



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

Memorandum

To: LUPC Commissioners

From: Hugh Coxe, Chief Planner
Ben Godsoe, Senior Planner

Date: December 3, 2015

Re: Recommendations from the Aroostook Community Guided Planning and Zoning and Proposed Rural Business Subdistrict (D-RB) Rulemaking

I. Introduction

On November 12, 2015, the Northern Maine Development Commission (NMDC) Executive Board unanimously approved the recommendations and supporting material developed by the Aroostook County Community Guided Planning and Zoning (CGPZ) Steering Committee (Steering Committee) for the CGPZ process. NMDC has submitted these materials for the Commission's consideration and has requested that the Commission act upon the recommendations. The submissions from NMDC include:

- November 25, 2015 transmittal letter
- Proposed rule revisions to create a Rural Business Development Subdistrict (D-RB)
- Lessons Learned document
- Process record consisting of various materials such as meeting agendas, minutes, presentations, memos and maps.

II. What the Commission is being asked to do

Consistent with the language in the Process Document (the document setting out the basic requirements and guidelines for the Aroostook CGPZ process) NMDC has requested that the Commission "act upon the recommendation" approved by the NMDC Executive Board. The Commission is being asked to:

- a. Begin the rulemaking process to implement the proposed D-RB Subdistrict; and
- b. Consider and, if it so chooses, comment on the Lessons Learned document.

The process record provides a basis for the rulemaking and thus may be valuable to review¹ but the Commission is not being asked to take any action with regards to the process record.

III. How we got here

- **October 2013** the Aroostook County Steering Committee began meeting to develop ideas and proposals.
- **January – April 2015** the committee developed and refined concepts for a new subdistrict that would support rural business development and expansion in appropriate locations in Aroostook County.
- **April 2015** the Committee held a series of public meetings to present the concepts and to gather feedback and further ideas.
- **May – July 2015** the Committee continued to refine standards and produce maps to make decisions about the locational criteria for the new subdistrict.
- **July 2015** the Committee held another public meeting to present the proposed subdistrict.
- **August 2015** the committee reached consensus on the provisions for the proposed subdistrict and directed staff to draft rule language to implement the proposal.
- **September 2015** the committee reviewed and approved the proposed rule language and sent it to the NMDC Executive Board with the recommendation that it forward the proposal and supporting material to the LUPC for implementation.
- On **November 12, 2015** the Executive Board unanimously approved the recommendations.

IV. NMDC's Recommendation

Creation of a new Rural Business Development Subdistrict (D-RB)

The proposed D-RB Subdistrict is designed to encourage a range of small commercial, light manufacturing, and support services in rural parts of Aroostook County near major transportation routes and organized towns that provide some level of services.

Definitions

Rural business is defined as “a commercial, institutional, or light industrial business” that is either:

- 1) compatible with, and complementary to, natural resource-based land uses such as agriculture, forestry, small-scale natural resource processing and manufacturing, and outdoor recreation; or
- 2) of a scale and intensity appropriate to rural areas that are lightly developed but proximate to services and transportation infrastructure.

Rural business facilities fall into one of three categories, depending on their activities and potential impacts associated with the business.

- **Category 1** would include businesses that are natural resource-based, and may need to locate more remotely in order to be close to the resource.

¹ The process record is available for review on the LUPC's FTP site at <http://www.maine.gov/dacf/lupc/review/> (User Name: **doc**; Password: **mejuri1**; Filename: **AroostookCGPZ_ProcessRecord_Dec2015**)

- **Category 2** would include small-scale retail, office, and similar businesses.
- **Category 3** would include larger construction, light manufacturing, and similar types of businesses.

Each category would have different limits on how big a business can get and where it may be located based on size and the impacts expected from the operations of the business.

Eligible locations for the D-RB

The new subdistrict would be available in 29 towns, townships, and plantations (minor civil divisions or “MCDs”) in Aroostook County identified by the steering committee as appropriate locations to encourage rural business development. Nine of the MCDs are relatively distant from organized towns that provide services and may only accommodate Category 1 businesses. The other 20 MCDs are closer to services and are eligible for Category 1, 2 & 3 businesses.

Within each candidate MCD, the new subdistrict must be fully located within one mile of a public road. The location of a rural business within the D-RB is based on the category business to be located as follows:

- **Category 1** - within 1 mile of a public road;
- **Category 2** - within ¼ mile of a public road; and
- **Category 3** - within ½ mile of a public road.

The proposal includes some flexibility to the subdistrict boundary to allow better siting, or to locate boundaries along property lines, as long as the adjustment does not increase the distance from the public road by more than 5 percent.

Proposed Use Listings in the D-RB

Most use listings included in the proposal match those in the General Management Subdistrict (M-GN) and the Great Pond Protection Subdistrict (P-GP)². The proposed new uses are included under the “Commercial and industrial” use listing (Section 10.21,M,3,c,(2)); and would be available based on a performance-based model (described in detail in Section 10.27,R). These uses provide additional flexibility to property owners and could more readily encompass new, unforeseen uses.

The proposal would permit Category 3 businesses by special exception to ensure this larger or more intensive development can be buffered from other uses, that there is sufficient infrastructure to accommodate additional traffic and activity generated by the facility, and that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected.

Rural Business Performance Standards

The three categories of rural business types serve to approximate the level of impact expected from a rural business due to its size and intensity of activity. The category designation

² Uses taken from the P-GP subdistrict include those associated with water such as water crossings, shoreland alterations, docks, etc.

determines which locations within the areas eligible for the D-RB subdistrict a particular rural business may be located.³

Facilities are categorized based on whether they meet performance criteria associated with certain types of impacts that, when considered together, approximate the overall level of impact from a proposed facility. The performance criteria evaluate the type of facility, the size, and how the facility operates.

Size:

- Category 1 - up to 4,000 square feet gross floor area; and 3 acre site area;
- Category 2 - up to 2,500 square feet gross floor area; and
- Category 3 - up to 20,000 square feet gross floor area.

Operations:

- “*Exterior Effects*” would include limits to the type and amount of outdoor activity and use of a site.
- “*Traffic*” would be based on reasonable expectations for the type of business and on traffic levels common to the surrounding setting and uses.
- “*Hours of operation*” could be limited for certain facilities in order to minimize impacts to adjacent residents or uses.
- “*Vehicles & Equipment*” would include limits to the amount of large equipment that could be regularly used/ stored on site.

Existing Businesses and Buildings

The proposal would also incentivize existing rural businesses to grow in place up to a limit, and for new rural businesses to utilize existing structures. The proposal includes provisions that would allow existing Category 1 & 2 Rural Businesses that meet the applicable requirements to expand in place when site conditions allow. New Rural Businesses would be able to utilize existing buildings of any size so long as they can demonstrate that the proposed development would meet all other requirements.

V. Guiding Criteria for CGPZ

The Process Document sets out guiding criteria for the Aroostook CGPZ process that includes the following five principles:

- The process must be locally desired and driven;
- The process must allow for broad participation by all with an interest in the region;
- The resulting zoning must address property owner equity through consideration of the distribution of development subdistricts, both geographically and across large land holdings, within a single ownership;

³ For instance, a Category 1 Rural Business could be located within 1 mile of a public road in any of the 29 MCDs while a Category 2 Rural Business could be located only within ¼ mile of a public road in only 20 of the MCDs.

- Taken together, all community-guided planning and zoning efforts must balance regional uniqueness with jurisdiction-wide consistency in regulatory structure and predictability for property owners; and
- Any plan and zoning proposed must be consistent with the LUPC’s statutory purpose and scope and rezoning criteria.

The Aroostook process, and the resulting products, consistently adhered to these guiding principles as is reflected in the following:

- NMDC’s initial submission of a letter of interest, the steering committee involvement, the public meetings, County involvement, and stakeholder involvement provide substantial evidence that the process was both locally-driven and locally-desired throughout and that there was opportunity for broad participation by all with an interest;
- The resulting proposal for a new D-RB subdistrict that may be established in eligible locations allows for an appropriate distribution of development subdistricts, both geographically and across large land holdings, that addresses property owner equity;
- The proposed subdistrict considers the existing development patterns, services, road infrastructure, population concentrations and other features of the region and incorporates a regulatory approach designed to account for regional uniqueness. The proposed subdistrict differs somewhat from typical subdistricts in the LUPC rules but is consistent with other recent regulatory changes that incorporate performance-based standards and may serve as a model for other regional or jurisdiction-wide planning and zoning efforts; and
- NMDC staff, LUPC staff, and the Steering Committee, consistently looked to the LUPC’s statutory purpose and scope and rezoning criteria to ensure that the resulting proposal is consistent because it proactively directs development of rural business to areas within the region that are most appropriate for additional growth based on existing development patterns, natural resources, constraints, and future planning considerations.

