undue adverse impacts, the MRFC recommends the following: (see “The use of mitigation as a tool to prevent undue adverse impacts”, pages 42-43)

1. It is important to identify the areas that are appropriate to develop at the outset. Don’t rezone now and later try to “make it work” using mitigation measures.
2. Development should be located in appropriate areas close to existing community centers, avoiding mixing of incompatible uses.
3. The areas that are rezoned for development should avoid: locations with unsuitable soils, areas recommended for protection by the Maine Natural Areas Program, and high value areas for nature tourism / wildlife recreation.
4. There should be a baseline analysis of water quality followed by ongoing monitoring.
5. The plan should only be approved if LURC will have the staff and funding to enforce the standards.

With regard to the Declaration of Covenants, Conditions and Restrictions, the MRFC requests: (see “Declaration of Covenants, Conditions and Restrictions”, pages 43-47)

1. That the maximum building height of 35 feet measured from the downhill side of the slope be adopted in Plum Creek’s application.
2. That 125 foot set-backs be provided for the two scenic roads (Lily Bay Road and Route 6/15) and that 100 foot set-backs be provided for all roads in new development areas. We further request that Plum Creek provide for these set-backs to be no-harvest buffer zones.
3. That language be added to specify that third party inspectors who will monitor compliance with clearing standards and water quality must be qualified, trained and/or appointed by LURC and must be paid for by the homeowners association. We further request that a telephone number and/or address be provided where homeowners can report violations anonymously without fear of reprisal.
4. That language regarding the frequency of third party inspections be clarified to specify that such inspections must be conducted every six months.
5. That the stipulation be made that no construction is considered approved until explicit approval is given by the Architectural Control Committee.
6. That language allowing homeowners association boards the authority to grant variances be deleted and that authority to grant variances be exclusively delegated to LURC.
7. That the Declaration of Covenants, Conditions and Restrictions be made a part of the deed with language specifying that a violation of the Covenants, Conditions and Restrictions is a violation of the LURC permit.
8. That a statement be added to Section 9 that any amendment to the Declaration of Covenants, Conditions and Restrictions must be approved by LURC.

The MRFC requests that the following traffic mitigation measures be included in the concept plan proposal: (see “Traffic issues”, page 48)

1. Pedestrian/bicycle trails, open to the public, connecting proposed development zones (residential, commercial and resorts) to other proposed development zones and to local communities are needed.
2. Satellite-parking areas should be developed to limit traffic into sensitive areas.
3. There should be shuttle services connecting Greenville to the resorts and to transportation hubs (such as Bangor, Portland, Quebec City, etc.). These shuttle services should also be open to the general public.
4. Traffic calming/control structures within developments and within area communities need to be constructed and maintained.
5. A construction traffic management plan should be developed and adequately reviewed by LURC and the public before any rezoning request is approved. This plan should address issues including congestion, safety, noise, and dust.

With regard to the applicant's request that some LURC standards be frozen as currently written within the Concept Plan area, the MRFC recommends that: (see "Additional concerns regarding LURC standards and criteria", page 49)

LURC standards should not be frozen. As better standards are adopted by LURC they should be applied evenly throughout the district.

With regard to the criterion of demonstrated need, the MRFC recommends that: (see "Additional concerns regarding LURC standards and criteria", page 49)

In any areas that are rezoned, each new subdivision should be required to meet the criterion of demonstrated need at the time it is proposed.

DETAILED EXPLANATION OF REQUESTS WITH SUPPORTING RATIONALES

INTRODUCTION:

The revisions to Plum Creek's application requested by the Moosehead Region Futures Committee (MRFC) are primarily based on the following criteria of Maine's Land Use Regulation Commission (LURC; see "Criteria for Approval of Concept Plans", March 18, 2005):

1. Rezoning must satisfy a demonstrated need in the community or area. Plum Creek contends that its proposed Concept Plan would meet economic needs of local communities. The MRFC believes that Plum Creek's current proposal fails to offer sustainable solutions to the Moosehead region's economic difficulties, and in fact would cause undue adverse impacts to the "green infrastructure" that could support a sustainable nature tourism economy for generations to come. The MRFC is recommending revisions that we believe will better meet the long-term economic needs of our region.
2. Rezoning must not cause undue adverse impacts on existing uses or resources. In this brief, the MRFC points out many adverse impacts that could result from Plum Creek's current proposal.
3. Concept plans must strike "a reasonable and publicly beneficial balance between appropriate development and long-term conservation", and "any development gained through any waiver of the adjacency criterion [must be] matched by comparable conservation measures". The MRFC does not believe that Plum Creek's current proposal meets these requirements for balance. The MRFC is recommending revisions that we believe will better achieve the balance that is mandated by LURC and is needed to ensure the long-term health of our local communities.

Plum Creek is asking the people of Maine to grant its request to undertake activities on its lands that it does not currently have the right to do, i.e.: develop 975 homes, two resorts and five additional commercial zones. This proposal would be considered large-scale in any location in Maine, or for that matter in nearly any other state.

In exchange for approval of these development rights, Plum Creek is offering the guarantee of public access to some of its remaining lands through a series of complicated and yet to be refined easement arrangements with a number of parties. Public access to these very lands is a benefit that Maine residents and others have enjoyed for generations before Plum Creek became a Maine landowner. Plum Creek is implying, as reiterated in opening statements on December 3, 2007 by Luke Muzzy and Severin Beliveau, that it may extinguish that benefit to Maine people if it is not awarded approval of its development plans. This approach has not set the stage for constructive discussion, but instead has resulted in a very sad polarization of the communities and families of the Moosehead region and throughout the state.

Plum Creek would very likely find that it would enjoy far wider public approval of its plans and the end result would be better for the region and its people if the revision process was changed so that it was inclusive rather than confidential and closely held between Plum Creek's staff and

Plum Creek's supporters. Professional facilitators might improve the efficiency of this process, provided that they were bound to act as neutral participants.

It was abundantly apparent throughout the weeks of testimony that Plum Creek's staff and others involved in crafting the current proposal understood and admitted that much about the current plan was unfinished, unclear, lacked detail, needed refinement, or otherwise required more work. The following are examples of such admissions with regard to various areas of concern:

Luke Muzzy, December 5, 2007:

- “that’s something we’re wide open to discussing” (re: shared docks)
- “I’m wide open to working with folks” (re: commercial zoning in the Rockwood area)
- “obviously, this has to be tightened up to give people more surety” and “We know that needs to be addressed” (re: backlot view corridors)
- “if you found a loophole, you let me know about it, and we’ll close it” (re: the potential transfer of additional lands to the Balance Easement)
- “If we hear things that make sense and we think will make it a better plan, we’re going to listen to that and see if we can make it work”

Brian Kent, December 5, 2007:

“What I’ve learned working for [Plum Creek] for the last three years is that they would be very, very willing to listen.” (re: concerns about development on the Brassua Peninsula)

James Kraft, December 11, 2007:

“...inevitably there are going to be details that need to be worked out....I hope there will be an opportunity after we get through these hearings to work with staff to work out some of those details and clarifications. I think it’s pretty obvious to everybody that there have been some good comments and some need for clarification....We’re willing to make those clarifications.” [This was a response to a question as to whether there “are some components of this plan that still need to be ironed out”.]

Alan Hutchinson, January 22, 2008:

“...there are probably six to ten areas [in the proposed conservation easements] that have been identified where we think further change would be good and helpful [a detailed listing of the desired changes followed]....Nature Conservancy and the Forest Society of Maine spent a whole day going through this with our attorneys about a week and a half ago and came up with this list. And then we decided it would be fair, only fair to – full disclosure just to let Plum Creek know where we were on these issues. Their response was – you know, we’re hearing a lot of things from a lot of people, and we’re prepared to make changes that we think are appropriate in consultation with the Commission.”

We could provide many more examples of such statements made during the hearings. The record clearly indicates that Plum Creek admits there are many areas that still need to be addressed, refined, corrected, defined, or otherwise fixed. The record also shows that many witnesses from various parties also had serious reservations about these insufficiencies throughout the current application.

We are particularly concerned about the repeated use of the term “intention” by Plum Creek’s witnesses during the hearings. Plum Creek’s witnesses often mentioned “intent” when discussing vague or ambiguous language in the application. In all such cases, Plum Creek’s intention must be explicitly defined in writing. Intent is not enough to protect the values that are so important to our region. Over the many years that this development will be ongoing, the original intent, whatever it may be, is in grave danger of being forgotten. Once the land is rezoned, Plum Creek is likely to sell it to developers who will have no way of even knowing Plum Creek’s original intent. Testimony by MRFC witness Joe Brenneman made it plain that if requirements are not clearly and unambiguously defined, then Plum Creek’s corporate attorneys will question the need to follow them. Mr. Brenneman’s experience indicates that Plum Creek will do only what the law requires and no more. As Commissioner Steve Schaefer said on December 12, 2007, “The Moosehead brand is going to have to be written down”.

MRFC believes that numerous revisions are necessary in order to provide clarification where insufficient detail has been offered, where language is ambiguous, and/or where Plum Creek’s intent is unclear. However, such revisions alone will not resolve the major issues that we have identified in our testimony and that have been raised by other parties to these proceedings. To address these issues, substantive and meaningful changes to Plum Creek’s application will be required. These issues include the following:

- The size and location of development zones
- The types of development proposed for certain locations
- The terms, size, and location of the conservation easements
- The lack of protection of some of the region’s most important areas for nature tourism and wildlife recreation
- Major changes to Chapter 10 language that may set a dangerous precedent for future concept plan applications

Detailed discussion of these issues, with MRFC recommendations for revisions to resolve them, is provided below.

THE CRITERION OF DEMONSTRATED NEED AND THE MOOSEHEAD REGION’S ECONOMY:

Over the past three years, much of the comment on Plum Creek’s proposal has focused on the following two issues, which directly relate to major LURC approval criteria:

- The Moosehead region is a unique, one-of-a-kind resource that should not be degraded or destroyed (the region must be protected from undue adverse impacts)
- The Moosehead region needs a more hopeful economic future (there is a demonstrated need to plan for sustainable economic growth)

Throughout the scoping sessions, public testimony sessions, letters to LURC, op-eds and letters to Maine’s newspapers, volumes of pre-filed written testimony and four weeks of technical hearings, the core issues have not changed. What emerges are two clear and powerful themes.

Both are directly related to LURC's legal charge to evaluate Plum Creek's application with regard to the criteria for demonstrated need and protection from adverse impact.

One theme is that *the Moosehead region is a unique, one-of-a-kind resource that should not be degraded or destroyed*. The list of regional assets threatened by the current Plum Creek proposal is extensive and supported by compelling testimony.

The other theme is that *the Moosehead region needs a more hopeful economic future*. According to some, Plum Creek's plan is the best economic opportunity we are likely to get. However, the MRFC believes that Plum Creek has failed to offer credible documentation that its plan would offer permanent, decent-paying jobs or that its real estate development formula is a proven economic strategy for a gateway community like the Moosehead region. To the contrary, the MRFC believes that Plum Creek's current plan would prevent growth of the region's nature tourism economy by causing undue adverse impacts to the natural resources required to sustain it.

Economic solutions must be part of the LURC decision-making process. Revision strategies must recognize both the applicant's use of economic need to support its request for rezoning as well as LURC's permission to use economics to justify approval of an application. MRFC witness Sandra Neily addressed that issue in her August 31, 2007 testimony, as quoted below:

“...because Plum Creek has chosen to make its most important project ‘vision ...to maintain the economy and future well being of the existing service centers of Greenville, Jackman, ...the village of Rockwood, Beaver Cove and Kokadjo that are the primary centers of the region’, it has signaled it intends to qualify its project on the economic ‘demonstrated need’ of the region.

LURC now finds itself the arbiter of an economic debate about the merits of intense and transforming real estate development versus protection of jurisdiction lands (and what might be threats to the current primary economy) and it will be asked to make an economic choice based on need criteria ...”

Plum Creek's economic vision for our region is based solely on its ability to sell land to developers, sell easements to non-profits, and sell its purported economic commitment to the rest of us. This vision fails the Moosehead Region.

If LURC is going to address Plum Creek's use of economic need to justify its resort and development choices, then it should be fairly expected that our revision recommendations will also address this same criterion.

