

**STATE OF MAINE
LAND USE REGULATION COMMISSION**

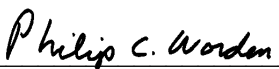
Zoning Petition No. ZP 707

<i>In Re:</i> Plum Creek Timber Company's Petition for Rezoning Moosehead Region]]]]]	RESTORE: The North Woods and Forest Ecology Network's ISSUES STATEMENT
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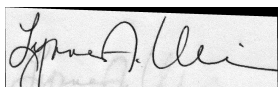
RESTORE: The North Woods ("RESTORE"), through its attorney, Phil Worden, and Forest Ecology Network ("FEN"), through its attorney, Lynne Williams, submit the detailed Issues Statement attached hereto and incorporated herein pursuant to the Chair's July 13, 2007 Preliminary Order.

July 26, 2007

Signed:



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ISSUES OF CONCERN
PERTAINING TO ZONING PETITION ZP 707
Plum Creek Concept Plan Proposal
for the Moosehead Lake Region

Submitted to
Maine Land Use Regulation Commission

By
RESTORE: The North Woods
Forest Ecology Network

July 27, 2007

I. Location of Proposed Land Use Zones

ISSUES OF CONCERN TO RESTORE AND FEN

- The proposed location of development, protection and/or management zones.
- The proposed location of residential, commercial, public/civic and/or resort-related uses, including on Moosehead Lake, Brassua Lake, Long Pond, Upper Wilson Pond, and Burnham Pond.
- The incompatibility of the proposed locations of zones with:
 - the management intent of the Commission's lake classifications,
 - protection of the jurisdiction's principal values,
 - the Commission's adjacency principle, and/or
 - the Commission's policy of discouraging growth which results in scattered and sprawling development patterns.
- The effects of zone locations on the remote character of the region.

The failure to locate proposed development on Plum Creek ownership in the towns of Greenville and Jackman, rather than on fragile shoreland and mountainside areas in LURC jurisdiction.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

- **12 M.R.S.A. § 685-A (8-A)**
 - A. "The proposed land use district is consistent with the ... comprehensive land use plan and the purpose, intent and provisions of this chapter..."
 - B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."

- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. “The plan conforms with the Commission’s Comprehensive Land Use Plan” (*see below*)
 - 6d. “The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure[s]”
 - 6e. “The plan ... includes in its purpose the protection of those resources in need of protection”
 - 6f. “...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources...”

- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

“...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.”

 - 1. “Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
 - 2. “Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
 - 3. “Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture”
 - 4. “Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed.”
 - 5. “Natural character: Adequate provision has been made to maintain the natural character of shoreland.
 - 6. “Lake management goals: The proposal is consistent with the management intent of the affected lake’s classification.”

- **Excerpts from the Commission’s Comprehensive Land Use Plan**
 - Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction’s principal values. (p. 114)
 - The criterion that new development should be located near existing development is referred to as “the adjacency” principle, and the Commission has generally interpreted it to mean that most rezonings for development should be no more than a mile by road from existing compatible development. (p. 122)
 - Goal pertaining to the location of development: Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine. (p. 140)
 - Policies pertaining to the location of development on a jurisdiction-wide level: (p. 140)
 - 1. Provide for a sustainable pattern of development consistent with historical patterns which directs development to suitable areas and safeguards the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
 - 2. Discourage growth which results in scattered and sprawling development patterns.
 - 3. Guide development to areas near existing towns or communities and in other areas identified as appropriate development centers.

3c. Guide the location of different types of residential development according to potential impacts, infrastructure needs and the potential for conversion to a more intensive type of residential use.

– Policies pertaining to the location of development on a community or regional level: (p. 141)

7. In communities or areas without prospective development zoning, encourage orderly growth within and proximate to existing, compatibly developed areas – i.e. existing development of similar type, use, occupancy, scale and intensity to that being proposed....