VI. Lessons Learned

NMDC’s submissions for consideration by the Commission include a “Lessons Learned” document, authored by the Aroostook County CGPZ Steering Committee and NMDC. This document recounts milestones over the course of the project and reflects on potential lessons for subsequent efforts. It also identifies two phases of the project - data collection and product development - and describes some of the key Committee discussions on topics such as locational considerations, subdivision, and potential cumulative impacts. Recommendations outlined by the committee and NMDC in the document include:

- Narrow the geography early in the planning process
- Focus topic area and data gathering to one to three topics
- Ensure that appropriate sectors are represented and provide input during the process
- LUPC staff (local and Augusta) remain active in the process

The Steering Committee recommends that some form of process continue into the future and has suggested several topics for further consideration.

VII. Staff Recommendation

Attached to this memo is staff's redline draft of the proposed rule revisions to create a Rural Business Development Subdistrict (D-RB). This document shows all language proposed to be added to Chapter 10 in red underlined text. It also includes some minor variations from the NMDC submission in order to meet the Commission rulemaking procedures.

Staff recommends that the Commission direct staff to initiate rulemaking and post this proposal to create the Rural Business Subdistrict to a 30 day public comment period followed by a 21 day rebuttal period.

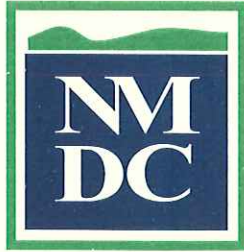
Creation of this new subdistrict involved extensive work by NMDC and a steering committee made up of regional stakeholders. Allowing for a longer rebuttal period would ensure they have an opportunity to fully participate and address any comments that come in during the public comment period.

VIII. Next Steps

Staff anticipates the comment period and subsequent rebuttal period to start in late December and run through February. The proposal would likely come back for consideration of adoption at the March 9th Commission Meeting.

Attachments:

- November 25, 2015 transmittal letter
- Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict (NMDC submission)
- Lessons Learned document
- Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict (LUPC redline draft for posting)



**Northern
Maine
Development
Commission**

November 25, 2015

Everett Worcester
Chair
Land Use Planning Commission
22 State House Station
Augusta, ME 04333-0022

Dear Mr. Worcester:

Northern Maine Development Commission (NMDC) is pleased to submit the Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict (D-RB) to the Land Use Planning Commission. Also submitted is the Lesson's Learned document, staff memos, agendas, presentations, and maps. This product is the result of nearly three years of work by the Aroostook Community Guided Planning and Zoning Steering Committee. The D-RB is designed to:

- Encourage an appropriate range of small business development in rural areas.
- Concentrate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors as identified by the people of the region.
- Maintain rural character of region and avoid visual and fiscal impacts of unplanned growth.

NMDC staff made a formal presentation during the November 12, 2015 Executive Board meeting. At that time, the Board unanimously approved the documents as presented. The Executive Board requests that the Land Use Planning Commission act upon the recommendation approved by the Board. I will send a copy of the final meeting minutes of that meeting once approved by the Board at their January, 2016 meeting.

We believe that the new Development subdistrict will allow for increased economic competitiveness, make land use regulations easier and more predictable, and protect the valuable natural and scenic resources that this region enjoys. If you have any questions, please do not hesitate to contact me.

Sincerely

Robert P. Clark,
Executive Director



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www.nmdc.org

11 West Presque Isle Rd., PO Box 779, Caribou, ME 04736
Voice: (207) 498-8736, Toll Free in ME: 1-800-427-8736, Fax: (207) 493-3108, TTY: (207) 498-6377

Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict

The following revisions propose amendments to Chapter 10, Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission. This document only includes relevant sections of Chapter 10.

10.02 DEFINITIONS

The following definitions apply to the following terms as they appear in this chapter, the other chapters of the Commission's rules, and the Commission's statute (12 M.R.S.A. §206-A):

...

- #. **Rural Business:** A building, group of buildings, or site, or any part thereof, used, maintained, or advertised as a commercial, institutional, or light industrial business. Rural business facilities may be operated as a for-profit, non-profit, or public entity. Rural business facilities are either 1) compatible with, and complementary to, natural resource-based land uses such as agriculture, forestry, small-scale natural resource processing and manufacturing, and outdoor recreation, or 2) of a scale and intensity appropriate to rural areas that are lightly developed but proximate to services and transportation infrastructure. For the purposes of Land Use Planning Commission rules, rural businesses are divided into three categories:

Category 1 Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood and agricultural product; or are related to or in support of agriculture, forestry, certain natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to saw mills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non-motorized recreational centers. Category 1 businesses are specifically designated by Section 10.27,R,1,a.

Category 2 Retail, restaurants, offices, and similar small businesses that are moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by Section 10.27,R,1,b.

Category 3 Manufacturing, construction, service, and similar businesses that are larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses. The term includes, but is not limited to, saw mills, value added food production, equipment maintenance and repair facilities, recreational equipment rental and storage, motorized and non-motorized recreational centers, assembly plants, and automobile service and repair. Category 3 may also include Category 1 and Category 2 type businesses, as long as it meets all other criteria for Category 3. Category 3 businesses are specifically designated by Section 10.27,R,1,c.

[NOTE: Renumber all definitions from this point forward.]

10.21 DEVELOPMENT SUBDISTRICTS

Pursuant to the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

...

I. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)

(Applies only to certain locations within Aroostook County)

1. Purpose

The purpose of the D-RB is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The locations for development are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth.

Where a D-RB subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

2. Description

- a.** The D-RB subdistrict shall include areas to accommodate a range of small commercial, light manufacturing, and institutional facilities and businesses that are generally compatible with, and complementary to, natural resource-based land uses but may create some adverse impacts to residential uses, recreation uses, or resource protection. Businesses are typically larger than a permissible home-based business, but are not large-scale commercial or industrial developments, and may generate some level of nuisance-type impacts (e.g., noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference) that extend beyond the property lines of the business.

The D-RB subdistrict encourages the commercial expansion of new and existing facilities in locations that are suitable for growth because of proximity to existing development, infrastructure, services, and major transportation corridors. The D-RB subdistrict is not designed to facilitate strip development along highways.

The designated D-RB subdistrict boundaries shall include all buildings, paved or other compacted surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the above described uses and buildings, as well as other intervening areas between such buildings, paved or other compacted surfaces, and areas.

The D-RB subdistrict shall include areas that contain small commercial, light manufacturing, and institutional facilities and businesses that meet the purpose and other provisions of the subdistrict. The D-RB subdistrict shall also include areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are

suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ¼ mile of Management Class 1 lakes or within ½ mile of Management Class 6 lakes shall not be included within the D-RB Subdistrict.

The D-RB subdistrict distinguishes between three types of rural businesses with differing impact categories, as provided in Section 10.27,R,1.

b. Eligible Locations

(1) The following townships, plantations, and towns are eligible for the D-RB subdistrict:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Forkstown Twp., Garfield Plt., Glenwood Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., North Yarmouth Academy Grant Twp., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, T15 R6 WELS, T17 R4 WELS, Upper Molunkus Twp., and Winterville Plt.

For purposes of this section, “Category 2 & 3 towns, plantations and townships” are:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.

Except as provided in Section 10.21,I,2,b,(2), the D-RB subdistrict must be fully located within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns.

(2) Modification of Locational Criteria. The depth of this subdistrict may be extended further from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road by more than five percent.

