



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

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To: Interested Members of the Public

From: James Francomano, Senior Planner
Samantha Horn Olsen, Planning Manager

Date: April 9, 2014

Re: Subdivision rule review: Survey Questions for Stakeholder Comment

INTRODUCTION

The Commission is preparing to review and likely to revise significant parts of its rules governing residential subdivision development in the Unorganized and Deorganized areas of the State. The purpose of this letter is to request your input.

BACKGROUND

In 2013 the Commission adopted new rules to clarify under what circumstances a land division triggers subdivision rule review. These changes regarding subdivision and "Subdivision Exemptions" are already in effect at Section 10.25,Q,g,1 of the Commission's rules.

In 2014 the Commission is seeking to engage stakeholders in developing proposals for how to best revise other aspects of the rules relating to the development of residential subdivisions, found elsewhere in Section 10.25.

As a first step, the Commission would like to gather advice and suggestions from individual stakeholders, businesses and other organizations familiar with the development process in the LUPC jurisdiction. To more effectively gather this input and prepare for substantive discussions on possible changes, we have prepared survey questions for your consideration.

The questions are attached to this memo as Attachment A.

If you wish to respond in writing, please transmit your comments via email to james.francomano@maine.gov or by U.S. Mail to 22 State House Station, Augusta, ME 04333-0022. Please forward this survey information to others who may be interested in commenting, or who may wish to be added to our contact list. If you would prefer to make brief verbal comments in lieu of a written response, or if you have questions about the process, please contact us at 287-4930.

We would appreciate receiving your responses and comments by May 16, 2014. Thank you for your participation.

NEXT STEPS

The Commission is currently seeking grant funding to convene facilitated discussions among stakeholders. The goal is to build consensus on opportunities to streamline application and development processes, ensure appropriate conservation measures and provide more certainty for applicants proposing to develop residential subdivisions in the future. If funding is not obtained, the Commission will pursue this work without a facilitator. In either case, work is expected to begin this summer. We will keep you informed of upcoming meetings and opportunities to comment.

Attachment A

SURVEY QUESTIONS

The Maine Land Use Planning Commission (the LUPC or the Commission) is preparing to review and likely to revise parts of its rules governing residential subdivision development. The Commission would like to gather advice and suggestions from individual stakeholders, businesses and other organizations familiar with the development process in the LUPC jurisdiction. Once initial comments are gathered, the Commission will convene meetings to have a stakeholder-driven discussion of its subdivision rules and related issues and ideas.

Each of the questions below includes some background discussion that is specific to the relevant rules and standards. This information is intended to be useful to you in preparing your responses. Please send your responses to Jamie Francomano at james.francomano@maine.gov or 22 State House Station, Augusta, ME 04333-0022 ideally by May 16, 2014. Also, please let us know of others familiar with development in the LUPC jurisdiction who might be interested in participating. These Survey Questions and related materials will also be posted here:

<http://www.maine.gov/dacf/lupc/projects/index.html>

INTRODUCTION

1. Please provide name and contact information, including e-mail address.

2. Stakeholders participating in this process.

Have you applied for or considered applying for permit(s) from the Commission in the past? If yes, please describe the type of project(s) or proposal(s). If no, please describe your involvement or interest in land use decision-making in the unorganized and deorganized areas of Maine. We appreciate learning from multiple points of view as the Commission considers making changes to its subdivision rules.

ROAD CONSTRUCTION STANDARDS

3. Circulation, access management, and parking for residential subdivisions

Section 10.25,D, subsections 1, 2 and 3 of the Commission's rules contain provisions for vehicular circulation, access management and parking area layout and design. Goals in regulating these issues are related to ensuring safety, minimizing congestion, and maintaining scenic character where appropriate through visual buffering. ***In your opinion, are the current access management standards effective in promoting the Commission's stated goals? How might these standards be improved?***

4. Road design and construction

Section 10.25,D, subsection 4, contains roadway design specifications that address design and construction standards for roadways associated with a subdivision. These provisions are intended to ensure that roads are durable and suited for the anticipated traffic, including provision of services and future development potential. ***In your opinion are the current road construction standards effective in promoting the Commission's stated goals? Do the three classes of roadways provide enough flexibility? How might these standards be improved? Additional standards dealing with roads, ditches and water crossings are found in Section 10.27,D.***

SUBDIVISION DESIGN STANDARDS

5. Level 2 Subdivisions

Section 10.25, Q, subsection 2 provides that some smaller subdivisions in certain townships, towns, or plantations are allowed on land that is not already designated as a development subdistrict. If the size and location of the proposed subdivision satisfy subsections 2(a) through 2(f) then it is not necessary to obtain a rezoning before applying for the subdivision permit. Allowing applicants to proceed without rezoning is intended to streamline the subdivision application process in locations that are clearly suitable for residential subdivision. ***In your opinion are the criteria in 10.25,Q,2 appropriate for Level 2 Subdivisions? Would different criteria be more effective in promoting a streamlined application process for some subdivisions in these areas? If yes, what criteria should the Commission apply?***

