



Natural Resources Council of Maine  
3 Wade Street • Augusta, Maine • 04330 • [www.nrcm.org](http://www.nrcm.org)

**Comments of the Natural Resources Council of Maine  
Regarding the Adjacency Principle  
Aug. 30, 2017**

Thank you for the opportunity to comment on the proposed changes to the Land Use Planning Commission's most important principle – the adjacency principle.

**The adjacency principle is the single most important tool that the LURC/LUPC has had to guide development in the jurisdiction over its 45 year history.**

Adjacency is what has kept the character and sense of place in Maine's North Woods that respondents to the Location of Development Survey most frequently mentioned – the forest, lakes, clean water, wildlife, mountains, rivers, woods, habitat, and streams (See attached "wordle.")

While LUPC has other tools, for example, the regulations requiring development to be set back from lakes or roads, or addressing erosion, soils suitability, solid waste disposal, noise and lighting – tools that are extremely important for addressing issues raised at a particular house or business development site – it is the adjacency principle that guides proposed development to the sites least likely to harm the character and sense of place that respondents to the survey mentioned.

For that reason, we urge you not to abandon the adjacency principle.

**The UT is a significant economic asset for local communities and the state as a whole.**

The forests have been the asset upon which the forest products industry has depended for generations. While the forest products industry is undergoing major changes, we assume and expect that it will continue to include businesses based on the harvest of a variety of forest products including wood, pulp, chips, and maple sap among others. Having residential subdivisions scattered among active harvesting operations and located along private logging roads is a recipe for problems.

In addition, in recent years, we are seeing the forest asset support not only the forest products industry, but, increasingly, the outdoor recreation tourism industry. Visitors come to Maine's North Woods for recreation to find the broad expanse of undeveloped forests, lakes, mountains, rivers and scenic views they cannot find in southern Maine and the rest of New England (and the world.)

Hundreds of businesses in western, northern, and eastern Maine - guides, outfitters, lodges, restaurants, and retail stores selling everything from fishing gear, gas and food, to original art, local crafts, and souvenirs – are part of this growing outdoor recreation economy. This year, CNN recommended northern Maine number 5 on their list of 17 places in the WORLD to visit in 2017. Already parts of the region are seeing a measurable increase in the

numbers of visitors. New businesses are opening and existing businesses are expanding and investing. People come to the UT because it isn't just like other places. If the asset – the forests, lakes and rivers - is degraded through scattered development, those visitors won't come and those businesses will suffer.

**The survey found that the significant majority of all demographic groups do not want to see additional commercial or residential development in the region.**

It is not just visitors who want to see the UT remain largely as it is. The survey indicated that 57% of those who live or work in the region and 72% of those who own or manage property (but do not live or work there) do not want to see more residential development. A similar and even stronger opposition was expressed regarding commercial development: 65% of those who live or work in the region and 83% of those who own or manage property in the region (but do not live or work there) do not want to see more commercial development.

Therefore, the LUPC should think very carefully about how best to guide any new development to appropriate places.

**To avoid harm to existing communities, development should be guided into the existing service centers and adjacent towns with town centers.**

Locating development in existing service centers, like Bethel, Rangeley, Greenville, or Millinocket will minimize the costs of that development for public services such as school bus routes, ambulances or other emergency aid, fire protection, solid waste removal, snow removal, etc. These are costs that are born by everyone in the community. Minimizing these costs helps everyone, not just those who eventually own the new houses or businesses.

But communities are far more than places for providing public services. They are also the location of civic institutions like hospitals, schools, libraries, churches and fraternal organizations that are the heart and soul of a community. These organizations cannot survive without enough people living close enough to participate, attend, and support these entities.

One characteristic that is common in all of the communities in or adjacent to the UT is that they have lost population in recent decades. Virtually all neighboring communities have places that formerly housed commercial or industrial facilities but are now vacant. The best thing that LUPC could do for these communities would be to guide future growth, both commercial and residential, into the existing communities so there would be enough businesses to provide jobs, enough children to keep the schools open, enough patients to keep the hospitals open, enough readers to keep the libraries open, and volunteers and participants in all the many civic and volunteer organizations found in thriving communities.

Abandoning the adjacency principle and allowing scattered residential and commercial development will harm those communities that are already struggling. As Commissioner Bill Gilmore said at the Aug. 9, 2017 LUPC meeting, "I wouldn't want to see you [LUPC staff] spend a lot of time trying to create what we perceive as being a good justification in developing guidelines for more growth in and around the UT and take away from those existing small towns." The LUPC's focus should be on guiding development into adjacent small towns, not away from them.

