

**TESTIMONY OF CAROLINE PRYOR
REGARDING ZP 707
PLUM CREEK PETITION FOR REZONING
MOOSEHEAD REGION**

**PRESENTED TO THE
MAINE LAND USE REGULATION COMMISSION**

August 31, 2007

INTRODUCTION

My name is Caroline Pryor. I thank the LURC Commissioners and staff for the opportunity to provide this testimony on the Plum Creek application, a proposal for extensive development that has enormous implications for the Moosehead Lake region. The implications, however, are for much more than just Moosehead. The implications are for the State of Maine and its future quality of place, which is important in its own right as well as an integral part of our economy.

By way of introduction, my educational background is in the earth sciences and in my professional work I have extensive experience working with landowners who wish to conserve lands in ways that work for them financially without compromising the land resources and its values. In addition, from 1992-1996, I had the honor of serving as a LURC Commissioner.

As a Commissioner, I, too, applied the statutory criteria, the Comprehensive Land Use Plan (CLUP) and the regulations to many rezoning and development applications. Like you, I struggled with challenging and often controversial policy, zoning and land use decisions that faced the jurisdiction. With each decision, I and the other Commission members tried to achieve the appropriate balance of competing interests but always, always with an emphasis on the public responsibility we were entrusted with – to protect the special values and resources in the unorganized territories as required by law and the Commission's own Comprehensive Plan. Although the proposals during my term were varied, often complex, and sometime controversial, none were on as massive a scale as the development now proposed by Plum Creek. Nonetheless, the criteria, standards and charge of the commission by the legislation were much the same.

I believe the testimony I offer for your consideration is relevant to this hearing in a number of ways, and I hope it will help the Commission as it weighs the application against its standards. It draws on my experience as a former Commissioner, including on the Commission which reviewed and approved the first Lake Concept Plan in the jurisdiction. Also while I was on the Commission, I served as a co-chair of the LURC Comprehensive Planning Committee that oversaw development of LURC's current (1997) plan.

In developing the CLUP, the commission traveled across the state, including to

Greenville, to hear public testimony on a vision for LURC jurisdiction. Within the Commission, we intensely debated the necessary elements of the Comprehensive Plan that would best serve the jurisdiction for the long term. We came to a place of reason and balance, which is embodied within the Plan, that must, in part, guide your decision on this proposal.

Based on my experience and as I will further elaborate, it is my conclusion that the development proposed by Plum Creek is inconsistent with the Comprehensive Land Use Plan, LURC's statutory and zoning criteria for development, and LURC's charge to provide for orderly and compatible land uses in the unorganized territories. My testimony covers these LURC documents and then suggests an alternative for the Commission and Plum Creek, the developer, to consider.

LURC's STATUTE

In enacting the land use regulation law, the Maine Legislature was clear in its charge to the commission. It stated that:

- “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....” (12 MRSA §681)

It is important to consider the historical context to this development proposal. This is not the first time that major recreational development has been proposed in the unorganized territories. In the late 1960s and early 1970s, a wave of uncontrolled, recreational development of a gross character was proposed for many unorganized areas including the Moosehead and Rangeley regions. The proposed developments at that time included thousands of unregulated lots, and many of those lots were sold. At the time, there was no LURC, no statute, no zoning and no comprehensive plan.

In response and with extraordinary foresight, the Legislature intervened and created LURC, *specifically* to control and regulate development in a manner that is compatible with the resources, uses and values of the unorganized territories, and to assure that developments do not overwhelm or fundamentally alter the character of nearby communities. Today, LURC's purpose and vision remains unchanged, and it is the responsibility of this Commission to uphold those values and vision in the face of today's development pressures. Ironically, LURC was formed to prevent a massive influx of development that now has been reincarnated in the form of the Plum Creek zoning petition. The big difference is that this time it is coming in the package of a Lake Concept Plan.

In the past few decades, Maine's North Woods have had a brief reprieve. The principles of planning and zoning have ruled the day and I hope they will continue to do so when the Commission makes its decision on this proposal.

The proposed rezoning of 400,000 acres suggests that there is something wrong or

flawed with a very large portion of LURC’s current rezoning in the Moosehead region. This is not the case. Based on the scale and location of the various components of this development proposal, I conclude that Plum Creek’s development application does not meet LURC’s enabling statute, which requires sound land use planning, zoning and subdivision regulation. Nor does it prevent inappropriate and detrimental uses from degrading the undeniable resource values of this area.

