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# Memorandum

**To:** LUPC Commissioners  
**From:** Stacie R. Beyer, Chief Planner  
**Date:** December 5, 2017  
**Re:** Chapter 10 Rulemaking: Adoption of the D-RB in Washington County

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## Background

On July 13, 2017, the Washington County Commissioners endorsed the recommendations and supporting materials developed in the Washington County Community Guided Planning and Zoning (WC CGPZ) project. The Washington County Commissioners have submitted the WC CGPZ materials for the Land Use Planning Commission's consideration and have requested that the Commission act upon the recommendations.

The recommendations from the WC CGPZ process were divided into two parts. The Commission acted on the first part, prospective zoning for Baring and Grand Lake Stream Plantations, at its August 2017 meeting. The second part of the recommendations involves proposed rule revisions to extend eligible locations for the Rural Business Development subdistrict (D-RB) into Washington County and add a structure height limitation along Route 191 in Trescott Township. At its September meeting, the Commission initiated action on the second part and directed staff to post the proposed rule changes to public comment. The rules were posted to public comment on September 27, 2017, the comment deadline was October 30, 2017, and the rebuttal period ended on November 13, 2017.

## Rule Changes

### Extending Eligible Locations for the D-RB to Certain MCDs in Washington County

The D-RB Subdistrict was designed to encourage a range of small commercial, light manufacturing, and support services in rural parts of Aroostook County near major transportation routes and organized towns that provide some level of services. In the proposed rule revisions, eligible locations for the D-RB subdistrict are extended to 5 townships and 1 plantation (minor civil divisions or "MCDs") in Washington County. These locations were identified by the WC CGPZ Planning Committee as appropriate locations to encourage rural business development. Within each candidate MCD for Washington County, all three categories of rural businesses are allowed and any new subdistrict must be fully located within one half mile of certain public roads (Routes 1, 86, 189, or 191). In addition, eligible locations are limited to parcels with frontage on those public roads.



## Maximum Structure Height, Trescott Twp.

The rule revisions also include a new maximum structure height limitation of 40 feet on Route 191 in Trescott. The intent is to minimize the impacts of future development on the existing residential uses and scenic character of this section of highway along the coast.

### **Public Comments**

During the public comment period, the Commission received seven written submissions of comments and one submission with rebuttal comments. Although there was one public comment in support of the proposed rulemaking, most of the comments were in opposition to proposed changes that would extend eligibility for the D-RB subdistrict in Trescott Twp., particularly regarding eligibility for Category 2 and 3 rural businesses on Route 191, the Dixie Road, in Trescott. The comments in rebuttal requested that if the Commission were to limit D-RB subdistricts on Route 191 to only allow Category 1 businesses, the Commission should consider revising the definition of rural business to specifically include commercial fishing. Commercial fishing was not specifically included when the definition of rural business was developed in Aroostook County.

Staff has reviewed and considered each comment received, and has drafted the following documents for your review and consideration:

- Draft Basis Statement

The attached Basis Statement summarizes the comments and presents draft responses.

- Draft Rule

The draft rule incorporates revisions that were posted for the public comment period, and revisions that are proposed in response to the comments received during the public comment period.

### **Staff Recommendation**

Given the existing pattern of development along and concerns of potential impacts to the existing character of the roadway, staff recommends revisions to the draft rule that limit the eligibility for the D-RB subdistrict on Route 191 in Trescott such that only Category 1 rural businesses will be allowed. In addition, the recommendation includes revisions to the definition of rural business to clarify that commercial fishing is an allowed business under Category 1.

*Staff recommends that the Commission adopt the proposed rulemaking for the Rural Business Development Subdistrict in Washington County and the accompanying basis statement as presented.*

### **Attachments**

- Draft Basis Statement, *Basis Statement and Summary of Comments for Amendments to Chapter 10: Land Use Districts and Standards Regarding Rule Revisions for Adoption of the Rural Business Development Subdistrict in Washington County*
- Draft Rule, *Proposed Rulemaking: Adoption of the Rural Business Development Subdistrict in Washington County*

# Attachment 1

## Rule Revisions for Adoption of the Rural Business Development Subdistrict in Washington County

*Draft Basis Statement*

# MAINE LAND USE PLANNING COMMISSION

Department of Agriculture, Conservation, and Forestry



## BASIS STATEMENT and SUMMARY OF COMMENTS

For AMENDMENTS to

### CHAPTER 10: LAND USE DISTRICTS and STANDARDS REGARDING RULE REVISIONS for ADOPTION OF THE RURAL BUSINESS DEVELOPMENT SUBDISTRICT IN WASHINGTON COUNTY

December 5, 2017 Draft

**STATUTORY AUTHORITY:** 12 M.R.S. § 685-A(3); § 685-A(7-A); § 685-A(8-B); and § 685-C(5)(A)

**EFFECTIVE DATE OF THE RULE AMENDMENT:**

**FACTUAL AND POLICY BASIS FOR THE RULE AMENDMENT:**

The Maine Land Use Planning Commission (LUPC) adopts rule revisions to its Chapter 10 *Land Use Districts and Standards* regarding extension of eligible areas for the Rural Business Development subdistrict to certain minor civil divisions (MCDs) in Washington County and the addition of a height limitation for Route 191 in Trescott Twp. The rulemaking was initiated in partnership with the Washington County Commissioners through the Commission's Community Guided Planning and Zoning (CGPZ) program<sup>1</sup>. This regional planning effort implements the directive in Public Law 2011, Chapter 682, Section 34, for the Commission to initiate prospective zoning in the unorganized and

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<sup>1</sup> This rulemaking reflects the combined efforts of the Washington County Council of Governments, the Washington County CGPZ Planning Committee, the Washington County Commissioners and the LUPC in the Washington County CGPZ project. At the conclusion of that process, the Washington County Commissioners submitted implementation recommendations to the LUPC in a report entitled, *A Regional Plan for the Washington County Unorganized Territories* (Regional Report). The Washington County Commissioners' submission letter and the table of contents for the Regional Report are included in the appendices.

deorganized parts of the state. The purpose of the Rural Business Development Subdistrict (D-RB) is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors.