Allow well planned development in areas appropriate as new development centers where: (a) there is a demonstrated public demand for and benefit from the proposed development in that area; (b) there is a demonstrated need for locating the development not proximate to established developed areas; (c) the productivity of existing forest and agricultural resources in the jurisdiction is not unduly harmed; (d) recreational resources and uses are not unduly harmed; (e) remote, natural and plant or animal habitat values are not unreasonably degraded; and (f) needed services are available or can be provided without unreasonable financial, social or environmental costs to the public.

II. Nature of Proposed Uses and Activities within Zones

ISSUES OF CONCERN TO RESTORE AND FEN

- The proposed uses/activities within protection, management and/or development zones.
- The acreage/size of zones.
- The standards by which proposed uses/activities within zones are to be regulated.
- The effect of proposed uses/activities on the character of the region.
- Whether proposed uses/activities within zones constitute “appropriate development.”
- The proposed limits on residential dwelling units and resort accommodations.
- The rate, density and type of development.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

12 M.R.S.A § 681. Purpose and Scope

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses...

In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, to encourage the well planned and well managed multiple use of land and resources...

- **12 M.R.S.A. § 685-A (8-A)**
 - A. “The proposed land use district is consistent with the...comprehensive land use plan and the purpose, intent and provisions of this chapter...”
 - B. “The proposed land use district ... has no undue adverse impact on existing uses or resources...”
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. “The plan conforms with the Commission’s Comprehensive Land Use Plan” (*see below*)
 - 6e. “The plan...includes in its purpose the protection of those resources in need of protection”
 - 6f. “...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources...”
- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

“...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.”

1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment.
2. "Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
3. "Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations..."
4. "Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed."
5. "Natural character: Adequate provision has been made to maintain the natural character of shoreland.
6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."

• **Excerpts from the Commission's Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values. (p. 114)
- Policies pertaining to site review: (p. 141-142)
 1. Require that provision be made for fitting development harmoniously into the existing natural environment...
 2. Prevent the degradation of natural and cultural values resulting from cumulative impacts of incremental development.
 3. Encourage site designs which have a minimal impact on the principal values of the jurisdiction, including clustering or open space preservation, and discourage unnecessarily large lot sizes.
- Ensure that development is of a rate, density, and type conducive to maintaining the jurisdiction's principal values. (p. 142)
- Policies pertaining to development rate, density and type: (p. 142)
 2. Establish appropriate guidelines for development (such as density or similar standards) in areas where necessary to prevent adverse impacts on the principal values of the jurisdiction.
 4. Limit development to low-impact structures in areas where the principal values of the jurisdiction are threatened by more intensive development.
 6. Limit residential densities on the basis of soil suitability and other site limitations.

III. Demonstrated Need in the Community or Area

ISSUES OF CONCERN TO RESTORE AND FEN

- The need to rezone land for additional residential, commercial, and/or resort-related development.
- The need for economic development and growth that is consistent with protecting the natural features in the area.
- The maintenance and/or creation of quality jobs.
- The importance of not confusing market demand with demonstrated need.
- The inadequacy of market feasibility studies for the proposed resort-related development.
- Whether the proposed rezoning is or is not overly speculative.
- The viability and scope of proposed development.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - B. "The proposed land use district satisfies a demonstrated need in the community or area..."

- **Excerpts from the Commission's Comprehensive Land Use Plan**
 - The criterion of demonstrating a need in the community or area is aimed at assuring that the rezoning is truly necessary and not overly speculative. For residential projects, the Commission has historically considered the apparent demand for new housing in a community or area; for nonresidential projects, the need for the services, goods or jobs that would result from the rezoning. (p. 122)
 - The rezoning criterion requiring demonstration of need provides the Commission a powerful tool in evaluating the viability and scope of proposed development. (p 127)
 - Goal pertaining to economic development: Balance the economic benefit that Maine people derive from the natural resource-based industries of the Commission's jurisdiction, especially the maintenance and creation of quality jobs, with protecting the environmental quality and special values of this area. (p. 141)

- **Commission's Guidance Document, "Clarifying the Rezoning Criterion of 'Demonstrated Need'" (April 1, 2004)**
 - Evaluation factors for both residential and non-residential projects...
 - Additional evaluation factors for residential projects...