COMPREHENSIVE LAND USE PLAN

The LURC statute requires that when considering amendments to its zoning, the Commission find:

“The proposed land use district is consistent with the...comprehensive land use plan and the purpose, intent and provisions of this chapter...” (12 MRSA §685-A,8-A)

The Commission’s Comprehensive Land Use Plan itself has many references to development. For example, the overarching development goals (p. 140) include to:

- “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 and uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine.” (Goal II,A)
- “Assure that development fits harmoniously into the existing natural environment.” (Goal II,C)
- “Ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction’s principal values.” (Goal II,D)
- “Ensure that development is of a rate, density, and type conducive to maintaining the jurisdiction’s principal values.” (Goal II,E)

The development policies stated in the Commission’s CLUP (pp. 140-141) include to:

- “Discourage growth which results in scattered and sprawling development patterns.” (Policy II,A,2)
- “Prospectively identify areas appropriate for development, thereby building economic centers, reducing sprawl, and minimizing the cost of providing needed services.” (Policy II,B,2)

Based on my experience on the Commission and my understanding of what Plum Creek is proposing, the proposed rezoning and development proposal – which would allow thousands of residential accommodations within the span of a few years, including 1,000 plus subdivision lots spread out over thousands of acres in the Moosehead region -- does not meet any of these goals or policies, which are set out in the CLUP.

LURC REGULATIONS

After the Wildlands Lake Assessment was completed in 1987, LURC established a committee, which formulated an action program. In 1990, the Commission adopted amendments to its 1983 Comprehensive Land Use Plan and to the Land Use Districts and Standards to implement a lake management program. The lake concept plan tool was incorporated into these amendments, and then into the 1997 revisions of the CLUP.

The current LURC rules state that:

- The P-RP Criteria for Review (LURC Rules, P-RP Subdistrict, §10.23,H,6) spell out the legal tests a concept plan must meet, including:
- 6c. “The plan conforms with the Commission’s Comprehensive Land Use Plan”
- 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...”

Since its inception, the Lake Concept Plan was viewed as a zoning tool that would be applied sparingly, in areas where other tools to protect high value resources could not be as effective. It was also intended to be relatively small scale, to supplement, not replace more traditional zoning for large regions. It will be important for this Commission to review an earlier Commission’s decision to approve the first Lake Concept Plan, for Attean Lake, to more fully understand the context in which Lake Concept plans were envisioned.

An important point about the intended size or scope of areas considered for rezoning under a Lake Concept Plan: in the 1990s, when the tool was created, there were several large landowners in the jurisdiction that owned 250,000 to 1 million plus acreages. Lake Concept Plans, as a landowner-initiated tool, were never intended to put rezoning for these large acreages into the hands of private landowners. Rezoning, especially on that scale, is necessarily a public responsibility. The Lake Concept tool was intended for limited, more surgical applications. For example, if a landowner

owns acreage on two lakes. One lake may be appropriate for more intensive development than is allowed under zoning, and the second lake may benefit from permanent conservation measures. That is how it was applied at Attean and in the subsequent Lake Concept plans. Plum Creek's proposal is an exponential leap and misapplication of the tool for which there is no basis or precedent. It is also inappropriate for Plum Creek to, in essence, request sole discretion in approving any plan amendments.

The Lake Concept Plan is an important (though limited use) tool for the Commission to achieve the goals set forth in its comprehensive plan. However, it is also a seductive and double-edged tool that must be applied very carefully. Properly administered, it has 2 components: assessment of impacts of development; and conservation measures that mitigate or sufficiently balance that development for the long term. As the Commission quickly learned years ago with the first Lake Concept Plan, it is easy to be swayed by offers of large acreages of land to be "conserved," to overlook the impacts of the development, and to justify approval because some land will be set aside from development.

It is crucial that the Commission separate these two issues and evaluate the impacts of development on the natural resources and on adjacent areas and communities as a development proposal -- which it is. If -- and only if -- the proposed development is compatible and in keeping with the Commission's CLUP and land use standards, should the Commission then consider the adequacy of the conservation measures to approve a project for which a developer would not otherwise be entitled to receive permission under LURC standards. The conservation measures of the Lake Concept Plan are not to "compensate" for unacceptable development impacts or land uses. If the development proposal is incompatible, inappropriate or would have adverse impacts, it should not be approved. LURC's requirement for long-term conservation of high value lands is to achieve a publicly-beneficial balance of appropriate and compatible development, that due to zoning criteria and restrictions, could not otherwise be approved.

