

Testimony on behalf of the Moosehead Region Futures Committee

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Topic(s) of testimony: Zoning Issues with regard to the Rockwood Area

Qualifications of witness:

- 13-year journalist of the Moosehead Lake region
- Award-winning columnist with the North Woods Sporting Journal
- Past vice-president of the Rockwood Fire & Rescue Dept.
- Local coordinator & chairman of the Rockwood E-911 committee
- Past trustee of the Natural Resource Education Center, Greenville
- 8th generation Mainer

Testimony:

Rockwood Area Zoning

The Commission has concluded that the principal development issue in the Unorganized Territories is not the amount of development taking place in the jurisdiction, but rather where it is located. (Pg. 125, CLUP.) Commissioners state that the most important finding from evaluation of development trends is not the indisputable evidence of lost values, but identification of a development pattern that is not conducive to the long-term protection of these values.

In planning for future development, Commissioners state that their great challenge is “to allow growth to be accommodated in these high value areas, without compromising the resources that make them so special. Balancing development and conservation in these areas is the key to maintaining their high values, particularly their recreational appeal.”

This is a key aspect to the future of Rockwood village and its surrounding area. The Commission also states that a more specialized and localized planning and zoning approach is appropriate in these instances (Pg. 113, CLUP), which again is a key element to the future of Rockwood.

This acknowledgement of the challenge, and the common sense approach by the Land Use Regulation Commission, our planning board for the Unorganized Territories, will make all the difference in how well new zones are adapted in relation to the needs and desires of the people who live and work locally, as well as to the long-term economic vitality associated with back-country recreational tourism. (For further information, please see related studies, including Colgan, Fermata, Brookings Institution reports, Moosehead Mapping Collaborative draft data, as well as past reports initiated by the Town of Greenville, the Natural Resource Education Center, and the Piscataquis County Economic Development Council.)

Plans for the greater Rockwood area have been quietly flying under the radar screen in respect to the locations and types of zoning that Plum Creek is proposing under its Concept Plan.

While attention has largely been focused on the town of Greenville (situated 20 miles south, outside of the actual plan area and in another county), and Lily Bay, approximately 50 percent of the actual development zones are slated for the greater Rockwood area, Somerset County, making Rockwood the silent fulcrum for how well or how poorly the jurisdiction grows and protects its principal values in this new century.

This is a pivotal time in our Maine history, in the future of our Unorganized Territories. How Rockwood is zoned will be a deciding factor for what sets the new standard for smart growth and smart conservation for all of our valuable resources linked in the North Woods.

Below are some of the challenges and concerns that are identified with regard to the type of and location for rezoning in the greater Rockwood area. These issues correlate to the values and character of the local region as identified by local people through many interviews and in many meetings over the past two years, the results of which are referred to later in this testimony. The results also mirror those of the scoping sessions held by LURC in the region last year.

The Rockwood zoning issues also correlate to and are followed in this testimony by applicable legal criteria, and the goals and policies of the Land Use Regulation Commission, as written in the Comprehensive Land Use Plan and in Chapter 10 of the Commission's Land Use Districts and Standards.

Of particular concern is that there is reasonable doubt that the applicant has demonstrated the need for this type and the location of the proposed zoning and that it is consistent with the statutory purpose and intent of the major goals of the Comprehensive Land Use Plan, which include:

- Protecting the character and values of the area
- Preventing the mixing of incompatible uses
- Protecting the ecological and natural resources
- Encouraging well planned multiple uses of the land and resources and appropriate use of the land for outdoor recreational activities.

Exhibit 1 shows a broad scale view of the entire plan area, with the Rockwood area encircled. Exhibit 2 shows existing development in the Rockwood area. Exhibit 3 is a close-up of the Rockwood area showing proposed rezoning.

Zoning concerns with regard to Rockwood area:

I. Concerns regarding the number of acres to be rezoned

- 49 percent of Plum Creek's total plan for development is proposed for the Rockwood area (9,993 acres of the total 20,442 acres). The statistical summary shows the location and amount of zoning that is to be changed into broad development areas are too large and in remote areas west and south of Rockwood village, without demonstrated need in the area, without infrastructure, and with undue adverse impacts to natural, cultural, historical, and recreational resources. Plum Creek plan maps show pink zones (D-RS2M) as "residential", but the details show "mixed commercial" use.