Additional evaluation factors for non-residential projects (...support for the natural resource based outdoor recreation industry...).

IV. Public & Community Services

ISSUES OF CONCERN TO RESTORE AND FEN

- The effects of proposed development on existing public/community services (including law and code enforcement, fire protection, rescue/health care, utilities, waste disposal, and transportation) and associated infrastructure.
- Affordable housing and resort-related employee housing.
- The fiscal benefits and costs to the public of proposed development.
- The capacity, financing and/or maintenance of public/community services and infrastructure.
- Traffic movement, safety and/or effects on transportation corridors.
- The effects on public services.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

- **12 M.R.S.A. § 685-A (8-A)**
 - A. “The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter...”
 - B. “The proposed land use district ... has no undue adverse impact on existing uses or resources...”
 - B. “The proposed land use district satisfies a demonstrated need in the community or area...”
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. “The plan conforms with the Commission’s Comprehensive Land Use Plan” (*see below*)
- **Excerpts from the Commission’s Comprehensive Land Use Plan**
 - Policies pertaining to the location of development on a jurisdiction-wide level: (p.140)
 - 3c. Guide the location of different types of residential development....
 - 4. Guide proposals for major new waste disposal and similar facilities to locations on the fringe of the jurisdiction....
 - Goal pertaining to infrastructure: Ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction’s principal values. (p. 142)
 - Policies pertaining to infrastructure: (p.142)
 - 1. Discourage the construction of major new public roads which would degrade the natural character of remote areas.
 - 2. Require that new utility lines, pipelines, and their associated facilities be (a) located within or adjacent to existing utility or public road rights of way to the extent practicable; (b) constructed and landscape so that they do not degrade natural values; and (c) located so as not to

- inappropriately encroach upon or change the character of remote areas, or produce an intensity of use that is inappropriate for a particular area.
3. Monitor the installation of new road networks in order to anticipate and plan for future growth and public access and use in appropriate areas.
- **Commission's Guidance Document, "Clarifying the Rezoning Criterion of 'Demonstrated Need'" (April 1, 2004)**
 - Additional evaluation factors for residential projects - Impacts on community services: Although new residential developments are a source of tax revenue, the cost of providing these developments with necessary public services often more than offsets these revenues, resulting in potential for a fiscal drain on community resources....In evaluating which community services a proposed project needs, the following considerations are particularly relevant:
 - Nature of utility and road infrastructure that will service the project
 - Marketing orientation (year-round vs. seasonal)
 - Likelihood of eventual conversion of seasonal to year-round development
 - Permanent provision of private services

V. Natural, Cultural, Archaeological and/or Historical Resources

ISSUES OF CONCERN TO RESTORE AND FEN

- The effects of the proposal on natural resources, special natural areas, and cultural, archaeological and historical resources.
- The effects of proposed development on water quality.
- The compatibility of proposed development with the significant and outstanding resource values of affected lakes.
- The effects of the proposal on natural resources, special natural areas, and cultural, archaeological and historical resources, including vernal pools, wetlands, and Canada lynx habitat.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

12 M.R.S.A § 681. Purpose and Scope

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to preserve ecological and natural values.

• **12 M.R.S.A. § 685-A (8-A)**

See also Section 10.08,A of the Commission's Land Use Districts and Standards

- A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
- B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."

• **Section 10.23,H (P-RP Subdistrict Criteria for Review)**

6c. "The plan conforms with the Commission's Comprehensive Land Use Plan"

6e. "The plan ... includes in its purpose the protection of those resources in need of protection"

• **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment.
2. "Water quality: The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."

• **Excerpts from the Commission's Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values... (p. 114)
- Broad Goals of the Commission: (p. 134)
 1. Support and promote the management of all resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.
 2. Conserve, protect and enhance the natural resources of the jurisdiction...for...nonintensive outdoor recreation and fisheries and wildlife habitat.
 3. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.

