

R E S T O R E:



STATEMENT OF JYM ST. PIERRE MAINE DIRECTOR, RESTORE: THE NORTH WOODS CONCERNING PLUM CREEK'S MOOSEHEAD LAKE REGION CONCEPT PLAN

June 18, 2008

In April 2005, Plum Creek corporation submitted a proposal for the largest residential real estate development in Maine history. It included 975 subdivision lots, a 3,000-acre destination resort at Brassua Lake, a 500-acre resort at Lily Bay on Moosehead Lake, and other developments. After more than 1,000 Mainers turned out at meetings to voice their concerns about the ramifications of such sprawling development, Plum Creek said they listened and reworked their proposal.

In April 2006, Plum Creek presented a revised plan. It still included nearly 60 subdivisions with 975 subdivision lots and 2 resorts. Plum Creek's Moosehead plan 2.0 raised even more concerns than the first version.

In April 2007, Plum Creek offered plan 3.0. Some of the development was moved around. However, the plan still presented a lot of problems. It included just as many subdivision lots, just as many resorts, more residential units in total, and twice as many acres of development zones as before.

In December 2007-January 2008, the Maine Land Use Regulation Commission (LURC) held citizen hearings around the state as well as more than four weeks of technical hearings. Hundreds of people testified. Thousands of pages of information were entered into the record.

Now, the LURC Commission has endorsed proposed changes to the plan as recommended by their staff and consultants which, instead of objectively evaluating whether the required legal tests have been met, are clearly designed to show what changes are needed to make Plum Creek's plan approvable. Shockingly, the LURC-generated amendments completely miss the mark on most of the key points. The recommendations are troubling for several reasons:

1. The LURC-generated amendments represent a takeover of Plum Creek's proposal. This is a problem for several reasons. For instance:

- LURC is supposed to look out for the public interest; it is not supposed to become a co-petitioner with a private landowner in revamping a zoning petition. Nor is LURC authorized to take control of a project from a landowner and to amend it to make it approvable.
- Unlike a permit application, LURC can only approve or deny a rezoning petition. LURC cannot amend or condition a landowner's petition for rezoning.

2. The LURC-generated amendments fail to address crucial development issues. For instance, they:

- fail to reduce the total number of development units
- fail to put any cap on caretaker and employee housing units
- fail to eliminate development proposed for highly sensitive areas
- fail to put any limits on docks and other shoreland structures at Lily Bay and Moose Bay and in Rockwood
- fail to say how lynx and other imperiled and sensitive wildlife will be protected
- invert conservation principles by urging some sensitive areas not be protected to "avoid fragmenting the development"

3. The LURC-generated amendments focus on tweaking Plum Creek's overblown development plan, instead of looking at whether the plan makes any sense. For instance, LURC says, "Remove from the D-GN2M zone (west of Lily Bay Road) a waterfowl and wading bird habitat and its associated 250-foot buffer; add this acreage to Balance conservation easement acreage." Instead of obsessing over such details the LURC evaluation should focus on the massive wildlife impacts the development would have, which are well documented in the record.

4. The LURC-generated amendments fail to address many legal tests and key issues mandated in the LURC law.

For instance, they

- do not evaluate whether the plan adequately addresses demonstrated need
- do not evaluate whether the plan adequately addresses no undue adverse impact on uses and resources in the region
- do not evaluate whether the plan adequately addresses how the proposed zoning would be more appropriate for existing uses and resources than the current zoning

5. The LURC-generated amendments do not evaluate, as specified in the LURC Comprehensive Land Use Plan, whether Plum Creek's plan adequately addresses protection of:

- air resources
- cultural, archaeological, historical resources
- forest resources
- geological resources
- recreational resources
- water and wetland resources
- wildlife and fisheries resources

6. The LURC-generated amendments fail to analyze whether Plum Creek's plan would have no undue adverse impact, as specified in the LURC regulations, on:

- traditional uses
- regional diversity
- natural character
- lake management goals
- landowner equity

7. The LURC-generated amendments fail to address, as specified in the LURC rules, whether Plum Creek's plan:

- strikes a reasonable and publicly beneficial development-conservation balance
- justifies a waiver of the normal requirement that new development be adjacent or proximate to existing compatible development

8. The LURC-generated amendments misconstrue the so-called Conservation Framework. For instance, the proposed amendments suggest a number of changes to the Legacy easement. In truth, the Legacy easement is not part of the proposed mitigation and LURC has no say over the Legacy easement. It is a real estate transaction for compensation between private parties.

9. The LURC-generated amendments even go backwards on some points. For instance, the proposed changes:

- would use restrictive covenants and *not* add undeveloped land to the Balance easement after 30 years
- eliminate clustering of development on Upper Wilson Pond
- override the recommendations of the Dept of Inland Fish and Wildlife for protection of some sensitive habitats
- would allow even more development in some areas than Plum Creek has proposed
- would allow all 404 housing units at Lily Bay to be subdivision lots
- would increase the areas zoned for resort development from 4 to 5

10. The LURC-generated amendments would allow Plum Creek a windfall of tens of millions of dollars

- without adequately protecting the public values at stake
- without any guarantee viable resorts would be built to benefit nature-based tourism in the Moosehead region

In short, Plum Creek's proposed development is still overwhelming. Plum Creek's proposed conservation is still underwhelming. Plum Creek's plan still represents the largest residential real estate development in Maine history. Plum Creek's plan still represents a wholesale change in the wild character of the Moosehead region. Plum Creek's plan is still the wrong kind and amount of development in the wrong place. And now, instead of presenting an objective analysis of how Plum Creek's proposal measures up against the myriad legal tests, the LURC-generated amendments fail to see the big picture. LURC's job is to say that Plum Creek has failed the final exam. It is not to look away and say Plum Creek can still graduate just by taking a course in remedial resort planning.