According to the report, “A Regional Plan for the Washington County Unorganized Territories” (Regional Plan), prepared by the Washington County Council of Governments and dated July 2017, Washington County chose to specifically engage in a CGPZ process to streamline permitting processes and identify areas for residential and commercial development. The report states “When the Washington County Commissioners approved the use of TIF funds from the Unorganized Territories, they did so with the observation and belief that this planning activity would support economic development in parts of Washington County.” The public process was challenged by equally important yet conflicting goals, so the Washington County CGPZ Planning Committee looked to find a tool or tools that offered economic opportunity and regulatory flexibility, while allowing for future adjustments to address any resulting adverse impacts. The recommendations of the Planning Committee to achieve that opportunity and flexibility included in part a recommendation to extend eligibility for the D-RB subdistricts to certain areas in Washington County they deemed suitable. The recommendations also included a proposed height limitation on Route 191 in Trescott to minimize the visual impact of any new development along that roadway, protecting the highway’s scenic qualities.

### **Statutory Criteria for Amendment of Land Use Standards**

In order to adopt or amend land use standards, there must be “substantial evidence that the proposed land use standards would serve the purpose, intent and provisions of this chapter and would be consistent with the comprehensive land use plan.” (12 M.R.S. § 685-A(8-B).) The purpose and scope section of the LUPC’s statute (12 M.R.S. § 681) declares “it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State” and sets out the broad purposes the Commission is established to carry out. The Comprehensive Land Use Plan (the CLUP) provides guidance that the Commission is required by statute to consider, and determine consistency with, when “developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.” (12 M.R.S. § 685-C(1).) When determining consistency with the CLUP, the Commission often must engage in a balancing of sometimes competing or conflicting goals or policies and, in so doing, assign the appropriate weight to be given.<sup>2</sup>

### **Relevant CLUP Provisions**

Provisions in the CLUP that encourage appropriate economic development activity and that “reference a proactive approach (a) to identifying areas best suited for economic development activities, as well as (b) to siting appropriate residential, recreational, commercial, and industrial land uses, including through prospective zoning” (Guidance for Interpreting the 2010 Comprehensive Land Use Plan, p.5) are of particular relevance to these rule amendments extending eligibility for the D-RB subdistrict.

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<sup>2</sup> See, Guidance for Interpreting the 2010 Comprehensive Land Use Plan, October 5, 2012.  
<http://www.maine.gov/tools/whatsnew/attach.php?id=443691&an=1>

Among the CLUP provisions the Commission looks to in determining that the D-RB in Washington County is consistent are the goals for: location of development; economic development; agricultural resources; coastal resources; forest resources; and recreational resources. Several of the more specific policies associated with these goals are also relevant to the consistency of the Washington County D-RB with the CLUP, particularly as they relate to economic development and the location of new development. Among the relevant specific policies in the CLUP are:

#### Location of Development (CLUP, p. 6.)

- Provide for a sustainable pattern of development, consistent with historical patterns, which directs development to suitable areas and retains the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
- Guide development to areas near existing towns and communities and in other areas identified as appropriate development centers.
- Identify areas which are the most appropriate for growth when considering proximity and connectivity by public road to economic centers, organized towns and well established patterns of settlement; compatibility of natural resources with development; and availability of public infrastructure, facilities and services.

#### Economic Development (CLUP, p. 7.)

- Encourage forest, recreation, and other resource-based industries and enterprises which further the jurisdiction's tradition of multiple use without diminishing its principal values.
- Encourage economic development in those areas identified as the most appropriate for future growth.

#### Agricultural Resources (CLUP, p. 11.)

- Encourage the economic viability of agriculture by allowing diversification of farming enterprises where the new uses do not detract from the principal values of the jurisdiction.

#### Coastal Resources (CLUP, p. 12)

- Encourage and support marine-dependent activities that are compatible with traditional resource-based economies, island ecosystems and other island values.

#### Forest Resources (CLUP, p. 14.)

- Support uses that are compatible with continued timber and wood fiber production, as well as outdoor recreation, biodiversity and remoteness, and discourage development that will interfere unreasonably with these uses and values.
- Other sections of the CLUP, such as section 4.7.C (Evaluation of the Commission's Approach to Development) and 4.8.C (Location of Development: Recommended Refinements) are also relevant

in assessing the consistency of the Washington County D-RB and are discussed in the section below.

In terms of the new height limitation for structures on Route 191 in Trescott, the Commission looks to the Site Review goal of the CLUP. A relevant specific policy of that goal directs that provisions be made for fitting development harmoniously into the existing natural environment including, “Requiring the use of buffers, building setbacks, height restrictions...to minimize the impacts of land use activities upon one another and to maintain the scenic quality of shorelines, hillsides, ridgelines, and roadways.” (CLUP, p. 7.) The CLUP, in discussing prospective zoning, identifies the need to balance growth and economic development needs with protection of special resource values. (CLUP, p. 126.)

### **D-RB Consistency with the CLUP**

The principal goals of the D-RB – to allow for a range of economic opportunities and to guide the location of new development to suitable areas identified as appropriate for future growth – are consistent with the goals and policies of the CLUP. The Washington County CGPZ Planning Committee identified and discussed economic development trends and needs in Washington County and determined that adoption of the Rural Business Development subdistrict could meet some of the economic development needs of the region. The D-RB encourages the growth of home-based businesses and new rural businesses that are in keeping with the historical development pattern by locating development “in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors.” (Section 10.21,I,1)

In order to minimize impacts from new development on surrounding uses, resources, and services, the D-RB employs a two-pronged approach that defines where it would be appropriate to encourage the development of rural businesses. The two prongs include: 1) selection of eligible MCDs for the new subdistrict based on existence of public infrastructure and proximity to services; and 2) performance-based approach to appropriately locating uses near existing infrastructure within eligible areas based on their potential impacts.

The unorganized and deorganized areas of Washington County include 34 MCDs. Many are ineligible for the D-RB due to their undeveloped state and remoteness from population centers. The Planning Committee determined that only six MCDs would be eligible based on considerations that included trends in population and in residential and non-residential development, access to transportation, proximity to services, previous TIF investments, and input at public meetings about locations where regulatory issues had been problematic. The MCDs proposed for eligibility are Baring, Brookton, Cathance, Edmunds, Marion, and Trescott.