Based on my experience, when Plum Creek's development proposal is weighed against LURC standards and criteria for approval, it fails to meet numerous tests, including not being as protective as the existing zoning, including the many protection zones in place to safeguard sensitive features such as wildlife areas, wetlands, and the working forest, not to mention management zones that do not allow the kind of intensive and dispersed development that Plum Creek intends, even while it wants LURC to maintain an unchanging zoning and regulatory environment for its development during the coming three decades. Simply put, Plum Creek's proposal will have an undue adverse impact on the existing natural character and uses of the Moosehead Lake region.

Furthermore, in my judgment, the Plum Creek proposal does not meet the legal test of striking a reasonable and publicly beneficial balance between appropriate development and long-term conservation. I am very familiar with that test, not only as a former LURC Commissioner but because the bulk of my 25-year professional career has been in the field of balanced land conservation. My job has been to consider this litmus test of "public benefit" on more than 80 land conservation transactions. The

Plum Creek proposal does not pass this test. Not only will its proposal have an undue adverse impact, it will stand as an unalterable precedent (to which you will be wedding the Commission and the people of Maine) for the inappropriate development of the remaining landscapes and natural resources of LURC jurisdiction.

AN ALTERNATIVE

The LURC statute (12 MRSA §685-A(9)) requires that every five years LURC must “make a comprehensive review of the classification and delineation of districts of the land use standards.” In addition, the Comprehensive Land Use Plan calls for LURC to implement prospective zoning for four high priority areas. Only Rangeley has been done. For more than a decade, LURC has identified the Moosehead region as the #2 priority – because of its exceptional natural, recreational and cultural resources and the fact that Greenville would be a logical place for the Commission to guide new development. But the Commission has not acted.

If the above two reasons are not enough, consider how much the jurisdiction has changed in the last 10 years. Many millions of acres have changed radically in ownership. Unlike the old forestry companies, for many of the new owners, timber management is of secondary importance. Marketing a piece of Maine “wilderness” to the massive urban population to the south and west of us has become the priority, as illustrated by the time, expense and effort that has gone into creating this development proposal. Perhaps more than ever before, Maine’s forest and lakes are seen as vacation, second home and resort destinations. This development application – and others that will surely follow – proposes to irrevocably replace those traditional activities which use renewable resources and which have provided a sustainable economic engine for northern Maine. Maine’s forest and lakes are exceptional resources with a unique character that has not yet been ruined. They deserve our best stewardship. Perhaps they provide us with an intact forest landscape that provides a buffer against climate change.

In 2005, the Commission rejected a petition to adopt a limited period moratorium on large-scale developments in the Moosehead region in order to give LURC time to develop a regional plan and prospective zoning for the Moosehead area. Had the Commission approved the moratorium, it would have taken itself out of a reactive mode and provided a better roadmap for an appropriate scale of development that would have benefited both the developer and the jurisdiction.

The application by Plum Creek is the largest development proposal ever proposed in the jurisdiction and is equally huge by any organized Maine community standard. Indeed, had this proposal for a 1,000 lot subdivision and development been presented to virtually any organized city or town in Maine, the community would have taken such an action to give itself the tools to fully assess the issues and put appropriate protections in place to protect the communities’ values and resources. Many Maine communities have taken those steps in response to far less significant development proposals.

I urge you to consider a course that allows LURC to plan and zone in a more systematic and responsible way. On the straightforward basis that Plum Creek’s

proposal is not appropriate or acceptable under LURC's existing CLUP and laws, LURC should reject this proposal and then take the time to consider prospective zoning for the Moosehead Region as it committed to do. Undertaking such zoning after-the-fact of a major rezoning request simply makes no sense.

Plum Creek has alternatives as well. As a forest-products company, it can continue to earn a fair return from forestry on its lands as so many other landowners are doing – and as is consistent with the purchase price that Plum Creek paid for this land. It can continue to proceed with its so-called Conservation Framework as a private transaction, a lucrative real estate deal that will net the company many, many millions of dollars. Plum Creek can also decide whether to propose a new concept plan that is of a more appropriate scale and design for the Moosehead Region. This will happen only upon a clear message from LURC in denying this proposal.

This controversial development proposal is tearing this region and our State apart, but please make no mistake in thinking that the proposed scale and spread of development is the only viable option that works for the company. I hope the Commission will also not be swayed by the line of thinking that contrasts the Plum Creek proposal with how much scattered development might, arguably and theoretically, take place over a period of decades should the Legislature never amend the current exemption for subdivision of two lots every five years. What this point really illustrates is that LURC and the Legislature need to adjust the law so that there is not such a loophole for unplanned development. In one respect, Plum Creek has done the public and LURC a favor by pointing out the weaknesses of the current law.