Goals and policies pertaining to natural resources. (pp. 135-139)

VI. Recreational Resources

ISSUES OF CONCERN TO RESTORE AND FEN

- The effects of the proposal on existing recreational uses and resources, including:
 - primitive recreational uses and resources
 - diversified, nonintensive, nonexclusive use of recreational resources
 - recreational trails
 - water access
 - remote ponds
 - public recreation lands, including state parks and reserved lands
- The effects of the proposal on existing recreation-based commercial operations, including registered Maine guides, outdoor education services, campgrounds, commercial sporting camps and other lodging facilities.
- Public access related to recreational use of lands within the plan area.
- The locations and terms of proposed Peak-to-Peak, Moosehead-to-Mahoosucs, and ITS snowmobile trail easements.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

- **12 M.R.S.A § 681. Purpose and Scope**

The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses; ... to prevent the despoliation, pollution and inappropriate use of the water in these areas ...

In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, ... to encourage the appropriate use of these lands by the residents of Maine and its visitors, in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

- **12 M.R.S.A. § 685-A (8-A)**

See also Section 10.08,A of the Commission's Land Use Districts and Standards

- A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
- B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."

- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**

6c. "The plan conforms with the Commission's Comprehensive Land Use Plan"

6e. "The plan ... includes in its purpose the protection of those resources in need of protection"

- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

3. "Traditional Uses: The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture"

4. "Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed."

- **Excerpts from the Commission's Comprehensive Land Use Plan**

- ... the Commission's approach to recreational uses focuses on supporting and protecting primitive recreational resources and opportunities. (p. 68)

- While the Commission encourages recreational diversity, it will ensure that new uses or activities do not diminish the experience for traditional recreational users. (p. 75)

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction's principal values.... (p. 114)

- Proposals for other development adjacent to sporting camps will be reviewed with particular care to ensure that values on which the camps depend for their survival are not eroded. (p. 128)

- Goal pertaining to recreational resources: Conserve and protect the natural beauty and unspoiled qualities of the waters, shorelands, mountains, plant and animal habitats, forests, scenic vistas, trails and other natural and recreational features in order to protect and enhance their values for a range of public recreational uses. (p. 138)

- Policies pertaining to recreational resources: (p. 138)

1. Protect remote, undeveloped and other significant recreational areas, including such areas around rivers and streams, trails, ponds and lakes, to protect their natural character for primitive recreational activities such as canoeing, hiking, fishing and nature study.

2. Encourage diversified, nonintensive, nonexclusive uses of recreational resources.

3. Promote a range of recreational opportunities, including (a) major, intensive recreational facilities near organized areas or in new development centers determined to be appropriate, (b) less-intensive, nonexclusive recreational facilities in other areas, and (c) opportunities for primitive recreation without intrusion from more intensive forms of recreation.

5. Encourage intensive recreational facilities to locate or expand away from areas where there is a potential for conflict with existing uses, natural resources and other values of the jurisdiction.

6. Encourage traditional outdoor recreation by working with landowners to conserve the natural resources of the jurisdiction and to enhance recreational opportunities.

- Policies pertaining to water resources: (p. 138)

2. Protect the recreational and aesthetic values associated with water resources.

4. Conserve and protect lakes, ponds and rivers and their shorelands which provide significant public recreational opportunities.
7. Encourage cooperative uses of public and private docks, water access points and boat launching sites.

VII. Scenic Resources

ISSUES OF CONCERN TO RESTORE AND FEN

- The scenic impacts of shorefront development and/or hillside development.
- The visual effects of the proposal on shoreland, landscapes, recreational resources, and/or public roads and lands.
- The effects of the proposal on resource values identified as significant or outstanding in the Wildland Lakes Assessment.
- Vegetation clearing.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
 - B. "The proposed land use district ... has no undue adverse impact on existing uses or resources..."
- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)
 - 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**
See also Section 10.08,B of the Commission's Land Use Districts and Standards

"...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes."