Please refer to the Land Use Regulation Commission's Regulatory & Legal Criteria at the end of this testimony and related to:

- 1. Long range plans for appropriate development*
- 2. Demonstrated Need*
- 3. No Undue Adverse Impact*
- 4. Conforms with CLUP*
- 5. Conservation of significant resources*
- 6. Compatibility with Principal Values & Land Use Standards*
- 7. Incompatible zoning*

II. Concerns regarding inappropriate locations proposed for development

- Brassua Lake is identified as a Resource Class 1B: of statewide significance with at least one outstanding value, and a Management Class 3 Lake: potentially suitable for development. While Brassua has some development of small, traditional camps on the Route 15 shoreline and a pocket subdivision on the eastern shoreline, Brassua Lake carries significant natural and outstanding cultural features and habitat that remains untouched, which would not be compatible with the hard development that is currently being proposed. Official Assessments have not been made for all values associated with Brassua Lake, including resource ratings for Wildlife, Scenic, Shore, Botanic and Physical, though anecdotal experience by local guides and tourism businesses may be reviewed through data gathered by the Moosehead Mapping Collaborative. Drawdown of the annual waterline is between 23-25 feet, which may not affect wildlife use and travel corridors, but does affect values with homeowners.
- Misery Stream, which flows into Brassua Lake, is an important spawning stream for brook trout and for some salmon. It flows from Misery Pond, which is listed on the Wildland Lake Assessment Findings as water of regional significance, with resource ratings of Significant for its fisheries, scenic and shore character, and a positive rating for its physical characteristics. The Assessment notes that further field checks are needed due to public comment. Development of this outlying area will unnecessarily degrade important values and assets.
- 2,812 acres are to be zoned for broad and heavy development on the remote southwestern side of Brassua Lake (Brassua peninsula), creating sprawl in a remote area, located many miles from the nearest settled area in the Unorganized Territories (2721 acres D-RS2M plus 91 acres D-GN3M). Hard development in the form of D-RS2M and D-GN3M zoning of Brassua peninsula will degrade important historic, cultural, and sporting values, and encroach on current wild lands. This type of zoning fails to meet a demonstrated need for it in this location, puts undue pressures on the local community by placing commercial development well beyond the village center, and may harm the valuable qualities associated with Rockwood as an “outback” destination.

All units proposed in remote sections of northwestern Brassua peninsula should be removed and placed closer to Route 15. Residential dwellings should be in keeping with zoning for a Management Class 3, Resource Class 1B Lake (refer to Land Use Districts and Standards 10.02 & 10.16N). Commercial development proposed in this remote section should be relocated near to already existing development. No D-GN3M zoning should be located at Brassua (see below).

Please refer to excerpts from the CLUP and Chapter 10 Standards at the end of this testimony which relate to the Commission's land use goals and policies for:

- 1. Long range plans for appropriate development*
- 2. Demonstrated Need*
- 3. No Undue Adverse Impact*
- 4. Conforms with CLUP*
- 5. Conservation of significant resources*
- 6. Compatibility with Principal Values & Land Use Standards*
- 7. Incompatible zoning*

III. Concerns regarding proposed land use zones

- Zoning D-GN3M (Rural Mixed-Use) could allow for heavy commercial development, including professional offices, retail shops, very large multiple commercial facilities, banks, nursing homes, non-conforming signs and major home occupations.
 - This zoning is not compatible with the remote qualities of Brassua Lake and therefore no D-GN3M zoning should be located at Brassua. 91 acres are to be zoned D-GN3M for commercial, mixed use in currently remote areas at Brassua Lake, creating a thread for sprawl and undue adverse impacts on natural, recreational, historic and scenic values.
 - 235 acres are to be zoned D-GN3M on Blue Ridge. This acreage should be located close to existing commercial development.
- Proposed Zoning D-RS2M (Residential-Community Development) and D-RS3M (Residential Recreation) both could allow for the permitting of large, multiple structures of up to 5,000 square feet per structure and the building of man-made ponds greater than 4,300 square feet, as well as filling, grading, dredging and draining; man-made ponds of less than 4,300 square feet would not require permitting.
- D-RS2M (Residential-Community Development) zones, amounting to 4,390 acres located both at Brassua Lake and the length and breadth of the Blue Ridge mountain, could permit health care facilities up to 4,000 square feet, new post offices, churches, schools, and road sand/salt structures. D-RS2M could also permit multiple structures of up to 5,000 square feet per structure. The broad definition of this zone acts like commercial zoning. As a result, it extends commercial zoning away from the service center of Greenville and the settled area of Rockwood village. This zone, as currently defined, puts new pressures and the undue adverse impact of increased roadways, heavy construction, power, commercial traffic, commercial buildings, speeding, lights, noise and the signage that are associated with towns into remote places. It would drain support of the current commercial service centers of the Town of Greenville and the human services offered at Rockwood village, while unnecessarily degrading traditional uses. As indicated in testimony below, the type and the location of this zoning does not reflect the needs of the local people and unduly impacts existing uses, infrastructure, resource strengths, and community character.

In effect, D-RS2M zones extend D-GN3M and could allow for highly commercialized urban sprawl in remote areas, far removed from already established service areas, and undermine the principal values of the outlying Rockwood areas without a demonstrated need for this type of intensive, large-scale development. Together, the two zones create another resort area or intense growth center.

