

LURC Reform Status: Issues of continued concern
1/24/12

Most Significant Concerns:

- **Commission Membership**
 - Allowing County Commissioners to appoint themselves or their designee as a LURC Commissioner politicizes the Commission, removes accountability to the Legislature and Maine people, and undercuts LURC's statewide focus.
 - No other Maine State regulatory board has members elected by local constituencies.
 - County Commissioners will be subject to inevitable conflicts between pressure to respond to local interests and their legal duty make decisions based exclusively on the law and facts in a legal record.
 - This could result in the injection of huge financial contributions into county commissioner elections.
 - County commissioners have no experience in land use planning, permitting, zoning or enforcement.
 - The time required to perform the duties of LURC Commissioners amounts to an additional part-time job, for which County commissioners do not have funding or time.
 - Limiting the pool of candidates increases the challenge of finding strong candidates able to contribute the needed time.
 - When LURC was first created there were dedicated seats for designated interests; it failed miserably and the law was soon changed.
 - All members of the board should be appointed through the normal process of nomination, legislative committee hearing, and senate confirmation.

Proposed changes Commission membership:

1. Require six of the nine LURC Commissioners to be (one each) from each of the six counties with the most land in LURC jurisdiction.
 2. Invite County Commissions to suggest potential LURC Commissioners to the Governor.
 3. No person can serve as a County Commissioner and a LURC Commissioner simultaneously.
 4. Require all candidates for LURC Commissioners to go through the normal gubernatorial nomination, legislative review, and Senate confirmation process.
 5. Require all candidates to "have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they affect the commission's jurisdiction." [Currently it is optional.]
- **County Opt-out**
 - Counties opting out could result in inconsistent standards in different parts of the jurisdiction.
 - Inconsistent standards result in unpredictability for applicants, inequities for landowners and confusion for the public.
 - County opt-out would result in additional costs to county residents for counties to create new planning, zoning, and permitting agencies.

- Organized municipalities within the 'opt-out' county could be assessed the cost of the additional planning, zoning and permitting services that the county would be providing through the general assessment which municipalities pay for county government
- Securing normal legal services for county land use activities would be an additional cost to the county; potential legal challenges could result in major costs to counties.
- County opt out is the equivalent of abolishing LURC, one county at a time.
- Large parts of the jurisdiction are essentially uninhabited, so counties opting out is not the equivalent of townspeople withdrawing their town.

Proposed changes to County opt out:

1. Delete the provision allowing counties to opt out.

Additional Concerns:

- **Transferring Permitting Responsibilities**

- Transfer of all Site Law triggered permitting to DEP for DEP to handle for the reasons stated below.
- Transfer of projects that require a rezoning at LURC would be less efficient; applicant would have to start over with permitting at DEP.
- Transfer of permitting of small projects to counties would be less efficient than LURC's streamlined procedures.
- DEP would require additional funds and staff to review projects from LURC jurisdiction.
- If large projects go to DEP and small ones to counties, LURC is left with an unacceptably small staff for permit review of only medium sized projects (and to do planning).
- If large projects go to DEP, who would review shoreland zoning and determine if the project is consistent with the character of the area? (Currently that is done by municipalities or LURC.)
- If only medium sized projects are reviewed by LURC, who would review the impacts to wetlands and waterbodies under the Natural Resources Protection Act (NRPA)? (Currently LURC reviews those for all projects in the UT.)
- Inconsistencies could result if three different agencies are reviewing projects (large, medium, small) in the same geographic area.
- Two similar projects (e.g. 30 lot subdivisions) on adjacent parcels would be reviewed by different agencies, depending on whether they are part of a concept plan or not.
- DEP has very limited experience in reviewing the impacts of development on the undeveloped character of the North Woods, the scenic values of the North Woods, existing North Woods-type recreational uses, and the businesses that rely on these North Woods resources and uses

Proposed changes to permitting:

1. Transfer wind projects located in LURC's expedited area to DEP; retain LURC review of other large projects.

- **Planning and Zoning**

- Increased LURC regional planning and zoning in conjunction with regional entities is desirable but the relationship between LURC and the regional entities is undefined.
- The consistency of regional zoning with the Comprehensive Land Use Plan is critical to achieving the statewide mission but is not addressed in the proposal.
- Uncoordinated regional planning could undermine LURC roles and consistency across UT.

Proposed changes to planning and zoning:

1. Clarify that regional planning and zoning will be done through a partnership between LURC and regional entities.
2. Clarify that regional planning and zoning must be consistent with the Comprehensive Land Use Plan.

- **Demonstrated Need**

- Eliminating the requirement that applicants must demonstrate that there is a need for their project would allow speculative developments that can incur public costs through unnecessary infrastructure improvements and private bankruptcies

Proposed changes to demonstrated need:

1. Retain the requirement that applicants show there is a need for the project.
2. Retain the requirement for community support.

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