In its Citizen Solutions planning guidelines (developed in 2005 and submitted as Exhibit 1 by MRFC witness James Glavine on August 31, 2007), the MRFC listed the area's essential economic components: Sustainable Forestry, Nature-Based Tourism, Wildlife Recreation, and Retirement/ 2nd Home Industry. In the only study of a similar forest gateway community (Rangeley, “Conservation Works”), the largest economic sectors were, in order: first, tourism (including wildlife recreation); second, forestry; and third, the real estate economy.

Below we will expand the list of current area economic categories to a planning discussion of proven elements that make up a gateway community's economic success and we will connect revision requests to these essential economic elements.

ECONOMIC ELEMENTS OF A SUCCESSFUL GATEWAY COMMUNITY:

The profile of a successful resource dependent community is not a secret. There are many economic studies of communities adjacent to national parks or conservation lands, and of forest and oceanside communities.¹ Success depends on all or most of the following elements.

1. **A nature tourism resource base, amenity infrastructure, and local management capacity capable of attracting customers and out-competing other outdoor venues.** *This would mean identification and conservation of all essential tourism and wildlife resource assets as well as planning and management that accommodates diverse market segments: a full service resort, bed and breakfast accommodations, sporting camps, campgrounds, etc.*

Revision Requests:

- a. Working with representative stakeholders, Plum Creek must conduct complete inventories of lands, waters, access, trails, views and recreational experiences that currently support the area's famous brand of nature tourism as well as conduct an assessment of potential areas (Moose River into northern Brassua Lake, for example) that will be able to meet future demand. This inventory should build on the current GIS mapping and business interviews of the Moosehead Mapping Collaborative, discussed in MRFC testimony. Much of the inventory work has already been completed.
- b. Working with representative stakeholders, Plum Creek must conduct complete inventories of area wildlife and its necessary habitat (beyond endangered and threatened species) in order to determine what habitats and travel corridors need to be conserved for the region's wildlife recreation industry. Much of that inventory work is also available from stakeholder organizations and state/federal agencies.
- c. Based on these inventories, Plum Creek and stakeholders will remap prospective areas of development and conservation to fully respect existing tourism natural resource infrastructure and probable future needs, wildlife habitat and travel corridors, and buffering requirements of trails and other nature tourism assets. Examples of locations where proposed development would cause undue adverse impacts to nature tourism include the following: the northwest section of the Brassua Peninsula, the Lily Bay Peninsula, the north shore of Long Pond, Upper Wilson Pond, and Indian Pond.

¹ Examples are found in: "Sustaining Jackson Hole: A Community Exploration" (a project jointly sponsored by the Charture Institute, the Jackson Hole Chamber of Commerce, and the Northern Rockies Conservation Cooperative; Jackson, Wyoming; October, 2005) and "The Economic Impact of the Proposed Maine Woods National Park and Preserve" (T. M. Power; Forest Ecology Network; September, 2001).

d. Lands excluded from currently proposed development zones because of their high value for nature tourism and wildlife recreation will be managed by the Moosehead Region Land Trust (see section 2 immediately below as well as “A model for identifying lands within proposed development zones that are actually suitable for rezoning to development”, pages 19-23).

2. Permanent conservation and appropriate buffering of high-value lands, waters, views, wildlife habitat, and trail systems, with management by local expertise and commitment.
The Moosehead Region Land Trust will be organized to manage the Moosehead region’s nature tourism and recreational assets. Currently, no local, regional or state entity has responsibility for making nature tourism happen in this watershed. Plum Creek’s current plan scatters responsibility to powerless advisory entities or non-profits that are not based in the region. The Plan creates no central authority with the mission and expertise to manage area lands to benefit the local nature tourism economy. Without an organized, comprehensive local “office” and mission to do just that, we will be unable to successfully manage potential threats to our resources or realize the potential economic benefits of Plum Creek’s proposal.

Revision Requests:

- a. The Moosehead Region Land Trust, a locally staffed and directed land trust developed exclusively to manage the Moosehead region’s nature tourism and recreational assets, should be created upon approval of Plum Creek’s application with a \$650,000 endowment from the applicant. The work and success of the trust must never be compromised by a lack of funding for basic staffing and stewardship, hence endowment funds must be provided to create trust management capacity.
- b. As noted above, the Moosehead Region Land Trust will manage lands excluded from currently proposed development zones because of their high value for nature tourism and wildlife recreation, and will also manage lands set aside for low-impact recreational activities to enhance quality of life for residents of area communities (see “A model for identifying lands within proposed development zones that are actually suitable for rezoning to development”, pages 19-23).
- c. Further funding for the Moosehead Region Land Trust should be provided by a “Moosehead Stewardship Fund” that levies 2% of each initial and subsequent sale of all developed property (including resort condos and time shares) as well as a 2% lodging “Moosehead Stewardship” surcharge on resort rental accommodations. These funds will target stewardship in the geographic areas most affected by the rezoning plan. These funds will help to ensure that the value of Plum Creek’s development will always be secured by active conservation and recreation management and that area visitors will continue to be attracted to the region’s “brand” of unspoiled yet accessible outdoor recreation and wildlife. The Moosehead Stewardship Fund would be managed by the Board of Directors of the Moosehead Region Land Trust. [This recommendation is based on the currently proposal for a Community Stewardship Fund. Our modifications increase the fees paid into the fund and target disbursements toward uses that will enhance the local nature tourism economy. At the hearings, it became clear that the fund would never be able to satisfy all of the expectations

expressed by various parties, which included uses ranging from rebuilding the Greenville Junction Wharf to loon awareness education to county road projects to repayment of a loan to construct the peak-to-peak hiking trail.]

- d. This proposed Moosehead Stewardship Fund should follow the model of the Maine Outdoor Heritage Fund that considers requests for proposals in several distinct categories. The Moosehead Stewardship Fund might allot, for example, 30% of the fund income to trail development and maintenance, 30% to visitor infrastructure (signs, parking, maps, boat ramps, road grading, etc.), and 40% to further acquisition of wildlife habitat or high value conservation lands.
- e. The Moosehead Region Land Trust Board of Directors should be mandated to include representatives of each of the region's major landowners, including Plum Creek; the major Moosehead region easement holders; representatives of each community in the region, including Beaver Cove, Greenville, and Rockwood (not specifically limited to governmental representatives); representatives from the Maine Dept. of Inland Fisheries & Wildlife and the Maine Bureau of Parks and Lands; representatives from each of the major recreational users groups, including both mechanized and non-mechanized trail users groups; guiding and outfitting organizations and businesses; and, finally, representatives from each of the new homeowners associations as well as resort property recreational managers. The Board should also be required to establish a working relationship directly with LURC.
- f. As noted above, responsibilities of the Moosehead Region Land Trust would include management of selected lands excluded from currently proposed development zones and administration of the Moosehead Stewardship Fund. The Land Trust might also:
 - Offer a comprehensive recreational planning and management tool, informed and enriched by local expertise.
 - Link the Moosehead region to statewide tourism efforts such as the Maine Woods Consortium proposed by the Maine Mountain Heritage Network.
 - Create visibility for the Moosehead region in national and international markets.
 - Monitor the region's recreational resources for undue adverse impacts caused by development, timber management practices, overuse or exploitation by any user group.
 - Collaborate with holders of the much larger Balance and Legacy Easements to create a recreation management plan for these easement lands that supports the needs of local nature tourism and wildlife recreation.
 - Collaborate with the Bureau of Parks and Lands on recreation management plans for new public lands units.
 - Work with area tourism businesses and user groups to better manage recreation sites (signage, parking, plowing, litter, etc.).
 - Work with area homeowners associations to support compliance with covenants and LURC standards.
 - Maximize the potential of wildlife recreation in the Moosehead region through work on habitat conservation (for example, winter deer shelter), watchable wildlife sites, water quality and fisheries issues, hosting of the Maine Birding Trail, and other related wildlife opportunities.

- Collaborate with Plum Creek and future developers to create a coherent, world-class trail system that accommodates both motorized and people-powered recreation.
- Serve as the easement holder for local trails, potentially including the proposed peak-to-peak hiking trail (see “Peak-to-peak hiking trail”, page 41).

3. Sustainable forest management that will support nature tourism and wildlife values as well as supply the next generation of wood products. *In Maine that may likely mean forests capable of participating in a carbon-trading system as well as supplying biomass to bioproduct refineries that replace fossil fuels with wood based products and fuels.*

Revision Requests:

- a. There must be a Forest Management Plan for easement lands that includes:
 - Planning for wildlife habitat (all representative area species, not just threatened and endangered species)
 - Planning for forest landscapes that are defined by a healthy diversity of species and age classes of trees
 - Planning for forestlands that will attract carbon market buyers
 - Planning that encourages sustainable biomass harvesting for new bioproducts development
 - b. The Forest Management Plan must be approved and supervised by Maine agency staff (Dept. of Inland Fisheries & Wildlife, Dept. of Forestry, etc.). The currently proposed system of “advisory” supervision, under which Plum Creek is not compelled to follow recommendations, is insufficient.
 - c. There must be an open public process to ensure that Plum Creek is complying with the Forest Management Plan. The Sustainable Forestry Initiative (SFI) program is not strong enough to ensure the protection of public interests on the easement lands. Plum Creek has maintained SFI certification despite violating Maine laws and agreements. Confidentiality agreements prohibit the public from having access to SFI audits, so the public has no way to know what violations have occurred or what measures are being taken to prevent future violations.
 - d. Easement language should be redrafted to include financial consequences for failure of the landowner to comply with the Forest Management Plan. Testimony clearly showed that the SFI program has no mechanism for any punitive measures if a member is in violation of the certification requirements. Such a member must only have a plan to improve operations. Without a punitive clause, there is no expectation that forest management will be conducted to any higher standard than that found acceptable by the harvester.
- 4. Advanced technology that is used to create new competitive businesses, lure families and entrepreneurs, support existing businesses, and upgrade local schools.** *At Moosehead, this would be broadband service within an effective service area of Beaver Cove, Greenville and Rockwood.*

Revision Request:

Plum Creek, working with state and county economic development entities, as well as regional telecommunications companies, will create a plan for immediate broadband access within and near the communities of Beaver Cove, Greenville and Rockwood. Resorts and high-end development that lack this technology are less marketable. In order to attract businesses and entrepreneurs who will join the community (either in new housing or in existing housing), the region must be able to compete with urban and suburban population centers as well as other resort communities that already offer such amenities as the standard.

5. A vibrant second and retirement home industry offering diverse products located adjacent to high-value natural resources, trail amenities, and advanced technology.

Diverse real estate and ownership options geared to the values and desires of the buying public, equipped with current technology and designed according to “LEED” building standards, located near resource areas that will, in perpetuity, retain their recreational and wildlife habitat values, will be in position to consistently, over time, out-compete other real estate markets.

Revision Requests:

- a. Plum Creek must assure the state that all construction resulting from its rezoning request will be done in accordance with the most current “LEED” or Energy Efficient practices and utilize Sustainable Certified materials. Maine leads much of the nation in such technology, thus the resources are readily available to competent developers and builders. LEED-certified structures command much better prices and attract energy-conscious and sustainability-conscious buyers, who are perhaps more likely to be respectful of the protection of the natural resources that first attracted them to the area.
 - b. Resort and subdivision plans must be required to establish open space and green corridors that support adjacent wildlife corridors, and should be required to include trail systems that will, eventually, become part of a region-wide network of motorized and people powered trails. Both of these amenities will add value to the properties being developed.
- 6. A school capable of attracting families to relocate to the region.** *Plum Creek has often used the declining school enrollment to convince local people to support its rezoning proposal even though the evidence is clear that the development of second and retirement homes does not lead to greater enrollment. A creative and unique partnership between area schools and Plum Creek’s philanthropic foundation, with the goal of making local schools more attractive to families who might relocate to the region, would be an important element in the long-term economic success of the region.*

Revision Request:

Plum Creek, working with the Maine Department of Education, local governments and schools, should be required to support a genuine effort to make schools attractive to families who might choose to relocate to the region. In recent years there has been an active discussion

of how our schools could (like the magnet math and science school in Limestone) become nature based or outdoor based centers of learning. Toward the realization of such a goal, Plum Creek might donate land it owns within the town of Greenville to be used as a town forest. Students would utilize these lands in various kinds of studies throughout the lower grade levels and eventually, in higher grade levels, be charged with managing the forest for wildlife, timber harvesting, and recreation. Here they would learn valuable skills that might lead them to careers as wood science engineers, wildlife biologists, contractors for wood-to-energy projects, outdoor recreation guides, or simply successful students who have learned from a curriculum that exploits and respects the richness of the region's natural resource assets.