D-RS2M should be re-tooled or replaced so that it reflects the stated purpose for low-impact residential and public uses and suitably reflects the stated needs and existing character of the local community, without competing with already established, but economically hurting, service centers.

- The stated purpose of zoning D-RS3M (Residential Recreation) is to accommodate seasonal, recreational and year-round development in high value resource areas without compromising the recreational setting. Zoning in the Rockwood area should be adopted that better reflects this important intention. This zoning may be more suitably located at Brassua Lake. The proposed D-RS2M and D-GN3M zoning is not suitable.
- All the above proposed zones would prohibit hunting in traditional hunting areas.
- The stated purpose of Zone M-GNM (General Management Zone) is to permit forestry and agricultural activities with minimum interferences, though home occupations and parking areas would be allowed without a permit. Non-conforming driveways, as well as parking, signage, solid waste facilities, filling, draining, dredging, and non-commercial structures may be constructed with a permit. It is not clear where or how large the non-commercial structures would be. Locating these structures in remote territory, removed from human services, would not be compatible with this section of the Moosehead Lake region.
- New and/or current zones should be applied that best reflect the uses, needs, and demands of these remote sections to retain the vitality and economic values of the greater Rockwood region – and the Moosehead Lake region – well into the future. Example: Replace some of the proposed zoning with existing subdistricts or zones, i.e. proposed D-RS3M or LURC’s Semi-Remote Lake Protection subdistrict (P-GP2, Chptr. 10, pg. 132) on Brassua Lake; Recreation Zone or Unusual Area Protection Zone for the flow of the Northern Forest Canoe Trail through Brassua, the Moose River, to Mt. Kineo and up the northwest side of Moosehead Lake.
- In the current proposal, large-scale commercial zoning is not located near existing and compatible commercial places.

Please refer to excerpts from the CLUP and Chapter 10 Standards at the end of this testimony which relate to the Commission’s land use goals, policies and standards for:

1. *Long range plans for appropriate development*
2. *Demonstrated Need*
3. *No Undue Adverse Impact*
4. *Conforms with CLUP*
5. *Conservation of significant resources*
6. *Compatibility with Principal Values & Land Use Standards*
7. *Incompatible zoning*

Conclusion

The zoning currently proposed for the Rockwood area does not separate incompatible uses and values, and would do more harm than good. The location of and impacts associated with this zoning, as currently proposed, is incompatible with the needs of the greater Rockwood area and values for the greater Moosehead region. The potential uses and activities within the zones overlay a heavy commercial use into a remote location, without taking into account the needs and character of the village, the resources, and surrounding inhabitants. Finally, the zoning does

not fit the regulatory & legal criteria as defined by the Commission's Comprehensive Land Use Plan and Standards. A better type of zoning, in attention to location and need, would work well for the Rockwood area.

Rockwood Area Residents – Community Values & Concerns:

After many area meetings facilitated by Rockwood representatives of the Moosehead Region Futures Committee, the common values and concerns concluded into the following four areas:

- 1. Develop nearest to the Village**
- 2. Permanent Conservation**
- 3. Impacts Reduced**
- 4. Nature-Based Experiences Protected**

Keep Development Close to the Village

- Mitigating sprawl and retaining the Rockwood area as an “outpost” is very important. Keep development nearest the village, and to the service centers of Greenville and Jackman, off undeveloped westerly and northern areas.
- Locate development along existing public roads and utilities.
- No tourist facility, big resorts. Yes to small scale lodges, relocation of large facility to Squaw area.
- Retain narrow road systems.
- Planned, low-impact cluster development, including zoning to constrain noise and light pollution, high speed traffic, retain remote quiet.
- Need for additional campground.
- Need for additional parking, marina.
- Scale back development at Brassua Lake, off back areas, high elevations; retain at SW end.
- Relocate additional lots close to service centers.

Permanent Conservation

- No development in back areas. Large scale, no fee permanent conservation as required for re-zoning. As part of permit, permanent conservation for Big W, points north of the Moose River, and points West toward Jackman, between Brassua and Long Pond.
- No cut zones on high elevations of Blue Ridge.
- Keep open undeveloped westerly corridors that move from south to north between Brassua and Long Pond.
- Keep waters of high value free of development. Example: Misery Stream's smelt runs, trout and salmon spawning and nursery areas, remote ponds, tributaries.