CONCLUSION

During the development of the 1997 Comprehensive Plan, it was the Commission's intent and expectation that the Concept Plan would be another tool available "to encourage long-range planning based on resource characteristics and suitability as an alternative to haphazard, incremental development." (CLUP, p. C-6). It was never intended that concept plans would be used as a tool to facilitate development rezoning on hundreds of thousands of acres in one of the most important and high value resource regions in Maine. To do so would be an unfortunate and publicly harmful misuse of the Concept Plan.

You have an important decision to make, one that will foretell the future of at least 400,000 acres, perhaps millions of acres, of high value lands in the jurisdiction as development and recreational pressures increase in the northeastern United States in the decades ahead. Other owners of large tracts of forestland are poised to convert their lands to more short-term profitable, but long-term unsustainable, land uses. This proposal does not meet LURC's existing criteria for approval and as such, should be denied. I ask you to do your duty.

Thank you very much for the opportunity to present my testimony to the commission.

Career Summary A successful, twenty four-year history of initiating, planning and completing projects of all types. Facilitated the permanent protection of 64,000 acres in eastern Maine, including 28 coastal islands and spanning 82 projects. Authored proposals and assisted in securing more than \$12 million in grant funds from foundations, state and federal agencies. Prepared fundraising solicitations for major donor and grassroots development efforts. Served 10 years as chief operating officer and corporate officer for a dynamic and nationally-respected nonprofit. Hired and supervised a diverse staff of 8-15 professionals. Edited and co-authored a number of award-winning publications. Organized the first two national land trust conferences and assisted in planning many other events. Designed and helped implement new organizational programs. Delivered educational and engaging presentations to community groups, boards of directors, students and conferees.

Professional Experience

Maine Coast Heritage Trust - the largest independent land trust in Maine and one of the most successful and respected in the nation.
Senior Project Manager 1999-2002 *Vice President* 1988-1998

Land Trust Exchange - a then newly-formed, national land trust association now known as the Land Trust Alliance.
Associate Director and Program Coordinator 1982-1987

Education

McGill University, B.Sc., 1981
Marine Bio. Major, Environ. Studies Minor
A.W.Needler Scholarship in the Marine Sciences

Affiliations and Honors

Maine League of Conservation Voters, Board President
Executive & Development Committees, 2003-present
MDI Tomorrow, Co-Chair, 2001-2003
Commissioner, Land Use Regulation Commission,
Maine Department of Conservation, 1992-1996
Maine Audubon Society Environmental Award, 1996
Natural Resource Council of America, 1987 Award for Publications
Downeast Lakes Land Trust Advisory Committee (current)
Acadia Waldorf School Advisory Board
Mount Desert Solid Waste Committee
Acadia Wildlife Foundation.

Active Projects

Great Pond Mountain Conservation Trust, Orland – serving as Campaign Counsel with Gary Friedmann and Associates on a \$2.86 million capital campaign to protect 4,200 acres known as the

Great Pond Mountain Wildlands. Supporting all aspects of campaign work: major donor cultivation and solicitation, grant writing, media work, and planning and implementing the campaign's public phase.

Holbrook Island Wildlife Sanctuary Corporation, Brooksville – assisting the Corporation's board in developing and executing a strategy that will lead to better management of a state-held trust fund that benefits the Holbrook Island Wildlife Sanctuary, which is owned by the Maine Bureau of Parks and Lands.

Sheepscot Wellspring Land Alliance, Montville – project management assistance on a conservation acquisition; working with board and staff to identify and secure the financial resources to support the properties' permanent protection; organizational development assistance; board and staff training.

Island Housing Trust, Mount Desert - fundraising support and guidance on a capital campaign to raise \$1 million for their Ripples Pond workforce housing project. Also providing organizational development assistance to board and staff.

Island Astronomy Institute, Tremont – organizational development assistance to young nonprofit with regional vision for public education about astronomy and preservation of the night sky and starlight as a natural and cultural resource. Assisting with development of a financial/fundraising plan, board development, and specific fundraising opportunities to support increased staffing and program delivery.

Landowners: Facilitating long-term planning for a 1,500-acre lakefront property in Hancock County owned by a family trust. Exploring conservation options, working with public and private conservation partners, helping develop an equitable distribution plan for 8 beneficiaries, coordinating partner involvement and land use planning. Assisting the family with review of an adjacent development proposal. Working with legal and real estate advisors, and identification of conservation funding opportunities to protect the bulk of the property.

