

Moosehead Region Futures Committee

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Catherine Carroll, Director
Maine Land Use Regulation Commission
22 State House Station
Augusta, ME 04333-0022

October 20, 2006

Re: Plum Creek Concept Plan Application

Ref: 1. MRFC Citizen Solutions, Review Comments, Map and Associated Documents
2. "CRITERIA FOR APPROVAL OF CONCEPT PLANS - A summary prepared by the Planning Division of the Maine Land Use Regulation Commission", dated 18 March 2005

Encl: MRFC Comments Addendum with Citation to LURC Criteria

Dear Director Carroll,

As a result of the requests made of the MRFC by LURC staff at our most recent meeting in late August, we have prepared the attached document which offers greater specifics and citation to LURC Criteria for Approval of Concept Plans. Please note that the attached document should not be misinterpreted to indicate that the MRFC has changed their position on any of the points noted in our earlier submission, but instead should be viewed as a focused view, concentrating on specific issues we feel must be addressed in any consideration of land use zoning changes in the Unorganized Territories of the Moosehead Lake region and in particular with regard to the upcoming review of the application for rezoning by Plum Creek. This document should not be viewed as prioritized in any way, nor as a replacement for our earlier submissions. The MRFC remains firmly committed to the principles stated in Citizen Solutions and the accompanying map and explanatory documents. We believe strongly that development of any kind in the Unorganized Territories is a permanent change upon the face of the land and must be done only in a fashion that first protects the natural environment and the health of the forest ecology and economy and that it must be offset by significant conservation measures that are as permanent as any proposed changes, all of which, in our view, are clearly required by the CLUP.

Further, we believe that Significant Conservation must be offered for Mitigation as required by the CLUP, and that Quantitative and Qualitative studies must be conducted in a variety of areas before a plan of this magnitude can be reasonably assessed. Though the delay these studies may cause in the approval of current or future proposals may seem unfortunate, it does not negate the need for their results to be known before decisions may be fairly made regarding these important resources. The fact that studies have not already been completed in the Unorganized Territories in this region is inadequate justification for commencing with the review and approval of massive land use planning changes without knowing what losses may occur as a result.

In the preparation of the attached document, we have utilized the contents of the LURC document entitled "CRITERIA FOR APPROVAL OF CONCEPT PLANS - A summary prepared by the Planning Division of the Maine Land Use Regulation Commission", dated 18 March 2005. For the

purposes of clarity and brevity, we have developed a set of abbreviations which will appear throughout the document, making specific reference to various components of the above-mentioned LURC summary, using the assumption that LURC staff will be able to easily equate these abbreviations to the statements within the referenced document. Each citation to these abbreviations will be shown in an offset color as shown below, and include one or more of the following 9 points:

- 1. Long Range Plans for Development and Conservation.***
- 2. Long term intent, density and means for Protection.***
- 3. Demonstrated Need.***
- 4. No undue Impact and Appropriate Protection.***
- 5. Conforms with the CLUP.***
- 6. At least as Protective – matching Conservation.***
- 7. Protection of Resources in need of Protection.***
- 8. Publicly beneficial balance, appropriate Development and Conservation.***
- 9. Perpetual Conservation and Protection.***

We look forward to hearing from you in this regard at your convenience, and to our meeting in Augusta on the 24th.

Thank you,

James Glavine
On behalf of the Moosehead Region Futures Committee

cc: Fred Todd, Evan Richert, Ron Kreisman, Aga Pinette, MRFC File

Moosehead Region Futures Committee

“Permanent conservation and sustainable community development are the bedrock foundations of the Moosehead Region’s future health and vitality.”

Four Economic Sectors of the Moosehead Region’s Sustainable Economy

- 1. Sustainable Forestry**
- 2. Nature-based Tourism**
- 3. Wildlife Recreation**
- 4. Retirement/2nd Home Industry**

It should be noted for the purposes of this narrative that the first three issues noted above essentially address the important “Resource-based” components of the local economy; the fourth addresses the equally important “Development” component of the local economy.