Reduce Impacts

- Phase development in over the life of the plan, not accelerated. Use smart growth principles to create high value, low-impact uses.
- Create zoning to reflect essential remote values, smart growth patterns. Those include:
 - Abundant, natural habitat
 - Low motorized traffic patterns, on roads & waters.
 - Rustic, small-scale, w/ some amenities.
 - “Light” services, with few paved roads, power lines, waste problems.
 - Few and small signs.
- Future growth & economic vitality seen in low-impact, traditional outdoor recreation that the Rockwood area is known for and seeks to retain.
- Area is territory to protected species, such as lynx, eagles and peregrines. Need to plan infrastructure, subdivision for housing development, wildlife corridors carefully to support current diversity and balance between human and animal habitat, uses.
- Expand on current village area for interconnected, centralized activity.

Nature-Based Experience Protected

- Plan for interconnecting trails for motorized and for non-motorized activity that link communities and remote, back-country recreation.
- This section of the Moosehead region is known for its outdoor recreation, traditional, low-key ways; retain this as an essential, high value, long-term economic tool to the future.
- Support areas that continue the North Woods experience, including W. Outlet to Indian Pond, back areas of Brassua Lake, and Big W to Seboomook corridor.
- Limit areas available to ATVs, personal watercraft.
- Demonstrated need for remote, back-country recreation.

Overall, residents of the greater Rockwood area take pride that this section of the Moosehead region is still unorganized territory. Residents said they want to see some services re-established in the village area and some more development, nearest to the village as possible, while retaining the remote placement between Greenville and Jackman, at the heart of Moosehead Lake.

Local Values in Rockwood UT area

In a series of meetings conducted through the summer and fall of 2005, and in individual/small group interviews since then, the common values that emerged are:

1. Low-key way of life. Connection to north woods.
2. No big resorts. Like small scale. Retain remote places.
3. Retain 2-lane road system.
4. Stress-free, quiet life.
5. Little traffic.

6. Abundant wildlife, natural habitat.
7. “Light” services. Not many paved roads, power lines.
8. No traffic problems, on roads or waters. No jet skis/ATVs running around.
9. Few & small signs.
10. Low impact recreation. Fishing and hunting traditions.
11. Can see, hear, feel, breathe the natural world, with little man-made intrusion.
12. Rustic, uncluttered of man-made amenities.
13. Unorganized, want to stay that way – do not want to be a Town.
14. Darkness & night sky. No light pollution.
15. Sound of wind & trees, not cars zooming by.
16. Some planned development needed. Hotel, restaurant, retain local stores, connected village.
17. Keep waters of high value free of development. Ex: Misery Stream and smelt runs, spawning areas.
18. Rockwood area is home to or supports special/endangered wildlife: Ex: Canada Lynx seen by W. Outlet/Somerset Rd. area, eagles, peregrines, loons.

Local Issues in Rockwood UT area

1. Large concern over scale of development – too much, too fast. No sprawl. No Bar Harbor.
2. Concern that Lake Concept plan being applied broad-scale.
3. How much building to be done per year?
4. Is land going to be broken into districts?
5. How fast will development take place?
6. Are some UT villages going to be organized into towns?
7. Fear of sprawl away from village center.
8. Large concern about impact that creating infrastructure will have on back areas.
9. Large concern over traffic, increase in traffic patterns. Amount of traffic. Speed of traffic. Effect that will have on disrupting natural environment, back lots, Rt. 15, quality of life, quietude of life, wildlife habitat, and interruption of wildlife migration patterns, increased collision mortality.
10. Too much power by DOT – not listening to local need/concerns.
11. Who’s maintaining new roads, other infrastructure? Landfill?
12. Brassua Lake development – way too big, in areas that have never been developed. OK for some development, but scale it down. No tourist facility.
13. Questionable value to shorefront development on Brassua w/ water drawdowns.
14. Do not want to see sprawl edging outward from village. Taratine, westerly areas toward Jackman not developed. No power lines, lights, sewage. Plan clusters close to village.
15. Big conflict for wildlife of Rockwood area.
16. Concern about density of boat traffic, jet skis in future. No Lake Winnepausaukee.
17. Demonstrated need for more parking for lake access. Rockwood dock full.
18. LURC issues – Who determines “undue adverse impact”? How does that work?

19. Big concern over taxes, costs, and affordability. Locals getting “priced out” and won’t be able to stay here. Concern that nearby town (Greenville) wants cost-share, though located far away, no services rendered, in different county.
20. Impact fast development will have on Fire Dept/EMTs. Vast area, isolated, very small crew.
21. Young people can’t afford to buy land here anymore. Young people can only inherit land, not buy themselves. Worse with large-scale development.
22. Nature-based economy too tough to make living at (too seasonal).
23. Don’t see long-term, sustainable forestry with P.C. Review by same Co. that does Seven Island?
24. Question what/how many jobs will be created.