3. Land Uses

a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (5) Motorized vehicular traffic on roads and trails, and snowmobiling;

- (6) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (7) Surveying and other resource analysis;
- (8) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (9) Wildlife and fishery management practices.

b. Uses Allowed Without a Permit Subject to Standards

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to any legally existing principal structures and uses, provided that the total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities, including cranberry cultivation, the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water, and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Commercial and public hand-carry launches;
- (10) Home occupations: Minor home occupations;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (12) Mineral extraction operations, less than 5 acres in size, except for gravel extraction less than 5 acres in size;
- (13) Road projects: Level A and B road projects;
- (14) Service drops;
- (15) Signs;
- (16) Trailered ramps: Public trailered ramps;
- (17) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (18) Water crossings of minor flowing waters.

c. Uses Requiring a Permit

The following uses may be allowed within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.21,C,3,g, h and i below:

- (1) Campsites, Residential;
- (2) Commercial and industrial:
 - (a) Rural Business in conformance with the requirements of Section 10.27,R:
 - i. Category 1; and
 - ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns.
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (4) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27,H;
- (6) Family burying grounds of not more than ¼ acre, in accordance with 13 M.R.S.A. §1142;
- (7) Filling and grading which is not in conformance with the standards of Section 10.27,F;
- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23,E,3,b which are not in conformance with the standards of Section 10.27,L; Home occupations: Major home occupations, except in the townships or plantations listed in Section 10.21,I,3,d;
- (9) Maple sugar processing operations;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27,C; and Level B mineral exploration activities;
- (11) Mineral extraction operations, except for gravel extraction less than 5 acres in size,
 - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27,C;
 - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
 - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (12) Peat extraction affecting an area less than 30 acres in size;
- (13) Portable mineral processing equipment;
- (14) Recreational lodging facilities:
 - (a) Level A;
 - (b) Level B;
 - (c) Level C;
 - (d) Level D (inside the geographic allowance area); and
 - (e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;

- (15) Road projects: Level C road projects;
- (16) Sawmills and chipping mills on sites of less than 5 acres;
- (17) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (18) Signs which are not in conformance with the standards of Section 10.27,J;
- (19) Solid waste disposal facilities affecting an area less than 2 acres in size;
- (20) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (21) Subdivisions: Commercial and industrial subdivisions for rural business within Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.
- (22) Timber harvesting;
- (23) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.21,I,3,b which are not in conformance with the standards of Section 10.27,L;
- (24) Truck and equipment storage in accordance with Sections: 10.27,R,1,a,(6); 10.27,R,1,b,(6); and 10.27,R,1,c,(6);
- (25) Utility facilities, excluding service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (26) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (27) Water impoundments;
- (28) Wind projects: Community-based offshore wind energy projects, as defined in Title 12 M.R.S.A., Section 682, Subsection 19; offshore wind power projects, as defined in Title 38 M.R.S.A., Section 480-B, Subsection 6A, and wind energy development in accordance with Title 35-A, M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (29) Other structures, uses, or services that are essential to the uses listed in Section 10.21,I,3,a through c; and
- (30) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

d. Special Exceptions

The following uses may be allowed within the D-RB subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Maple Sugar Processing Subdivisions: Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations provided that:

- The maximum number of leased lots shall be no more than one (1) per every 300 acres of the lot or parcel being subdivided¹;
- The maximum size of each leased lot shall be no more than 4 acres;
- Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;
- Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and

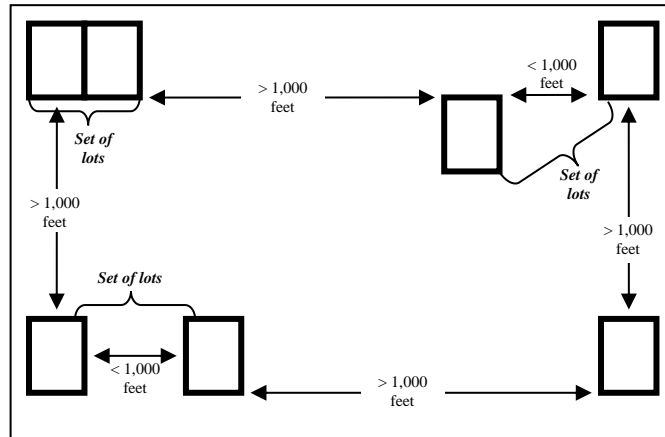


Figure 10.21,I-1. Leased lots in maple sugar subdivisions.

- Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

- (2) Commercial and industrial:
 - (a) Rural Business in conformance with the requirements of Section 10.27,R:
 - (i) Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns;
- (3) Recreational lodging facilities:
 - (a) Level C (occupancy may exceed the standard in Section 10.27,Q,1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
 - (b) Level C – Expanded Access (inside the geographic allowance area); and

¹ Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.

(c) Level D – Expanded Access (inside the geographic allowance area).

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways.

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence, in addition to (a), (b), (c) and (d) above, and the provisions of 10.25,D,2, that (e) the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site.

- (7) Subdivisions: Commercial and industrial subdivisions for rural business within Forkstown Twp., Glenwood Plt., North Yarmouth Academy Grant Twp., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, and Upper Molunkus Twp.;

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence that either: (a) the use is integral to the business; or (b) the use predates [DATE OF RULE].

- (8) Residential: Single family dwellings.

e. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception shall be prohibited in a D-RB subdistrict.

f. Water Quality Limiting Lakes

For information relative to water quality limiting lakes see Section 10.23,E,3,g.

g. Management Class 2 Lakes (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

h. Management Class 4 Lakes (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;

- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

i. Management Class 5 Lakes (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

j. Management Class 1 and 6 Lakes (Least Accessible, Undeveloped High Value Lakes and Remote Ponds) as shown on the Commission's Land Use Guidance Maps. Areas around these lakes are not eligible to be zoned D-RB (see Section 10.21,I,2).

[NOTE: by adding the previous section (in alphabetical order by subdistrict name), the subsequent Sections 10.21,I through L will be relettered as appropriate; all references in Chapter 10 to those sections will be updated; and the table of contents will be revised accordingly. These include sections 10.21,I; 10.21,I,3,c; 10.21,I,3,c,(6), (10), (15), and (20); 10.21,I,3,j; 10.21,J; 10.21,J,2,a,(3); 10.21,J,3,c; 10.21,J,3,c,(9), (15), (20), and (25); 10.21,K; 10.21,K,3,c; 10.21,K,3,c,(11), (17), and (22); 10.21,L; 10.21,L,3,c; 10.21,L,3,c,(8), (13), and (22).]

10.25 DEVELOPMENT STANDARDS

This section contains review standards for structures and uses that require issuance of a permit from the Commission, or as otherwise required in Sub-Chapter II. Except as herein provided, development not in conformance with the standards of this section are prohibited.

Nothing in this section shall preclude the Commission from imposing additional reasonable terms and conditions in its permits as the Commission may deem appropriate in order to satisfy the criteria for approval and purposes set forth in the Commission's statutes, rules and the Comprehensive Land Use Plan.

...

Q. SUBDIVISION AND LOT CREATION

This section governs the division of lots and the creation of subdivisions.

...

6. Subdivision Filing with Registry of Deeds and Sale of Lots

...

- e. All subdivision lots permitted for rural businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for rural businesses unless the Commission, or its legal successor in function, releases the condition.

10.27 ACTIVITY-SPECIFIC STANDARDS

The documents referenced within this section may be obtained from the Commission's office in Augusta, or any of its regional offices.

...

R. RURAL BUSINESSES

The following requirements shall apply to rural businesses located in the D-RB subdistrict except as otherwise provided herein.

1. Category of Rural Businesses²

Except as hereinafter provided, rural businesses not in conformance with the standards of this section are prohibited.

a. Category 1 Rural Business.

- (1) **Description.** Natural resource-based business.
- (2) **Size.**
 - (a) Up to three acres utilized by the business, and
 - (b) Up to 4,000 square feet of gross floor area, or as provided by Section 10.27,R,2.
- (3) **Exterior effects.** There must be no exterior display, no exterior storage of materials, and no other exterior indications of a rural business with the following exceptions:
 - (a) Outdoor storage of raw materials and finished product are allowed, provided at least 50 percent of the raw materials used in production come from the site or working farm or forest lands under the same ownership;
 - (b) Outdoor storage of outdoor recreation equipment and supplies;
 - (c) Shipping and receiving areas appropriate for Category 1 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variation; and (c) type of delivery vehicle.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 1 rural business must not significantly exceed that commonly associated with Category 1 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from the business may not exceed levels common to the surrounding setting and uses.

² See Section 10.21,I,2,b for eligible locations for Category 1, 2, and 3 rural business.

- (5) **Hours of Operation.** The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of six tractor trucks and semitrailers and/or pieces of heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned or inoperable vehicles or pieces of heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible so long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,a,(3),(c).

- (7) **Hazardous wastes.** A Category 1 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

b. Category 2 Rural Business.

- (1) **Description.** Retail, restaurants, offices, and similar small businesses.
- (2) **Size.**
 - (a) Up to 2,500 square feet of gross floor area, or as provided by Section 10.27,R,2.
- (3) **Exterior effects.**
 - (a) No outdoor storage is allowed;
 - (b) Outdoor activity areas are allowed including for child day care and adult day service programs, dining, display of merchandise (during hours of operation), outdoor dispensing or sale of products, and other activities associated with these types of businesses.
 - (c) Shipping and receiving areas appropriate for Category 2 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 2 rural business must not significantly exceed that commonly associated with Category 2 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from businesses may not exceed levels common to the surrounding setting and uses.

- (5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business may not involve the regular exterior use or storage of heavy equipment such as construction equipment, except building maintenance or grounds keeping equipment generally used in a Category 2 type of business.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,b,(3),(c).