Rural businesses allowed in the D-RB fall into one of three categories. Category 1 consists of moderate-scale natural resource based businesses, Category 2 consists of moderate-scale facilities for retail businesses, and Category 3 consists of larger scale commercial facilities for manufacturing, construction, and service businesses. All six eligible MCDs include public roads that are appropriate for Category 1, 2, and 3 rural businesses. However, one of the designated public roads in Trescott, Route 191, given its scenic qualities and the concerns raised by local landowners and residents regarding the relatively low level of existing development, is not appropriate for Category 2 and 3 rural

businesses, which potentially could include intensive forms of commercial development that generate more traffic or nuisance-type impacts such as noise or odors.

The location of rural businesses within an eligible MCD in Washington County is further limited by the rules - Category 1 rural business must locate within ½ mile from a public road, and Category 2 and 3 rural business must be within ¼ mile of a public road. Category 2 and 3 rural businesses must be located closer to public roads and other infrastructure to facilitate efficient movement of goods and services while minimizing impacts from traffic and other potential nuisances on existing residents and the rural character of the area. The D-RB allows for a small extension of this distance for locational flexibility that better meets the purposes of the subdistrict. Eligible locations for rural businesses in Washington County differ from those in Aroostook County by limiting D-RBs to certain public roads and to properties with frontage on those roads, and by reducing the distances that rural businesses may locate from a public road. The differences in eligible locations for Washington County are largely based on the Planning Committee's analysis and determination that Washington County has less open land than Aroostook County. Also, requiring road frontage on specific public roads disallows D-RB development on landlocked parcels and keeps new development closer to existing services.

Two recommendations of the Planning Committee were not adopted by the Commission. Those recommendations relate to the distance from a public road within which a Category 2 rural business may locate, and allowing Category 2 and 3 rural businesses on Route 191 in Trescott. The Planning Committee's original recommendations included the distance of ⅛ mile distance from a public road for Category 2 businesses. The Commission adopted a distance of ¼ mile due to concerns that a ⅛ mile may not be sufficient to support creative site design and could lead to strip development along the eligible roads. Location of Category 2 and 3 businesses on Route 191 in Trescott was an issue of public concern and is discussed in detail in the response to comments below.

The approach taken by the Planning Committee for locating rural business development through the D-RB addresses certain weaknesses with the Commission's current reactive rezoning approach discussed in the CLUP. The CLUP identifies that the adjacency principle, which applies in most rezonings for development, "does not necessarily focus development near the most appropriate areas, such as service centers." It states that the "case-by-case review of rezoning is increasingly inadequate as the principal tool for guiding growth" and that this has "become more readily apparent under changing market conditions and landowner objectives." It suggests this approach does not sufficiently account for "the varying suitability for growth of different parts of the jurisdiction." (CLUP pp.120-121.) The CLUP acknowledges that this approach creates uncertainty because it "requires many judgments from the Commission as it applies its rezoning criteria." (CLUP, p. 128.)

The D-RB provides a more refined and more predictable method to rezoning by adopting an approach that borrows aspects of prospective zoning without taking the step of creating new subdistrict boundaries. It uses local knowledge of "existing development patterns, natural resource constraints and recent trends" and applies regional considerations to proactively direct growth based on "proximity to development centers and infrastructure." (CLUP, p. 63.)

The D-RB follows recommendations found in the CLUP discussion on guiding development, applying them in the context of the shifting market conditions and landowner objectives present in the Washington County region, particularly as they relate to the natural resource based economy of the



region. Consistent with the CLUP, the Planning Committee evaluated “the suitability of different towns, plantations and townships for future growth based on their locations relative to population and job centers, the availability of roads and infrastructure, the demand for development, and the type and extent of principal values that they possess.” (CLUP, p. 126.) The D-RB subdistrict and standards “recognize that areas within a single MCD may have varying suitability for development depending on conditions of access, natural resource sensitivity, economic value for other purposes, recreational values and other factors.” (CLUP, pp. 126-127.)

### **Rezoning Criteria and the D-RB**

The Commission’s general criteria for adoption or amendment of land use district boundaries include: (i) “The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of this chapter”; and (ii) “the proposed land use district 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. § 685-A(8-A))

For rezoning to a D-RB, the first criterion is presumed satisfied by the CGPZ process, which created locational criteria for the D-RB that are consistent with the CLUP and which direct development at the regional scale to appropriate locations in Washington County, as identified by the people in the region. Applicants for a rezoning to a D-RB meet the first rezoning criterion by locating within areas determined to be eligible for the D-RB subdistrict and would not be required to submit detailed information regarding potential impacts on public services and consistency with the CLUP.

The second criterion requiring that proposed development have “no undue adverse impact on existing uses or resources” must still be satisfied by an applicant for rezoning. The applicant would still need to address any anticipated environmental or other impacts resulting from a proposed development, and still must demonstrate that proposed development does not create an “undue adverse impact” on existing uses.

### **Trescott Height Limitation and Consistency with the CLUP**

During the WC CGPZ planning process, the Planning Committee reviewed existing “Good Neighbor Standards”<sup>3</sup> that would apply to rural businesses constructed in any new D-RB subdistrict in Washington County. The Planning Committee had concerns about the maximum structure height dimensional requirements, particularly as they would relate to potential new development along the scenic coastal portion of Route 191 in Trescott Twp. The previous height limitations were 75 feet for residential uses and 100 feet for commercial uses. The Committee determined that it would be appropriate to include specific structure height limitations on this section of roadway and that the limitation should apply to all structures regardless of subdistrict. Therefore, the WC CGPZ

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<sup>3</sup> The good neighbor standards are based on *Good Neighbor Policies, Technical Assistance Bulletin #6*, prepared by the Maine State Planning Office, Maine Department of Environmental Protection, Rothe Associates, and Kent Associates, January 2002.

recommendations include adding a maximum structure height limitation of 40 feet in Section 10.26,F of Chapter 10.

Given the limited amount of development on Route 191, the residential nature of the existing development, the highway's scenic qualities, and the expressed concerns of community members for protecting the existing character of the area, revising the maximum height standard to limit structure heights on Route 191 to 40 feet is consistent with the CLUP's Site Review policy for fitting development harmoniously into the existing natural environment; minimizing the impacts of future development upon the existing residential uses and maintaining the scenic character of the highway. The height limitation provides a means to balance the need for growth and economic development with protection of the existing scenic resource.

### **Additional WC CGPZ Recommendations**

The WC CGPZ process included two additional recommendations for the Commission's consideration:

- 1) Establishment of a mechanism by which any proposed D-RB zone change and permit would be reviewed with the benefit of information and analysis provided by the four GIS suitability analyses (Development, Conservation, Resource-Dependent Industries, Recreation) developed in the WC CGPZ process; and
- 2) Establishment of a review process by which the D-RB floating zone would be analyzed in each unorganized territory where it is allowed after five years or five re-zoning petition approvals whichever comes first.