Based on interviews, Rockwood area residents can support

- a. A smaller amount of development, including hotel, restaurant, stores, gas/service stations.
- b. A campground to replace Old Mill.
- c. Nature-based growth, such as fishing, hunting, hiking, cross-country skiing, canoeing, wildlife watching.
- d. Low impact uses in area. OK as service center, beginning in Rockwood, just down south of village, have accessible by sled.
- e. Scaled down development at Brassua. Keep it off of back country, back lots, where it would destroy wildlife habitat, living patterns. OK on some shorefront, off high elevations.
- f. Study impact of large development to wildlife. Need knowledgeable balance.
- g. Concentrate density between Rockwood and Greenville. No sprawl west and northward.
- h. No development at West Outlet. Water shallow.
- i. Remaining Unorganized Territory.
- j. Low impact lodging.
- k. Create amenable service/recreation area in Rockwood village.
- l. Activities for youths.
- m. Squaw Mtn. area resort project.
- n. Permanent conservation.
- o. Discourage sprawl. Encourage keeping last of open areas on Moosehead, valuable to future, both economically and spiritually.

Inconsistencies with the Regulatory & Legal Criteria of the Comprehensive Land Use Plan and Standards:

D-RS2M (and D-GN3M on Brassua Lake) is not reflective of the needs of the community and not compatible with the management intent of the Commission’s lake classifications, protection of the jurisdiction’s principal values, the Commission’s adjacency principle, the Commission’s policy of discouraging growth which results in scattered and sprawling development patterns, and unduly affects the location and the remote character of the region.

Excerpts from 12 MRSA

12 M.R.S.A. § 685-A (8-A)

Section 10.08 of the Commission's Land Use Districts and Standards

- A. "The proposed land use district is consistent with the standards for district boundaries in effect at the time, comprehensive land use plan and the purpose, intent and provisions of this chapter..."
- B. "The proposed land use district satisfies a demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area."

12 M.R.S.A § 681. Purpose and Scope

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses; ... to prevent the despoliation, pollution and inappropriate use of the water in these areas ...

In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, ... to encourage the appropriate use of these lands by the residents of Maine and its visitors, in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

Excerpts from Chapter 10 of the Commission's Rules & Standards

Sub-Chapter II 10.16 F, Pg. 107, *Criteria for Review*

- 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan"
- 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
- 6d. "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 concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure[s]"
- 6f. "...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources..."

See Section 10.08, B of the Commission's Land Use Districts and Standards

Section 10.25, A (Review Standards for Structures Adjacent to Lakes), PC app. Subchapter III Land Use Standards, Pg. III2

“...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.”

1. “Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
2. “Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
3. “Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture”
4. “Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed.”
6. “Lake management goals: The proposal is consistent with the management intent of the affected lake’s classification.”

LURC Chapter 10.16N, pg. 132: Semi-Remote Lake Protection subdistrict – accommodates seasonal, recreational uses on lakes valued for their semi-remote character and determined to be suitable for limited development through a prospective planning process...designed to site appropriate uses at a density and pattern of development that conserves the essential character of these lakes and to accommodate traditional uses and public access. It also provides a greater degree of certainty to both the landowners and the public as to the amount of development and conservation that will occur along certain lake shorelines. Lakes classified as Management Class 3 (Brassua Lake) may be included on this after analysis and review by the Commission through a prospective planning process.

Excerpts from the Comprehensive Land Use Plan

Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction’s principal values...

The Commission has identified four principal values that define the jurisdiction’s distinctive character:

1. The economic value of the jurisdiction for fiber and food production, particularly the tradition of a working forest
2. Diverse and abundant recreational opportunities, particularly for primitive pursuits.
3. Diverse, abundant and unique high-value natural resources and features
4. Natural character values, which include the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. (pg. 114)

The Commission's approach to recreational uses focuses on supporting and protecting primitive recreational resources and opportunities. (pg. 68)

While the Commission encourages recreational diversity, it will ensure that new uses or activities do not diminish the experience for traditional recreational users. (pg. 75)

Proposals for other development adjacent to sporting camps will be reviewed with particular care to ensure that values on which the camps depend for their survival are not eroded. (pg. 128)

CLUP Chapter 4, Commission's Approach to Development & Land Use

Inventory and Land Use Development

Remoteness and the relative absence of development are perhaps the most distinctive of the jurisdiction's principal values, due mainly to their increasing rarity in the Eastern United States. These traits also enhance other values, particularly recreational opportunities and natural resources...Remote, undeveloped qualities are also particularly sensitive to permanent changes in the landscape resulting from development...Remote character may be lost long before development threatens water quality or wildlife habitat. These values may be difficult to quantify but they are integral to the jurisdiction's identity and to its overall character. (Pg. 114)

Evaluation of Development Trends

New residential development is often viewed favorably from a fiscal standpoint because of increased tax revenues. The costs of added services and facilities associated with residential development, however, usually more than offset tax revenues...New year-round housing has been least costly to serve when located near facilities and services in adjacent organized communities...The fiscal benefits of seasonal housing can be limited or fleeting, particularly second home development in more remote areas. (Pg. 118)