 1. "Natural and cultural resource values: The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter).
 5. "Natural character: Adequate provision has been made to maintain the natural character of shoreland.
 6. "Lake management goals: The proposal is consistent with the management intent of the affected lake's classification."
- **Excerpts from the Commission's Comprehensive Land Use Plan**

- Goal pertaining to scenic resources: Protect scenic character and natural values by fitting proposed land use activities harmoniously into the natural environment and by minimizing adverse aesthetic effects on existing uses, scenic beauty, and natural and cultural resources. (p. 139)
- Policies pertaining to scenic resources: (p. 139-140)
 1. Encourage concentrated patterns of growth to minimize impacts on natural values and scenic character.
 2. Regulate land uses generally in order to protect natural aesthetic values and prevent incompatibility of land uses.
 3. Protect the scenic values of coastal, shoreland, mountain, recreation, and other scenic areas.

VIII. Conservation

ISSUES OF CONCERN TO RESTORE AND FEN

- The location, amount and terms of the proposed 'balance' conservation easement.
- The Conservation Framework, including the Moosehead Legacy conservation easement and the fee acquisitions of the Roaches tract and No. 5 Bog area.
- Striking a "reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources."
- Comparable conservation measures related to waivers of adjacency.
- The conservation of areas representative of the jurisdiction's principal values and areas especially valued for their remote and relatively undeveloped condition.
- The proposed conservation easement holders' consistency with the Commission's *Guidelines for the Selection of Easement Holders*.
- The consistency of proposed conservation easements with the Commission's model easement.
- The monitoring and enforcement of conservation easements and associated costs.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

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- **12 M.R.S.A. § 685-A (8-A)**
See also Section 10.08,A of the Commission's Land Use Districts and Standards
 - A. "The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter..."
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- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**
 - 6c. "The plan conforms with the Commission's Comprehensive Land Use Plan" (*see below*)
 - 6d. "The plan, taken as a whole, is at least as protective of the natural environment as the subdistricts which it replaces. In the case of concept plans, this means that any development gained through any waiver of the adjacency criteria is matched by comparable conservation measure[s]"
 - 6e. "The plan ... includes in its purpose the protection of those resources in need of protection"
 - 6f. "...the plan strikes a reasonable and publicly beneficial balance between appropriate development and long-term conservation of lake resources..."
 - 6g. "In the case of concept plans, conservation measures apply in perpetuity, except where it is demonstrated by clear and convincing evidence that other alternative conservation measures fully provide for long-term protection or conservation."

- **Section 10.25,A (Review Standards for Structures Adjacent to Lakes)**
 - “...These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.”
 - 3. “Traditional Uses: The proposal will not have an undue adverse impact on traditional uses...”
 - 4. “Regional diversity: The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed.”
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- **Excerpts from the Commission’s Comprehensive Land Use Plan**

- Since its inception, the Commission has recognized the importance of guiding new development to appropriate locations as an effective means of protecting the jurisdiction’s principal values.... (p. 114)
- Broad Goals of the Commission: (p. 134)
 - 27. Support and promote the management of all resources, based on the principles of sound planning and multiple use, to enhance the living and working conditions of the people of Maine, to ensure the separation of incompatible uses, and to ensure the continued availability of outstanding quality water, air, forest, wildlife and other natural resource values of the jurisdiction.
 - 28. Conserve, protect and enhance the natural resources of the jurisdiction...for...nonintensive outdoor recreation and fisheries and wildlife habitat.
 - 29. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreation opportunities.
- Policy pertaining to location of development on a jurisdiction-wide level: Encourage conservation of select areas of the jurisdiction that are particularly representative of the jurisdiction’s principal values and, overall, are especially valued for their remote and relatively undeveloped condition... Work cooperatively with landowners to encourage the designation of large tracks of land with these values for limited or no development. (p. 140)

- **Commission’s Guidance Document, “Guidelines for Selection of Conservation Easement Holders” (November 10, 2004)**

Minimum legal requirements, public agencies, compatible goals and purposes, board accountability, conflict of interest, financial resources, monitoring, enforcement, back-up holder, transfers, compliance with laws.