The LUPC appreciates Washington County's offer to provide access to the WC CGPZ GIS suitability analyses for future zone change and permit application reviews. This information would be helpful in any requests for a zone change or permit approval in Washington County. In addition, the LUPC agrees that periodic reviews of approved D-RB subdistricts, as recommended, would be prudent. Since both recommendations are procedural in nature, rule revisions are not included in this rulemaking initiative in response to these two recommendations. Specific details for implementation of these recommendations are included below for future reference.

### Use of the GIS Suitability Analyses

It is the Commission's understanding that WC COG will work toward providing direct access for LUPC staff to the GIS Suitability Analyses and training for staff on the use of the models. Once that has been completed, LUPC staff will consider the analyses during its review of permit applications and zoning petitions received for Washington County. Documentation for this review, including a link to each of the suitability analyses will be included in the existing electronic permitting folder for agency reviews.

### Periodic D-RB Reviews

The Land Use Planning Commission administers several long-term, land use plans including resource protection and concept plans. For each of these plans, the Commission must track the effective date and expiration date, which are included on the Commission's website at: [http://www.maine.gov/dacf/lupc/reference/resource\\_concept\\_plans.html](http://www.maine.gov/dacf/lupc/reference/resource_concept_plans.html)

Since periodic reviews of the recommendations from the CGPZ processes will provide the Commission with valuable information for future planning and zoning in the LUPC service area, staff will add a schedule for periodic reviews of the Regional Plan, as well as the D-RB subdistrict adopted for Aroostook County on the same webpage, and will be able to refer to that schedule in conjunction with its routine follow-ups on resource protection and concept plans.

In the periodic reviews of the Washington County Regional Plan staff will follow the WC CGPZ recommendations to:

- Conduct the review in each eligible unorganized territory (UT) when either five re-zoning petitions have been approved or the five-year threshold is reached.
- Include an analysis of whether and where any nodes of development get created; then consider reducing floating zone applicable areas to within some distance of those nodes
- Consider use of the current adjacency principle to retain consistency with the current regulatory structure.
- Provide an opportunity for public input to evaluate the effectiveness of the tool in achieving a balance between the desire for regulatory flexibility and retaining the character of the rural UT.
- Limit further permits either in total or in proximity to a node created by use of the D-RB tool.
- Consider the different impacts of each of the three Categories of Uses allowed in the D-RB; for instance, should a node be created by the retail/office category but not be a consideration for natural –resourced based businesses?
- Include a review of the effectiveness of the performance-based “Good Neighbor” standards as part of the review process described above.

## **PUBLIC NOTICE OF RULEMAKING**

On September 13, 2017, the Commission voted to hold a 30-day public comment period. Notice of this rulemaking appeared in the State’s weekly consolidated rulemaking notice on September 27, 2017. The comment period remained open until October 30, 2017, to allow interested persons to file written statements with the Commission, and for an additional 14 days until Monday, November 13, 2017, to allow interested persons to file written statements in rebuttal of statements filed up to Monday, October 30, 2017.

## **COMMENTS AND RESPONSES:**

During the public comment period, the Commission received seven written submissions of comments and one submission with rebuttal comments. Although there was one public comment in support of the proposed rulemaking, most of the comments were in opposition to proposed changes that would extend eligibility for the D-RB subdistrict in Trescott, particularly regarding eligibility for Category 2 and 3 rural businesses on Route 191, the Dixie Road, in Trescott.

This document summarizes all comments received. The public comment in support of the proposed rule revision is listed first. Public comments in regard to locating rural businesses on Route 191 in Trescott are organized under the topic Route 191, the Dixie Road, Trescott with subtopics relating to different levels of development and rural business categories along the route.

This rulemaking is a product of the CGPZ process in Washington County. Throughout this process interested individuals and stakeholders had the opportunity to participate in the policy development and development of the draft rule language through participation as a member of the Planning Committee; through attending Planning Committee meetings, which were open to the public; or responding to broad-based public outreach during the land use planning stage of the CGPZ process. An additional opportunity for public comment was provided during the Commission's formal rulemaking process. The rulemaking posted for public comment by the Commission was the product of a collaborative, consensus-based approach to the development of rule changes.

## A. Comments in General Support of Proposed Rule Revision

1. One commenter indicated support of any plans that would bring businesses and ultimately jobs to this high poverty area. Further, the commenter stated that most of Route 191, the Dixie Road, in Trescott is wooded with no view of the coast and that, historically, businesses were located along that road.

**Commenter:** Lenora C. Viscard, MD

**Response:** The purpose of the D-RB subdistrict is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The subdistrict and associated categories of allowed uses are set up to ensure that the intensity of use matches the locations in which the use could be permitted. The Commission agrees that Trescott would benefit economically from additional commercial development that could be facilitated through extension of the D-RB subdistrict eligibility into Washington County.

**Action:** No action is recommended in response to this comment.

## B. Route 191, the Dixie Road, Trescott Township

### 1. There should be no rural business development along Route 191 in Trescott.

Three commenters asked the Commission to deny the Washington County CGPZ Planning Committee recommendation to extend eligibility for D-RB subdistricts, including all three categories (Categories 1, 2, and 3) of rural businesses, along Route 191 in Trescott. The comments were based on concerns that additional development would adversely impact the scenic qualities, existing rural character, and tourism along that relatively undeveloped section of roadway.

**Commenters:** Michael Smith, Maureen Sze, M.D., and Lil and Dick Rollins

**Response:** The proposal to include Trescott as an eligible location for all three categories of rural businesses was submitted by the Washington County Commissioners consistent with the analysis and

recommendations of the Washington County CGPZ Planning Committee. Criteria considered by the Planning Committee included factors such as year-round population, residential and non-residential development trends, infrastructure, proximity to services, and TIF investments. Unlike many MCDs in Washington County, Trescott met all of the six criteria considered by the Planning Committee.