Evaluation of Adverse Impacts

Full consideration of adverse impacts requires keeping abreast of scientific research and documentation, while recognizing that many impacts are subtle and incremental. By the time degradation of a value is clearly detected, the value may be lost or remedial action infeasible. The Commission, therefore, will approach the identification of potential adverse impacts with a balance of good science and reasonable foresight. (Pg. 118)

The most effective method of minimizing adverse impact [on jurisdiction's principal values] is to guide development away from them...The Commission has determined that the development pattern that has taken place since 1971 is not conducive to protecting [principal values]. (Pg. 119)

Residential...and recreational facilities and other commercial and industrial activities have potential for significant adverse impacts on the jurisdiction's principal values. (Pg. 119)

The Commission feels that a strong case can be made that elements of the jurisdiction's remote, undeveloped character have been eroded, and that development and division of land...is likely having a negative impact on ecological values, forest resources, and on primitive recreational opportunities. In selected high-growth fringe areas, the Commission believes that some

development has had negative effects on the values of special lakes, wildlife, and scenic resources. The most important finding, however, is not indisputable evidence of lost values, but identification of a development pattern that is not conducive to the long-term protection of these values. (Pg. 120)

A strength of the Commission is its focus on the location of major new development. A weakness of many land use regulations in other parts of the country is their focus on mitigation, rather than on location. Under this approach, development is allowed in most locations as long as it satisfactorily addresses site-specific concerns. The eventual result of this type of planning is a sprawling development pattern...which cumulatively consumes open space, irrevocably alter community character and contribute to unforeseen off-site impacts. (Pg. 120)

The Commission has long recognized the importance of promoting compact development and discouraging sprawl, the principles and standards used to guide growth has lacked refinement. The Commission has identified in itself four weaknesses: 1. exemption of lots from subdivision review, 2. a reactive treatment of rezoning proposals, 3. lack of recognition of local and regional differences within the jurisdiction, 4. limited control over infrastructure improvements, particularly roads. (Pg. 122)

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. For residential projects, the Commission has historically considered the apparent demand for new housing in a community or area; for nonresidential projects, the need for the services, goods or jobs that would result from the rezoning. (Pg. 122)

Improving the Rezoning Approach

Requests for rezoning additional lands in communities will be reviewed with particular care to avoid sprawling development patterns or a mixing of incompatible uses. (Pg. 127)

The rezoning criterion requiring demonstration of need provides the Commission a powerful tool in evaluating the viability and scope of proposed development. (Pg. 127)

While the Commission is charged with protecting the values of the jurisdiction, it will ensure that reasonable economic development is accommodated, particularly facilities related to forestry, agriculture or recreation. (Pg. 128)

The criterion that new development should be located near existing development is referred to as “the adjacency” principle, and the Commission has generally interpreted it to mean that most rezonings for development should be no more than a mile by road from existing compatible development. The Commission recognizes that there are certain instances in which a greater or lesser distance may be appropriate in measuring distances to existing developments... The adjacency principle will remain a central consideration in rezoning, but its application will be further refined to promote consistency and good planning. The Commission recognizes, for example, that isolated patterns of development in remote locations, such as sporting camps, should not be used as the basis for rezoning adjacent lands for development as it can establish conflicting uses. (Pp. 122, 124, 127)

Chapter 5, LURC Goals and Policies Pg. 134

Commission's policies shall be directed toward the achievement of three broad goals:

1. Support and promote the management of all resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.
2. Conserve, protect and enhance the natural resources of the jurisdiction primarily for fiber and food production, non-intensive outdoor recreation and fisheries and wildlife habitat.
3. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.

Goal pertaining to the location of development: Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine. (Pg. 140)

Policies pertaining to the location of development on a jurisdiction-wide level: (Pg. 140)

1. Provide for a sustainable pattern of development consistent with historical patterns which directs development to suitable areas and safeguards the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
2. Discourage growth which results in scattered and sprawling development patterns.
3. Guide development to areas near existing towns or communities and in other areas identified as appropriate development centers.
- 3c. Guide the location of different types of residential development according to potential impacts, infrastructure needs and the potential for conversion to a more intensive type of residential use.

Policies pertaining to the location of the development on a community or regional level: (Pg. 141)

In communities or areas without prospective development zoning, encourage orderly growth within and proximate to existing, compatibly developed areas – i.e. existing development of similar type, use, occupancy, scale and intensity to that being proposed, or a community center with a range of uses for which the proposed development will provide complementary services, goods, jobs and/or housing.