1. Sustainable Forestry: Sustainable forestry practices ensure healthy forest environments, an ongoing supply of harvestable timber and forestry jobs for generations to come. These practices also protect the ecological health of our region, support diverse populations of wild animals and plants, and facilitate the growth of nature-based tourism.

LURC Requests:

1. Request that LURC (for forest lands in the project area) require a 30 year forest management plan (certified through FSC’s independent certification process) that will use “Focus Species” management practices to secure wildlife habitat; include land use standards that are as protective as current land use management standards required in LURC jurisdiction; and include easement language and management criteria for working forests that are consistent with current LURC model easements or easements created by the Land For Maine’s Future program.

1. Long Range Plans for Development and Conservation.

4. No undue Impact and Appropriate Protection.

5. Conforms with the CLUP.

6. At least as Protective – matching Conservation.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

2. Request that LURC ask applicant to revise its economic projections for the project’s proposed economic contributions, removing sawmill jobs and their economic impact at this time.

2. Nature-Based Tourism: Camping, boating, hiking, canoeing & kayaking, skiing, snowshoeing, snowmobiling, photography, rafting, and diverse guided experiences of many types are part of the strongest economic sector of this region and much of the area’s employment is somehow connected to this sector. Nature tourism is projected to be one of the mainstays of the region’s future economy.

LURC Requests:

1. Request LURC require or conduct a comprehensive inventory, mapping and analysis of current and potential nature-based tourism assets and experiences that will identify conflicted areas where development might

displace or degrade nature tourism assets or “wild feeling” and remote experiences, and will include an economic analysis of region-wide current and potential tourism resources. *(This inventory should include shorelines, riparian habitat and wildlife habitat, inventories of natural communities, defining elevations, scenic views, and sites that offer public access as well as other high value nature tourism opportunities in the region.)*

4. No undue Impact and Appropriate Protection.

2. Request that LURC use this analysis to create a comprehensive plan for the region that uses LURC “Natural Character” zones to protect these current and future economic resources *(much the same way that deer yards are protected by LURC zoning).*

5. Conforms with the CLUP.

7. Protection of Resources in need of Protection.

3. Request that the applicant revise its proposed development in conformance with the "Citizen Solutions" map, as detailed below:

* for the Lily Bay peninsula - only limited residential development consistent with "smart growth" principles (shared water access; clustered housing) and existing development in the immediate area; no resort development is recommended.

* for the following areas - Prong Pond, Upper Wilson Pond, shorefront of Upper Indian Pond, Little Brassua Lake, the northwest of Big Brassua Lake, and Big W Township - no further development.

1. Long Range Plans for Development and Conservation.

4. No undue Impact and Appropriate Protection.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

4. Request that LURC require the permanent conservation offered as balance for development:

* be significantly increased in amount - (the current “mitigation lands” equate to less than 18% of the plan area acreage).

* be located near each community, throughout plan area.

* include guaranteed public access, offered free of charge.

* include guaranteed protection of Second and Third Roach Ponds and the surrounding lands.

* include all easements offered to be granted in full immediately upon LURC approval of the proposal.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

5. Request the applicant secure the economic benefits of various trail corridors by:

* providing substantial buffer strips (see Appalachian Mountain Club guidelines) on either side of proposed snowmobile and hiking trails and protection of trail viewsheds.

* offering permanent trail corridors, whose locations are secured in perpetuity, that include appropriate trail crossings to support forestry operations without changing the location of trail systems.

* providing drafts of the regulations that will govern the proposed snowmobile and hiking trails.

* referring to the MRFC’s “suites of high value nature tourism experiences” (see “Citizen Solutions” map and map interpretation document) for information on current and potential trails in the region.

* creating water access that supports the Northern Forest Canoe Trail system.

