



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0022

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# Memorandum

**To:** LUPC Commissioners  
**CC:** Stacie R. Beyer, Acting Executive Director  
**From:** Ben Godsoe, Acting Planning Manager and Stacy Benjamin, Acting Chief Planner  
**Date:** 09/02/2022  
**Re:** Moosehead Regional Planning: Request to post to 30-day public comment period the rulemaking for proposed amendments to Chapter 10 and the staff-initiated zoning petition to rezone lands pursuant to the outcomes of the Moosehead Regional Planning Project

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## INTRODUCTION & BACKGROUND

When the Moosehead Lake Region Concept Plan was terminated in July of 2020, the plan area, including the former development areas of the Plan, were rezoned as general management zoning and protection zoning. As part of the Concept Plan's termination, Weyerhaeuser agreed not to submit any zoning petitions or development permit applications through December 31, 2022, allowing time for a regional planning process to take place. The LUPC has been undertaking this planning process since the summer of 2020. The staff have prepared a Moosehead Regional Planning Package based on the two-year process and propose it for Commission consideration and action at the September 14<sup>th</sup> meeting (see [separate document](#)).

## CHANGES TO THE DRAFT PACKAGE

A preliminary version of the Draft Moosehead Regional Planning Package was presented at the May 2022 Commission meeting. Since that time, four community meetings were held to gather feedback on the draft Package. A total of 19 people attended one of the meetings or stopped by to discuss the project during drop in hours. In addition, property owners potentially affected by the proposed removal of Primary and Secondary Locations (195 individual owners) were mailed a postcard notifying them of the planning process and proposed package. The postcard indicated that the proposed changes may affect their property and invited them to attend a meeting to hear more about the project and discuss any concerns with the proposal. Two virtual landowner meetings were held July 14, 2022, and five individuals participated. The informal comment period for the preliminary version of the draft Moosehead Regional Planning Package concluded on July 15, 2022. Copies of all written comments and meeting notes are posted to the [project website](#). A summary of comments with corresponding staff responses is attached to this memorandum.

Ultimately, changes to the size and configurations of four proposed development areas were made as a result of the feedback received on the draft package, additional research on the site conditions, or mapping

considerations<sup>1</sup>. These changes include:

- A slight increase in the size of Location D in Taunton and Raynham Academy Grant from  $\pm 100$  acres to  $\pm 118$  acres to accommodate mapping considerations
- A decrease in the size of Location E, in Big Moose Twp from  $\pm 1,000$  acres to  $\pm 496$  acres in response to public comments and site considerations including slopes and soils
- A decrease in the size and configuration of Location F in Beaver Cove from  $\pm 20$  acres to  $\pm 7.2$  acres in response to agency concerns about impacts to deer habitat and to accommodate mapping considerations
- A decrease in the size and configuration of Location I in Big Moose Township from  $\pm 500$  acres to  $\pm 240$  acres in response to public comments and site considerations, as well as agency concerns about impacts to deer habitat

No other changes to the proposals in the draft package relating to prospectively zoned development areas are proposed. However, the proposed rule amendment language includes additional provisions regarding changes to how the Location of Development criteria apply in the region. The proposed language was crafted to address concerns raised about this component of the draft package, particularly concerns about “opening the door” for more requests to remove Primary and Secondary Locations (see Attachment I, Primary and Secondary Locations, below, and Attachment 10 of the [Revised Package](#)).

## **STAFF RECOMMENDATION**

The Commission’s statute and Chapter 4 Rules of Practice require that public notice of proposed rule changes and changes to zoning boundaries be given, and either a public comment period or public hearing be held prior to Commission adoption of rule changes or changes in subdistrict boundaries.

Staff recommends that the Commission post the Moosehead Regional Planning Package to a 30-day public comment period. Package components include:

1. A staff-initiated petition to prospectively rezone the six areas identified in the Package; and
2. Proposed revisions to Chapter 10, Section 10.08-A to remove Primary and Secondary locations from certain areas in the region.