**The elimination of the adjacency principle would undercut and bypass locally driven Community Guided Planning and Zoning efforts.**

To our knowledge, none of the three CGPZ processes have suggested eliminating the adjacency principle or have called for allowing scattered low or moderate density subdivisions. Rather, these processes have focused on providing reasonable opportunities for additional commercial development in areas where public services are available. They have proposed reasonable changes to existing zoning that are tailored to their regions. We do not believe that these locally driven efforts should be undercut and pushed aside.

**Regarding the particular principles proposed in the memo:**

- a) We agree with the principle that some uses related to natural resource processing and extraction, or recreation, may need to be near forest, farm or recreational resources simply by the nature of their business. However, any variance from the current requirements should be based strictly on need and not on mere convenience or desire.
- b) We strongly agree that most uses, particularly residential subdivisions but also those industrial and commercial uses that don't need to be near the forests, farms or recreational resources, should be near services and infrastructure for the reasons mentioned earlier.
- c) We believe that small-scale home-based businesses can be located in a variety of settings, so long as they remain small-scale and do not cause adverse impacts on neighboring uses or activities, or the character of the jurisdiction.
- d) We do not support abandoning the adjacency principle and adopting rules that guide low or moderate density subdivisions to places distant from existing communities and service centers. Subdivisions are never "dependent" on natural resources such as lakes; some may argue that it is "desirable" to locate them on lakes, but "wanting" something is not the same as "needing" it.

LUPC's legal responsibility is to protect the jurisdiction for its economic, recreational, scenic, and wildlife resources, and to prevent harm from development sprawl and the intermixing of incompatible uses. The desires of private developers should not override LUPC's responsibility to ensure sound planning and zoning and to protect the natural resources of the region, including its undeveloped character.

**There are other alternatives to amend the existing system without abandoning the adjacency principle.**

We agree with Commission chair Everett Worchester's comment at the meeting on Aug. 9, 2017 LUPC meeting that it is inappropriate to totally abandon the adjacency principle. There are other alternatives to address the perceived needs.

LUPC's long-standing Lake Management Program divided lakes in the UT into seven categories. Three of those categories, Classes 3, 4 and 5, were designated as suitable or potentially suitable for additional residential development, including residential subdivisions, without having to comply with the adjacency principle. Shore frontage on these lakes where

adjacency is currently not required constitutes more than 20% of the lake shore frontage in the UT. We have seen no data that suggests that this amount of shore frontage is insufficient to accommodate any reasonable amount of additional residential development. There are many existing shorefront lots that could be developed under the current rules.

If, after further research and analysis of the existing development opportunities without any changes to the adjacency principle, and after considering the development opportunities in adjacent townships, LUPC determines that more development opportunities are needed, one option may be to revisit the class seven lakes which were essentially the catch-all category for lakes for which there was insufficient information at the time the Lake Management Program was adopted to put them into one of the other six classes. No changes to the adjacency principle would be needed to undertake this review or potential reclassification.

In addition, there are other tools that allow significant amounts of development without complying with the adjacency principle. These include Level 2 subdivision townships, lake concept plans, recreation facility zones, and the Lakes Management Program. No credible case has been made for any need to abolish the adjacency principle.

**The Legislature determined that “low-density” or “large-lot” subdivisions were inconsistent with LUPC’s purposes and eliminated them through changes in the law.**

The proposal in principle d. that would allow “low-density” residential subdivisions is inconsistent with the intent of the laws adopted by the Legislature in the 1990s and early 2000s, and should be rejected. After multiple attempts to limit “low-density” or “large-lot” subdivisions, the Legislature determined that they should be eliminated altogether in the jurisdiction because they take productive forest land out of production, increase costs for public services, and close off areas long used for hunting and fishing. After adopting several different changes in the law over multiple years in an effort to resolve these problems, the Legislature eventually concluded that the only solution was to eliminate future opportunities for these large-lot, low-density residential subdivisions. Any effort to reauthorize low-density subdivisions would inevitably lead to the same problems that led to those changes in the 1990s.

**The “impacts based” approach and the “overlay” approaches would be extremely complicated to develop, and even more complicated for applicants to comply with and for LUPC staff to enforce.**

The proposal to replace adjacency with an “impacts based approach” is, to our knowledge, a risky and untried approach on the scale that is being proposed. To the extent that the recreational lodging rulemaking is a version of the “impacts based approach,” we believe it would be appropriate to allow that process to function for a few more years and then do an analysis of the strengths and weaknesses of the process before extending it to other uses and areas of the UT.