Positive results:

A community that sits at the edge of resources that can never be degraded or lost through sprawl or mismanagement, where traditional resource based businesses work alongside new ones and where, ironically, advanced technology, unique and distinctive schools, and modern building standards define the developed community is the success model for communities as diverse as Bar Harbor, Maine, Jackson Hole, Wyoming, and Sandpoint, Idaho.

Plum Creek's vision for our region is based solely on its ability to sell land to developers, sell easements to non-profits, and sell its purported economic commitment to the rest of us. Clearly, that vision fails the true needs of the Moosehead region. However, armed with this list of successful gateway community elements that have produced proven economic successes, we can revise Plum Creek's proposal into a genuine economic opportunity for the region as well as a powerful investment opportunity for Plum Creek.

A MODEL FOR IDENTIFYING LANDS WITHIN PROPOSED DEVELOPMENT ZONES THAT ARE ACTUALLY SUITABLE FOR REZONING TO DEVELOPMENT:

The MRFC believes that the amount of land requested for rezoning to development is excessive based on the amount of development that has been proposed. The MRFC believes the area to be rezoned should be significantly reduced, to a level consistent with the amount of development that has been proposed. In the following section the MRFC will put forth a set of criteria to analyze the total area proposed for rezoning and select the portion of that total area that is most suitable for development. The criteria used to make these selections include the following:

1. Locate development on suitable soils (based on S.W. Cole's soil suitability rating and depth to seasonal water table).
2. Protect areas indicated by Maine Natural Areas Program as unsuitable for development.
3. Locate development in accordance with local needs and values as expressed in:
 - a) The MRFC Citizen Solutions map, which embodies planning guidelines based on input gathered in 2005 from Moosehead region residents and business people. [The Citizen Solutions guidelines and map were Exhibits 1, 2 and 3 of the testimony filed by MRFC witness James Glavine on August 31, 2007.]

- b) Any information gathered from additional interviews and correspondence with local citizens and business owners (including public comment and testimony submitted to LURC as part of these proceedings).
4. Modify development zones as indicated by current or future data regarding high-value areas for nature tourism and wildlife recreation. The MRFC recommends that inventories be conducted of areas vital to the region's nature tourism and wildlife recreation economy (see "Economic elements of a successful gateway community", pages 14-19).

In this brief, we will demonstrate the application of these criteria to the Rockwood area. However, the MRFC strongly believes that the same criteria should also be used in all of the remaining proposed development zones to choose the lands most suitable for development and to protect the lands that are unsuitable for development.

The MRFC further requests that the lands in currently proposed development zones that are deemed to be unsuitable for development be donated as conservation. Management of these additional conservation lands would fall under one of the two following categories:

1. **Moosehead Region Land Trust:** The Board of Directors and staff of the Moosehead Region Land Trust (see "Economic elements of a successful gateway community", pages 14-19) would use the inventories noted above to identify lands of high value for the region's nature tourism and wildlife recreation economy. In addition, they would consult with local citizens to identify lands that might be set aside for low-impact activities in order to enhance quality of life for residents of area communities. (It should be noted that there is likely to be considerable overlap between lands that provide recreational benefits for local citizens and lands that support the tourism economy.) The selected lands would then be managed by the Moosehead Region Land Trust for uses such as the following: appropriately located bicycle and walking trails, primitive campsites, natural areas, wildlife protection zones, significant archeological and historical protection zones, water access areas, and other low-impact activities, or for limited, appropriately located motorized trails. Many of the lands that would be excluded from currently proposed development zones are downslope of areas that would be developed and, if properly protected, would act as filter areas to mitigate the negative water quality impacts from development located upslope. Some of these areas could also act to mitigate the negative water quality impacts (erosion and sedimentation and thermal impacts) of the type of industrial forestry currently practiced by Plum Creek. The MRFC believes that these areas could form the backbone of a developing nature tourism infrastructure and would be a permanent and valuable asset to the surrounding communities.
2. **Balance easement:** Lands excluded from currently proposed development zones that were not selected for management by the Moosehead Region Land Trust would revert to the Balance Easement.

Regarding the criterion of soil suitability:

A report prepared by the LURC staff/consultants, dated November 5, 2007 and entitled "An Estimate of Excess Land in Development Zones Within Plum Creek's Moosehead Lake Region Concept Plan Proposal" compares the number of proposed dwelling units with the amount of land proposed for development. On page 2 of 12 of that report it states "*Development areas*

contain 21,076 acres, of which an estimated 11,573 (55%) have soils suitable for development. Based on certain assumptions described below, the excess of land with suitable soils in the development areas ranges from a low of about 3,200 acres (assuming a maximum lot size scenario) to a high of about 8,500 acres (assuming a moderately compact design scenario).” It is clear then that the land actually needed for the development that is proposed ranges from 3073 acres to 8373 acres. The remaining 12,703 to 18,003 acres is not needed for the development proposed by Plum Creek.

This indicates that, even without the soils deemed by S.W. Cole to be unsuitable or generally unsuitable for development, Plum Creek’s current application requests to rezone significantly more land than what is required for the development proposed. Therefore, it is clear that the land (9,503 acres) deemed by S.W. Cole to be unsuitable or generally unsuitable for development is not needed for the development that is being proposed. The criteria used by S.W. Cole to determine which land is unsuitable for development were based on the publication “Soil Potential Ratings for Low Density Development in the Unorganized Area of Maine”. This publication rates the various soils within the unorganized areas of Maine for development based on the following factors: the feasibility of using certain technology, practices to overcome limiting factors, the relative cost of implementing these practices, and the adverse effects and costs of any continuing limitation during the projected lifetime of use. The MRFC requests that all areas within the proposed development zones with soils (as mapped by S.W. Cole) having a rating of unsuitable or generally unsuitable for development be removed from consideration for rezoning.

The MRFC also requests that all areas predominated by somewhat poorly drained soils also be removed from consideration for rezoning. While generally these areas would have low soil potential ratings, S.W. Cole elevated some of the areas to limited suitability because they felt the shallow water table limitation could be overcome by practices such as filling, ditching and draining. While it may be true that the construction limitation can be overcome and the end user may be “high and dry”, this all comes at the environmental cost of altering the hydrology of the area. The water table on these somewhat poorly drained soils flows downgrade under the soil surface on top of an impermeable soil layer located approximately sixteen to twenty inches below the soil surface. When these areas are drained, ditched or compacted by filling and traffic the water table is forced to the surface where it travels by channelized flow (generally in ditches, ruts or gullies) to an outlet such as a watercourse, water body, wetland or vernal pool. This water that was previously traveling underground now picks up nutrients, sediment and other pollutants that it would not have done if it had remained in its natural drainage course. The temperature of water flowing in by channelized flow may also increase in summer periods. Finally, the water generally can be expected to travel more quickly toward an outlet when flowing down a ditch, gully or rut than it would have if it was left undisturbed. This leads to the negative impacts of increasing peak flows following rainstorms and snowmelts and diminishing stream base flows (minimum flows during dry seasons). Among other impacts, the increased flows after storms or snowmelts can scour stream channels making them unstable, wash out culverts, and generally decrease water quality. The decrease in watercourse base flows can lead to formerly perennial watercourses and wetlands drying up during the summer. Likewise, important vernal pools may begin to dry up too quickly to remain functional. In summary, when these somewhat poorly drained areas are developed, negative water quality and hydrological impacts can be expected.

Consider the December 14, 2007 testimony of Dave Rocque, Maine State Soil Scientist, in response to a question regarding this issue posed by Commissioner Wight. Mr. Rocque responded, *“The hydrology is one of my biggest concerns because it is so easy to put in ditches to lower the groundwater table. But when you do that, you take the water that was naturally coming cold and clean into brooks and ponds and wetlands, you put it into a ditch, it gets into—it’s—the water quicker, warmer and dirtier.”* In response to another question from Aga Pinette regarding this issue, Mr. Rocque stated, *“And overcoming the limitations of wet soils is done by ditching. You drop the water table because that’s the cheapest way to do it.... And so if you are looking at them [practices to overcome the soil limitations] from a perspective of, do they work or don’t they work? They work as far as the homeowner goes because they make the ground drier and they can—they can do what they want to do on it. But I contend that from an environmental perspective that—that they don’t work. Because if you put ditches in and all that clean, cold water goes into all those streams and ponds and wetlands and now it’s going there faster and dirtier, then you can overwhelm the stream banks, you cause erosion, you may end cold water fisheries, Those are the kind of issues that concern me.”*

Also, consider the response of Dr. Frank Sciremammano, Plum Creek water quality expert, when questioned by George Bakajza, MRFC, during the January 18, 2008 session on the impact of filling, draining and ditching the somewhat poorly drained soil areas. He stated, *“Well, I don’t buy into the premise that that’s the way you deal with those soils necessarily. There are other ways of dealing with it, including avoiding them.”* The MRFC believes that the best way to protect the hydrology of the majority of these somewhat poorly drained soils is to remove them from consideration for rezoning and provide permanent protection that maintains their natural hydrological functions.

Application of the model to the Rockwood area:

The model outlined above was applied to develop a map of the Rockwood area that shows what lands are suitable for development based on MRFC criteria (Exhibit 1). This map also shows lands in currently proposed development zones that are deemed to be unsuitable for development based on MRFC criteria; MRFC requests that these lands be donated as conservation. Data sources used for this map include the following: geographic information systems (GIS) data submitted by Plum Creek to LURC, GIS data submitted by Maine Natural Areas Program to LURC, data from the Maine Office of GIS, the MRFC Citizen Solutions map, and more recent interviews with Rockwood area citizens and business owners. [Note: In Plum Creek’s October 2007 revisions, roughly 30% of the land between the East and West Outlets indicated on our map as “MRFC proposed donated conservation land” was in fact added to the proposed Balance Easement; our map does not reflect that most recent revision. Roughly half of the land added to the Balance Easement had already been designated by the state as fish and wildlife and/or wetland protection zones.]

An analysis of the lands suitable for development, based on MRFC criteria, yields a total area of approximately 2,311 acres. This is adequate land to allow for the development that Plum Creek is proposing for this area.

Also included within the conservation lands requested by MRFC is the area of M-GNM located on the ridgeline and summits between Misery Ridge and Blue Ridge. This area is proposed for protection due to its location on the ridgeline and due to the fact that approximately one-half of the site has soil generally unsuitable for development. It is feared that left as M-GNM, the site could easily be converted to house lots using the “two in five” rule. These house lots would be located on the ridge top and could potentially be visible from long distances.

The next section discusses the MRFC recommendations for the Rockwood area, and the supporting rationales, in greater detail.

ROCKWOOD REZONING RECOMMENDATIONS:

As a result of the Plum Creek intervenor and public hearings, the following are offered as recommendations with regard to rezoning the Rockwood area. Specific recommendations were requested by LURC staff and consultants for locations, sizes and types of zoning, with accompanying rationales. These recommendations are organized according to location.

Summary:

The overall locations, sizes and types of zoning proposed are considered overpowering within the context of this small community. Following are specific recommendations for each of the four Rockwood areas being considered for rezoning that we believe would help the local community support this plan:

- I. Adjacent to Rockwood Village – Positive location for Commercial Development / Community Center
- II. South side of Blue Ridge Mountain – Positive location for Mixed Uses
- III. Brassua Lake Peninsula – If developed at all, change to Modified D-RS3M (Residential Recreation)
- IV. West to East Outlets – Change to Modified D-RS3M (Residential Recreation)

Exhibit 1 is a map that indicates the recommended boundaries of development zones in each of the four areas. Criteria used to determine these boundaries include the following: community needs and values, soil suitability, and the testimony of resource experts during the recent hearings. It should be noted that the described boundaries of the zones are not precise, but are only meant to provide an indication of the location, size, and type of zone that is generally accepted within the community. The MRFC would expect these boundaries to be adjusted somewhat as more detail is gathered. [Note: In Plum Creek’s October 2007 revisions, roughly 30% of the land between the East and West Outlets indicated on our map as “MRFC proposed donated conservation land” was in fact added to the proposed Balance Easement; our map does not reflect that most recent revision. Roughly half of the land added to the Balance Easement had already been designated by the state as fish and wildlife and/or wetland protection zones.]