- (7) **Hazardous wastes.** A Category 2 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

c. Category 3 Rural Business.

- (1) **Description.** Manufacturing, Construction, Service and Similar Businesses.
- (2) **Size.**
 - (a) Up to 20,000 square feet of gross floor area, or as provided by Section 10.27,R,2.
- (3) **Exterior effects.**
 - (a) Site may be used for storage of raw materials and finished products;
 - (b) Site may be used for equipment storage;
 - (c) Shipping and receiving areas appropriate for Category 3 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.
 - (d) Adequate provisions must be made for noise and dust abatement.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 3 rural business must not significantly exceed that commonly associated with Category 3 types of business. If not located on a numbered state or federal route, traffic on network of roads used to facilitate movement of goods and services may not exceed levels common to the surrounding setting and uses.
- (5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of eight tractor trucks and semitrailers and/or pieces of heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned

vehicles or pieces of heavy equipment is not permitted.

Seasonal variations in the number of units stored as long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27,R,1,c,(3),(c).

- (7) **Hazardous wastes.** A Category 3 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

2. Existing Businesses and Buildings

a. Expansion of Existing Rural Business

For the purposes of Section 10.27,R, Existing Rural Business is a business that meets the definition of Rural Business, in accordance with Section 10.02 and is an ongoing functional enterprise as of [effective date of rules].

- (1) Existing Category 1 or 2 Rural Business located within the respective locational requirements for Category 1 or Category 2 Rural Business may expand in size up to 30 percent larger than the applicable size limits, provided:
- (a) All other applicable Category limits are met; and
 - (b) All other applicable standards (such as dimensional requirements of Section 10.26) are met.

b. Utilization of Existing Buildings

For the purposes of Section 10.21,I, Existing Building is a structure that is legally existing and meets the definition of “building”, in accordance with Section 10.02, as of [effective date of rules].

The use of an Existing Building for a Rural Business located within the locational requirements for any category rural business within the D-RB, including reconstruction within the existing footprint, may be permitted without regard to building size provided:

- (1) the applicant demonstrates that the use of the building will meet all other applicable category factors for that location;
- (2) reconstructed buildings remain within the existing footprint and have a maximum height no higher than the height of the existing building, or 35 feet, whichever is higher³; and
- (3) all other applicable standards (such as dimensional requirements of Section 10.26) are met.

³ Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission’s approval.

3. Buffering.

A buffer strip shall be provided so as to minimize visual and other impacts on surrounding residential uses from non-residential buildings and uses located within the D-RB subdistrict. When required, buffering will consist of:

- a. A vegetated strip of no less than 15 feet in width sited in such a way as to minimize visual impacts from non-residential buildings and uses on surrounding residential uses; or
- b. Where no natural vegetation exists, the buffer may consist of fences, walls, or berms; or tree plantings and/or hedges.

Adequate provision shall be made for the maintenance, repair and replacement of all buffers to ensure continuous year round effective screening of any abutting residential property.

The Commission may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate to achieve the purposes of this section.

4. Subdivision Conditions.

All subdivision lots permitted for Rural Businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for Rural Businesses unless the Commission, or its legal successor in function, releases the condition.

Aroostook County Community Guided Planning and Zoning Lessons Learned

Introduction

Aroostook County recently completed a Community Guided Planning and Zoning effort. The nearly three year project resulted in the creation of a Rural Business Development (D-RB) subdistrict to be included in the Land Use Planning Commission's (LUPC) Chapter 10 Standards. Northern Maine Development Commission (NMDC) working closely with LUPC staff and a regional Steering Committee developed standards that were submitted to the Commission for their approval.

This paper is a "lessons learned" document. Being the first in the State to complete such a project, Steering Committee members asked staff to develop this paper to identify what worked well, and what needed improvements. It is hoped that this document is used by LUPC and other regions as they begin similar planning projects. It is by no means a definitive document but highlights some of the items that were learned as the region worked on the project.

Funding

NMDC submitted a Letter of Intent to complete the project. Within that letter was the commitment of funding and staff time over a three year period. NMDC had identified several potential funding sources to help offset the cost of the project but was unsuccessful at obtaining these funds. Thanks to a contract with the County of Aroostook, a portion of the required funds were encumbered but these funds did not fully cover staff time and expenses of the project. It is recommend that full funding (best case scenario) or at a minimum one half of the expected cost be available before a Letter of Intent is submitted to LUPC.

Recommendation:

- Funding in place before Letter of Intent is submitted.

Locational Consideration

In NMDC's Letter of Intent, all of Aroostook County was identified as under consideration for the CGPZ effort. While this met with the Steering Committee's goal of being more inclusive to development, it also created problems. With an approximately 6,600 square mile area, the region is diverse and the issues within the unorganized are varied. Additional thought should have been given to narrow the geography early in the process or before the Letter was submitted. This would allow for a stronger review of the issues in the region, faster data gathering, and help point to an issue/topic that should be addressed. This would also help focus the steering committee and may point to additional members serving on that committee.

Recommendation

- Narrow the geography early in the planning process. Even if the geography is large, a narrowing to a subregion would be helpful.

Process Paper

At the beginning of the project, three (3) facilitated meetings were held to develop a process document designed to guide steering committee members and staff through the planning effort. The document identified committee membership, meeting protocols, and some public participation methods. It also detailed the roles of the NMDC and LUPC staff. This document proved to be useful and was often referred to by committee members and staff when protocol or procedural questions arose.

However, more time was spent to develop the paper than necessary. Three meetings, with a duration of 2 to 3 hours, were not needed and committee members generally agreed to the items in the document early during the second meeting. Significant time was spent reviewing items previously agreed to. The process paper could have been developed and approved in a meeting and ½ time frame.

Steering committee members felt that the remaining meeting and ½ could have been used to vision or brainstorm potential topics of importance in the region. During the process paper development specific topics were mentioned (recreational lodging, in-woods processing, subdivisions, mining, wind energy, ATV etc.) informally as potential issues. While these topics were identified, the main purpose of the meeting was to develop the process. It appears that an opportunity was lost, while a larger group met, to identify and formalize a list of potential topics to be worked on.

LUPC staff developed a paper that identified what types of product could be developed for LUPC, ranging from a series of standards, to plans, or a combination of both. This was provided to the steering committee later in the process and would have been useful earlier in the project. Many steering committee members remarked that they wished they had this at the start as it would have made the process easier to understand and better focus the group. This document should be provided to all groups during the process development stage.

Recommendations

- One to one and a half meetings on the development of the process paper. Now that a paper has been developed, other regions can utilize and amend to fit their situation.
- One to one and one half meetings on visioning or topic identification for the region. While not specific in nature, these visioning exercises should identify topics, scheduling of meetings, and general administration.
- Provide LUPC product paper to group early in this stage of the planning program.

Phase I- Data Collection

The Aroostook Community Guided Planning and Zoning effort was divided into two phases. Phase I was the data gathering stage with the first 5 to 6 meetings dedicated to collection. NMDC had committed to utilize the Mobilize Maine model and gathered data relating to agriculture, forestry, recreation, land use, and residential development. Also developed was a report on permitting activity in Aroostook County from 2000 to present. Data was gathered from a number of sources including state agencies, guest speakers, reports and plans, and interviews with business and industry in the region.

A series of guest speakers presented at each of these first meetings and were provided with a list of four questions beforehand:

1. What is happening today in the industry?
2. What are the future plans?
3. How does land use regulation impact, or help, those plans?
4. Other topics or issues.

The speakers, while excellent, were generally able to answer and address the first two questions. Many did not fully explain future plans as they may have been confidential or they did not know. A good example was the identification of in-woods processing. This topic was discussed at several meetings but it was difficult to understand what in-woods processing actually meant and where it may be potentially located. Steering committee members were never able to fully understand what this is. None of the speakers were able to address the land use regulation aspect.

Additionally significant time was spent gathering data on permitting activity, animal/vehicle collisions, and census data at a subregional level. At times, some of this data, while requested was not utilized nor did it provide meaningful insight. As a whole, data gathering never pointed to a “golden nugget” as far as a topic or product and lead to some frustration on the part of the steering committee.

And finally, a large number of maps were developed by NMDC and LUPC throughout the process. These maps were useful and committee members often remarked that the visual aspect of the map clearly pointed to the topic(s) and issues at hand. Maps were utilized in PowerPoint presentation and during public meetings.

Recommendations:

- Focus topic area and data gathering to one to three topics.
- Focus any guest speakers to land use regulations and its role or hindrance to the topic.
- Gather data that is relevant to the topic.
- Work with LUPC staff, local and state, to ensure that data is consistent.
- Develop mapping for the region based on the topic.