## **NEXT STEPS**

Should the Commission direct staff to post the Moosehead Regional Planning Package, the following steps will be taken in accordance with required statutory and regulatory procedures:

- A rulemaking package will be submitted to the Secretary of State’s Office pursuant to the APA requirements.
- Public notice will be mailed to all persons owning or leasing land within 1,000 feet of the land proposed for rezoning and others in accordance with Chapter 4.04, Section B,3,(2).
- Following the comment period, staff will propose any needed changes in an updated regional planning package, based on comments received from the landowners, resource agencies, and interested persons.

Should the Commission decide to hold a public hearing, the procedures described above will be modified to meet the requirements for scheduling and conducting a public hearing.

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<sup>1</sup> Site conditions evaluated included available soils information, wetlands, slopes, access, and features such as railroads or nearby existing development. Mapping considerations involve the ability to accurately measure and represent the rezoned areas using geographic information system (GIS) software by tying points to specific features or measurements so the boundaries can be more easily identified on the ground.

## ATTACHMENT I

### COMMENT SUMMARY AND STAFF RESPONSE

#### *Proposed Development Locations*

**Comments:** Concern about the size of Location E and character of future development (desire to retain rural character)

**Response:** The size of the proposed development area at Location E was reduced by 50% in response to public comment as well as consideration of soils and slopes on the site. In addition, any future residential subdivision or commercial development proposed in this location will be subject to LUPC development review and all applicable standards. This process includes coordinating with resource agencies and public and stakeholder comment processes that can identify and address site specific concerns as a project is being reviewed.

**Comments:** Concerns about potential impacts that development in Location F would have on deer habitat adjacent to areas proposed for development zoning

**Response:** The size and configurations of the two areas at Location F were altered in response to these concerns, and the proposed development area was reduced by more than half, from  $\pm 20$  acres to  $\pm 7.2$ . As noted above, any future development proposed in these locations will be subject to LUPC development review and all applicable standards.

**Comments:** Concerns about the location, size and density of Location I; Concerns about impacts development in this area will have on rural character and wildlife, including adjacent deer wintering habitat; Consideration for road access for camps adjacent to Location I

**Response:** In response to public and agency comments, the size of the proposed development area at Location I was reduced by 52% and the configuration of the subdistrict was altered to include a buffer between the development zone and Routes 6/15. As noted above, any future development proposed in these locations will be subject to LUPC development review and all applicable standards. Regarding road access for the adjacent camps, the owners would have to work with any future developer to negotiate road access to their properties. Level C road projects (new construction) are a use allowed by permit in the General Management Subdistrict (M-GN), which is the current zoning for this area.

**Comments:** Proposed D-RS in Long Pond and Taunton and Raynham should be D-GN

**Response:** Staff considered this request and concluded a D-RS designation was more appropriate for the Long Pond development area given that the location is currently an inholding of M-GN surrounded by D-RS subdistrict. Regarding the locations in Taunton and Raynham Academy Grant, staff believe the proximity of Rockwood and the remaining Primary Locations there provide opportunities for rezoning for small-scale commercial development.

**Comments:** Locations E and I can potentially help address workforce housing needs

**Response:** The lack of attainable and affordable housing is a State-wide issue and one of the goals of prospectively zoning the locations proposed is to provide an opportunity for a scale of development that would help meet this need. Current LUPC rules provide a reduced lot size incentive for affordable housing developments that may be attractive to a future developer. Also,

recent legislative changes for municipalities may lead to new approaches to attainable housing developments that are transferrable to these prospectively zoned areas.

### *Additional Protections Needed*

**Comments:** Multiple commenters recommended adding protections to former development areas, including in Lily Bay Township, Brassua Peninsula, the west side of Big Moose Township, the East and West Outlets, and Indian Pond to protect sensitive resources like native brook trout, Canada Lynx, Bicknell's Thrush, and the Rusty Blackbird. Commenters also asked for extra scrutiny for any proposal for development that may come forward for the Blue Ridge and more permanent land conservation in general to protect the region's wildlife habitat and high water quality.