Plum Creek’s proposed Concept Plan, with some modifications, could strike a reasonable and publicly beneficial balance between appropriate development of each area and the long-term conservation of lake resources.

During the hearings, Plum Creek continually used the rationale that they were looking at the plan from a Landscape perspective, pointing to development vs. conservation as a package that fully addresses the needs of the entire Moosehead Lake region.

However, even when viewed from the Landscape perspective, the intensity of the development proposed for the Rockwood area is a heavy hit in relation to the rest of the rezoning in the plan. The hearings showed the proposed development would irrevocably and wholly change the values, uses, and character of the Rockwood area directly. This change is widely regarded by local residents as a seismic shift, one that will require time for making the transition.

The hearings showed that Land Use Regulation Commission staff and consultants are considering the rezoning application not only from the Landscape perspective, but in the context of three perspectives:

1. The Landscape scale: whether, in the context of the “big picture”, the types of zoning proposed for various areas within the Concept Plan make sense.
2. The Regional scale: whether the amount and type of development are suitable to a particular area within the Concept Plan, as well as modifications that would better adapt a particular type of zoning to an area.
3. The Site Specific scale: the exact locations and potential impacts of individual development units are considered (e.g., lighting and noise standards).

Therefore, for this report, each of the four Rockwood areas has been given some consideration from each of those three perspectives.

Overall, while some development is welcomed and needed, the Rockwood community in general is asking for slow growth, well placed, over time, with a phased build-out so problems that arise can be suitably handled. No organization as a Town is wanted. From the perspective of the community, the recommendations presented here will help make the transition a sound one.

Lastly, these recommendations should not be considered all-encompassing; there are likely items to be considered that were not or could not be covered here.

Rockwood area locations under consideration:

I. Adjacent to Rockwood Village – Commercial Development / Community Center

Location is the west side of Rt. 15, in walking distance to Rockwood village proper and Mt. Kineo public boat landing. Make-up of this core area includes: Old Richard’s boat yard, the Rockwood Community Center, Rockwood Elementary School, Rockwood Fire & Rescue Dept., and The Shop, a commercial business complex. The proposed zoning here is Plum Creek’s “hybrid” D-GN3M (Rural Mixed Use).

At the Landscape level, the zone proposed by Plum Creek in this area is widely accepted.

At the Regional level, recommendations include:

- Buffering potential commercial development by the roadside trees and ledges so that it does not become a linear strip along Rt. 15 down toward the West Outlet and so that it does not mar the rural character and distinct natural setting of the area.
- Using “tiered” or circular plans to build a modern village / community center off of Rt. 15 but close to the old village and landing. Generally accepted in the community was to place D-GN3M closest to the existing commercial development, and add to it, with D-RS2M and D-RS3M placed behind, southeasterly of Blue Ridge, as a fine complement.
- Phasing-in development; perhaps 5-10% of the total number of units built per year.
- Slow growth, with build-out gradually over time, so that problems can be suitably handled.

At the Site Specific level, recommendations are:

- Ensure language in definitions is written so that lighting is minimized and/or shielded from creating a night “blaze”.

Rationales:

- This zone places commercial and mixed use commercial and residential near existing compatible uses and expands upon them.
- There is a demonstrated need and desire by the community for this type of zoning, in this location.
- The soils are generally suitable, so ground mitigation may be minimal.
- The land is high and views very marketable.
- A Community Center – upscale village, with shops, etc. – could take advantage of the close proximity of the lake, views of Mt. Kineo and beyond, where both new and old residents, visitors, new and old businesses would thrive.
- A logging road network and public infrastructure already exist, so there is ease of access and traffic patterns/concerns are ameliorated.
- Traffic may enter residential areas directly off the community center or from the Somerset Rd., which is well used now.
- The Fire & Rescue crew is within striking distance.
- With good planning, houses may not be seen from the main road, owners would be afforded much privacy and experience the “Maine Woods”, while not having to travel miles to get to a store or find amenities and services they still want.
- D-GN3M at this location will not negatively impact outlying recreational, natural areas, which are essential to maintain for the long-term economy, health and signature of this community, in particular, and the greater Moosehead Lake region, in general.
- This type of zone suits this area without adding sprawl or creating undue adverse impacts to blocks of land important for wildlife habitat and recreation or to wildlife corridors, signature parts of the Rockwood identity.

II. South side of Blue Ridge Mountain – Generally Positive Location for Mixed Uses

Proposed zones include the applicant’s “hybrids” D-GN3M (Rural Mixed Use), D-RS2M (Community Residential) and D-RS3M (Residential Recreation), with D-GN3M and D-RS2M

closest to existing infrastructure and D-RS3M furthest out. As currently proposed, these development zones extend along the entire length of the Blue Ridge and beyond.

At the Landscape level, the locations of these zones are generally accepted on the south side of the Blue Ridge.

At the Regional level, recommendations are:

- To decrease the amount of acreage that is proposed, from the approximate total of 3721 acres combined (D-GN3M- 235 acres, D-RS2M- 1488 acres, D-RS3M- 1,998 acres) to a total of approximately 1492 acres, so that the most westerly, furthest end of Blue Ridge Mountain into Misery Ridge remains part of the contiguous natural block.
- To keep the furthest reaches of the Blue Ridge/Misery Ridge continuum free of development zones, where local guides have indicated big game move from wetlands to the highlands. This was supported by the Dept. of Inland Fisheries & Wildlife and the Dept. of Conservation at the hearings, which said, at full build-out, these development envelopes could significantly alter, restrict and possibly eliminate movement of various wildlife species.
- To locate residential units closest in (easterly) toward the village/commercial area, on the most suitable soils to support them.
- To phase in 5-10% of the total number of units in a given year.
- To reduce the size of these development pockets and put the remaining rim of close-in undeveloped areas into donated conservation. The sizes of these zones are considered unnecessarily large.

At the Site Specific level, recommendations are:

- To ensure language in definitions minimizes light pollution and controls how lights are used. Example: In current definitions, motion-detection lighting is included. Motion-detection lighting in the woods does not work well. Winds, animals, etc. make lights perpetually turn On, causing problems between neighbors and taking away another piece of what the area is known for – darkness and spectacular night skies.
- Language in definitions should reflect the nature of the area with regard to noise levels and minimize other environmental impacts.

III. Brassua Lake Peninsula – If developed at all, change to Modified D-RS3M (Residential Recreation)

Proposed zones include 91 acres of D-GN3M (Rural Mixed Use) and 2,721 acres of D-RS2M (Community Residential).

At Landscape, Regional and Site Specific levels, these zones are widely not accepted.

The proposed size and type of development are widely considered far too much and too heavy a hit for this location. The overall community does not want to see any development this far off the grid. However, if the Land Use Commission determines that it ought to approve development for this location, the community consensus is to make it as limited as possible. No commercial development is wanted.

If LURC is convinced there is a need for development, recommendations are:

- To decrease the amount of acreage proposed, from the combined 2,812 acres to approximately 511 acres (in two parcels, one of 301 acres along the eastern waterfront, and one of 210 acres on the interior of the peninsula).
- To locate development on the southeastern waterfront side of the peninsula, leaving the northwesterly side undeveloped.
- To eliminate the D-GN3M commercial zones and D-RS2M zoning from the peninsula and replace them with D-RS3M (Residential Recreation).
- To eliminate the 60 acres of D-RS3M accessible only by water on the eastern shore of Brassua Lake because it is located on wetlands.
- To modify D-RS3M to eliminate the redline inclusions as described in 10.21J.c.14 for swimming pools and hot tubs.
- To modify D-RS3M to eliminate the redline inclusions as described in 10.21J.c.18 for clubhouses at 5,000 square feet per structure, community swimming pools, and equestrian facilities.
- To reduce the number of proposed units from 250 (capped) to no more than half of that number, to be located on the most suitable soils and to avoid sensitive habitat.
- To phase in the number of units over time, so that problems that arise may be adequately handled.
- To cluster development in non-linear design, generally circular edge shapes, and to have shared common, seasonal docking.
- To advocate that Brassua Lake be a Jet-Ski free water.
- To ensure there continues to be public access from Rt. 15 to Brassua Lake.
- To include the undeveloped portion of the peninsula as donated conservation.

Rationales:

- Residents widely do not want any development on this side of Brassua Lake:
 - Because there is no demonstrated need in the community for it
 - Because it is an isolated area that sees very little human use
 - Because it is “off the grid” – too far from existing development
 - Because it unduly creates noise, lights, additional traffic (sprawl into raw territory and along the Rt. 15 corridor, both toward Rockwood and toward Jackman)
 - Because it unnecessarily intrudes upon an important, very quiet natural area
 - Because the proposed use as a stand-alone new community center is incompatible with current and potential natural and recreational uses at Brassua Lake
 - Because the proposed use as a stand-alone new community center is not expected by the existing community and it shifts development from where there is a demonstrated need and desire for it in the current outpost community of Rockwood to a new “outpost”
- The development proposed by Plum Creek on Brassua Peninsula unnecessarily creates sprawl and will result in high undue adverse impacts.
- The proposed development zones do not meet LURC adjacency, distance, and compatibility criteria.

- The zoning currently proposed by Plum Creek encourages growth far from existing development. Changing it to limited, traditional use in this location will ameliorate some of the undue adverse impacts, at the Landscape, Regional and Site Specific perspectives.
- There is a need to protect existing natural areas close to new development zones in the greater Rockwood area, as balance/mitigation for heavy development.
- There is a demonstrated need to preserve a natural location that is tied to the local community, rather than a demonstrated local need to develop it.

Long-term economic rationales:

- Conservation of this location will, as Plum Creek consultant Rodney Warnick put it on December 5, 2007, protect what people come to the region for, the natural beauty, plus “preserve the character of your community, which I think is important here”.
- The only proven market, as several Plum Creek consultants pointed out, is the recreation market.
- The type, size and location of Plum Creek’s proposed development collide with existing and potentially important future natural and eco-tourism uses.
- MRFC recommendations for the Brassua Peninsula protect this high-value area for nature tourism and wildlife recreation.
- MRFC recommendations for the Brassua Peninsula protect the character of the Northern Forest Canoe Trail.

Long-term wildlife rationales:

- Protection of the Brassua Peninsula conserves high value wildlife habitat and an important water trail corridor linking the Moose River flowage to Brassua and Moosehead lakes.
- Limiting development on the Brassua Peninsula minimizes the impacts of vehicular and human traffic to threatened and non-threatened species moving through the area.
- Brassua Lake is home to many types of raptors, which would be pushed out by heavy development.

Rationales based on testimony from the Dept. of Inland Fisheries & Wildlife and the Maine Natural Areas Program:

- The undeveloped lakeside and ridge are natural barriers between wildlife and current residential/commercial developments.
- Ken Elowe (IF&W): Idea is to retain what we have between Long Pond & Brassua Lake systems; retain intact blocks; put new development near existing development.
 - This is an important travel corridor for wildlife between Long Pond and Brassua Lake from a Landscape perspective due to large block of forestland to the north and south, and major physical barriers to the east by Rockwood and Brassua Lake.
 - If start chipping away with development, can’t function as a wildlife corridor.
 - Fragmentation results in problems for animals.
 - Traffic impacts wildlife. Roads become barriers.
 - Agrees with Barbara Charry’s guidelines (see examples below).
 - Wildlife of special concern use the Moose River.
 - Haven’t looked at impacts within development blocks. Must err on side of caution, if agencies haven’t looked at impacts.
 - The conservation easements do not adequately mitigate the development, in general.
- Tim Obrey (IF&W): There are management tools to mitigate heavy impacts/uses, but results only go so far. Plum Creek has not adequately addressed impacts.