6. Layout and design for all subdivisions

Section 10.25,Q, subsection 3 of the Commission's rules provides standards for subdivision layout and design that are intended to promote a good fit between the subdivision and the surrounding community and landscape, especially where house lots are proposed along roadways and shorelines. The layout and design standards also are intended to ensure efficient use of land over the long term. The rules encourage house lots to be gathered around a center point rather than spread out in a linear fashion. If a subdivision applicant must arrange the lots in a linear fashion due to site constraints, then this subsection requires that such lots be arranged in small linear groupings (combined maximum frontage of 1,320 feet per group) with significant undeveloped frontage (minimum 500 feet) in between groups. ***Do you have comments about these provisions? Would a different approach or different standards be more effective in promoting the Commission's stated goals?***

7. Cluster development standards

Section 10.25,R, subsection 1 of the Commission's rules specifies locations in which a clustered lot configuration and a significant amount of open space are required to be included in any proposed subdivision plan, consistent with the Commission's goal of promoting efficient use of land for development purposes. Level 2 Subdivisions that are comprised of more than 5 lots and all subdivisions within 250 feet of class 4 and 5 lakes (which already have significant shoreline development) generally must follow the Cluster development standards, although the Commission may waive these standards in some cases. Landowners may also choose to obtain flexibility in dimensional requirements by using cluster development in locations where it is not required. ***Do you have comments about whether or not it is appropriate to require cluster development in these locations or in other locations?***

8. Layout and design for Cluster Subdivisions

Section 10.25,R, subsection 2, also contains provisions governing the actual layout of Cluster Subdivisions and identifying the steps necessary to calculate the amount of "net developable land" and "net developable shorefront" of a parcel proposed for residential subdivision development. These standards are intended to ensure that no more than 50% of land and shoreline can be consumed by a proposed subdivision plan, to promote the efficient use of land, and to set aside some open space in areas that already have or are likely to receive significant development. Examples where this may be useful are heavily developed shorelines, island communities, or other areas of dense residential development.

Do you have comments about the layout and design of Cluster Subdivisions? Are these standards the right ones for areas that are currently or are likely to be densely developed in the future? If not, what other approaches would be better?

9. Open space provisions

Section 10.25,S of the Commission’s rules sets forth the mechanisms for the establishment of open space areas and the dedication of associated development rights to a qualified holder, such as may be proposed by the applicant as a required part of a proposed Cluster Subdivision plan. The intention behind these standards is to ensure the availability of these lands to the residents of the subdivision into the future, whether for agricultural, recreation or conservation purposes as specified by the holder.

Do you have any comments on whether the current methods for the dedication of open space are effective in making the cluster provisions workable and how the standards might be improved?

INCENTIVES AND PERFORMANCE GUARANTEES

The following questions relate to possible new standards that could work in tandem with any changes proposed by respondents in questions 3 through 9 above. These concepts are not currently found in the Commission’s rules.

10. Incentive-based standards to promote best practices

In addition to (or in the place of) Level 2 Subdivisions and Cluster Subdivisions mentioned above, other possible incentive-based standards for residential subdivisions could be proposed for all or part of the LUPC jurisdiction. One example of an incentive-based or “bonus” provision could be a reduced or eliminated requirement for Certificates of Compliance if the land development work is performed by a certified contractor. Another example might be incentives for developers of single lots and other smaller projects to share the cost of high quality infrastructure improvements to reduce adverse environmental impacts. Such provisions could be designed to take into account the cumulative impact of multiple smaller projects in a manner similar to those of one large project.

What ideas do you have for incentive-based standards? If your suggested changes include “bonus” provisions, how would they be structured? How might they be tied to appropriate natural resource conservation goals?

11. Performance guarantees for subdivision development

Larger projects and smaller projects with common infrastructure require extensive financial and technical capacity. In numerous cases, we have learned of residential subdivisions where road improvements have not been completed to appropriate specifications and/or home owners associations have not taken on as much responsibility for maintenance as anticipated. This may result in environmental degradation and additional costs borne by owners and developers. In some regions of the LUPC jurisdiction it has been suggested that these conditions have created an oversupply of substandard lots for sale in previously approved residential subdivisions.

Should certain types of project characteristics, such as number of lots or length of roadways, be considered as triggers for bonding or other form of performance guarantees? What other steps could be taken to ensure common infrastructure is constructed and maintained to protect future owners and local natural resources?

12. Other suggestions for improvement

What other suggestions do you have for issues or solutions that the Commission should address as this rule revision process moves forward?