Allow well planned development in areas appropriate as new development centers where: (a) there is a demonstrated public demand for and benefit from the proposed development in that area; (b) there is a demonstrated need for locating the development not proximate to established

developed areas; (c) the productivity of existing forest and agricultural resources in the jurisdiction is not unduly harmed; (d) recreational resources and uses are not unduly harmed; (e) remote, natural and plant or animal habitat values are not unreasonably degraded; and (f) needed services are available or can be provided without unreasonable financial, social or environmental costs to the public.

Policies pertaining to site review: (Pg. 141-142)

1. Require that provision be made for fitting development harmoniously into the existing natural environment, including ... Requiring the use of buffers, building setbacks, and landscaping to minimize the impacts of land use activities upon one another and to maintain the scenic quality of shorelines and roadways ...
2. Prevent the degradation of natural and cultural values resulting from cumulative impacts of incremental development.
3. Encourage site designs which have a minimal impact on the principal values of the jurisdiction, including clustering or open space preservation, and discourage unnecessarily large lot sizes.

Policies pertaining to development rate, density and type: (Pg. 142)

1. Monitor the rate of development throughout the jurisdiction to ensure it remains at a reasonable pace, particularly outside areas identified as the most appropriate for growth.
2. Establish appropriate guidelines for development (such as density or similar standards) in areas where necessary to prevent adverse impacts on the principal values of the jurisdiction.
3. Limit development to low-impact structures in areas where the principal values of the jurisdiction are threatened by more intensive development.
5. Encourage development that is energy efficient and that incorporates best practices technologies to conserve energy.
6. Limit residential densities on the basis of soil suitability and other site limitations.

Goal pertaining to economic development: Balance the economic benefit that Maine people derive from the natural resource-based industries of the Commission's jurisdiction, especially the maintenance and creation of quality jobs, with protecting the environmental quality and special values of this area. (Pg. 141)

Policies pertaining to economic development: (Pg. 141)

- Encourage those forest and recreation industries and other resource-based enterprises which further the jurisdiction's tradition of multiple use without diminishing its principal values.
- Provide for expansion needs of intensive developments where such expansion will not have an undue adverse impact on the resources of the area.

Policies pertaining to infrastructure: (Pg.142)

1. Discourage the construction of major new public roads which would degrade the natural character of remote areas.
2. Require that new utility lines, pipelines, and their associated facilities be (a) located within or adjacent to existing utility or public road rights of way to the extent practicable; (b) constructed and landscaped so that they do not degrade natural values; and (c) located so as not to inappropriately encroach upon or change the character of remote areas, or produce an intensity of use that is inappropriate for a particular area.
3. Monitor the installation of new road networks in order to anticipate and plan for future growth and public access and use in appropriate areas.

Goal pertaining to recreational resources: Conserve and protect the natural beauty and unspoiled qualities of the waters, shorelands, mountains, plant and animal habitats, forests, scenic vistas, trails and other natural and recreational features in order to protect and enhance their values for a range of public recreational uses. (Pg. 138)

Policies pertaining to recreational resources: (Pg. 138)

- Protect remote, undeveloped and other significant recreational areas, including such areas around rivers and streams, trails, ponds and lakes, to protect their natural character for primitive recreational activities such as canoeing, hiking, fishing and nature study.
- Encourage diversified, nonintensive, nonexclusive uses of recreational resources. (Nonexclusive uses are those in which a wide range of people can participate, generally at reasonable cost. p. 64)
- Promote a range of recreational opportunities, including (a) major, intensive recreational facilities near organized areas or in new development centers determined to be appropriate, (b) less-intensive, nonexclusive recreational facilities in other areas, and (c) opportunities for primitive recreation without intrusion from more intensive forms of recreation.
- Encourage intensive recreational facilities to locate or expand away from areas where there is a potential for conflict with existing uses, natural resources and other values of the jurisdiction.
- Encourage traditional outdoor recreation by working with landowners to conserve the natural resources of the jurisdiction and to enhance recreational opportunities.

Policies pertaining to water resources: (Pg. 138)

- Protect the recreational and aesthetic values associated with water resources.
- Conserve and protect lakes, ponds and rivers and their shorelands which provide significant public recreational opportunities.

- Permit a reasonable range of development and land uses on lakeshores in order to accommodate a range of recreational opportunities important to Maine people.
- Encourage cooperative uses of public and private docks, water access points and boat launching sites.

Goal pertaining to wildlife and fisheries resources (Pg.139): Conserve and protect the aesthetic, ecological, recreation, scientific, cultural, and economic values of wildlife and fisheries resources.

Policies pertaining to wildlife and fisheries resources:

- Regulate land use activities to protect habitats, including deer wintering areas...ecosystems, food sources and other life requisites for wildlife species.
- Regulate land use activities to protect habitats for fish spawning, nursery, feeding, and other life requirements for fish species.
- Encourage management of fisheries and wildlife resources to maintain their habitats, diversity, and populations.