Rationales from Barbara Charry's testimony on behalf of the Natural Resources Council of Maine / Maine Audubon:

- Wild communities have been lost or altered by development in southern and coastal Maine; development is now impinging here. (Development of Class 3 Brassua Lake would begin a major impingement to this territory, both from the Landscape and Regional perspectives).
- Significant increases in human activity will likely displace or negatively affect many kinds of animals and amphibians that depend on the Moose River and major tributaries.
- Animals that need undeveloped habitat blocks include: hawks, eagles, ravens, owls, amphibians, moose, coyotes, bears. (All of these inhabit/use Brassua Lake.)
- Traffic volumes create barriers, then high mortality.
- With development, invasive plants begin to show up along roadsides, waterways.

IV. West Outlet to East Outlet – Some specific acceptance for Modified D-RS3M (Residential Recreation)

The proposed D-RS3M zones cover a total of 2007 acres between the East and West Outlets, with a commercial D-GN3M zone of 87 acres above the East Outlet.

At the Landscape level, D-RS3M zoning has some potential acceptance, especially nearest the West Outlet (because of its approximation to Rockwood village). The D-GN3M zone is widely not accepted because it is out of place. The location is in a sensitive wildlife and natural experience area.

At the Regional level, recommendations are:

- To eliminate the intensive D-GN3M development zone.
- To reduce the size of the D-RS3M zone below West Outlet and to eliminate the D-RS3M zone above East Outlet.
- To place residential units in clustered positions on suitable soils, nearest to Rockwood village.
- To phase in the number of units over time, so that problems that arise may be adequately addressed.
- To donate the lands excluded from development zones as conservation.
- To modify D-RS3M to eliminate the redline inclusions as described in 10.21J.c.12 for private and commercial trailered ramps; beach, shore and water access facilities.

At the Site Specific level, recommendations are:

- To provide a public hand-carry launch for non-motorized craft (canoes and kayaks) in the modified D-RS3M zone with shore frontage at West Outlet.

Rationales:

- Local residents generally believe the acreage currently proposed for rezoning to development is too large.
- It keeps development near to existing development.
- It avoids unnecessary sprawl and discourages linear development along scenic Rt. 15.
- It avoids degrading the natural experience of the East and West Outlets.

- It avoids degrading the Somerset Game Sanctuary.
- It buffers wetlands and riparian areas.
- It avoids negative impacts to wood turtles on East and West Outlets.
- The soils and water of the West Outlet are not suitable for the heavy impacts associated with motorized boats, trailers, personal watercraft (Jet Skis), or marina-type facilities. However, a hand-carry launch for non-motorized craft may be suitable for this area.

Conclusion:

The locations for the community center and for nature-based uses are key to the specific recommendations made here. Planning within the Unorganized Territory is not based on a two-variable approach, such as for population and market, but is an integrated “organized complexity” that takes into account particular Regional and Site Specific considerations, which include the local people, wildlife, services, and natural and man-made infrastructure – none of which can be considered and decided on from a Landscape level.

The general rationale behind these recommendations is that rezoning must fit the community and the region. The sum of the whole, in other words, is only worth the value of each of its parts. How areas are rezoned at the Concept Plan level is most important because it sets up the foundation for the kinds of uses, compatible or incompatible, that will be permitted in any particular location later.

The hearings showed that, as currently written, Concept Plan terms are binding, so once conceptual decisions are approved they may not be changed or revisited. Plum Creek principal planning consultant James Kraft confirmed that some discretion on Site Specific standards would be removed once the zoning is in place. The Land Use Commission’s planning consultant Evan Richert also noted that there is a certain entitlement, once zoning is approved, for allowing permitted uses, with little leeway for guidance from LURC, outside of technical mitigation. These are informative statements. It shows that careful decisions must be made at the Concept Plan stage and not left for the subdivision stage. Zones must correspond well to communities, both human and wild, now because mitigation later may fall short, be far-fetched (such as building fences to keep big game off the road), or may not find funding.

In his testimony, Plum Creek’s Luke Muzzy stated that outdoor recreation holds the key to the region’s future economic expansion and that development must be strategically aimed at communities to help them achieve their specific market potential. He also stated that the original plan was changed to adopt a zoning approach to development to address concerns about sprawl, enhance eco-tourism opportunities, and broaden the range of potential future uses consistent with community needs. MRFC believes that incorporating the above recommendations will go a long way toward realizing that stated strategy.

Most importantly, there is a need to maintain existing natural connections at some close-in places to balance the heavy development that is proposed to be overlaid on top of – and will most assuredly affect – the outpost community of Rockwood. To mitigate the very real adverse impacts, MRFC requests that when development zones are reduced in size, the excess land be returned as donated conservation areas that are close at hand to the communities that are most

affected as a result of rezoning. This would go a long way toward mitigating the adverse impacts that will occur in the Rockwood community.

Finally, Christopher Shrum of the Eastern Maine Development Corporation stated in his testimony on behalf of Plum Creek that the capacity exists, or can be established, to satisfy need in the community or to mitigate undue adverse impacts on existing uses or resources through an increase in valuations or user fees. It is doubtful local residents would consider additional hikes in their property valuations as a form of mitigation! Tax hikes could very well serve as another undue adverse impact.

AREAS INAPPROPRIATE FOR DEVELOPMENT:

Mandatory revisions necessary for MRFC support of plan approval:

- Remove resort and large-scale residential development proposed for Lily Bay.²
- Eliminate all development proposed for the north shore of Long Pond and Upper Wilson Pond.
- Reduce the total number of development units by the number of units removed from the above areas (units eliminated from these areas should not be relocated elsewhere).
- Add the acreage excluded from development in the above areas to donated conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20).

We believe the MRFC's testimony of August 31, 2007 makes a compelling argument as to why development should not occur in the above areas. This argument was further reinforced by strong testimony of intervenors during the four weeks of hearings as well as an overwhelming concern expressed by citizen testimony at all four public sessions.

These areas are most important when placed into context of the greater north woods and the remote, mostly unfragmented forest that is evident in these proposed development locations. This is where the "Big Woods" starts.

Lily Bay, the north shore of Long Pond, and Upper Wilson Pond are places of "diverse and abundant recreational opportunities, particularly for primitive pursuits", and are high in "natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers". (*CLUP Principal Values*)

If these areas were developed there would be an *undue adverse impact* because no amount of balancing conservation would be able to adequately offset the loss. This development and the additional recreational pressure on adjacent lands would further degrade the region and harm the authentic experiences now available.

Lily Bay², the north shore of Long Pond, and Upper Wilson Pond are all remote areas that should not be developed because developing these areas is inconsistent with LURC's criteria for

² See pages 34-35 for a description of the limited residential development that the MRFC would accept as reasonable at Lily Bay.

approval of concept plans. These areas should be added to donated conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20).

Lily Bay:

Plum Creek's proposed development on the Lily Bay Peninsula does not meet LURC guidelines regarding:

1. Protecting the character and values of the area: Plum Creek's plan for a resort and new development center at Lily Bay will forever change the character and values of the area. The visitor experience at Lily Bay State Park, Sugar Island, Spencer Bay, or along the shore of Moosehead Lake north toward Kineo will forever be degraded by a large resort and housing development. Many may choose not to come back.
2. Preventing the mixing of incompatible uses: Lily Bay is a popular destination for remote recreational opportunities. The intense development of a high-end golf resort is incompatible with the present use of the area for non-intensive outdoor recreational activities such as canoeing, kayaking, wildlife watching, hunting, fishing, skiing, swimming, camping, and lynx tracking. The character of Lily Bay is remote and primitive. The light and noise associated with the proposed resort would eliminate the existing remote experience now enjoyed in the area. The view corridors would be visible from many parts of the lake and would further erode the undeveloped character now experienced by visitors to Lily Bay.

Both the AMC and the MWGO voiced strong opposition to the development proposed for Lily Bay because it would bring sprawl to the north woods and eliminate an authentic backcountry experience currently enjoyed.

The proposed high-end resort and large-scale residential development would be incompatible with the number and character of the existing traditional camps in the area.

3. Protecting the ecological and natural resources: The intense development (including a new development center and large improved road network) would put a strain on the ecological and natural resources of Lily Bay and adjacent areas. Lily Bay is one of the important remote areas that visitors to the region, second home owners, and residents alike will seek out for remote, non-exclusive recreation, including interaction with wildlife in a substantially forested area.

There is strong evidence that this area is an important and active Canada lynx habitat area and Lily Bay has many loon nesting sites. The proposed development would put undue pressure on lynx in the area as well as in the contiguous surrounding areas. NRCM and Maine Audubon testimony spoke at length about the extra traffic and the associated mortality of lynx that would put further pressure on lynx survival.

The increased boat traffic and a marina would cause disturbances to loons and loon nesting sites resulting in greater stress and possible mortality.

4. Encouraging well planned multiple uses of the land and resources and appropriate use of the land for outdoor recreational activities: This plan would eliminate the present use of the area

for non-exclusive, non-intensive outdoor recreational activities and degrade the experience of camping at Lily Bay State Park.

5. Demonstrated need: “*The criterion of demonstrating a need in the community or area is aimed at assuring that the rezoning is truly necessary and not overly speculative.*”

The applicant is only willing to develop a 15-unit hotel accommodation at Lily Bay in the first phase. It is clear that this is a speculative development and that there is no firm data to demonstrate a need for a large resort. Many believe that in the end the “resort” will be nothing more than an exclusive private housing subdivision that will only serve a small group and will harm a resource that could have a greater economic benefit for tourism if left in a natural state.

The area presently has some small, mostly seasonal camps and remains largely undeveloped. If development were allowed at Lily Bay, it would result in the *scattered and sprawling development patterns* that are discouraged by the CLUP. There is a strong feeling in the community that the large development at Lily Bay is not needed and in fact will detract from the economic welfare of Greenville. A resort and associated housing closer to Greenville would have a more positive economic impact.

There is no need for two resort communities located so close together in the region. There is no demand or need for a new development center at Lily Bay. There is no evidence that the large-scale development at Lily Bay is needed and in fact it may overwhelm the region.

The applicant has not *demonstrated need* to develop Lily Bay. It would be prudent to eliminate proposed development at Lily Bay from the plan and add the area to the donated conservation to offset development in other areas of the plan.

6. Undue adverse impact: One of LURC’s basic principles in evaluating development proposals is “*that there be no undue adverse impact on existing resources and uses.*”

The *undue adverse impact* of the development will forever degrade the spectacular views from the shore and from the water. Building a 250 unit resort plus 154 house lots with golf course, paved roads, and utilities on approximately 4400 acres will encroach on sensitive wildlife habitat and will have an undue adverse impact on a remote recreational area that is substantially wild and wooded. And the proposed Lily Bay development will be located near areas of reported Canada lynx sightings.

The proposed development at Lily Bay is not consistent with the principal values that define the character of our region. The large resort and subdivisions proposed for Lily Bay will have an adverse impact on the people who come for a remote recreational experience at Lily Bay State Park and the state-owned shoreline from Lily Bay northward. There will be severe impact on wildlife in the development zone and the adjacent areas. Intense, exclusive development would eliminate the opportunity for remote and primitive pursuits in this largely undeveloped area. Locating a new development center so close to Lily Bay State Park will break down the *separation of incompatible uses* and will harm the availability to the public of this outstanding, remote lake frontage, forest, and wildlife area. The proposed intensive development is not compatible with the character of camps presently in the area. If this

exclusive resort and intensive subdivision development are allowed in Lily Bay the natural values and primitive recreational opportunities will be lost forever.

7. Public safety: The resort and large-scale residential development proposed for Lily Bay would pose several risks with regard to public safety:
 - a) They would significantly increase traffic on the Lily Bay Road (noted in testimony by the Piscataquis County Commissioners to be unsafe even at current traffic levels).
 - b) They would significantly increase recreational boat traffic on the hazardous waters of Lily Bay. Transient resort visitors, in particular, would likely lack experience with regard to the navigational hazards of Lily Bay. A significant increase in the number of boating accidents on Lily Bay would be highly probable. (See the testimony submitted on August 31, 2007 by MRFC witness Eric Hince.)
 - c) They would likely place an undue burden on the local emergency response infrastructure. The probability of a significant increase in the number of boating accidents on Lily Bay has already been noted. Furthermore, the residential development at Lily Bay would likely attract second or retirement home buyers with a median age above that of the general population who would be at relatively high risk for various age-related health emergencies. The distance of the proposed Lily Bay development from existing emergency response infrastructure would result in considerable travel time for emergency personnel, placing an added burden on emergency responders and putting the public at increased risk in case of illness or injury. (See the testimony submitted on August 31, 2007 by MRFC witness Eric Hince.)