4. No undue Impact and Appropriate Protection.

6. At least as Protective – matching Conservation.

6. Request that the applicant provide more information about how recreational activities would be managed and how any applicable regulations would be enforced. Request that LURC require a multi-recreational resource planning advisory group, with local and state stakeholders, to aid in the creation of multi-recreation management plans to be part of any Concept Plan for lands that will be available for public access and uses.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

3. Wildlife Recreation: Hunting, fishing, and wildlife watching all require healthy, diverse wildlife populations. Contiguous tracts of undeveloped land, riparian areas, high value habitat for wild animals, and intact natural plant communities are essential to the ecological and economic vitality of this region. The potential long-term economic benefits of conserving un-fragmented, high value habitat will likely outweigh the short-term benefits of inappropriate development.

LURC Requests:

1. With regard to lands now proposed as “30-year no development buffers”, request that LURC:
 - * Zone areas with high value natural resources as “Natural Character” zones that would not be available for development at any future time
 - * Zone any remaining areas to correspond appropriately to the LURC Comprehensive Land Use Plan.
 - 1. Long Range Plans for Development and Conservation.*
 - 2. Long term intent, density and means for Protection.*
 - 5. Conforms with the CLUP.*

2. Request a thorough investigation be conducted of the compatibility of uses and the impact that large residential development would have on the remote Brassua Lakes, Big W and Lily Bay, and consider those in relation to current and future human, wildlife and fisheries patterns, the long-term economic benefits to and character of these distinct areas.
 - 1. Long Range Plans for Development and Conservation.*
 - 2. Long term intent, density and means for Protection.*
 - 3. Demonstrated Need.*
 - 4. No undue Impact and Appropriate Protection.*
 - 7. Protection of Resources in need of Protection.*

3. Request that LURC require a clause for the modification of any development plans for the Unorganized Territories proposed for the future, for the purposes of protecting important habitat and land and water features, especially if appropriate, comprehensive studies have not been conducted and fully evaluated by independent research.
 - 6. At least as Protective – matching Conservation.*
 - 7. Protection of Resources in need of Protection.*
 - 8. Publicly beneficial balance, appropriate Development and Conservation.*

4. Request that LURC include a provision in any permit issued to applicant such that the pending designation of Canada lynx critical habitat would supersede the applicant’s plan in any and all areas covered by the permit.
 - 4. No undue Impact and Appropriate Protection.*
 - 7. Protection of Resources in need of Protection.*

5. Request that LURC require that deer wintering habitat designated by state game officials within proposed conservation lands be managed according to standards that meet or exceed those set by the state of Maine and that no development be allowed in these areas.
 - 4. No undue Impact and Appropriate Protection.*
 - 7. Protection of Resources in need of Protection.*

6. Request that LURC obtain a thorough third-party survey that clearly identifies and quantifies the flora and fauna of the aquatic, avian, and terrestrial natural communities (including, but not limited to, rare and endangered species) in areas proposed for current development as well as the proposed 30-year “no-development” buffer. This survey should include identification of current wildlife corridors. Request that LURC use this inventory to locate conflicted sites and create opportunities for the applicant to relocate development to sites with fewer wildlife and wildlife recreation conflicts and to create a wildlife management plan that makes recommendations for the sustained health of natural communities and species within areas to host development. *(The wildlife management plan must accurately map the larger “shadow”*

effects of both road building and development beyond exact footprints and offer solutions to secure habitat needs: ie travel corridors, den and nest sites, food and browse opportunities, etc.).

1. Long Range Plans for Development and Conservation.

4. No undue Impact and Appropriate Protection.

6. At least as Protective – matching Conservation.

7. Protection of Resources in need of Protection.

7. Request that LURC or the applicant conduct a study of the impact of roads associated with development (projected traffic patterns, volumes, animal-vehicle collisions, wildlife road mortality, the edge effects of roads on habitat and wildlife populations, the effects of increased access on animal populations) and use the analysis to more effectively concentrate development footprints in ways that reduce wildlife mortality, habitat fragmentation, and loss of public access.