The three commenters assert that the stretch of Route 191 in Trescott is not appropriate for any type of rural business, other than those currently allowed as home occupations under the existing zoning. However, based on evidence in the record including meeting notes and comments, that was not the consensus of the group of community members attending the citizen-initiated public meetings during the Washington County CGPZ process. The record indicates that a compromise was reached on allowing a limited amount of rural business development on Route 191, specifically the establishment of a single D-RB “floating zone” limited to a Category 1 recreational support business. According to the Location of Development goal and policies of the CLUP, in guiding the location of new development, the Commission allows for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships. In addition, one of the guiding principles for CGPZ projects is that the process must be locally desired and driven. For those reasons, the Commission gave weight to the recommendations from the Washington County Commissioners, the Washington County CGPZ Planning Committee, and the CGPZ citizen-initiated public meeting results in reaching a final decision in this rulemaking. See additional discussion on the public concerns in the comments and responses below.

Although a petitioner for rezoning to a D-RB subdistrict on Route 191 in Trescott would not be required to submit evidence on the adjacency principle or consistency with the CLUP, the criteria, “no undue, adverse, impact on existing uses or resources” must still be satisfied. Site specific concerns about locating a new rural business on Route 191 can be addressed in a rezoning process.

**Action:** No action is recommended in response to this comment.

## **2. Category 2 and 3 rural businesses should not be allowed on Route 191 in Trescott.**

Several residents/landowners in Trescott commented that Category 2 and 3 rural businesses are not appropriate for Route 191 in Trescott. Their conclusions were based on concerns for the existing rural character, as well as potential adverse impacts on scenic and natural resources. It was noted that Route 191 in Trescott is part of the State designated Bold Coast Scenic Byway. Although there are only a couple of ocean view points and no scenic turnouts along the Trescott section of the route, commenters indicate that the low level of development along the mostly wooded roadway is unusual given its proximity to the coast, and the rural, undeveloped character is important to the tourism economy and should be protected from larger scale development. The commenters also indicated that organized municipalities are better suited for rural business development.

**Commenters:** Michael Smith, Diane Griffith, Rob and Marcia Chaffee, Maureen Sze, M.D., Lil and Dick Rollins, and Kim and Carl Zils

**Rebuttal:** One commenter replied that if the Commission were to limit rural business development subdistricts on Route 191 to only allow Category 1 businesses, the Commission should consider revising the definition of rural business to specifically include commercial fishing. The reason for this comment is that commercial fishing was not specifically included when the definition of rural business was developed in Aroostook County, as commercial fishing is not a significant part of the economy for that county; however, it is an integral part of the natural resource-based economy in Washington County including in a community like Trescott.

**Commenter:** Judy East, Washington County Council of Governments

**Response:** In response to these comments, LUPC staff drove Route 191 and took a series of photographs along the section of Route 191 in Trescott. Staff confirmed that the section of roadway is mostly wooded, has limited residential development, and no specific evidence of existing commercial development. The Commission agrees that the higher intensity development allowed in Category 2 and 3 could significantly change the existing character of the area. Category 2 retail and restaurant uses could increase traffic and add a level of activity that does not currently exist on the roadway, and Category 3 potentially could include intensive forms of commercial development that generate more traffic or nuisance-type impacts such as noise or odors that would be incompatible with the existing residences in the area. Under the current D-RB eligible locations for Aroostook County, there is an established framework that limits certain MCDs to only Category 1 rural businesses, on the basis that Categories 2 and 3 were not well suited for those locations. Although limiting D-RB subdistricts on Route 191 to only Category 1 businesses will increase the complexity of the rule, protection of the existing character of the scenic roadway carries more weight.

Route 189 in Trescott remains eligible for all three categories of rural businesses, allowing opportunity for Category 2 and 3 business in the township. Based on staff knowledge of Route 189, this public roadway is different in its existing character and pattern of development. Route 189 has evidence of more development, including non-residential uses such as an art gallery and gift shop, a community learning center, a land clearing business, and a commercial seafood preparation and distribution business. Based on the existing uses on Route 189, the Commission determined that all three categories of rural businesses could be compatible. There were no public comments and no specific evidence in the rulemaking record to indicate that limiting the categories of rural business on Route 189 is warranted.

In response to the rebuttal comment, the Commission agrees that commercial fishing is significant to the economy of Washington County. Case in point, LUPC staff observed lobster trap storage on at least one property located along Route 191 in Trescott. The definition of rural business should clearly specify small scale processing, storage, sale and distribution of fish and seafood products, and commercial fishing as allowed businesses under Category 1.

**Action:** The Commission revised the proposed rule in response to these comments. The revisions change the eligibility for the D-RB subdistrict on Route 191 in Trescott such that only Category 1 rural businesses will be allowed. The key language in the revised draft that addresses the comments is included in Section 10.23,I,2,b,(1),(b), particularly in the newly added table, as shown below. Trescott does not have Categories 2 and 3 listed for Route 191.

<u>Eligible Towns, Plantations, and Townships</u>	<u>Public Roads</u>	<u>Categories of Rural Business Allowed</u>
<u>Baring Plt.</u>	<u>Route 1, Route 191</u>	<u>1, 2, 3</u>
<u>Brookton Twp.</u>	<u>Route 1</u>	<u>1, 2, 3</u>
<u>Cathance Twp.</u>	<u>Route 191</u>	<u>1, 2, 3</u>
<u>Edmunds Twp.</u>	<u>Route 1, Route 86</u>	<u>1, 2, 3</u>
<u>Marion Twp.</u>	<u>Route 191, Route 86</u>	<u>1, 2, 3</u>
<u>Trescott Twp.</u>	<u>Route 189</u>	<u>1, 2, 3</u>
	<u>Route 191</u>	<u>1</u>

In addition, the Commission revised the Category 1 rural business definition in Section 10.02,189 to include commercial fishing as follows:

**Category 1:** Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood, fish and seafood, and agricultural product; or are related to or in support of agriculture, commercial fishing, forestry, natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to saw mills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non- motorized recreational centers. Category 1 businesses are specifically designated by Section 10.27,R,1,a.

Other changes to the posted draft of the rule were made to reflect the above changes and ensure consistency in format.

**3. Category 1 natural resource based businesses should be limited to recreational support businesses on Route 191 in Trescott.**

One comment submission indicated that only recreational support businesses should be considered on Route 191 in Trescott. The commenters concluded that industrial development does not have a place on Route 191, and would negatively affect the image and character of that wild stretch of the “down east” Maine coast. In addition, meeting notes from the citizen-initiated public meetings for Trescott indicate that agreement had been reached to allow a recreational support business zone on Route 191, which would enhance accessibility to available outdoor activities (such as camping, hiking, bicycling, etc).