**Response:** As stated in the Draft Moosehead Regional Planning Package, LUPC protection subdistricts are specialized zones designed to limit impacts to specific resources such as, but not limited to, shorelines, aquifers, significant wildlife habitat, or wetlands. Areas included in these specialty subdistricts must meet specific criteria, and protection zoning cannot be applied to areas that do not meet these criteria. Many of the locations noted above currently have some type of protection zoning already in place. For instance, all the lakes have Great Pond Protection (P-GP) zones, and the East and West Outlets have Shoreline Protection Subdistricts (P-SL) applied along their shorelines. Other areas have Fish and Wildlife (P-FW), Soil and Geology (P-SG), or Mountain Areas (P-MA) protection subdistrict designations, among others.

In addition to protection zones for specific resources, the Commission has standards that apply to development in sensitive areas, such as requirements for development on hillsides, soil suitability, and surface water quality. These standards contribute to the protection of important resources and habitats when allowed or permitted development activities occur anywhere within the Commission's jurisdiction. Also, the Commission works closely with other agencies, such as MDIFW and MNAP, to ensure important plant and animal habitats and potential impacts are addressed in any development proposals. These practices: protection zoning, land use standards, and agency coordination, all act in concert to help maintain the "unique principal values" within the Commission's jurisdiction.

In addition, removing the Primary and Secondary Locations from the areas noted above will limit the scale and intensity of allowed development in those locations by eliminating the potential for rezoning for residential subdivisions (other than recreation-based subdivisions in some areas) or most types of commercial development in the future. If these mechanisms cannot achieve the level of protection desired by commenters in the process, further protections may be best achieved through permanent land conservation. Providing that level of protection is outside the Commission's purview. In light of these considerations, staff are not recommending any new areas for protection zoning as part of this Moosehead Region Planning Package.

**Comment:** Use M-NC subdistrict designations in former development areas to limit development

**Response:** A few commenters suggested the use of Natural Character Subdistrict (M-NC) zoning either broadly applied or for specific areas in the region. According to the CLUP, "The M-NC Subdistrict was designed to maintain the character of certain large undeveloped areas of the jurisdiction and to promote their use primarily for forest and agricultural management activities and

primitive recreation” (page 202). This subdistrict was created in 1977 but has never been used in the history of the Commission. This is likely due to the increased use of conservation easements as the preferred tool for protecting special areas from incompatible development.

Staff have not proposed the use of M-NC zoning in this Moosehead Region Planning Package for the following reasons:

- None of the former development areas under consideration meet the 10,000-acre threshold individually, and much of the area surrounding these development areas is under the Moosehead Region Conservation Easement.
- Tying up large areas in a subdistrict where single family dwellings are not allowed is not appropriate given the affordable and attainable housing issue in the Greenville area.
- Staff have significant concerns about the potential legal implications for implementing this subdistrict for the first time, and without the endorsement of the landowner.

### *Primary and Secondary Locations*

**Comments:** There was broad support for the proposed removal of Primary and Secondary Locations in the ten townships and from around Indian Pond, Long Pond, and Brassua Lake. Individual commenters also requested:

- The removal of the Primary Locations from the Brassua peninsula in Taunton and Raynham Academy Grant and from Rockwood Strip T1 R1
- The removal of Primary and Secondary Locations in Tomhegan Township
- The removal of the Secondary Location from Beaver Cove

**Response:** The portion of the Brassua peninsula with remaining Primary Location faces the more developed eastern and southern shores of Brassua Lake, making it more suitable for development than the remote western portions that are mostly protected by conservation easement. The Primary Location associated with a Management Class 3 (MC-3) Lake is 700 feet wide, limiting the scope of development along the shoreline. In addition, there are protection subdistricts that apply in this area, including Great Pond Protection (P-GP) and Wetland Protection (P-WL). These zones further limit the intensity of any future development and, in the case of P-WL, reduce the area available for development.

Rockwood is a designated Rural Hub and Beaver Cove is also relatively developed, so staff believe that it is appropriate for the Primary and Secondary Locations in these townships to remain as currently defined.

Tomhegan Township was not included in the original Concept Plan for the Moosehead Lake Region and portions of it are covered in the Brassua Lake Concept Plan. Therefore, staff have not included consideration of this township as part of this regional planning process. Should the proposed rule amendments be adopted, any changes to the Location of Development policy for this township would have to be considered as part of a future comprehensive and balanced regional planning process.

**Comment:** One commenter stated that the removal of Primary and Secondary Locations creates unpredictability for landowners across the UT, impacting multiple landowners and landowner rights.