Phase II- Product Development

Product development began in January 2015 when the committee decided to create a **Development-Rural Business (D-RB)** subdistrict that supported the creation of small natural resource based businesses or the expansion of home based businesses. Product development, while time consuming went well and there were few, if any, issues. LUPC staff played a greater role in the development of the product.

The consensus minus one model was never challenged during the creation of the D-RB and steering committee members were respectful of opposing viewpoints. The two topics that created the most discussion were **locational considerations** and **subdivisions**.

- **Locational Considerations:** There was considerable discussion relating to eligible townships, plantations, or towns known here as minor civil divisions ((MCDs). The Steering Committee began to identify potential MCDs based on a set of criteria which included: contains a major public road, has population, is located in close proximity to service center and/or retail hub, and amount of land parcelization. Committee members felt that the primary criteria be that the MCD have a major public road. When this criteria was used, 32 MCDs could have potentially contained a D-RB.

Several of the MCDs under consideration (while having a major public road) were remote, did not contain any population, land parcelization was minimal, and were removed from service center/retail hubs. Including these MCDs created concern with some committee members and at one point there was a proposal to remove 10 MCDs from consideration. Several members felt that the removal of those MCDs whittled down the opportunity in the region and reduced the ability of some landowners to develop their land. Other members felt that removing them, especially along the Route 11 corridor was advantageous to protect the mobility of the corridor and protect habitat. Members approved the removal of 2 MCDs (T7 R5 WELS and T8 R5 WELS) when the subdivision issue (see below) was resolved.

- **Subdivisions:** There were differing opinions among steering committee members regarding subdivisions in the eligible MCDs. Several members felt that subdivisions should not be allowed in the unorganized townships due to the rural nature of those townships, the potential impacts to transportation and wildlife corridors, and the perceived ability for developers to “game the system.” Others felt that allowing subdivisions that are reviewed under Chapter 10 may be the best mechanism to protect those resources. Committee members finally agreed to allow subdivisions in all MCDs where the D-RB was allowed. However in 8 rural MCDs, subdivisions would be allowed by special exception only.

Recommendation:

- Process worked well.

Public Meetings

At the completion of Phase I and Phase II, a series of public meetings were held to inform the public as to the progress of the project. Meetings were held in the evenings at locations in northern, central, and southern Aroostook County. Public service announcements and advertisements were submitted to all media sources in the region and articles were published in most of the weekly newspapers. The local radio station also interviewed NMDC staff and aired several news stories just prior to both sets of meetings. Local media was very responsive to the community guided planning and zoning project.

Public participation at the meetings was low. The largest turnout was in Fort Kent where 10 residents of the unorganized townships, plantations, or townships attended. Other locations had between 0 and 3 public members. Steering committee members felt that had the proposed product been controversial, public attendance would have been greater. Committee members also believe that the low attendance was an indication that the product was generally acceptable to the region.

Recommendation:

- While important to hold public meeting, turnout may be low when product or topics are non-controversial.

Role of the Steering Committee

The Steering Committee played a vital role in the project and is to be commended for the product produced. There were many meetings during the duration of the project and members often traveled long distances to attend. They provided well thought out and timely suggestions for data and product development. Their commitment to the project resulted in the production of a document that will have a positive impact on small businesses in the unorganized townships of Aroostook County. Several areas should have been better represented.

Recommendation:

- Ensure that appropriate sectors are represented and provide input during the process such as recreation, agriculture, and local natural resource/environmental organizations.

Role of LUPC

The role of LUPC staff changed through the process. During Phase I, staff acted in an advisory or technical assistance role and for the most part answered questions as they arose. LUPC staff also made presentations on their process and rulemaking. NMDC provided meeting facilitation but the committee struggled at times to identify specific goals or particular products for the process. While it was valuable for the Steering Committee to consider its region, and identify its priorities, independently of LUPC policy or guidance, it sometimes spent a considerable amount of time on topics that were unlikely to produce practical and effective recommendations to identify appropriate areas for economic development. The role of the LUPC staff changed in December 2014 when they became more active in the process with NMDC and Phase II began.

LUPC planners from Augusta provided valuable assistance in the creation of the final product and ensured that it would be consistent with relevant statutory provisions, the LUPC policies set out in its Comprehensive Land Use Plan (CLUP), and provisions of its Chapter 10 Land Use District and Standards. A significant amount of time was required by both LUPC and NMDC to provide meeting materials to the Committee. This included product and agenda development. The change in the role of LUPC staff during Phase II was important to the success of the project.

In addition to attendance by planners from Augusta, an equally critical staff person is the LUPC regional staff person. In the case of Aroostook County, this person is located at the Ashland office. She was able to provide valuable on-the-ground information as to what was happening in the region.

Recommendation:

- LUPC staff (local and Augusta) remain an active and equal partner in the process from the beginning and as needed.

Future topics/on-going meetings

During the course of the project, several other topics were discussed and minimally explored. While they were not addressed by the Steering Committee, they felt that each was important and should be addressed at some point in the future. These included:

Border Town Discussion

The Steering Committee spent a portion of two meetings on this topic and considered land uses in two (2) Aroostook County border townships - T15 R15 (St. Pamphile) and Big Twenty Township (Escourt). Each of these townships are located on major private roads, contain a border crossing, and residential and commercial development. In both cases, the “service center/retail hub” is located in the Province of Quebec. Development on the U.S. side provides long standing and increasingly vital accommodations and services for workers stationed deep in the woods far from US services.

These two townships have significantly different land use patterns and land features than the other townships being considered for a Rural Business Development District (D-RB). They do not contain a major public road and are not located near a U.S. service center or retail hub. However, there is a small year round population that requires services, and changes in the forest and recreational industry may require additional housing, lodging, and small scale commercial development.

This topic is one that the committee has asked to keep tabs on and possibly discuss at future regional meetings.

Mining

As the CGPZ process began, the Maine Department of Environmental Protection started to rewrite mining regulations in Maine. This effort was brought about by a resurgence of interest in the Bald Mountain site located in T12 R8 west of Portage Lake and Ashland. Bald Mountain contains significant metallic deposits and has been an area of interest for many years in the region. Steering Committee members felt that this was a separate issue and decided they would not address mining as part of the CGPZ project. They did however, discuss the potential for ancillary businesses development in support of a potential mine and potential rezoning efforts to support that industry.

Fish River Lakes Region and Concept Plan

Irving Woodlands LLC began working on the Fish River Chain of Lakes Concept Plan before the CGPZ Steering Committee was formed. This plan seeks to rezone approximately 51,015 acres of land around 4 of the lakes that comprise the Fish River chain of lakes to create a new Resource Protection Subdistrict. The plan area lies within 6 unorganized townships and includes over 400 existing camp lots. Representatives from Irving were asked to speak at a regularly scheduled meeting but declined. Similar to mining, Steering Committee members felt that this project was far enough along in the process, and taking a parallel track, that there was limited opportunity for them to provide meaningful feedback.

In Woods Processing

There was considerable discussion at committee meetings regarding in-woods processing. The committee was interested in looking at how in-woods processing would be addressed in the LUPC jurisdiction but in-woods processing appears to mean different things to different people and entities and it was difficult to obtain a good definition or future plans for this type of land use. **This topic is one that the committee has asked to keep tabs on and possibly discuss at future regional meetings.**

Wind Energy

Wind farms and transmission lines were reviewed briefly by the committee. Projects were/are underway in southern and central Aroostook County as the committee began their data gathering. The committee decided that supporting efforts that make it easier for ancillary businesses to locate near facilities would be a better use of time.

Future Meetings/Topics

The Steering Committee recommends that some form of process continue into the future. They understand that financial constraints at NMDC should be taken into consideration but a sufficient number of topics were identified to warrant on-going meetings. While no formal recommendation was made, they asked NMDC staff to consider meeting on a 6 month or annual basis to discuss on-going or topical issues. The committee felt that these meetings could help keep the CGPZ effort alive and address future needs. They may also increase participation from representatives of various industries or topics without committing to a longer-term project.

Proposed Rule Revisions of the Aroostook County Community Guided Planning and Zoning Process: Rural Business Development Subdistrict

The following revisions propose amendments to Chapter 10, Land Use Districts and Standards for Areas within the Jurisdiction of the Maine Land Use Planning Commission. This document only includes relevant sections of Chapter 10.

10.02 DEFINITIONS

The following definitions apply to the following terms as they appear in this chapter, the other chapters of the Commission's rules, and the Commission's statute (12 M.R.S.A. §206-A):

...