1. Long Range Plans for Development and Conservation.

4. No undue Impact and Appropriate Protection.

6. At least as Protective – matching Conservation.

7. Protection of Resources in need of Protection.

9. Perpetual Conservation and Protection.

8. Request that LURC obtain a thorough inventory of flora and fauna in all areas where construction of new roads is proposed in order to identify potential adverse ecological impacts.

2. Long term intent, density and means for Protection.

4. No undue Impact and Appropriate Protection.

7. Protection of Resources in need of Protection.

9. Request that LURC require the applicant address water quality issues raised in the application by providing a full accounting of possible phosphorus loading from all roads that will be used/created to support development; calculating phosphorus loading in Moosehead Lake, Brassua Lake and all other adjacent water bodies and flowages from proposed development; reevaluating and removing sites that have soils that are inappropriate for building without the use of extensive fill or other types of mitigation, or that will require additional enforcement; creating adequate riparian buffers that function both as screens to protect water quality and travel corridors for wildlife and plant dispersal. All such work must be conducted by third party analysis, not by parties hired by the applicant.

4. No undue Impact and Appropriate Protection.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

10. Request that Class A and AA rivers receive special consideration for protection as they comprise a small fraction of the state's river mileage and offer important wildlife values, both biologically and economically.

4. No undue Impact and Appropriate Protection.

6. At least as Protective – matching Conservation.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

11. Request that LURC ensure the protection of the high public, natural, historical, and cultural values of the East Outlet resources, to the highest standards allowable by law.

4. No undue Impact and Appropriate Protection.

6. At least as Protective – matching Conservation.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

12. Request that the applicant reduce development in remote areas, on high value riparian locations and on wildlife corridors (as part of the legal requirement to balance permanent conservation with development) in the most affected parts of the proposed project area. A significant amount of offset conservation must happen on important wildlife habitat and wildlife recreation sites that might be most affected by development; more

riparian conservation is required to balance proposed development in riparian areas. Such areas can only be substantively identified and quantified through the use of the work outlined in # 2 through #8 above.

2. Long term intent, density and means for Protection.

4. No undue Impact and Appropriate Protection.

7. Protection of Resources in need of Protection.

8. Publicly beneficial balance, appropriate Development and Conservation.

4. Retirement/ 2nd Home Industry: This industry also depends on conservation of high value resources that define this region. People want to own retirement or second homes near the woods, waters, and wildlife habitat that initially attracted them to the area. Supporting real estate development that uses “Smart Growth” and sustainable community principles (with regard to the location and amount of development) ensures strong real estate values even as we secure the health of the region’s other resource-based sectors.

LURC Requests:

1. Due to the magnitude of the proposed changes and the breadth of territory involved, it is requested that LURC uphold adjacency guidelines as an essential tool that has helped to direct development in the Unorganized Territories in an orderly, positive way, regardless of whether they are currently required for Concept Plans.

3. Demonstrated Need.

5. Conforms with the CLUP.

2. Request that LURC ensure that proposed zoning standards are at least as protective as are the current land use standards. For example, the applicant has changed the zoning standards to allow the construction of boathouses, which are not allowed by the current zoning standards. Zoning standards may need to be strengthened or added in accordance with planned development and the uses/character/protection of Unorganized Territory pertaining to issues including traffic, infrastructure, personal watercraft, wildlife corridors and habitat, mining operations, and sustainable forestry.

5. Conforms with the CLUP.

6. At least as Protective – matching Conservation.

8. Publicly beneficial balance, appropriate Development and Conservation.

3. Request that LURC require the applicant to develop nearest to the towns of Greenville and Jackman, and the village of Rockwood, which will keep new housing and prospective new services near established services.