**Commenter:** Kim and Carl Zils

**Response:** The Washington County Planning Committee discussed the option of creating a new development subdistrict for recreational support businesses. After a full discussion on the proposal, the Planning Committee determined that the locational criteria that they believed appropriate for recreational support businesses in Washington County would be the same as those established for rural businesses. They also determined that recreational support businesses could meet the definition of Category 1 or Category 2 rural businesses, and be accommodated within the existing framework of the D-RB subdistrict. They concluded that creating a new zone would not be necessary to further the purposes of the regional planning process. The Planning Committee did determine that providing an opportunity for existing home businesses, especially natural resource based business, to expand would provide valuable regulatory flexibility and economic opportunity. As discussed previously, the criterion, “no undue adverse impact on existing uses or resources” must still be satisfied in any rezoning proposal. Site specific concerns about locating a new rural business on Route 191, including compatibility with existing uses and potential scenic impacts, can be addressed in a rezoning process.

**Action:** No additional action is recommended.

#### **4. There should only be a single “floating zone” on Route 191 in Trescott.**

Two commenters requested that eligibility for the D-RB subdistrict be limited to a single zone on Route 191 in Trescott to minimize the amount of future rural business development that could occur along that roadway; and therefore, limit the impact on existing character. This was also discussed and agreed to at the citizen-initiated meetings in Trescott.

**Commenters:** Kim and Carl Zils

**Response:** The option of limiting the number of D-RB subdistricts allowed in any one MCD or along any one eligible roadway was discussed by the Washington County WCPZ Planning Committee. Significant concerns were identified for that proposal based on landowner equity and inconsistency with the CLUP. If the number of allowed rezoning requests were limited to one, the first landowner to submit a petition would benefit from the development opportunity; unfairly limiting the benefit for all other landowners in the future. Also, the CLUP includes policies that encourage the location of new businesses near other existing compatible businesses. Limiting the number of D-RB subdistrict re-zonings to one would discourage that sound planning principal and prevent co-location of businesses that could be mutually beneficial.

**Action:** No action is recommended.



## **APPENDICES**

- A. July 13, 2017 letter from Christopher Gardner, Chair, Washington County Commissioners, submitting the Regional Plan to implement the recommendations of the Washington County Community Guided Planning and Zoning process.
  
- B. A Regional Plan for Washington County Unorganized Territories – Table of Contents

# Appendix A

## Basis Statement

Chapter 10 Rules: Washington County Rural Business Development  
Subdistrict (D-RB)

*Washington County Commissioners' Letter*

**County of Washington  
PO Box 297, County Courthouse  
Machias, Maine 04654**

July 13, 2017

Everett Worcester, Chair  
Land Use Planning Commission  
22 State House Station  
Augusta, ME 04333-0022

**RE: Petition to Implement Community Guided Planning and Zoning  
Recommendations for Washington County and Specific Zoning Petitions for Baring  
and Grand Lake Stream<sup>1</sup>**

Dear Commissioner Worcester,

The Washington County Commissioners is pleased to submit our request for your review and approval of the products of the Community Guided Planning and Zoning effort in Washington County.

There are two distinct products. The first is a Zoning Petition for prospective zoning changes on several lots in the Plantation of Baring and Grand Lake Stream. The public notice requirement and Zoning Petition for the first product is underway and will be in front of the LUPC at their August 9, 2017 meeting.

The second product is a proposal for rule changes pursuant to a recommended D-RB floating zone in Washington County and a height limitation across all zones in one particular section of Route 191 in Trescott Township. A presentation of the 2-year Community Guided Planning and Zoning in Washington County will be provided to the LUPC at your September 13, 2017 meeting to be held in Washington County, location to be determined.

---

<sup>1</sup> Baring –  
Plan 5 Lots 4A and 1; Plan 2 p/o Lot 34  
Grand Lake Stream –  
Area 1:  
Plan 1 p/o Lot 13, p/o 17  
Plan 2 p/o Lot 2, p/o Lot 24A  
Plan 4 p/o Lot 14, p/o Lot 15  
  
Area 2:  
Plan 1 p/o Lot 6, p/o Lot 15, p/o Lot 16  
Plan 3 p/o Lot 38A, p/o 39  
Plan 4 p/o Lot 7A  
  
Area 3:  
Plan 1 p/o Lot 6

All of the documents and public notice requirements for these two actions have been provided to LUPC staff with thanks for their assistance in their assembly. The prospective zoning changes area all recommended with the understanding, to date, that they are proposed with the agreement of the affected landowners and the support of the abutters and neighbors in each community. This understanding is based on the extensive public outreach conducted over the last 18 months, We of course recognize that the public input phase before the LUPC is now initiated by this petition and that any concerns or opposition that we have not heard to date may still be expressed directly to the LUPC.

The Washington County Commissioners wish to thank the many citizens, agencies, and businesses who contributed to this product including the Washington County Council of Governments, the members of the Process and Planning Committees, LUPC staff and over 200 citizens who voiced their concerns across several public input avenues afforded to them in this process. We hope you will agree that Washington County has proposed prospective zoning and rule changes that will serve the interests of the Unorganized Territories in Washington County as hoped for by embarking on this process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christopher Gardner".

Christopher Gardner, Chair Washington County Commissioners



28 Center St.  
P.O. Box 297  
Machias, ME 04654

Tel: 207-255-8919  
Fax: 207-255-3572

Email: [ut@washingtoncountymaine.com](mailto:ut@washingtoncountymaine.com)

July 10, 2017

Judy East  
Washington County Council of Governments  
PO Box 631  
Calais ME 04619

**RE: Zoning Petition for Baring and Grand Lake Stream:**  
**Baring -**  
**Plan 5 Lot 4A, Plan 5 Lot 1; Plan 2 p/o Lot 34**  
**Grand Lake Stream -**  
**Area 1:**  
**Plan 1 p/o Lot 13, p/o 17**  
**Plan 2 p/o Lot 2, p/o Lot 24A**  
**Plan 4 p/o Lot 14, p/o Lot 15**  
  