Goal pertaining to scenic resources (Pg. 139): Protect scenic character and natural values by fitting proposed land use activities harmoniously into the natural environment and by minimizing adverse aesthetic effects on existing uses, scenic beauty, and natural and cultural resources.

Policies pertaining to scenic resources (Pg. 139-140):

1. Encourage concentrated patterns of growth to minimize impacts on natural values and scenic character.
2. Regulate land uses generally in order to protect natural aesthetic values and prevent incompatibility of land uses.
3. Protect the scenic values of coastal, shoreland, mountain, recreation, and other scenic areas.

Commission’s Guidance Document, “Clarifying the Rezoning Criterion of ‘Demonstrated Need’” (April 1, 2004)

- Evaluation factors for both residential and non-residential projects (presence of existing compatibly zoned areas, community support, compatibility with community character, economic benefit, special community or public benefit).
- Additional evaluation factors for residential projects (population growth rate, availability of vacant lots/units, housing affordable to local residents, impacts on community services).

- Additional evaluation factors for non-residential projects (need for goods and services, projected customer base, support for the forestry, agricultural or fishing industry, support for the natural resource based outdoor recreation industry, dependence on site-specific natural resources).

Additional evaluation factors for residential projects - Impacts on community services: Although new residential developments are a source of tax revenue, the cost of providing these developments with necessary public services often more than offsets these revenues, resulting in potential for a fiscal drain on community resources. Community services typically include public safety (fire, rescue and/or law enforcement services), solid waste disposal, road maintenance, and public education. In evaluating which community services a proposed project needs, the following considerations are particularly relevant:

- ▶ Nature of utility and road infrastructure that will service the project
- ▶ Marketing orientation (year-round vs. seasonal)
- ▶ Likelihood of eventual conversion of seasonal to year-round development
- ▶ Permanent provision of private services
- ▶ Compatibility with Community Character: An important aspect of community need is how well a project fits into the local community. Specifically, does the project enhance and complement existing village/rural development patterns and historic values? Is the type of development, level of density and housing type (seasonal or year-round) being proposed in keeping with what exists in the community? Can the new project be accommodated without significantly altering the community's existing character?

Comprehensive Land Use Plan Appendix C – Policy and Implementation Measures

The Commission seeks a balanced and environmentally sound approach to lake conservation and development that, among other policy, “Encourages continued use of the unorganized territories for the principal purposes of fiber and food production, non-intensive outdoor recreation, and fisheries and wildlife habitat” with a commitment “to guide development and resource conservation on the shorelines of...Maine’s unorganized areas.”

C-4: Commission will use the findings of the Wildland Lakes Assessment...and will at a minimum, specifically consider all natural resource values that received a rating of either “Significant” or “Outstanding” and will look for a demonstration that these values will be maintained. *Issue: The degradation through heavy commercialized development zoning of Class 3 Brassua Lake with significant natural, scenic, and recreational values.*

C-6: Concept Plan approval – the Commission must find that the proposed plan conforms with the Commission’s lake policies and program guidelines...is compatible with other public and private interests. It must find that the plan strikes a reasonable and publicly beneficial balance between development and conservation of lake resources, and that, taken as a whole, the plan is

at least as protective of the natural environment as the development, management, and protection subdistricts which it affects.

Excerpts to Consider from Chapter 10 of the Land Use Districts and Standards:

10.02 Significant Wildlife Habitat – To the extent that they have been identified by the Dept. of Inland Fisheries & Wildlife: habitat for animal species, deer wintering areas and travel corridors, high and moderate value habitat for fowl and birds, shorebird nesting, feeding and staging areas, vernal pools... (pg. 19)

10.14I. Community Residential Development subdistrict – seeks to promote residential living and thriving neighborhoods with a limited range of services...shall be located adjacent to Community Center development to limit fiscal and visual impacts of sprawling development. Adjacent is interpreted as within a distance of one road mile...applied in areas appropriate as centers of growth after a prospective planning process has been undertaken by the Commission. (Pg. 71)

10.14J. Residential Recreation Development subdistrict – seeks to accommodate seasonal and year-round recreational development in high value resource areas without compromising the recreational setting...allows a restricted range of allowed uses in order to ensure attractive residential recreational opportunities.

Residential Recreation subdistrict shall be applied only in high natural resource value areas appropriate for residential or closely related uses in a community...and shall be located in areas that are inappropriate for intensive mixed development. (Pg. 75)

OATH

State of Maine

County of _____

I, _____, being first duly sworn on oath, affirm that the foregoing pre-filed testimony is true, accurate, and correct to the best of my knowledge, information, and belief.

Signature

Name (printed)

Sworn to and subscribed before me this ____ day of August, 2007.

Notary Public (signature)

Notary Public (printed name)