#. Rural Business: A building, group of buildings, or site, or any part thereof, used, maintained, or advertised as a commercial, institutional, or light industrial business. Rural business facilities may be operated as a for-profit, non-profit, or public entity. Rural business facilities are either 1) compatible with, and complementary to, natural resource-based land uses such as agriculture, forestry, small-scale natural resource processing and manufacturing, and outdoor recreation, or 2) of a scale and intensity appropriate to rural areas that are lightly developed but proximate to services and transportation infrastructure. For the purposes of Land Use Planning Commission rules, rural businesses are divided into three categories:

Category 1 Natural resource based businesses that are small scale processing, storage, sale, and distribution of wood and agricultural product; or are related to or in support of agriculture, forestry, certain natural resource extraction, or commercial outdoor recreation. Examples include but are not limited to saw mills, value added food production, equipment maintenance and repair facilities, guide services, recreational equipment rental and storage, and motorized and non-motorized recreational centers. Category 1 businesses are specifically designated by Section 10.27,R,1,a.

Category 2 Retail, restaurants, offices, and similar small businesses that are moderate-scale business facilities for retail businesses, restaurants, food preparation businesses, professional offices, and similar types of businesses. Examples include, but are not limited to, restaurants, art studios, nursing homes, and boarding kennels. Category 2 businesses are specifically designated by Section 10.27,R,1,b.

Category 3 Manufacturing, construction, service, and similar businesses that are larger scale commercial facilities for manufacturing and assembly plants, contracting and construction businesses, automobile service and repair, and similar types of businesses. The term includes, but is not limited to, saw mills, value added food production, equipment maintenance and repair facilities, recreational equipment rental and storage, motorized and non-motorized recreational centers, assembly plants, and automobile service and repair. Category 3 may also include Category 1 and Category 2 type businesses, as long as it meets all other criteria for Category 3. Category 3 businesses are specifically designated by Section 10.27,R,1,c.

[NOTE: Renumber all definitions from this point forward.]

10.21 DEVELOPMENT SUBDISTRICTS

Pursuant to the Commission's Comprehensive Land Use Plan, the following development subdistricts are established:

...

I. RURAL BUSINESS DEVELOPMENT SUBDISTRICT (D-RB)

(Applies only to certain locations within Aroostook County)

1. Purpose

The purpose of the D-RB is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. The locations for development are selected to maintain the rural character of the region and avoid significant visual, natural resource, and fiscal impacts of unplanned growth.

Where a D-RB subdistrict petition is granted, subsequent development in that subdistrict shall not provide the basis for redistricting of the area to another development subdistrict, nor shall it serve to satisfy those requirements for redistricting surrounding areas to development subdistricts pursuant to Section 10.08.

2. Description

a. The D-RB subdistrict shall include areas to accommodate a range of small commercial, light manufacturing, and institutional facilities and businesses that are generally compatible with, and complementary to, natural resource-based land uses but may create some adverse impacts to residential uses, recreation uses, or resource protection. Businesses are typically larger than a permissible home-based business, but are not large-scale commercial or industrial developments, and may generate some level of nuisance-type impacts (e.g., noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference) that extend beyond the property lines of the business.

The D-RB subdistrict encourages the commercial expansion of new and existing facilities in locations that are suitable for growth because of proximity to existing development, infrastructure, services, and major transportation corridors. The D-RB subdistrict is not designed to facilitate strip development along highways.

The designated D-RB subdistrict boundaries shall include all buildings, paved or other compacted surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the above described uses and buildings, as well as other intervening areas between such buildings, paved or other compacted surfaces, and areas.

The D-RB subdistrict shall include areas that contain small commercial, light manufacturing, and institutional facilities and businesses that meet the purpose and other provisions of the subdistrict. The D-RB subdistrict shall also include areas which the Commission determines meet the criteria for redistricting to this subdistrict, pursuant to Section 10.08 hereof, are proposed for development which is consistent with the purposes of this subdistrict, and are

suitable for the development activities proposed when measured against the standards of 12 M.R.S.A. §685-B(4) and the Commission's Rules and Regulations relating thereto.

Areas within ¼ mile of Management Class 1 lakes or within ½ mile of Management Class 6 lakes shall not be included within the D-RB Subdistrict.

The D-RB subdistrict distinguishes between three types of rural businesses with differing impact categories, as provided in Section 10.27.R.1.

b. Eligible Locations

(1) The following townships, plantations, and towns are eligible for the D-RB subdistrict:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Forkstown Twp., Garfield Plt., Glenwood Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., North Yarmouth Academy Grant Twp., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, T15 R6 WELS, T17 R4 WELS, Upper Molunkus Twp., and Winterville Plt.

For purposes of this section, “Category 2 & 3 towns, plantations and townships” are:

Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.

Except as provided in Section 10.21.I,2,b,(2), the D-RB subdistrict must be fully located within one mile from public roads, measured from the traveled portion of the road, in eligible townships, plantations and towns.

(2) Modification of Locational Criteria. The depth of this subdistrict may be extended further from a public road to allow development design in the project area that better meets the purpose of this subdistrict; or to locate subdistrict boundary lines along established property or parcel lines. Adjustments will only be made that do not increase the distance of the subdistrict from the public road by more than five percent.

3. Land Uses

a. Uses Allowed Without a Permit

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts:

- (1) Docking structures: Temporary docking structures for non-commercial use;
- (2) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (3) Forest management activities, except for timber harvesting;
- (4) Land application of septage, sludge and other residuals, and related storage and composting activities in compliance with regulations promulgated by the Maine Department of Environmental Protection under 38 M.R.S.A. §13: Maine Hazardous Waste, Septage and Solid Waste Management Act;
- (5) Motorized vehicular traffic on roads and trails, and snowmobiling;

- (6) Primitive recreational uses, including fishing, hiking, hunting, wildlife study and photography, wild crop harvesting, trapping, horseback riding, tent and shelter camping, canoe portaging, cross country skiing, and snowshoeing;
- (7) Surveying and other resource analysis;
- (8) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies; and
- (9) Wildlife and fishery management practices.

b. Uses Allowed Without a Permit Subject to Standards

The following uses shall be allowed without a permit from the Commission within D-RB subdistricts subject to the applicable requirements set forth in Sub-Chapter III:

- (1) Accessory structures: New or expanded structures accessory to any legally existing principal structures and uses, provided that the total square footage of the footprint of all new or expanded accessory structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met;
- (2) Agricultural management activities, including cranberry cultivation, the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water, and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities;
- (3) Campsites;
- (4) Checkpoint buildings;
- (5) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21,I,3,b,(1) above, less than 1 acre in size which are not fed or drained by flowing waters, in conformance with the vegetative buffer strip requirements of Section 10.27,C,2,a;
- (6) Driveways associated with residential uses;
- (7) Filling and grading;
- (8) Forest management activities, except for timber harvesting, involving the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for forest management activities;
- (9) Hand-carry launches: Commercial and public hand-carry launches;
- (10) Home occupations: Minor home occupations;
- (11) Mineral exploration activities: Level A mineral exploration activities, including associated access ways;
- (12) Mineral extraction operations, less than 5 acres in size, except for gravel extraction less than 5 acres in size;
- (13) Road projects: Level A and B road projects;
- (14) Service drops;
- (15) Signs;
- (16) Trailered ramps: Public trailered ramps;
- (17) Utility services: Buildings or structures necessary for the furnishing of public utility services, provided they contain not more than 500 square feet of floor area, are less than 20 feet in height, and are not supplied with water; and
- (18) Water crossings of minor flowing waters.

c. Uses Requiring a Permit

The following uses may be allowed within D-RB subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, subject to the applicable requirements set forth in Sub-Chapter III and, where within 500 feet of Management Class 2 lakes or within 250 feet of Management Class 4 and Management Class 5 lakes, subject to the applicable requirements of Section 10.21.C.3.g, h and i below:

- (1) Campsites, Residential;
- (2) Commercial and industrial:
 - (a) Rural Business in conformance with the requirements of Section 10.27.R:
 - i. Category 1; and
 - ii. Category 2, within one quarter mile of a public road in Category 2 & 3 townships, plantations and towns.
- (3) Constructed ponds: Creation, alteration or maintenance of constructed ponds, other than those described in Section 10.21.I.3.b, above, which are 1 acre or more in size, or such ponds less than 1 acre which are not in conformance with the vegetative buffer strip requirements of Section 10.27.C.2.a;
- (4) Draining, dredging, and alteration of the water table or water level for other than mineral extraction;
- (5) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with the standards of Section 10.27.H;
- (6) Family burying grounds of not more than ¼ acre, in accordance with 13 M.R.S.A. §1142;
- (7) Filling and grading which is not in conformance with the standards of Section 10.27.F;
- (8) Hand-carry launches: Private hand-carry launches and hand-carry launches addressed in Section 10.23.E.3.b which are not in conformance with the standards of Section 10.27.L; Home occupations: Major home occupations, except in the townships or plantations listed in Section 10.21.I.3.d;
- (9) Maple sugar processing operations;
- (10) Mineral exploration activities: Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards of Section 10.27.C; and Level B mineral exploration activities;
- (11) Mineral extraction operations, except for gravel extraction less than 5 acres in size,
 - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards of Section 10.27.C;
 - (b) affecting an area between 5 and 30 acres provided the unreclaimed area is less than 15 acres; and
 - (c) structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
- (12) Peat extraction affecting an area less than 30 acres in size;
- (13) Portable mineral processing equipment;
- (14) Recreational lodging facilities:
 - (a) Level A;
 - (b) Level B;
 - (c) Level C;
 - (d) Level D (inside the geographic allowance area); and
 - (e) Level C facilities, and Level D facilities (inside the geographic allowance area), that are commercial sporting camps legally existing as of August 5, 2013 may provide fuel and dining to the public, subject to the fuel dispensing provisions for public fuel sales, provided a permit is issued for such use within 3 years of August 5, 2013;

- (15) Road projects: Level C road projects;
- (16) Sawmills and chipping mills on sites of less than 5 acres;
- (17) Shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking structures, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters;
- (18) Signs which are not in conformance with the standards of Section 10.27.J;
- (19) Solid waste disposal facilities affecting an area less than 2 acres in size;
- (20) Structures: Non-commercial structures utilized for educational, scientific, or nature observation purposes; structures devoted to composting of sludge, septage or other residuals affecting an area less than 5 acres in size; and structures devoted to the storage of sand or salt;
- (21) Subdivisions: Commercial and industrial subdivisions for rural business within Bancroft Twp., Benedicta Twp., Cary Plt., Connor Twp., Cross Lake Twp., Cyr Plt., E Twp., Garfield Plt., Hamlin, Hammond, Macwahoc Plt., Madawaska Lake Twp., Molunkus Twp., Moro Plt., Nashville Plt., Oxbow Plt., Reed Plt., Silver Ridge Twp., St. John Plt., T15 R6 WELS, T17 R4 WELS, and Winterville Plt.
- (22) Timber harvesting;
- (23) Trailered ramps: Commercial trailered ramps and trailered ramps addressed in Section 10.21.I.3,b which are not in conformance with the standards of Section 10.27.L;
- (24) Truck and equipment storage in accordance with Sections: 10.27.R.1.a,(6); 10.27.R.1.b,(6); and 10.27.R.1.c,(6);
- (25) Utility facilities, excluding service drops; and wire and pipe line extensions which do not meet the definition of service drops;
- (26) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27,D and water crossings of bodies of standing water and of major flowing waters;
- (27) Water impoundments;
- (28) Wind projects: Community-based offshore wind energy projects, as defined in Title 12 M.R.S.A., Section 682, Subsection 19; offshore wind power projects, as defined in Title 38 M.R.S.A., Section 480-B, Subsection 6A, and wind energy development in accordance with Title 35-A, M.R.S.A., Chapter 34-A in areas identified in Appendix F herein;
- (29) Other structures, uses, or services that are essential to the uses listed in Section 10.21.I.3,a through c; and
- (30) Other structures, uses, or services which the Commission determines are consistent with the purposes of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses.

d. Special Exceptions

The following uses may be allowed within the D-RB subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Maple Sugar Processing Subdivisions: Subdivisions containing lots created by lease for the purpose of establishing and operating commercial maple sugar processing operations provided that:

- The maximum number of leased lots shall be no more than one (1) per every 300 acres of the lot or parcel being subdivided¹;
- The maximum size of each leased lot shall be no more than 4 acres;
- Any two leased lots in a maple sugar subdivision may be located less than 1,000 feet from each other; these lots will be considered a set of lots for the purpose of determining leased lot separation;
- Each set of leased lots must be separated from any other leased lot or set of leased lots in the subdivision by a minimum of 1,000 feet, measured horizontally from the closest point between lots or sets of leased lots; and

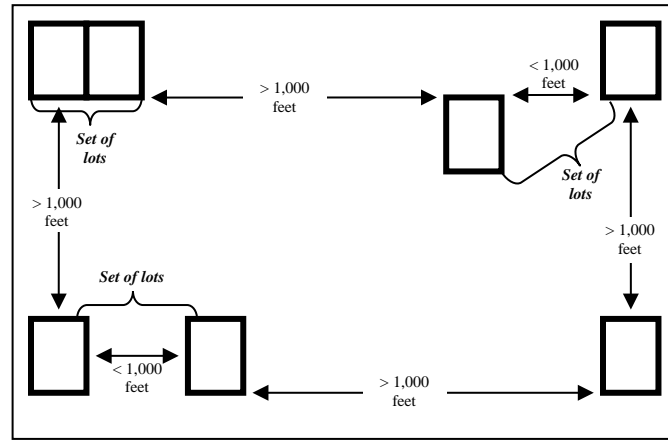


Figure 10.21.I-1. Leased lots in maple sugar subdivisions.

- Fee ownership in each of the leased lots shall only be transferred as part of a sale of the entire parcel originally so subdivided, or with a deed restriction requiring that the lot be used only for commercial maple syrup production unless the Commission, or its legal successor in function, releases the restriction and records such release in the registry of deeds.

The following uses may be allowed as special exceptions, either singly or in combination, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected:

(2) Commercial and industrial:

- (a) Rural Business in conformance with the requirements of Section 10.27.R:

- (i) Category 3, within one half mile of a public road in Category 2 & 3 townships, plantations and towns;

(3) Recreational lodging facilities:

- (a) Level C (occupancy may exceed the standard in Section 10.27.Q.1, Table A up to the Expanded Access occupancy limit, provided that the majority of occupancy is accommodated at campsites);
- (b) Level C – Expanded Access (inside the geographic allowance area); and

¹ Calculated by dividing the total acreage of the lot or parcel being subdivided by 300 and rounding down to the nearest whole number.

(c) Level D – Expanded Access (inside the geographic allowance area).

The following uses may be allowed as special exceptions provided the applicant also shows by substantial evidence that there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant:

- (4) Docking structures: New or expanded permanent docking structures;
- (5) Trailered ramps: Private trailered ramps; and
- (6) Water-access ways.

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence, in addition to (a), (b), (c) and (d) above, and the provisions of 10.25.D.2, that (e) the project will not result in traffic safety or capacity deficiencies in the vicinity of the project site.

- (7) Subdivisions: Commercial and industrial subdivisions for rural business within Forkstown Twp., Glenwood Plt., North Yarmouth Academy Grant Twp., TA R2 WELS, T1 R5 WELS, T9 R5 WELS, T14 R6 WELS, and Upper Molunkus Twp.:

The following uses may be allowed as special exceptions provided the applicant shows by substantial evidence that either: (a) the use is integral to the business; or (b) the use predates [DATE OF RULE].

- (8) Residential: Single family dwellings.

e. Prohibited Uses

All uses not expressly allowed, with or without a permit or by special exception shall be prohibited in a D-RB subdistrict.

f. Water Quality Limiting Lakes

For information relative to water quality limiting lakes see Section 10.23.E.3.g.

g. Management Class 2 Lakes (Accessible, Undeveloped, High Value Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to single family dwelling proposals within 500 feet of the normal high water mark of Management Class 2 Lakes, the Commission will require an average density per landownership of no more than one dwelling unit per shore mile.

h. Management Class 4 Lakes (High Value, Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

Within 250 feet of the normal high water mark of Management Class 4 lakes, the Commission will:

- (1) With respect to subdivisions and commercial, industrial, and other non-residential structures, require the applicant to indicate future plans for other undeveloped shorelands on the lake that are owned by the applicant. Such indication of future plans shall address, at a minimum, the next 10 years, and shall include, but not be limited to, the following information regarding the applicant's landownership on the lake:

- (a) area and shoreline length;

- (b) potential suitability for development based on an appropriate inventory of soils and significant natural and cultural resources; and
- (c) development proposed or anticipated, if any.

This indication of future plans shall be considered part of the proposal. Therefore, changes in such plans, evidenced by a development proposal not included in the description of future plans, will require approval of an application to amend the original proposal in which these future plans were indicated.

- (2) With respect to subdivision proposals, require cluster developments which meet the requirements of Section 10.25,R.

i. Management Class 5 Lakes (Heavily Developed Lakes) as shown on the Commission's Land Use Guidance Maps.