## **Summary**

We urge you not to throw the baby out with the bathwater. While there may be ways to refine the adjacency principle to accommodate commercial uses not previously anticipated, like kayak or bicycle rental businesses or solar farms, we believe there will be adverse,

unintended consequences of abandoning a system that has worked reasonably well in favor of an untried replacement. We encourage the LUPC to focus on ways to improve the adjacency system where there are issues, rather than abandoning it. The specific recommendations at the end of the memo are a more appropriate way to proceed.

Thank you for the opportunity to comment.

Respectfully submitted,

A handwritten signature in cursive script that reads "Cathy".

Catherine B. Johnson, Esq.  
Forests and Wildlife Project Director

to show how frequently they were used. This is the "Wordle" for the question about the most important natural resources.

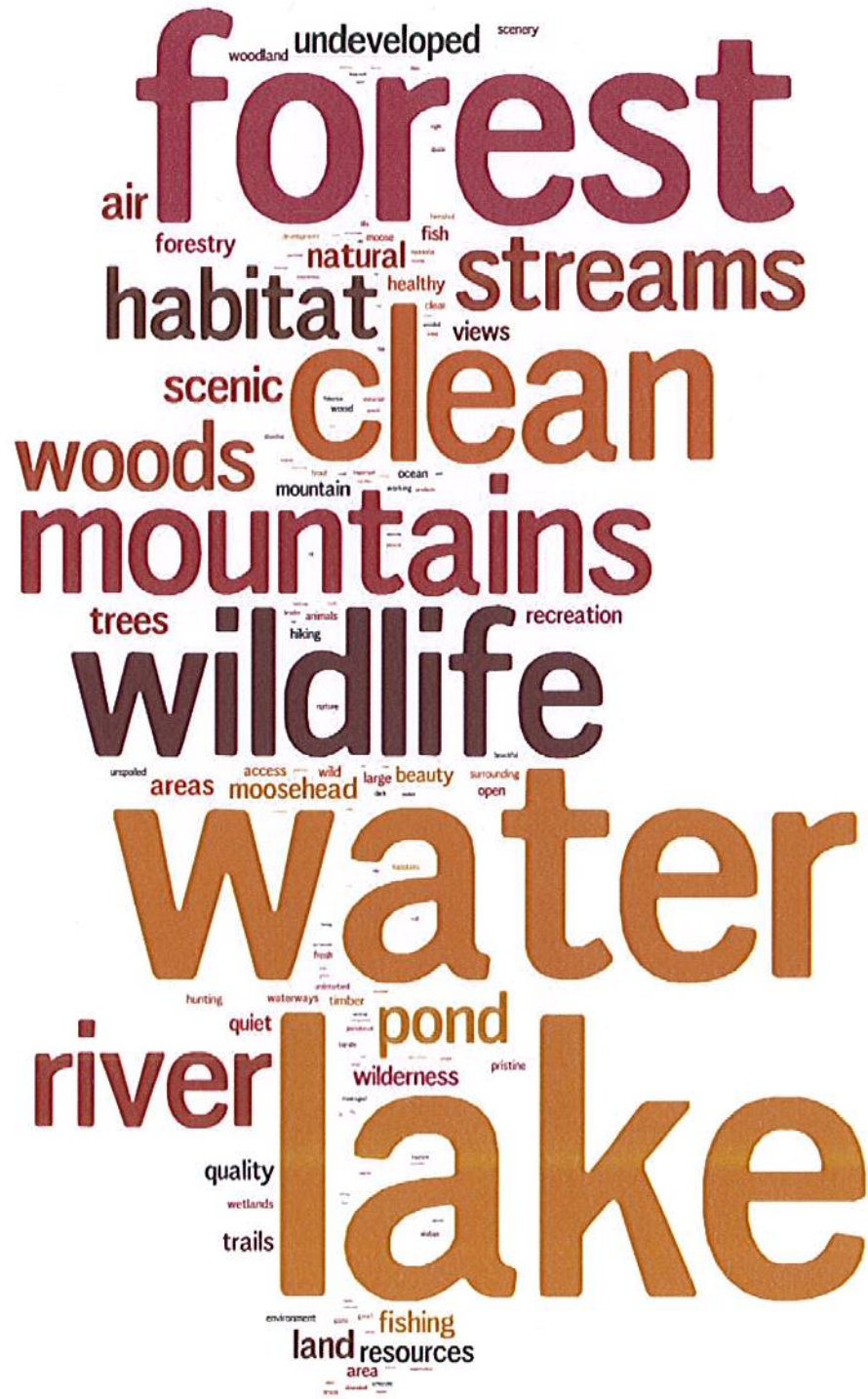


Figure 13: Natural Resources Wordle