**Area 2:**  
**Plan 1 p/o Lot 6, p/o Lot 15, p/o Lot 16**  
**Plan 3 p/o Lot 38A, p/o 39**  
**Plan 4 p/o Lot 7A**  
  
**Area 3:**  
**Plan 1 p/o Lot 6**

Dear Judy,

Pursuant to the Zoning Petition for above referenced parcels in Baring and Grand Lake Stream please be advised that public and community services are provided as follows:

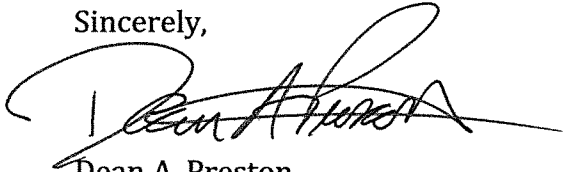
Baring:

Service / feature	Name of provider / facility	Distance (in miles) from site:
Ambulance	Calais Fire EMS	4 miles
Education	Calais Public Schools; choice for Secondary	3.7 miles; 7 (secondary)
Fire	Baileyville Fire Department	5.5 miles
Police	Baileyville Police Depart; County Sheriff	5.5 miles
Solid waste disposal	Baileyville Transfer Station (Town Road)	6 miles
Public water supply (if applicable)	n/a	n/a
Public wastewater (if applicable)	n/a	n/a
Public road	US Route 1	adjacent
Service center	Calais	1-3 miles

Grand Lake Stream:

Service / feature	Name of provider / facility	Distance (in miles) from site:
Ambulance	Indian Township Fire and Rescue	10.2 miles
Education	Baileyville School Department (Princeton for elementary; Baileyville for secondary)	12.3 – 21.3 miles
Fire	Grand Lake Stream Fire Department	Less than 1 mile
Police	County Sheriff	County-wide
Solid waste disposal	Baileyville Transfer Station (Town Road)	21 miles
Public water supply (if applicable)	n/a	n/a
Public wastewater (if applicable)	n/a	n/a
Public road	Milford Road	adjacent
Service center	Calais	29 miles

Sincerely,



Dean A. Preston  
UT Supervisor  
Washington County

# Appendix B

## Basis Statement

Chapter 10 Rules: Washington County Rural Business Development  
Subdistrict (D-RB)

*Regional Plan, Table of Contents*

# A Regional Plan for the Washington County Unorganized Territories



Presented to the **Washington County  
Commissioners**  
Pursuant to a Community Guided  
Planning and Zoning process

for submission to the  
**Maine Land Use Planning Commission**

**July 2017**

Prepared by  
Judy East, Executive Director  
Washington County  
Council of Governments





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## Attachment 2

Rule Revisions for Adoption of the Rural Business Development  
Subdistrict in Washington County

*Draft Rule*

DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY  
**MAINE LAND USE PLANNING COMMISSION**

**Proposed Rulemaking: Adoption of the Rural Business  
Development Subdistrict in Washington County**

*December 5, 2017 Draft*

The following revisions propose changes to Chapter 10, *Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission*. This document only includes relevant sections of Chapter 10.

Underlined text indicates additions and ~~stricken text~~ indicates deletions. Text relocated without changes was not tracked for the purposes of this draft.

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## **10.02      DEFINITIONS**

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The following definitions apply to the following terms as they appear in this chapter, the other chapters of the Commission's rules, and the Commission's statute (12 M.R.S.A. §206-A):

...

**189. Rural Business:**

A building, group of buildings, or site, or any part thereof, used, maintained, or advertised as a commercial, institutional, or light industrial business. Rural business facilities may be operated as a for-profit, non-profit, or public entity. Rural business facilities are either 1) compatible with, and complementary to, natural resource-based land uses such as agriculture, commercial fishing, forestry, small-scale natural resource processing and manufacturing, and outdoor recreation, or 2) of a scale and intensity appropriate to rural areas that are lightly developed but proximate to services and transportation infrastructure. For the purposes of Land Use Planning Commission rules, rural businesses are divided into three categories:

**Category 1:** Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood, fish and seafood, and agricultural product; or are related to or in support of agriculture, commercial fishing, forestry, natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to saw mills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non- motorized recreational centers. Category 1 businesses are specifically designated by Section 10.27,R,1,a.

**Category 2:** Moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by Section 10.27,R,1,b.

**Category 3:** Larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses. The term includes, but is not limited to, saw mills, value added food production, equipment maintenance

and repair facilities, recreational equipment rental and storage, motorized and non-motorized recreational centers, assembly plants, and automobile service and repair. Category 3 may also include Category 1 and Category 2 type businesses, as long as it meets all other criteria for Category 3. Category 3 businesses are specifically designated by Section 10.27,R,1,c.

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## 10.21 DEVELOPMENT SUBDISTRICTS

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### I. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)

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(Applies only to certain locations within Aroostook County and Washington County)

#### 1. Purpose

The purpose of the D-RB is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The locations for development are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth.

Where a D-RB subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

#### 2. Description

- a. The D-RB subdistrict shall include areas to accommodate a range of small commercial, light manufacturing, and institutional facilities and businesses that are generally compatible with, and complementary to, natural resource-based land uses but may create some adverse impacts to residential uses, recreation uses, or resource protection. Businesses are typically larger than a permissible home-based business, but are not large-scale commercial or industrial developments, and may generate some level of nuisance-type impacts (e.g., noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference) that extend beyond the property lines of the business.

The D-RB subdistrict encourages the commercial expansion of new and existing facilities in locations that are suitable for growth because of proximity to existing development, infrastructure, services, and major transportation corridors. The D-RB subdistrict is not designed to facilitate strip development along highways.

The designated D-RB subdistrict boundaries shall include all buildings, paved or other compacted surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the above described uses and buildings, as well as other intervening areas between such buildings, paved or other compacted surfaces, and areas.

The D-RB subdistrict shall include areas that contain small commercial, light manufacturing, and institutional facilities and businesses that meet the purpose and other provisions of the subdistrict. The D-RB subdistrict shall also include areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are

proposed for development which is consistent with the purposes of this subdistrict, and are suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ¼ mile of Management Class 1 lakes or within ½ mile of Management Class 6 lakes shall not be included within the D-RB Subdistrict.

The D-RB subdistrict distinguishes between three types of rural businesses with differing impact categories, as provided in Section 10.27,R,1.

**b. Eligible Locations**

(1) The following townships, plantations, and towns are eligible for the D-RB subdistrict:

(a) Aroostook County

Except as provided in Section 10.21,I,2,b,(2), the D-RB subdistrict must be fully located within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns.