With respect to subdivision proposals within 250 feet of Management Class 5 lakes, the Commission will require cluster developments which meet the requirements of Section 10.25,R.

j. Management Class 1 and 6 Lakes (Least Accessible, Undeveloped High Value Lakes and Remote Ponds) as shown on the Commission's Land Use Guidance Maps. Areas around these lakes are not eligible to be zoned D-RB (see Section 10.21,I,2).

[NOTE: by adding the previous section (in alphabetical order by subdistrict name), the subsequent Sections 10.21,I through L will be relettered as appropriate; all references in Chapter 10 to those sections will be updated; and the table of contents will be revised accordingly. These include sections 10.21,I; 10.21,I,3,c; 10.21,I,3,c,(6), (10), (15), and (20); 10.21,I,3,j; 10.21,J; 10.21,J,2,a,(3); 10.21,J,3,c; 10.21,J,3,c,(9), (15), (20), and (25); 10.21,K; 10.21,K,3,c; 10.21,K,3,c,(11), (17), and (22); 10.21,L; 10.21,L,3,c; 10.21,L,3,c,(8), (13), and (22).]

10.25 DEVELOPMENT STANDARDS

This section contains review standards for structures and uses that require issuance of a permit from the Commission, or as otherwise required in Sub-Chapter II. Except as herein provided, development not in conformance with the standards of this section are prohibited.

Nothing in this section shall preclude the Commission from imposing additional reasonable terms and conditions in its permits as the Commission may deem appropriate in order to satisfy the criteria for approval and purposes set forth in the Commission's statutes, rules and the Comprehensive Land Use Plan.

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Q. SUBDIVISION AND LOT CREATION

This section governs the division of lots and the creation of subdivisions.

...

6. Subdivision Filing with Registry of Deeds and Sale of Lots

...

- e. All subdivision lots permitted for rural businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for rural businesses unless the Commission, or its legal successor in function, releases the condition.

10.27 ACTIVITY-SPECIFIC STANDARDS

The documents referenced within this section may be obtained from the Commission's office in Augusta, or any of its regional offices.

...

R. RURAL BUSINESSES

The following requirements shall apply to rural businesses located in the D-RB subdistrict except as otherwise provided herein.

1. Category of Rural Businesses²

Except as hereinafter provided, rural businesses not in conformance with the standards of this section are prohibited.

a. Category 1 Rural Business.

- (1) **Description.** Natural resource-based business.
- (2) **Size.**
 - (a) Up to three acres utilized by the business, and
 - (b) Up to 4,000 square feet of gross floor area, or as provided by Section 10.27.R.2.
- (3) **Exterior effects.** There must be no exterior display, no exterior storage of materials, and no other exterior indications of a rural business with the following exceptions:
 - (a) Outdoor storage of raw materials and finished product are allowed, provided at least 50 percent of the raw materials used in production come from the site or working farm or forest lands under the same ownership;
 - (b) Outdoor storage of outdoor recreation equipment and supplies;
 - (c) Shipping and receiving areas appropriate for Category 1 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variation; and (c) type of delivery vehicle.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 1 rural business must not significantly exceed that commonly associated with Category 1 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from the business may not exceed levels common to the surrounding setting and uses.

² See Section 10.21.I.2.b for eligible locations for Category 1, 2, and 3 rural business.

- (5) **Hours of Operation.** The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.
- (6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of six tractor trucks and semitrailers and/or pieces of heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned or inoperable vehicles or pieces of heavy equipment is not permitted.

Seasonal variations in the number of units stored are permissible so long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27.R,1,a,(3),(c).

- (7) **Hazardous wastes.** A Category 1 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

b. Category 2 Rural Business.

- (1) **Description.** Retail, restaurants, offices, and similar small businesses.
- (2) **Size.**
 - (a) Up to 2,500 square feet of gross floor area, or as provided by Section 10.27.R.2.
- (3) **Exterior effects.**
 - (a) No outdoor storage is allowed;
 - (b) Outdoor activity areas are allowed including for child day care and adult day service programs, dining, display of merchandise (during hours of operation), outdoor dispensing or sale of products, and other activities associated with these types of businesses.
 - (c) Shipping and receiving areas appropriate for Category 2 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.
- (4) **Traffic.** The level of vehicular traffic generated by a Category 2 rural business must not significantly exceed that commonly associated with Category 2 types of business. If not located on a numbered state or federal route, traffic on the network of roads used to facilitate movement of goods and services to and from businesses may not exceed levels common to the surrounding setting and uses.

(5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.

(6) **Vehicles and Equipment.** A business may not involve the regular exterior use or storage of heavy equipment such as construction equipment, except building maintenance or grounds keeping equipment generally used in a Category 2 type of business.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27.R.1.b.(3),(c).

(7) **Hazardous wastes.** A Category 2 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

c. Category 3 Rural Business.

(1) **Description.** Manufacturing, Construction, Service and Similar Businesses.

(2) **Size.**

(a) Up to 20,000 square feet of gross floor area, or as provided by Section 10.27.R.2.

(3) **Exterior effects.**

(a) Site may be used for storage of raw materials and finished products;

(b) Site may be used for equipment storage;

(c) Shipping and receiving areas appropriate for Category 3 type businesses, particularly when considering one or more of the following factors: (a) maximum number of delivery vehicles accommodated at the same time; (b) daily shipping and receiving hours of operation, including any seasonal variations, and; (c) type of delivery vehicle.

(d) Adequate provisions must be made for noise and dust abatement.

(4) **Traffic.** The level of vehicular traffic generated by a Category 3 rural business must not significantly exceed that commonly associated with Category 3 types of business. If not located on a numbered state or federal route, traffic on network of roads used to facilitate movement of goods and services may not exceed levels common to the surrounding setting and uses.

(5) **Hours of Operation.** Hours of operation must conform to surrounding settings and uses. The Commission may limit hours of operation to minimize impacts to adjacent residents or uses.

(6) **Vehicles and Equipment.** A business must not involve the regular exterior use or storage of more than an aggregate of eight tractor trucks and semitrailers and/or pieces of heavy equipment such as construction equipment, all of which must be operable or in the process of being made operable. Exterior storage of abandoned

vehicles or pieces of heavy equipment is not permitted.

Seasonal variations in the number of units stored as long as the seasonal increase is for a relatively short period of time and the increase above the limit of stored units does not cause undue adverse impacts to surrounding uses and resources.

This factor does not address delivery or pickup vehicles, which are addressed by Section 10.27.R.1.c.(3).(c).

- (7) **Hazardous wastes.** A Category 3 rural business must not generate or store quantities of hazardous wastes that exceed the amounts set for “Small Quantity Generators” by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP Rules, Section 3(A)(5)(d)(vii), if applicable.

2. Existing Businesses and Buildings

a. Expansion of Existing Rural Business

For the purposes of Section 10.27.R, Existing Rural Business is a business that meets the definition of Rural Business, in accordance with Section 10.02 and is an ongoing functional enterprise as of [effective date of rules].

- (1) Existing Category 1 or 2 Rural Business located within the respective locational requirements for Category 1 or Category 2 Rural Business may expand in size up to 30 percent larger than the applicable size limits, provided:
- (a) All other applicable Category limits are met; and
 - (b) All other applicable standards (such as dimensional requirements of Section 10.26) are met.

b. Utilization of Existing Buildings

For the purposes of Section 10.21.I, Existing Building is a structure that is legally existing and meets the definition of “building”, in accordance with Section 10.02, as of [effective date of rules].

The use of an Existing Building for a Rural Business located within the locational requirements for any category rural business within the D-RB, including reconstruction within the existing footprint, may be permitted without regard to building size provided:

- (1) the applicant demonstrates that the use of the building will meet all other applicable category factors for that location;
- (2) reconstructed buildings remain within the existing footprint and have a maximum height no higher than the height of the existing building, or 35 feet, whichever is higher³; and
- (3) all other applicable standards (such as dimensional requirements of Section 10.26) are met.

³ Structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission’s approval.

3. Buffering.

A buffer strip shall be provided so as to minimize visual and other impacts on surrounding residential uses from non-residential buildings and uses located within the D-RB subdistrict. When required, buffering will consist of:

- a. A vegetated strip of no less than 15 feet in width sited in such a way as to minimize visual impacts from non-residential buildings and uses on surrounding residential uses; or
- b. Where no natural vegetation exists, the buffer may consist of fences, walls, or berms; or tree plantings and/or hedges.

Adequate provision shall be made for the maintenance, repair and replacement of all buffers to ensure continuous year round effective screening of any abutting residential property.

The Commission may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate to achieve the purposes of this section.

4. Subdivision Conditions.

All subdivision lots permitted for Rural Businesses in the D-RB subdistrict shall include a condition requiring that the lot be used only for Rural Businesses unless the Commission, or its legal successor in function, releases the condition.