Completed Projects

The Nature Conservancy, Brunswick – strategic thinking, proposal development and meeting facilitation to assist TNC, Maine Coast Heritage Trust, US Fish and Wildlife Service and three land trusts develop a collaborative plan for increased land protection and sustainable land trust operations along the Washington County coast and rivers.

Coordinated and drafted a successful, \$45,000 grant proposal to the Maine Coast Protection Initiative. An outgrowth of last year's work with MCHT. Worked as a team with a staff member of the Land Trust Alliance.

National Fish and Wildlife Foundation, Washington, DC – Co-coordinated and presented an April 2005 grantwriting workshop as part of the Maine Atlantic Salmon Conservation Fund project. Provided technical assistance to applicants prior to proposal submission.

Forest Society of Maine, Bangor

- Coordinated the *Penobscot-Hancock Highlands Conservation Initiative* for the first year. Strategic thinking, vision development, coalition building, conservation planning, land protection and negotiation assistance, grant writing (2004-05)
- For the board, conducted staff benefits and executive director salary review. Confidentially interviewed 10 nonprofit organizations in northern New England and prepared spreadsheet and analysis (2006).

Vinalhaven Land Trust – led 8-month strategic planning initiative, including an board/staff retreat.

Quoddy Regional Land Trust, Lubec

- Planned and facilitated a successful board retreat that addressed critical fundraising and staff resources issues. Developed an Action Plan to focus board and staff work (2005).
- Planned and facilitated a long-range visioning session involved current, past and founding board members and donors. Developed a bold vision statement for the year 2030 that captures the best of the group’s thinking, subsequently approved by QRLT board (2006).

Town of Cranberry Isles – facilitated community meetings to discuss future location of town office.

Sheepscot Wellspring Land Alliance, Montville – planned and facilitated a day-long strategic planning session that resulted in this all volunteer organization’s first three-year plan.

Healthy Acadia, Bar Harbor – project development for *Healthy Food, Land and Community*. We proposed development of a MDI community farm that would supply locally-produced and affordable food for the elderly, students and low-income families. The concept is still alive but a new parcel or farmland owner must be identified. Strategic thinking, grant writing, partnership building, landowner contact.

Neighborhood House, Mount Desert – planned and led an intense, half-day board and staff strategic planning retreat, summarized outcomes and provided a plan template for a new and energized strategic planning committee.

Ellsworth-MDI Housing Authority, Bar Harbor – assisted the Housing Authority in exploring the feasibility of converting a farmhouse and barn into a center for non-profits on Mount Desert Island.

University of Maine Cooperative Extension, Orono – facilitated a series of statewide strategic planning meetings for extension educators, based on the Logic Model.

Downeast Lakes Land Trust, Grand Lake Stream - provided board training and organizational development work for a young land trust in Washington County that is protecting 350,000 forested acres and raising \$28 million.

Frenchman Bay Conservancy, Hancock – helped developed agendas, facilitated two planning retreats.

Maine Coast Heritage Trust, Topsham and Mount Desert – meeting facilitation, organizational interviews, strategic thinking, analysis and write-up to assist MCHT, The Nature Conservancy and three land trusts develop an action plan for increased land protection along the Washington County coast and rivers.

Great Auk Land Trust, Milbridge– helped plan and facilitate a first-time, strategic planning retreat for a small land trust in downeast Maine. Developed pre-retreat board and staff questionnaire, presented results at retreat, planned agenda. Post-retreat: reviewed and provided input to their draft plan.

Friends of Taunton Bay, Bar Harbor – helped develop a successful, \$20,000 grant proposal to the Maine Land and Water Council to support a year-long effort during 2005-06 to develop Maine’s first “bay management plan.” I served on the “governance” team.

Eden Children’s Chorus, Bar Harbor – designed and facilitated a 6-month strategic planning process with board and staff; helped write and compile the resulting Strategic Plan.

Bar Harbor Chamber of Commerce, Bar Harbor – helped plan agenda and facilitated planning retreat.

Private landowners

Completed site work, photos, maps, and state application for pier relicensing on an island property; evaluated a nearby property for possible family purchase. Pier was successfully relicensed.

Assisted another landowner and their attorney in developing private deed restrictions and negotiating with potential buyers in order to buffer and protect an adjoining property; prepared baseline information so deed restrictions can be monitored and enforced over time.

State of Maine
HANCOCK,
ss

Dated: _____ 8/27/07 _____

___/s/Caroline Pryor _____ personally appeared before me and, after taking the oath, swore that the above statements are true.

___/s/Karin Marchetti Ponte _____
Notary Public/Attorney