3. Demonstrated Need.

5. Conforms with the CLUP.

8. Publicly beneficial balance, appropriate Development and Conservation.

4. Request that LURC require proper current and projected crash data (including big game-vehicle collisions), road patterns, traffic flow, volumes and speed analysis in the Unorganized Territory included in the plan, i.e. Rockwood area townships, Lily Bay, and Big W; the potential for future conflicts between active construction traffic and concurrent residential use of roads should be considered.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection

4. No undue Impact and Appropriate Protection.

7. Protection of Resources in need of Protection.

5. Request that LURC clarify what roads will be deeded for access for each proposed subdivision and what the legal rights will be, both for the prospective landowners and for the public, as well as how and by whom those rights will be guaranteed and enforced.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection

5. Conforms with the CLUP.

6. Request LURC:

- * consider what Rockwood village requires for infrastructure to meet needs and services into the future, including investigations into roads and traffic patterns in compatibility with wildlife corridors, recycling and the transfer station
- * investigate the needs and services that will be required of the actual population demographic, including hospital, septic waste, and emergency services, in relation to developments within the jurisdiction of the Unorganized Territories
- * consider the location and cost of providing the above services
- * eliminate from the proposal the idea of diverting a percentage of the Unorganized Territories funding to the Town of Greenville.

- 1. Long Range Plans for Development and Conservation.***
- 2. Long term intent, density and means for Protection.***
- 3. Demonstrated Need.***

7. Request that LURC assess the required amount of oversight and determine appropriate penalties to enforce compliance with restrictions that will minimize negative impacts of development (visual and otherwise), and that LURC develop a funding strategy to secure the necessary staffing and resources for adequate enforcement.

- 1. Long Range Plans for Development and Conservation.***
- 2. Long term intent, density and means for Protection***
- 4. No undue Impact and Appropriate Protection.***
- 5. Conforms with the CLUP.***
- 8. Publicly beneficial balance, appropriate Development and Conservation.***
- 9. Perpetual Conservation and Protection.***

8. Request that LURC require developers, owners, and owner associations to be bound by covenants that will minimize negative impacts of development (through regulations regarding screening, lighting, height, square footage, design, setbacks, tree-cutting and thinning) and require that landowners contract a certified forester/professional to accurately interpret pertaining land use rules.

- 1. Long Range Plans for Development and Conservation.***
- 2. Long term intent, density and means for Protection.***
- 4. No undue Impact and Appropriate Protection.***
- 8. Publicly beneficial balance, appropriate Development and Conservation.***
- 9. Perpetual Conservation and Protection.***

9. Request that LURC require compliance with Scenic Byway criteria for Route 15 from Greenville to Rockwood to assure protection of this important corridor in perpetuity.

- 8. Publicly beneficial balance, appropriate Development and Conservation.***

10. Request that LURC obtain a market analysis to assess demand for housing of all types and price ranges in the plan area, including a complete survey of previous development and home sales over the past 15 years, and an inventory of new homes currently being proposed or built in the adjacent organized communities of Beaver Cove, Greenville, Shirley, Greenville Junction and Jackman. This document should project future absorption rates, including housing type and price range, along with projected service and infrastructure requirements for a period of at least 15 years.

- 3. Demonstrated Need.***
- 8. Publicly beneficial balance, appropriate Development and Conservation.***

11. Request that LURC obtain a third party analysis of both existing and projected population of the Unorganized Territories of the Moosehead region, establishing what net change has occurred in full-time as well as seasonal local population over at least a 15-year period and what implications arise from that analysis.

- 3. Demonstrated Need.***

12. Request that LURC limit the size of the building envelopes and prevent building lots from being able to be moved from one location to another within a given subdivision.