Potential limited residential development at Lily Bay:

The MRFC's consensus position with regard to development of Plum Creek's lands on the Lily Bay Peninsula was expressed in our 2006 Citizen Solutions map. [The Citizen Solutions guidelines and map were Exhibits 1, 2 and 3 of the testimony filed by MRFC witness James Glavine on August 31, 2007.] This map indicates an area that the MRFC judged as potentially suitable for limited residential development consistent with smart growth principles (shared water access, clustered housing) and existing development in the immediate area (mostly traditional camps). No resort development is recommended. The MRFC maintains its position that limited residential development of the type we have described might be reasonable, provided that the following conditions are met:

1. Within the boundaries marked on the MRFC Citizen Solutions map, the following land should be excluded from rezoning to development:
 - a) Land with unsuitable soils (this information was not available to us when the Citizen Solutions map was created).
 - b) Land for which the Maine Natural Areas Program has recommended protection (this information was not available to us when the Citizen Solutions map was created).
2. Given the sensitivity of this remote location, and the potential adverse impacts of additional development there, the MRFC believes that Plum Creek should be required to provide a detailed plan (including highly specific building design standards and subdivision layout) before any land on the Lily Bay Peninsula is rezoned for development.

3. The MRFC requests that the following potential adverse impacts be considered in evaluating any such plan (additional information on each of these impacts was presented during the recent LURC hearings):
- a) Adverse impacts on the experience of visitors to Lily Bay State Park (visibility of new development from the park, increase in boat traffic on the hazardous waters of Lily Bay, etc.).
 - b) Adverse impacts on remote recreational experiences on the Lily Bay Peninsula, with resulting adverse impacts on the nature tourism industry.
 - c) Adverse impacts on Canada lynx (a federally listed species).
 - d) Adverse impacts on traffic on the Lily Bay Road (noted in testimony by the Piscataquis County Commissioners to be unsafe even at current traffic levels).

North Shore of Long Pond and Upper Wilson Pond:

The following rationales for removing proposed development from Lily Bay also apply to the north shore of Long Pond and Upper Wilson Pond:

- Protect the character and values of the area
- Prevent the mixing of incompatible uses
- Protect the ecological and natural resources
- Encourage well planned multiple uses of the land and resources and appropriate use of the land for outdoor recreational activities
- Avoid scattered and sprawling development
- Lack of demonstrated need
- Undue adverse impacts

The north shore of Long Pond: The Moose River running from Jackman through Long Pond and Brassua Lake to Rockwood is a part of the Northern Forest Canoe Trail and is often paddled by church, school, and scouting groups as well as by individual canoe tripping enthusiasts and is an important trip offered by wilderness guides, as was made apparent by the MWGO testimony. They stated that the proposed development would have an undue adverse impact on the wilderness experience their members offer and, if this area is developed, they will probably lose this part of their business. The Maine Natural Areas Program and the IF&W stated in their November 20, 2007 testimony (page 11) that the north shore of Long Pond is a valuable resource and should not be developed. The AMC also stated that the recreational value of the north shore of Long Pond is significant and that it is an important part of the large, undeveloped “Big Woods.” The AMC recommended against developing the north shore of Long Pond. In fact, they stated that they could not recommend that Plum Creek’s proposal be approved if the development proposed for the north shore of Long Pond remained in the plan.

The Moose River trip offers a beautiful and sometimes challenging remote canoe experience, something that is becoming difficult to find as our rivers and lakes get more and more developed. Developing the north shore of Long Pond would have an *undue adverse impact* by eliminating this remote experience of paddling along a pristine natural shoreline. The north shore of Long Pond should stay undeveloped for primitive recreational opportunities associated with canoe tripping such as camping, fishing, and enjoying the natural beauty of an undeveloped shoreline.

Adjacency should not be waived for the north shore of Long Pond because of its remote recreational qualities, particularly its being part of the Northern Forest Canoe Trail. This issue is further compounded when considering the distance of the proposed development from the existing communities of Jackman or Rockwood; the north shore of Long Pond is too far from existing development and publicly maintained roads.

The north shore of Long Pond and Upper Wilson Pond share significant and outstanding scenic qualities and shore characteristics that should be protected in their wild state. Developing these areas would adversely impact these values. On December 10, 2007, Craig Watt, a Greenville business leader and a principal member of the Coalition to Preserve and Grow Northern Maine, was asked what improvements he would like to see to Plum Creek's proposal; he stated that he would like to see no development on Upper Wilson Pond. The Greenville business community understands the obvious economic value in protecting remote, wild-feeling experiences that are relatively accessible from the gateway community of Greenville.

The north shore of Long Pond and Upper Wilson Pond are very remote from existing development. The access to these areas will be over unpaved roads. Both of these subdivisions are located too far from publicly maintained roads and access will be over many miles of third party haul roads. There is no guarantee that these haul roads will be maintained in the future and the cost to the proposed subdivisions for maintenance of these haul roads could skyrocket. It is inevitable there will be pressure to have the county maintain these roads. This is poor planning leading to unpredictable costs to the county/state budget. Development in these remote areas should be prohibited.

Utilities will not be provided in these locations. Connecting to utilities is an important requirement for development and all development should be within 1-2 miles of utilities and existing publicly maintained roads.

Removing remote areas like Lily Bay, the north shore of Long Pond, and Upper Wilson Pond from development is reasonable when the magnitude of the whole plan is considered. These special places should stay undeveloped because these are the places that everyone, including future buyers/visitors of Plum Creek's developments and resorts, will want to visit for remote recreational activities. Developing these areas will cause undue adverse impacts on the remote recreational opportunities that are the heart and soul of the Moosehead region. These special places are part of the reason people live in and visit the area and they drive the economic engine we all depend on.

The total amount of development that Plum Creek is proposing is too large and will overwhelm and adversely change the character of the region. Development on the north shore of Long Pond and Upper Wilson Pond should be eliminated from the plan. Development on Lily Bay should be restricted to the limited residential development described above and no resort development should be allowed. The total number of development units in the plan should be reduced accordingly (units eliminated from these areas should not be relocated elsewhere). The land in these areas that is removed from proposed development zones should be donated as conservation

(to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20).

BIG MOOSE MOUNTAIN RESORT:

Concern: During the technical hearings, there was extensive discussion regarding concerns that the proposed resort development at Big Moose Mountain would have a significant adverse impact on Class A streams. It was further suggested that a spray irrigation wastewater disposal system might not fit within the bounds of the development area and might have to be located outside, perhaps in the conservation lands.

Recommendation: 1) The resort zone must encompass ALL infrastructure associated with the use of the resort including the waste disposal system. 2) The location and number of units must be designed so they will NOT degrade class A streams. These streams should remain class A after all development is completed.

Concern: The low impact resort accommodation proposed near the shore of Indian Pond would have an adverse impact on the wilderness feeling of paddling and fishing on Indian Pond. The Dept. of Inland Fisheries & Wildlife and the Maine Natural Areas Program, in their November 20, 2007 testimony (page 11), recommended eliminating the low impact resort accommodation in the Big Moose area. The Maine Wilderness Guides Organization and the Appalachian Mountain Club also recommended moving this development away from Indian Pond.

Recommendation: This low impact resort accommodation should be located away from Indian Pond to preclude any visual or environmental impacts. Access to Indian Pond should be via a discrete footpath.

EASEMENTS:

Mandatory revisions necessary for MRFC support of plan approval:

- Lands in currently proposed development zones that are unsuitable for development must be donated as conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20). These include: the proposed development zones on the north shore of Long Pond and Upper Wilson Pond (in their entirety) and land excluded from proposed development zones on the Lily Bay Peninsula and in the Rockwood area.
- The Legacy Easement lands (on both the east and west sides of Moosehead Lake) must be added to the Balance Easement.
- Commercial and industrial activities must be removed from easement lands and located outside of the easement area.
- Subdivision of the easement lands must be kept to a minimum in order to facilitate management and to allow crafting of a seamless recreational plan.
- The State of Maine should be the holder of the easement; the management could be contracted to a group such as the Forest Society of Maine.
- The easement should conform closely to the LURC Model Easement to best protect the conservation values of the protected property.

➤ The road easements should be granted upon approval of the concept plan.

We believe the MRFC's August 31, 2007 and November 19, 2007 testimony makes a compelling argument that the Balance Easement is too small and too weak to protect the public values required by the regulatory criteria for approval of concept plans.

The plan does not strike "a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources" (10.23,H,6,f).

There are areas (the Lily Bay Peninsula, the north shore of Long Pond, Upper Wilson Pond, and the northwestern portion of the Brassua Lake peninsula) that have such significant public value that no amount of conservation would be able to offset their loss. For these areas, the adverse impacts on remote recreational opportunities and wildlife habitat cannot be compensated through conservation someplace else.

"Any development gained through any waiver of the adjacency criterion [must be] matched by comparable conservation measures" (10.23,H,6,d). Development proposed in the above mentioned areas that require a waiver of adjacency could not be matched by comparable conservation measures. Public access for remote recreation and the authentic experience now available will be lost forever. The balance cannot be met.

The four public testimony sessions and the four weeks of intervenor hearings strongly reinforced the argument that the 357,000 acres of conservation (the Balance and Legacy Easements combined) are a minimum requirement for this plan to be approved. Throughout these proceedings, Plum Creek has used the full 357,000 acres of easement lands to justify the proposed development, despite the fact that the company is only willing to offer 91,000 acres as donated conservation for balance. For the Moosehead region to remain a viable economic community rich in resources for locals and visitors alike, it should be mandatory that the 357,000 acres be given as a requirement to meet the balance. The public should not be asked to accept a development proposal and then have to pay for the conservation.

Guiding Principle – From the LURC "Guidelines for selection of Conservation Easement Holders amended 11/10/04", pages 2 and 3. "*Purpose – This Conservation Easement is intended to provide a significant public benefit by protecting and preserving in perpetuity the natural and undeveloped character of the Protected Property, including its wildlife habitat and its high scenic and substantially forested character when viewed from public waters of lakes and streams and public roads subject to such uses as are specifically provided for herein.*"

For the easement to protect and preserve in perpetuity the natural and undeveloped character all commercial and industrial development should be located outside the easement. The following commercial and industrial uses must be modified for a plan approval.

Water Bottling – Plum Creek states that water extraction will be for forestry and residential use only, and that no commercial extraction of any kind will occur. The easement language must make this absolutely clear. It must clarify exactly how water extraction will be done and what type of system will be used to extract water for subdivisions adjacent to the easement lands.

Alternative Energy Generation Activities – There should be NO wind towers, associated roads, transmission lines, and associated buildings allowed on conservation lands.

Septic Field Activities – There should be NO septic fields allowed on conservation lands.

Cell Towers – There should be NO cell towers, roads, utilities, or buildings associated with cell towers on conservation lands.

Mineral Rights – Plum Creek has stated that it is not aware of any existing third party mineral rights on the proposed easement lands, and that none will be sold. These rights must be explicitly extinguished on all easement lands before any plan is approved and conservation lands are accepted. Regarding third party mineral rights, in a memorandum to Alan Stearns dated Dec 10, 2007, Assistant Attorney General Amy Mills said “This language is unacceptable as it effectively allows mining activities on the property without regard to the conservation values of the easement.”

Gravel Extraction – Gravel pits should be NO MORE than 5 acres in size and the gravel should only be used for forest roads within the easement.

Back Country Huts –The six back country huts should not be accessed by roads or served by utilities. They should be primitive accommodations with an absolute gross floor area of NO MORE than 750 sq ft (including all usable space) and the overall height should be no more than 30 ft from the natural grade.

Campgrounds - Large commercial campgrounds with the development they would entail (pressurized water systems, electric service, septic disposal sites, owner housing, shower and laundry buildings) would not be appropriate in a conservation easement. LURC’s definition of campsite allows 4 camping sites with up to 12 people per site. This would allow 48 people total per “site.” This would be a more appropriate scale of use in a conservation easement. Privately run campgrounds should not be allowed in the conservation easement. Campsites that allow no permanent structures other than outhouses, fireplaces, picnic tables, or lean-tos are appropriate within a conservation easement.