Concern has also been expressed by members of the Commission regarding this portion of the draft package and the precedent it sets.

**Response:** In terms of the impact of the proposed removals on property owners beyond Weyerhaeuser, and the potential for additional requests to alter the application of the Location of Development Policy, staff offer the following thoughts:

- Many residents and stakeholders in the region have expressed concern about the scale and intensity of potential future development in the former concept plan development areas. Concerns were also raised about the potential for continuous strip development in the Primary Location that extends along the entire section of Route 15 between Greenville and Rockwood, as well as general concerns about development in certain townships such as Lily Bay. At the same time, these residents and stakeholders recognize that locating development near existing development makes sense and can provide an opportunity for the construction of much needed attainable and affordable housing in the region. The proposal tries to balance these ideas by using the tools the Commission has available, including prospective zoning and the application of the Location of Development Policy. Prospectively zoning portions of the areas formerly designated for development under the Concept Plan is necessary only if the Primary and Secondary Locations are removed from these areas. If the Primary and Secondary areas remain, Weyerhaeuser or any future owner could petition the Commission for rezoning at any point in the future.
- The idea of removing Primary and Secondary Locations as a mechanism for managing growth in the region was identified early in the planning process. Though this action does broaden the impact of the planning process to other property owners, multiple opportunities for landowners to weigh in have been provided through community meetings, the online comment form, and contact information in GovDelivery notices. In response to Commission concerns about the implications of this for other landowners, a postcard was mailed to the 195 landowners identified as potentially affected by the proposed removals. No property owners expressed concern in the landowner meetings held, in writing, or by phone.
- There is valid concern that the proposed amendments to the Location of Development criteria proposed as part of the Package will result in similar future requests from residents and stakeholders in other parts of the LUPC jurisdiction. It is important to note that these changes, and any future proposed changes, must be based on a balanced and comprehensive regional planning process, and not be made reactively on a township by township basis or in response to petitions. This fine-tuning of the Location of Development policy through regional planning was anticipated in the Adjacency Basis Statement (see details in [Project Update: Memorandum to the Commissioners](#), 7/6/2022) and would be codified in the proposed amendments to Chapter 10, Section 10.08. Staff do not anticipate, nor should the Commission entertain, requests from landowners in individual townships to alter the Location of Development criteria unless based on a robust regional planning process.

Staff have proposed adding the following language in Chapter 10 to address this concern:

**Inclusions and Exclusions to Primary and Secondary Locations.** New additions to and removals from primary and secondary locations must result from a regional planning

process that addresses the location of development through a balanced and comprehensive process, such as prospective zoning or community guided planning and zoning as described in the Comprehensive Land Use Plan and applicable Commission guidance documents. Chapter 10, §10.08-A,C,4.

### *Comments Regarding the Process*

**Comment:** Comments were received from too few individuals with ties to the region and is not a “locally-driven process”.

**Response:** Staff reviewed the information provided by commenters and meeting participants for the community outreach and comment processes associated with the draft Regional Planning Package to analyze ties to the region. Many of the people who participated in this part of the process, meeting attendees in particular, are either year-round or seasonal residents or have strong ties to the region through their work (e.g. MDIFW biologists) or through family-owned property. In addition, many other residents and property owners participated in earlier meetings, provided written comments, or responded to the 2020-21 survey.

However, we acknowledge that turnout was light for the most recent round of community meetings and hope more residents and property owners in the region will provide comments on these final proposals should they move forward. Additional notices and opportunity to comment will be provided during any formal rulemaking and rezoning processes.

**Comment:** How does this proposal interact with the development at the ski area?

**Response:** The proposed development on Big Moose Mountain is a completely separate process from this multi-year regional planning effort. However, input from community leaders in the region during the planning process repeatedly highlighted the need for attainable and affordable housing for the workforce needed to support the proposed development and other workers in the region. To balance calls to further protect important areas by minimizing the intensity of future development through the removal of Primary and Secondary Locations, two areas are proposed to be prospectively zoned for residential development. The accessibility and configuration of these areas make them suitable for year-round, moderate density residential development and it is hoped that most future development proposed in these locations will be geared to attainability for the region’s workforce.