<u>Eligible Townships, Plantations, and Towns</u>	<u>Public Roads</u>	<u>Categories of Rural Business Allowed</u>
<u>Bancroft Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Benedicta Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Cary Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Connor Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Cross Lake Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Cyr Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Forkstown Twp.</u>	<u>All</u>	<u>1</u>
<u>Garfield Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Glenwood Plt.</u>	<u>All</u>	<u>1</u>
<u>Hamlin</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Hammond</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Macwahoc Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Madawaska Lake Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Molunkus Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Moro Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Nashville Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>North Yarmouth Academy Grant Twp.</u>	<u>All</u>	<u>1</u>
<u>Oxbow Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Reed Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Silver Ridge Twp.</u>	<u>All</u>	<u>1</u>
<u>St John Plt.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>TA R2 WELS Twp.</u>	<u>All</u>	<u>1</u>
<u>T1 R5 WELS Twp.</u>	<u>All</u>	<u>1</u>
<u>T9 R5 WELS Twp.</u>	<u>All</u>	<u>1</u>
<u>T14 R6 WELS Twp.</u>	<u>All</u>	<u>1</u>
<u>T15 R6 WELS Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>T17 R4 WELS Twp.</u>	<u>All</u>	<u>1, 2, 3</u>
<u>Upper Molunkus Twp.</u>	<u>All</u>	<u>1</u>
<u>Winterville Plt.</u>	<u>All</u>	<u>1, 2, 3</u>

Underlined text indicates additions and stricken text indicates deletions.

~~Baneroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Forkstown Twp., Garfield Plt., Glenwood Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., North Yarmouth Academy Grant Twp., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, T15 R6 WELS, T17 R4 WELS, Upper Molunkus Twp., and Winterville Plt.~~

~~For purposes of this section, “Category 2 & 3 towns, plantations and townships” are:~~

~~Baneroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.~~

~~Except as provided in Section 10.21,I,2,b,(2), the D-RB subdistrict must be fully located within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns.~~

(b) Washington County

Except as provided in Section 10.21,I,2,b,(2) below, the D-RB subdistrict must be fully located within one half mile of the following public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns:

<u>Eligible Townships, Plantations, and Towns</u>	<u>Public Roads</u>	<u>Categories of Rural Business Allowed</u>
<u>Baring Plt.</u>	<u>Route 1, Route 191</u>	<u>1, 2, 3</u>
<u>Brookton Twp.</u>	<u>Route 1</u>	<u>1, 2, 3</u>
<u>Cathance Twp.</u>	<u>Route 191</u>	<u>1, 2, 3</u>
<u>Edmunds Twp.</u>	<u>Route 1, Route 86</u>	<u>1, 2, 3</u>
<u>Marion Twp.</u>	<u>Route 191, Route 86</u>	<u>1, 2, 3</u>
<u>Trescott Twp.</u>	<u>Route 189</u>	<u>1, 2, 3</u>
	<u>Route 191</u>	<u>1</u>

To be eligible, the parcel or at least one parcel in a contiguous group of parcels proposed for re-zoning to a D-RB subdistrict in Washington County must have frontage on at least one of the public roads listed in Section 10.21,I,2,b,(1),(b) above.

- (2) Modification of Locational Criteria. The depth of this subdistrict, and the distance a Category 2 and Category 3 rural business may be located from a public road, may be extended farther from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road, and the distance a Category 2 and Category 3 rural business may be located from a public road, by more than five percent.



### 3. Land Uses

#### c. Uses Requiring a Permit

The following uses, and related accessory structures, may be allowed within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.21,I,3,g, h and i below:

- (1) Campsites, Residential;
- (2) Commercial and industrial:
  - (a) Aroostook County: Rural Business in conformance with the requirements of Section 10.27,R:
    - i. Category 1; and
    - ii. Category 2, within one quarter mile of a public road in ~~Category 2 & 3~~eligible townships, plantations, and towns, or in accordance with Section 10.21,I,2,b(2);

- (b) Washington County: Rural Business in conformance with the requirements of Section 10.27,R:
        - i. Category 1; and
        - ii. Category 2, within one quarter mile of a public road listed in Section 10.21,I,2,b,(1),(b) in eligible townships, plantations, and towns, or in accordance with Section 10.21,I,2,b(2);

...

#### d. Special Exceptions

The following uses, and related accessory structures, may be allowed within the D-RB subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

...

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

- (2) Commercial and industrial:
  - (a) Aroostook County: Rural Business in conformance with the requirements of Section 10.27,R:
    - (i) Category 3, within one half mile of a public road in ~~Category 2 & 3~~eligible townships, plantations, and towns, or in accordance with

Section 10.21,I,2,b(2);

(b) Washington County: Rural Business in conformance with the requirements of Section 10.27,R:

(i) Category 3, within one quarter mile of a public road listed in Section 10.21,I,2,b,(1),(b) in eligible townships, plantations, and towns, or in accordance with Section 10.21,I,2,b(2);

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## 10.26 DIMENSIONAL REQUIREMENTS

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### F. MAXIMUM STRUCTURE HEIGHT

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1. Except as provided for in Section 10.26,F,2-~~and~~ 4, and 5 below, the maximum structure height shall be:
  - a. 75 feet for residential uses, campsites, and residential campsites; and
  - b. 100 feet for commercial, industrial, and other non-residential uses involving one or more structures.
2. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater or coastal wetland shall be no higher than 30 feet. The Commission may apply this provision at greater distances from the normal high water mark of bodies of standing water having significant or outstanding scenic values where there is the likelihood that such structures would have an adverse impact on scenic values. Bodies of standing water having such scenic values are shown in Appendix C.
3. Features of structures which contain no floor area such as chimneys, towers, ventilators and spires and freestanding towers and turbines may exceed these maximum heights with the Commission's approval.

#### 4. **Structure Height in Prospectively Zoned Areas.**

- a. In areas beyond 500 feet of the normal high water mark of a body of standing water 10 acres or greater, structure height in the D-GN, D-GN2, D-GN3, D-RS, D-RS2, D-RS3, D-CI, and D-ES in prospectively zoned areas shall be limited to 35 feet. Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission's approval.
- b. Structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater in size shall conform to the provisions of Section 10.26,F,2 above.

5. Structure Height in Trescott Township. Structures within 500 feet of State Route 191 in Trescott Township shall be no higher than 40 feet.