Under cross-examination at the intervenor hearings, both Alan Hutchinson of the Forest Society of Maine and Thomas Rumpf of The Nature Conservancy stated that if it were decided that the currently proposed industrial and commercial uses should be located outside the easement lands, they would have no objection. They further agreed that these uses are not considered “conservation values”, and that industrial and commercial uses are not required components of a conservation easement.

If the above uses are important to the community, Plum Creek should locate them outside of the easement lands. Plum Creek owns thousands of acres in Greenville and in areas surrounding the concept plan where such uses could be located. The conservation values of the easement lands should not be compromised by this industrial and commercial development.

Subdivision of the Easement Lands – The easement should require that subdivision be kept to a minimum. 25 subdivided lots would make management of the easement lands cumbersome and expensive, and would make it impossible to craft the seamless recreational plan that will be necessary to protect the public good.

Road easements - All of the road easements should be granted upon approval of the concept plan. As currently written, the proposed road easements would be phased in as the development permits are issued. The Bureau of Parks and Lands has stated that putting the road easements in sooner would be a significant public benefit. The obvious benefit of guaranteed public access should not be used as leverage in the ongoing permitting process. The very first buyer/visitor in Plum Creek's new subdivisions or resorts will want access to the areas serviced by these roads.

Conclusions regarding easements:

The Balance Easement, as currently offered (91,000 acres), does not adequately compensate for the proposed development. The size is too small and the allowed uses degrade the public value of the protected property.

For the easements to truly demonstrate conservation values that would protect natural undeveloped character, wildlife habitat and scenic character, and for the easements to provide adequate balance for new development, the following must happen:

- Lands in currently proposed development zones that are unsuitable for development must be donated as conservation (to be managed by the Moosehead Region Land Trust or as part of the Balance Easement; see page 20). These include: the proposed development zones on the north shore of Long Pond and Upper Wilson Pond (in their entirety) and land excluded from proposed development zones on the Lily Bay Peninsula and in the Rockwood area.
- The Legacy Easement lands (on both the east and west sides of Moosehead Lake) must be added to the Balance Easement.
- Commercial and industrial activities must be removed from easement lands and located outside of the easement area.
- Subdivision of the easement lands must be kept to a minimum in order to facilitate management and to allow crafting of a seamless recreational plan.
- The State of Maine should be the holder of the easement; the management could be contracted to a group such as the Forest Society of Maine.
- The easement should conform closely to the LURC Model Easement to best protect the conservation values of the protected property.
- The road easements should be granted upon approval of the concept plan.

The public should not be asked to accept industrial and commercial development as conservation! Nor should they have to pay for conservation that is required to meet the LURC regulatory criterion of balance for concept plan approval.

Balancing development with conservation requires that high standards be met, in order to establish a sound precedent that could be used throughout the LURC jurisdiction as more development proposals come forward.

PEAK-TO-PEAK HIKING TRAIL:

Concerns: The proposed peak-to-peak hiking trail will be as important to the visitors who come to the Moosehead region as it will be to the wellness needs of area residents. The peak-to-peak hiking trail easement is not viable as currently written because:

- It does not provide an adequately wide trail corridor
- Relocation of the trail may be required
- There is no provision for overnight camping
- The proposed easement holder is not an experienced holder of this type of hiking trail and lacks experience in the Moosehead region.

Recommendations:

- The peak-to-peak hiking trail easement should be held either by the state or by the proposed Moosehead Region Land Trust (see “Economic elements of a successful gateway community”, pages 14-19).
- The easement must be rewritten to make it a viable trail in accordance with accepted trail development standards.
- The terms of the easement and trail building standards should be written with consultation and approval of noted trail developer Ken Spaulding of RESTORE, the Appalachian Mountain Club, and the Bureau of Parks and Lands.
- Plum Creek should fully fund the trail building because: a) the trail is being offered as a public benefit to offset proposed development, and b) the trail is an amenity that will be used by buyers of Plum Creek’s residential lots and visitors to the resorts, and will increase the value of Plum Creek’s residential and resort properties. Therefore, the funding should not be the responsibility of the Stewardship Fund and repayment should not be required.

SUBDIVISION DESIGN:

Concern: Proposed changes to definitions for clustered and linear development represent a lessening of LURC standards. Viewing clustering from the 30,000 foot level is not true to the intent of clustering. This is a standard designed to prevent sprawl at the ground level, to keep development close to existing centers, to more efficiently provide services, keep costs down, and to protect the natural character and wildlife habitat of the region. Linear development is still linear even if it is broken by open space. Plum Creek’s plan is not true to the intent of the prohibition on linear development that is meant to protect the scenic values along the shorelines. On December 5, 2007, Luke Muzzy admitted that Plum Creek’s idea of clustering and linear development (considered on a landscape scale versus a localized scale) may not work.

Recommendation: All of the development in the concept plan should be clustered and non-linear, as defined by smart growth principles and LURC standards, to protect the values that define the Moosehead region’s quality of place.

Concern: Development along shorelines will have a significant impact on the scenic character of the affected lakes and ponds. Even if the clearing standards could prevent seeing the houses

from the lake, people put out docks, floats, moorings, boats, and other “toys” that degrade the scenic character. In summer, people put flags, lights, chairs, kayaks, etc. on their docks and along the shoreline. In the winter the docks are pulled up on the shore and are very visible from the lake. People cut large “paths” down to the shore and develop private boat ramps that can be accessed by motorized equipment to put-in/take-out the docks and boats.

Recommendations: All development should be clustered away from the shoreline and there should be a common dock for the whole subdivision. Shoreline cutting/thinning should meet or exceed current LURC standards. A common area should be established for pedestrian water access, swimming, picnicking, etc. Boat moorings should be disallowed or strictly regulated.

Recommendation: As noted above, subdivision plans should be required to establish open space and green corridors that support adjacent wildlife corridors, and should be required to include trail systems that will, eventually, become part of a region-wide network of motorized and people powered trails. Both of these amenities will add value to the properties being developed. (See “Economic Elements of a Successful Gateway Community”, pages 14-19.)

THE USE OF MITIGATION AS A TOOL TO PREVENT UNDUE ADVERSE IMPACTS:

Concern: Many mitigation methods are expensive to implement and there is no funding mechanism. Enforcing mitigation efforts is difficult, expensive, and requires large numbers of staff across many state agencies. Education is not always an effective tool. With a seasonal/tourism market it is an ongoing effort to educate people who are coming to the region for the first time. People don’t always follow the guidelines without some monitoring and enforcement mechanism in place.

- **Water quality:**

To ensure water quality there must be:

- 1) Good baseline data.
- 2) Monitoring of water quality on an ongoing basis.
- 3) Siting of development on suitable soils. Measures to overcome soil limitations may be expensive and may require ongoing maintenance; there is presently no inspection policy for such measures. Even when such measures are properly implemented, there can be adverse impacts on water quality. [See the August 31, 2007 testimony of MRFC witness George Bakajza and the section in the current document “Regarding the criterion of soil suitability” (pages 20-22).]

- **Clearing standards:** People don’t follow the standards for any number of reasons. There are a lot of different ideas of what is “right.” People keep cutting more and more over time. LURC doesn’t have the capacity now to enforce clearing standards.

- **Lighting and noise standards:** There is no effective way to enforce these standards.

- Using homeowners associations to enforce rules is not effective because people don't like to "turn in their neighbors." [See section on "Declaration of Covenants, Conditions and Restrictions" (pages 43-47).]

Recommendations:

- It is important to identify the areas that are appropriate to develop at the outset. If unsuitable locations are developed, no degree of mitigation will prevent undue adverse impacts to the Moosehead region's unique "quality of place". Don't rezone now and later try to "make it work" using mitigation measures.
- Development should be located in appropriate areas close to existing community centers, avoiding mixing of incompatible uses so that the public can clearly distinguish where development ends and the "big woods" begins.
- The areas that are rezoned for development should avoid: locations with unsuitable soils, areas recommended for protection by the Maine Natural Areas Program, and high value areas for nature tourism / wildlife recreation.
- There should be a baseline analysis of water quality followed by ongoing monitoring.
- The plan should only be approved if LURC will have the staff and funding to enforce the standards.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS:

The Moosehead Region Futures Committee submits the following requests for changes to the Declaration of Covenants, Conditions and Restrictions (CC&Rs) in order to adequately protect and maintain the scenic value and character, the water quality, and the peaceful and remote feeling of the Concept Plan area in the Moosehead Region.

1. Maximum Building Height, page 6, paragraph 2.2.6: Plum Creek provides for a maximum building height of 35 feet measured at the original grade at the uphill side of the building. This differs from the current LURC standards of measurement from the downhill side of the slope and:
 - A. Adds complications to LURC enforcement as adjacent and previously existing buildings in and near the project area will be held to different standards.
 - B. Could add significant height not allowed through LURC's current standard depending upon the footprint of the building and the slope of the construction site.

In Plum Creek's new development on First Roach Pond, there is one home sited on a slope jutting obtrusively above the tree-line. This one home mars an otherwise undamaged mountain vista. If similar problems are not prevented in Plum Creek's currently proposed Concept Plan, the scenic character of the entire Moosehead Region could be degraded.

To address Luke Muzzy's concern (discussed January 25, 2008) that a 35 foot height restriction, as measured from the downhill side of the slope, may interfere with the building of homes with two stories and a peaked roof, it is our contention that a 35 foot height restriction

measured from the downhill side of the slope is more than sufficient to construct homes with two stories and peaked roofs.

Calculations for a two-story building, using stronger than standard floor joists and higher than standard walls, indicate that the remaining height allowance for the combination of roof and cellar would be 16 feet 10 inches. By adjusting the joist and wall allowances to lower yet standard dimensions, another 12 inches could be added, making the combined cellar and roof allowance 17 feet 10 inches.

The following are standard building dimensions:

1. Standard first floor decking uses 2' x 10' or 2' x 12' boards depending on the floor load.
2. Standard second floor decking uses 2' x 8' or 2' x 10' boards depending on the floor load.
3. Standard wall studs are 2' x 7'4", 2' x 7'6", or 2' x 8' boards depending upon preference.

For example, a home built with stronger decking and higher walls using 2' x 12' boards for the first floor decking, 2' x 10' boards for the second floor decking, 8' wall studs on the first floor and 7'6" wall studs on the second floor would use 18 feet 2 inches of height allowance, leaving a remaining 16 feet 10 inches of height for the cellar and roofline. This would allow for an inside first floor ceiling height of 8 feet 2 ½ inches and a second floor ceiling height of 7 feet 8 ½ inches. The MRFC believes, therefore, that the 35 foot height restriction measured from the downhill side of the slope is more than adequate for the building of various styles of homes compatible with the traditional character of the Moosehead region while at the same time protecting the viewsheds of the Moosehead region.

Requested Change: That the maximum building height of 35 feet measured from the downhill side of the slope be adopted in Plum Creek's application.

2. Set-Backs and Property Lines, page 6, paragraph 2.2.8: Plum Creek provides for a 75 foot set-back from Route 6/15 and Lily Bay Road. A 75 foot set-back is completely inadequate for these two scenic roads in the Moosehead Region. Along these two major access roads, Plum Creek has already clear-cut completely in some areas and thinned in other areas, which would allow for many structures set back 75 feet to be completely visible from these scenic roads. An inadequate set-back of 75 feet could make driving along these roads akin to driving through a housing development, completely ruining the view and woodland feeling. When owners clear trees around structures set back at 75 feet, this could further reduce woodland covering from the road.

Additionally, Plum Creek provides for a 50 foot set-back from the roads in the new development areas. Because many of these roads will be gravel roads, 50 feet is not sufficient to minimize dust and to protect aesthetic values. On First Roach Pond, many of the new homes not set back over 100 feet are presently overwhelmed by dust. One discouraged resident said, "I guess if I want to live here, I have to put up with the dust". In August 31, 2007 testimony, the MRFC asked that all roads in the new developments be given a 100 foot

no-harvest buffer zone on each side to minimize dust and loss of protective and aesthetic values.

