



# Natural Resources Council of Maine

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## **Comments of the Natural Resources Council of Maine Regarding the Adjacency Principle April 11, 2018**

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.**

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 define Maine's North Woods. The adjacency principle protects Maine's forests, lakes, rivers, clean water, wildlife, and habitat.

For that reason, we urge you not to abandon the adjacency principle's one-mile rule.

**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, like low-density 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.) 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.

**LUPC's 2016-2017 Location of Development Survey 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 Natural Resources Council of Maine has significant concerns about the proposal to abandon the "one-mile-by-road" adjacency requirement that has served the jurisdiction well for over 40 years.**

The proposals currently before the Commission include a variety of changes, at least one of which has been proven to be harmful to the jurisdiction in the past and some of which simply lack enough information to evaluate the likely impact of the proposed change.

**NRCM supports Community Guided Planning and Zoning which has supplemented the "one-mile-by-road" requirement and that has resulted in regionally appropriate plans for two areas of the jurisdiction in recent years.**

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.

These successful community guided planning and zoning processes appear to have addressed issues relating to the location of development in these regions. In both cases, locations for small rural based businesses were the primary issue identified and resolved. In neither case were large areas for residential subdivisions (as suggested by the primary and secondary areas in this proposal) identified as needs.

Abandoning these proven successful processes and tools for very complicated new policies for which there is insufficient information to evaluate their likely effectiveness and that have never been tried at this scale for the entire 10.4 million acres is unnecessary and risks substantial (and irreversible) adverse impacts on the jurisdiction.

### **Turning to the specific proposals:**

**We support the goal of directing development into or near service centers. However, we have significant concerns about the proposed “primary” and “secondary” development areas.**

- Nothing in the proposal actually directs or encourages development in service centers, so those towns will end up having to provide fire, police, emergency and other public services without receiving the property taxes associated with that development that could help pay for these services;
- Allowing development 10 miles from service centers is a recipe for strip development. If there are two service centers within 20 miles, the entire road could get developed. In addition, depending on the location within the service center town of the actual retail/town center, that distance could easily stretch to 20 – 30 miles of sprawling development outside the town or village centers—raising the cost of providing public services, changing the character of the community, fragmenting wildlife habitat and travel corridors, and degrading the character of trails (such as snowmobile trails or the Appalachian Trail) that cross the roads in undeveloped areas and which may be important for the economic health of the nearby community. Specific examples of areas where the map suggests that this could be a major problem include Rt. 11 between Medway and Patten, and Rt. 201 between Bingham and Jackman;
- We question whether “retail hubs” (that do not qualify as “service centers”) should be the focus for “primary and secondary” development areas and therefore be saddled with the responsibility of providing additional public services to developments that could be many miles away;
- Changing the law to allow low-density subdivisions (also called large-lot subdivisions) in areas between 2 and 5 miles from service centers would be a dramatic about face in law. Until the late 1980s, low-density/large-lot subdivisions were permitted

without limitation in the jurisdiction. The result was thousands of acres of forestland divided up into large residential lots that led to their no longer being available for forestry; wildlife habitat being broken up and degraded by scattered development; and recreational opportunities including hunting, fishing, hiking and other activities on undeveloped lands being limited. Between 1989 and 2001, the Legislature passed multiple bills to limit this type of wasteful development. The bills adopted included increasingly strong provisions to limit this type of development without eliminating the opportunity altogether. However, after multiple attempts, the Legislature and the Land Use Regulation Commission ultimately concluded that the only way to solve this significant problem was to completely eliminate this type of large-lot/low-density subdivision development. The Legislature in effect concluded that this type of development is inconsistent with the statutory goals for the jurisdiction. It was found to be inconsistent then and remains inconsistent today. Adopting this proposal to again allow harmful low-density/large-lot subdivisions would be a giant step backwards for Maine's North Woods.

**We also have significant concerns for development outside the primary and secondary development areas (the white areas) for "resource dependent" development:**

- The proposal to allow moderate density subdivisions in the white areas if they are "resource dependent" completely alters the concept of "resource dependency." Businesses involved in harvesting timber or other resources, or recreational based businesses such as sporting camps located in areas where their clients hunt, fish, hike or participate in other outdoor activities are "resource dependent." Houses, on the other hand, can be built anywhere and are not resource dependent. Subdivision developers may want to build on the shores of lakes and rivers, but no residential development has to be built there – it is simply a matter of desire, not dependency.
- The proposal to allow residential subdivisions in the white areas is also of great concern because we have no idea what areas this would open up for development. We urge the Commission not to go forward with this proposal until it has good information about which areas that are not currently open for residential subdivisions would become available for subdivisions under this new proposal. This proposal would apply to class 7 lakes that meet several criteria. Class 7 is the lakes category that includes the largest number of lakes of all of LUPC's classifications. According to the map, class 7 lakes are located throughout the jurisdiction, including in very remote areas, and include huge lakes like Moosehead and the Richardson Lakes as well as very small lakes.

**Our recommendations at this point, given what we do and do not know about the potential impacts of these proposed changes are:**

1. Complete a land use inventory of the jurisdiction so that LUPC knows the location of existing structures in the jurisdiction. This would enable the Commission 1) to evaluate how the roughly 1.7 million acres of proposed primary and secondary development zones compares with the amount of land available for subdivision

development under the current-one-mile-by-road policy and 2) would identify which class 7 lakes would meet the proposed criteria allowing subdivision development in the "white areas."

2. Having completed the land use and structure inventory, consider alternative formulations of the "primary development area" concept.
3. Continue to explore ways to direct development into service center towns so that those communities will reap the property tax benefits to off-set the additional public service costs of new development.
4. Begin a Community Guided Planning and Zoning process in the Katahdin region (or begin participating in ongoing land use and visioning discussions that are taking place in the Katahdin region), focusing particularly on UT areas along the Katahdin Woods and Water Scenic Byway.
5. Eliminate those areas that have undergone CGPZ from any proposed changes in the definition of adjacency.
6. Abandon any efforts to re-authorize the opportunity to establish low-density/large-lot residential subdivisions.
7. Retain the existing "one-mile-by-road" adjacency principle that has functioned well for over 40 years until better information is available about the likely impact of proposed changes.

We recognize that conducting a land use inventory of structures in the jurisdiction may be a costly undertaking, but as the agency approaches 50 years old and is considering dramatic changes to policies that have been in place for decades, we believe it is imperative that the agency have the best information available on which to base its decisions. NRCM would be happy to work with LUPC to identify funding sources for such an inventory.

Thank you for your consideration of these comments.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cathy".

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Forests and Wildlife Project Director