

RESTORE:



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

September 23, 2009

BACKGROUND

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.

In May 2008, LURC staff and consultants prepared an analysis of the record for the Commission members which, instead of objectively evaluating whether the required legal tests had been met, clearly was designed to show what changes were needed to make Plum Creek's plan approvable.

In Oct 2008, LURC told Plum Creek to "Either accept our changes to your Moosehead Lake plan or risk walking away empty-handed," as the Bangor Daily News put it. Plum Creek, of course, accepted the changes.

In June 2009, Plum Creek asked for an escape hatch from many of its obligations, but LURC told Plum Creek it would be required to honor some of the conservation aspects of the deal for up to five years if the company decided to walk away from the development aspects.

Now we are down to the final Land Use Regulation Commission vote on the plan. LURC, Plum Creek, and the other implementing parties have worked out many of the kinks, but it is hard to call it Plum Creek's plan any longer since LURC has assumed control. Some of the changes have made the plan more palatable. Unfortunately, it is still unacceptable overall.

(more)

APPEALING AN UNAPPEALING DECISION

Based on what we have seen in the LURC staff recommendation, if it is rubber-stamped today by the commission members, as expected, *we intend to appeal the decision to Superior Court*. Here are some of the reasons:

- 1. The Commission erred when it gave Plum Creek regulatory credit for the separate Conservation Framework.** By allowing – indeed, insisting on – including the separate arrangement by which Plum Creek will be paid \$35 million for selling conservation lands and easements, LURC is setting a very bad legal precedent. The Conservation Framework is a real estate transaction for compensation between private parties. Future land speculators will also want to be paid instead of providing conservation as an offset to development as the LURC rules require.
- 2. The Commission erred when it took it upon itself** at the conclusion of the hearings to initiate such extensive and substantive amendments to Plum Creek’s proposal as **to create a new, alternative plan**. Instead, the Commission should have deliberated and voted on the merits of Plum Creek’s proposal based upon the record.
- 3. The Commission erred when it allowed LURC staff and consultants to become advocates** in the proceedings for LURC’s own alternative concept plan.
- 4. The Commission erred when it evaluated Plum Creek’s proposal under an outdated comprehensive plan.** LURC’s 1997 Comprehensive Land Use Plan should have been updated and a regional plan for Moosehead should have been completed before processing Plum Creek’s concept plan.
- 5. The Commission erred when failed to adequately address many legal tests and key issues mandated in the LURC law.** For instance, LURC has not sufficiently evaluated whether the plan adequately addresses:
 - demonstrated need
 - no undue adverse impact on uses and resources in the region
 - how the proposed zoning would be more appropriate for existing uses and resources than the current zoning
- 6. The Commission erred when it failed to adequately address crucial development issues.** For instance, LURC:
 - failed to reduce the total number of development units
 - failed to put any cap on caretaker and employee housing units
 - failed to adequately say how lynx and other threatened wildlife will be protected from resorts and shoreland sprawl
- 7. The Commission erred when it failed to sufficiently 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
- 8. The Commission erred when it failed to adequately evaluate, as specified in the LURC rules, whether the 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
- 9. The Commission erred on a number of procedural issues.** For instance, limiting testimony at the hearings to cross-examination meant that intervenor witnesses did not get to talk unless Plum Creek chose to cross-examine them.

In short, the LURC/Plum Creek plan has failed the final exam. To protect the public interest in the Moosehead region and to safeguard the public from similar, future speculative schemes, we intend to ask the courts to review this decision. For the long term, far better than the LURC/Plum Creek plan would be to protect the public values of the Moosehead region in a Maine Woods National Park & Preserve.