IX. Concept Plan Mechanics/Procedures

ISSUES OF CONCERN TO RESTORE AND FEN

RESTORE and FEN are concerned about the proposed creation of a zoning scheme that includes defined land use zones and standards for a period of thirty years, without acknowledging any authority on the part of the Commission to review development in the concept plan area and make necessary revisions.

The Commission must insure that all standards and criteria in law are adhered to in adoption and implementation of a concept plan. The plan that is proposed would be an unprecedented action by the Commission, particularly the stated implication that it would be fixed and “set in stone” for thirty years. Failing to include the capacity for periodic LURC review and revision of the concept plan does not conform with the Comprehensive Land Use Plan or to the demonstrated practice of the Commission regarding Lake Concept Plans.

REGULATORY/LEGAL CRITERIA AND CLUP REFERENCES

The regulatory/legal criteria and CLUP references that relate to these issues include:

- **12 M.R.S.A. § 681. Purpose and Scope**

“The Legislature finds that it is desirable to extend principles of sound planning, zoning and subdivision control to the unorganized and deorganized townships of the State: ... to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper use or value of these areas; to prevent the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses....In addition, the Legislature declares it to be in the public interest, for the public benefit and for the good order of the people of this State, to encourage the well planned and well managed multiple use of land and resources ...”

- **12 M.R.S.A. § 685-A (8-A)**

See *also* Section 10.08,A of the Commission’s Land Use Districts and Standards

A. “The proposed land use district is consistent with the ...comprehensive land use plan and the purpose, intent and provisions of this chapter...”

- **12 M.R.S.A. § 685-A (9)**

“**Periodic review of district boundaries and land use standards.** At the end of each 5 years following initial adoption of permanent land use standards and districts, the commission shall make a comprehensive review of the classification and delineation of districts of the land use standards. The assistance of appropriate state agencies must be secured in making this review and public hearings must be held in accordance with the requirements set forth in subsection 7-A.”

- **Section 10.23,H (P-RP Subdistrict Criteria for Review)**

6c. “The plan conforms with the Commission’s Comprehensive Land Use Plan”

- **CLUP Appendix C (IV)(C) – Lake Concept Plans**

“While concept plans are voluntary, initiated and prepared by the landowner, once approved by the Commission, they are binding...”

“To adapt to changing circumstances, plans can be amended or terminated at any time subject to mutual agreement between the landowner(s) and the Commission and following public notice of the proposed Amendment.”

- **Excerpts from the Commission’s Comprehensive Land Use Plan**

- Goal pertaining to Development Rate, Density and Type: Ensure that development is of a rate, density, and type conducive to maintaining the jurisdiction’s principal values.

- Policy pertaining to rate of development: Monitor the rate of development throughout the jurisdiction to ensure it remains at a reasonable pace, particularly outside areas identified as the most appropriate for growth. (p. 142)

The lack of clarity inherent in the CLUP regarding the ability to amend concept plans is further compounded by the Commission’s own action in the development of the Rangeley Prospective Zoning Plan, passed by LURC as an amendment to the CLUP. In the Rangeley Plan section entitled The Plan, it is noted that the plan is not “cast in stone,” but will be reviewed and revised, if necessary, at five-year intervals.

- **Excerpts from The Prospective Zoning Plan for the Rangeley Lakes Region, Amendment to the Commission’s comprehensive Land Use Plan**

Plan Update

“Staff will also identify changing circumstances that could not be foreseen in the development of this plan and report annually to the Commission on development trends and how well the plan is working. The Commission will consider every five years whether an update is needed, but otherwise will make necessary changes during its periodic updates of the jurisdiction-wide Comprehensive Land Use Plan.

While the plan provides a general guide for the next twenty years, it is not cast in stone.” (p. 21)