Requested Changes: That 125 foot set-backs be provided for the two scenic roads (Lily Bay Road and Route 6/15) and that 100 foot set-backs be provided for all roads in new development areas. We further request that Plum Creek provide for these set-backs to be no-harvest buffer zones to minimize dust and protect home values as well as the scenery and character of the region.

3. Inspection and Reporting, page 7, paragraph 2.2.11: In this paragraph, Plum Creek provides for the homeowners association to hire an independent, qualified third party for inspection and reporting of compliance with clearing standards and water quality. Assurance is needed to prevent deceptive practices or “bending” of rules by inspectors that could over the years harm the entire region.

Breaking of rules, regulations and even laws by homeowners is commonplace. Since Plum Creek’s development, First Roach Pond has almost doubled in population, and now violations of regulations are causing noticeable harm.

Homeowners associations are cited often as an enforcement mechanism in testimony by Plum Creek representatives. On January 25, 2008, Plum Creek’s James Kraft told Aga Pinette that homeowners associations are “going to do the job for you.” MRFC cannot emphasize strongly enough that homeowners associations are not an effective tool for enforcement. For many and varied reasons, neighbors simply do not want to report neighbors. Homeowners often choose not to report a neighbor’s violations because they have to continue to live there, and because those breaking the rules often object to criticism in a manner that their neighbors find intimidating. Therefore, an independent, qualified third party inspector is essential to ensure effective reporting of violations.

On January 25, 2008, Evan Richert questioned Mr. Kraft regarding who would define who would be qualified to be a third party inspector. Mr. Kraft responded that he was sure that agreement could be reached between the LURC staff and Plum Creek as to who would be appropriate for that position. Mr. Richert also asked who would pay the costs for the inspection. Mr. Kraft stated that it would be the homeowners association.

Requested Changes: MRFC requests that LURC maintain control of this inspection process and that the homeowners associations pay the associated costs rather than burdening the taxpayer. Therefore, MRFC requests that after the words in line 2, “independent qualified third party inspector”, the following words be inserted: “qualified, trained and/or appointed by LURC and paid for by the homeowners association”. We further request that a telephone number and/or address be provided where homeowners can report violations anonymously without fear of reprisal.

4. Inspection and Reporting, page 7, paragraph 2.2.11: Plum Creek provides for inspection to be performed “at a minimum of biannually”. If “biannually” is intended to mean “every

other year” (instead of its primary definition, “every six months”), then this is completely inadequate. Violations can cause irreversible harm if not caught and managed in a timely manner.

On January 25, 2008, Evan Richert questioned James Kraft about the definition of “bi-annually”. Mr. Kraft responded “What would you like it to mean? Every two years.” MRFC believes that every two years is inadequate and requests that the inspections be completed every six months.

Requested change: That the word “biannually” be changed to “every six months”.

5. Site Work, Construction and Exterior Alteration or Repair, page 17, paragraph 11.6.1.3: This paragraph states that if the Architectural Control Committee (ACC) fails to approve or disapprove a request within 30 days, then approval shall be deemed given by the ACC. This paragraph is dangerous. Many requests are likely to receive tacit “approval” simply because the ACC lacks an adequate opportunity to review them.

Requested change: That this paragraph be removed altogether and replaced with stipulations that no construction is considered approved until approved by the ACC, and that the ACC shall make every effort to review each request within 90 days of receipt.

6. Site Work, Construction and Exterior Alteration or Repair, page 17, paragraph 11.6.1.4: This paragraph states that all plans submitted for approval must be submitted at least 30 days prior to proposed construction. It is unrealistic to expect the ACC to complete its review of plans within 30 days of submission.

Requested change: That the 30 day requirement be changed to 90 days.

7. Variances, page 19, paragraph 11.6.3: This paragraph allows homeowners association boards the authority to grant variances to Plum Creek or to homeowners from the requirements of the Covenants, Conditions and Restrictions. It is unlikely that a homeowners association board would refuse any request for a variance by Plum Creek. With regard to homeowners who request variances, a board member might be reluctant to deny requests made by friends and neighbors. One board member might be willing to support a request by a second board member in exchange for reciprocal support of a request made by the first member. Potentially, a very high percentage of requested variances could be approved, effectively negating the requirements of the Covenants, Conditions and Restrictions.

As noted in Sandra Neily’s November 19, 2007 testimony, the Concept Plan is a contract between Plum Creek, potential homeowners, and the citizens of the state of Maine, who are represented by LURC. Allowing homeowners association boards to grant variances would not protect the best interests of the people of Maine. The authority to grant variances must reside with LURC.

Requested changes: That language allowing homeowners association boards the authority to grant variances be deleted and that authority to grant variances be exclusively delegated to LURC.

Concerns regarding enforcement:

The Declaration of Covenants, Conditions and Restrictions in its current form is wholly meaningless because there is no firm enforcement mechanism whatsoever, nor is there any guarantee that the regulations will remain unchanged.

1. Section 8 delegates enforcement authority to Plum Creek, the homeowners association and lot owners. This provision negates LURC's enforcement authority, and renders meaningless the reports LURC will receive on clearing standards and water quality. Removing enforcement authority from LURC and handing it over to Plum Creek or homeowners associations is not in the best interests of the citizens of the State of Maine. Therefore, the MRFC requests that the Declaration of Covenants, Conditions and Restrictions be made a part of the deed with language specifying that a violation of the Covenants, Conditions and Restrictions is a violation of the LURC permit, thereby ensuring that LURC retains enforcement authority (as suggested by James Kraft on January 25, 2008; see pages 105-106 of the afternoon transcript).
2. Section 9 allows Plum Creek to "amend, revise or abolish" any provisions of the Declaration of Covenants, Conditions and Restrictions as long as it owns any portion of the development. If Plum Creek no longer owns any portion of the development, amendments may be made by a vote of 75% of the homeowners association. On January 25, 2008, Ron Kreisman questioned James Kraft regarding this ability to "amend, revise or abolish" any provisions of the Declaration of Covenants, Conditions and Restrictions without consulting LURC. Mr. Kraft stated that he concurred fully that there should be a statement that any amendment to the CC&Rs must be approved by LURC. Therefore, MRFC requests that a statement be added to Section 9 that any amendment to the CC&Rs must be approved by LURC.
3. Even if the regulations are made permanent and LURC is granted full enforcement authority, problems will remain. LURC currently lacks the funding and manpower to enforce these regulations.

If the applicant truly wishes to provide predictability to LURC, property owners, and citizens of the Moosehead region, and to protect the region's natural character values, Plum Creek must address these concerns with language that provides for a firm methodology of enforcement.

TRAFFIC ISSUES:

MRFC believes that the potential impacts of increased traffic resulting from Plum Creek's proposed concept plan were not adequately addressed in Plum Creek's application or at the technical hearings. MRFC holds this opinion because:

1. Any proposed Maine DOT Traffic Movement Permit was not discussed or even available for discussion during the hearing process. At this time that information is still not available to the public and therefore cannot be analyzed to assess the potential impact of Plum Creek's proposed development on the Moosehead Region.
2. The Maine DOT Traffic Movement Permit, as indicated by the department, only addresses issues of congestion and safety. It does not consider in any way issues regarding quality of life. None of these issues have been addressed by Plum Creek. An example of this can be shown in the testimony of Dr. Frank Sciremammano regarding traffic noise while being questioned by George Bakajza of MRFC during the hearing on January 18, 2008. Mr. Bakajza asked Dr. Sciremammano, "...did you consider the noise that would be generated by traffic?" Dr. Sciremammano replied "Not specifically". Likewise, information regarding the impact of traffic on quality of life issues in downtown Greenville or along Route 6/15 in Rockwood or in other communities was not discussed by Plum Creek in their application or during the technical hearing process.
3. Although a lot of time was spent during the hearings discussing the potential traffic levels that would result from the proposed development, there was no discussion regarding what Plum Creek proposed to do or could do to reduce the projected increases in traffic and the resulting impact on the quality of life in the Moosehead Region.
4. The impracticality of enforcing traffic laws (such as speed limits) in remote areas was not considered.

The MRFC believes that the following traffic mitigation measures should be included before any proposed concept plan is approved:

1. Pedestrian/bicycle trails, open to the public, connecting proposed development zones (residential, commercial and resorts) to other proposed development zones and to local communities are needed.
2. Satellite-parking areas should be developed to limit traffic into sensitive areas.
3. There should be shuttle services connecting Greenville to the resorts and to transportation hubs (such as Bangor, Portland, Quebec City, etc.). These shuttle services should also be open to the general public.
4. In order to control traffic speed and for safety reasons, traffic calming/control structures within developments and within area communities need to be constructed and maintained.
5. A construction traffic management plan should be developed and adequately reviewed by LURC and the public before any rezoning request is approved. This plan should address issues including congestion, safety, noise, and dust.

ADDITIONAL CONCERNS REGARDING LURC STANDARDS AND CRITERIA:

Freezing of LURC standards:

Concern: If LURC standards are frozen as currently written it will be extremely difficult to protect the public values in the future. Having one set of standards for the Concept Plan and another set for everyone else will cause costly and confusing management/enforcement problems. Future developers will want to use these same less protective standards.

Recommendation: LURC standards should not be frozen. As better standards are adopted by LURC they should be applied evenly throughout the district. Best management practices should always supersede.

Criterion of demonstrated need:

Concern: In order for proposed rezoning to be approved, it must satisfy the criterion of demonstrated need. However, as subdivisions are developed over time in the rezoned area, a point may be reached where there is no longer a demonstrated need for any additional development, even though such development would be allowed under the new zoning. After rezoning is approved, it is important to reevaluate the need for each new subdivision at the time it is proposed.

Recommendation: In any areas that are rezoned, each new subdivision should be required to meet the criterion of demonstrated need at the time it is proposed.

INADEQUACY OF EXPERT EVALUATIONS:

During the hearings, it became clear that Plum Creek has not adequately addressed how significant natural and recreational resources are to be protected or showed a facility in understanding the needs of the local community or the region at large.

Many of Plum Creek's expert witnesses had either not visited the areas to be affected by development or had left out important, and reasonable, documentation. Examples: Plum Creek's "noise" expert, Frank Sciremammano, said natural noises are louder than man-made and noise levels with or without development will be essentially the same, though when questioned he said he had not figured in sounds from traffic, snowmobiles or ATVs, for instance. The applicant's fishery expert, Fred Kirchies, said there would be no undue adverse impact whatsoever on any of the six waters scheduled for development, but had not done any surveys to learn about possible spawning and nursery places at the sites slated for development. As a final example, it appears that all of the research by Plum Creek's bird expert, Richard Podolsky, was conducted on the east side of the lake, near No. 4 Mountain and First Roach Pond, neither of which are located in proposed development zones. It appears no research was actually conducted on the west side of Moosehead Lake, even though, for example, the Rockwood area has long been identified and admired for its raptor populations. Ignoring data doesn't mean the data doesn't exist.

To be plain, the burden upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied was embarrassingly skimmed. Often known data was overlooked or relevant data not collected at all.

In addition, though Plum Creek officials commonly said the intention was to collaborate, regional and/or state experts have not been consulted. Throughout the hearings, it became evident that there was a disconnection between “intention” and “action”. Some examples include the following: the Piscataquis County Economic Development Council said it was not consulted on the affordable housing issue, the state expert on raptors was never called, and local guides were not contacted regarding the waterway uses/corridors. One Plum Creek consultant said he had not been told to interview the state expert; though it sounded like “a good idea”, it was not “mandated”. If the applicant is unwilling to collaborate in order to get its plan approved, it begs the question about how it will act once the plan is approved.

In January, Plum Creek consultant John Hempelmann said, in essence, to trust Plum Creek by voluntary agreement because the company is using “state-of-the-art planning analysis” and has hired “the best experts in the country to help us”. But if the expert’s knowledge is not put to use or the expert does not avail himself of relevant local data or expertise, then his opinion cannot carry much weight.

Exhibit 1: Map of MRFC Recommendations for the Rockwood Area

[Note: In Plum Creek's October 2007 revisions, roughly 30% of the land between the East and West Outlets indicated on our map as "MRFC proposed donated conservation land" was in fact added to the proposed Balance Easement; our map does not reflect that most recent revision. Roughly half of the land added to the Balance Easement had already been designated by the state as fish and wildlife and/or wetland protection zones.]