- 1. Long Range Plans for Development and Conservation.***
- 2. Long term intent, density and means for Protection.***

4. No undue Impact and Appropriate Protection.

13. Request that LURC require the applicant provide specific assurance of the end use of the property proposed for development at Big Moose Mountain and the number, locations, sizes, heights, types, etc. of buildings/resort units, and what the allowable uses of a resort will be; the lack of detail suggests there may be no limit on how much development can occur in 30 years, leading to poor planning and types of development that could negatively impact the character and economic health of the region.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection

14. Request that the applicant locate all developments within 1-2 miles of existing town, county, or state roads and use the most advanced sustainable community and “smart growth” planning principles in the proposed subdivision plans to enhance the values of community and protect wildlife, so that sprawl will not adversely impact communities, wildlife, recreational opportunities and tourism development.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection.

4. No undue Impact and Appropriate Protection.

7. Protection of Resources in need of Protection.

15. Request LURC to encourage that applicant-proposed impact fees continue to be levied for all re-sales of proposed lots within the plan area, to facilitate an ongoing, rather than one-time, fund established to support Education and Recreation.

8. Publicly beneficial balance, appropriate Development and Conservation.

16. Request that LURC require broad balance between reaching a critical mass of development near established service centers and the protection of remote areas that offer essential natural habitats, a valuable wildlife and tourism economy, and sustain the distinct character of the Moosehead region.

1. Long Range Plans for Development and Conservation.

2. Long term intent, density and means for Protection.

4. No undue Impact and Appropriate Protection.

5. Conforms with the CLUP.

8. Publicly beneficial balance, appropriate Development and Conservation.

*The information below is excerpted from **Criteria for Approval of Concept Plans, A Summary Prepared by the Planning Division of the Maine Land Use Regulation Commission, 18 March 2005:***

The Commission established the "concept plan" process as a flexible alternative to traditional subdivision and development regulation, designed to accomplish both public and private objectives. Concept plans are landowner-created, long-range plans for the development and conservation of a large block of shoreland on a lake or group of lakes. The plans are a clarification of long-term landowner intent that indicate, in a general way, the areas where development is to be focused, the relative density of proposed development, and the means by which significant natural and recreational resources are to be protected. Concept plans are initiated by a landowner and must be approved by the Commission.

The Commission's *Comprehensive Land Use Plan* describes concept plans in its discussion of the agency's lake management program. Concept plans are implemented by rezoning land to a Resource Plan Protection (P-RP) subdistrict. Consequently, the principal regulatory review criteria for concept plans are the Commission's statutory criteria for rezoning and the Commission's Land Use Districts and Standards.

Statutory Criteria

Under provisions of the Commission's statute, 12 M.R.S.A. §685-A(8-A), no change in a district boundary may be approved unless:

1. There is substantial evidence that the change would be consistent with the standards for district boundaries in effect at the time; the *Comprehensive Land Use Plan*, and the purpose, intent and provisions of Chapter 206-A (the Land Use Regulation Law); and
2. The change in zoning will satisfy demonstrated need in the community or area and will have no undue adverse impact on existing uses or resources or is more appropriate for the protection and management of existing uses and resources within the affected area.

Commission's Rules

Under provisions of Section 10.23,H of the Commission's Land Use Districts and Standards, the Commission may approve a resource plan and any associated rezoning to the Resource Plan Protection (P-RP) Subdistrict only if it finds that the following criteria are satisfied:

1. The plan conforms with redistricting criteria;
2. The plan conforms, where applicable, with the Commission's Land Use Districts and Standards;
3. The plan conforms with the Commission's Comprehensive Land Use Plan;
4. The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of lake concept plans, this means that any development gained through any waiver of the adjacency criterion is matched by comparable conservation measures;
5. The plan has as its primary purpose the protection of those resources in need of protection, or, in the case of lake concept plans, includes in its purpose the protection of those resources in need of protection;
6. In the case of concept plans, the Plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources; and
7. In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation.

Other review criteria that may apply in the evaluation of concept plans include Section 10.24 (General Criteria for Approval of Permit Applications), Section 10.25 (Development Standards, including review standards for structures adjacent to lakes); Section 10.26 (Dimensional Requirements); and Section 10.27 (Activity-Specific Standards) of the Commission's Land Use Districts and Standards.