

Selected Findings from Zoning Petition Decision ZP 744

The Commission finds the record evidence demonstrates rezoning the Property would, on balance, meet the underlying objectives of the adjacency principle as follows:

- A. Ensure efficient and economical provision of public services. New residential subdivision development in the area proposed for rezoning will be located close enough to Greenville, a service center, that it is in an area that already receives public services for road maintenance and plowing, public safety and utilities. The area also has a well-established road network with capacity to handle any additional traffic that might be generated from a new residential subdivision of the type and size contemplated. Development of new homes will not create a burden by significantly extending travel distances for service provision or creating a requirement for new or added infrastructure (such as road or utility line upgrades) or capital outlays (such as additional emergency service equipment). Moreover, the proposed site is situated in an area that already has residential development that requires public services in the general vicinity that are located between Greenville and the Property. This area includes the Harford's Point neighborhood on the shoreline of Moosehead Lake, a 11 house subdivision located on a peninsula south of the site at the end of Big Moose Point Road, and a seven house subdivision located south of the site along Route 6/15 on Log Cabin Road. Additional development that already receives public services in the area is the Big Squaw Mountain ski area. The presence of these developments in the area around the proposed rezoning site establishes that public services are already being provided and, thus, will not result in significant new service routes. The Piscataquis County Commissioners stated the County would provide the same services to the Property that are currently provided to all property owners of Big Moose Township. Further, limited additional new development will not over burden the capacity of existing public services and the Property satisfies the objective that the rezoning ensure efficient and economical provision of public services.
- B. Encourage well-planned and well-managed multiple uses while reducing land use intrusions and conflicts. The Moosehead Lake region is recognized as a high growth, high value area¹ in which development pressure is likely to continue. The Property is not in a remote location or part of a large, undivided forestland. The Property is proximate to a significant state road and separated by railroad tracks from neighboring land. In light of the expected development pressure in the region, residential development on the peninsula Property would not involve the type of intrusion into or conflict with unfragmented forestland the Commission endeavors to avoid through planning.

Additionally, much of the land within the Moosehead Lake region is restricted from further structural development because it is subject to the terms of conservation easements or is public land. The proposed rezoning site, however, has a combination of factors (proximity to a service center, a major public road, and existing development) that at a minimum should be present at the typical area rezoned to accommodate development. The Property has the added feature of a nearby recreational attraction that can draw people to the area for recreation in a relatively developed and non-remote setting. The presence of the recreation attraction near

¹ "The Commission regards MCDs [minor civil divisions] that (1) have an established pattern of settlement, (2) have experienced or are likely to experience rapid growth, (3) are relatively accessible, and (4) harbor high-value natural and cultural resources as 'high-growth, high-value' MCDs. Development is likely to continue in most of these MCDs due to the attractiveness of their resources and their relative accessibility." (CLUP Section 4.6.E; *see also* CLUP Section 4.6.B, Residential Development Trends.)

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the rezoning site provides an important element in determining the property is suitable for residential development. Rezoning the Property for a residential subdivision would encourage development in a location that has attributes of a well-planned location and would be preferable to rigidly applying the one-mile rule-of-thumb that effectively would encourage residential development to occur incrementally in an unpredictable and dispersed manner elsewhere in the region.

The proximity of the site to existing development and infrastructure would minimize undesirable impacts on surrounding uses and resources, efficiently build upon existing public and private services and infrastructure, and provide synergies with surrounding activities and development, all of which are objectives of good locational planning. The Commission also finds that the proposed rezoning would serve to guide such development away from other less appropriate locations, including locations in the region that contain larger tracts of uninterrupted forest land.²

At the site specific level, rezoning the Property to D-RS would allow development on this peninsula that would be subject to subdivision review standards. Development subject to such review is preferable to individual, lot-by-lot development as subdivision review seeks to manage impacts from the development, including waste disposal, storm water runoff, traffic impacts, wildlife habitat impacts, and scenic impact, in a more comprehensive manner than would occur if house lots were developed incrementally over time.

A key element to finding this objective underlying the locational component of the adjacency principle has been met is this site's close proximity to a recreation attraction (the ski area) – a non-remote location which attracts people for recreation activities in a relatively concentrated pattern – and the presence of other relatively developed recreational amenities nearby (including developed lake access and a service center that caters to those recreational interests) that attract additional people and extend the seasonality of the recreation in the area. Rezoning the Property for a residential subdivision would augment those developed recreational resources. Development of this type near these existing recreation attractions and resources would serve to encourage multiple recreational uses by allowing a greater variety of housing for recreational users near those recreational resources.

- C. Minimize development near productive natural resource based activities. While much of the land in the Moosehead Lake region has, through conservation easements, a high level of protection for productive natural resource based activities, the land that is not protected by those easements, or that is not publicly owned, also is valued for its natural resource based assets, primarily forestry and recreation activities distant from development centers or developed recreation attractions. Rezoning of the Property for a residential subdivision will not prohibit or prevent development from occurring near those areas that have no current protection for productive natural resource based activities, but would provide a viable

² This belief is imbedded in the Commission's approach to guiding development that encourages, but does not require, residential development to locate "within and proximate to existing, compatibly developed areas particularly near organized towns and patterns of settlement" (CLUP Section 4.3.B) and that doing so minimizes and discourages, but does not prohibit, development near productive natural resource-based activities and helps "to protect the resources and values of the jurisdiction." (CLUP Sections 4.3 and 4.3.B.)

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location and some incentive, for development that might otherwise locate near valued natural resource based activities in other parts of the Moosehead Lake region.

- D. Promote economic health of development centers. The Commission finds that the petition does not present, and the Commission is not aware of, any reliable evidence that the proposed rezoning would promote the economic health of a development center. In this instance the lack of evidence to support a conclusion that this rezoning would promote the economic health of a development center does not mean that the rezoning would be detrimental to the economic health of a development center. Based on its planning experience, the Commission does not anticipate detrimental effects to development centers from the proposed rezoning and anticipated development. Moreover, while the record contains no concrete evidence or study showing the proposed rezoning would benefit nearby development centers, based on its planning experience the Commission believes it is reasonable to assume that the rezoning might promote the economic health of a development center including the Town of Greenville, the Town of Rockwood Strip, or the Big Squaw Mountain ski area.
- E. Protect resources and values of the jurisdiction. At the jurisdiction wide level the protection of the resources and the values of the jurisdiction requires a balance that is recognized in the various goals, policies and other provisions of the CLUP.³ Relevant things the CLUP speaks to include:
- The need to provide for “diverse and abundant recreational opportunities” throughout the jurisdiction acknowledging that “recreation is increasingly an economic driver in the jurisdiction.” (CLUP Section 1.1, p.2).
 - Patterns of land use that “meet present and future needs without compromising the principal values” by, among other things, providing for “sustainable economic opportunities and outdoor recreation for the people of Maine, its visitors, and property owners and residents of the jurisdiction” and for “[s]upporting development in places where the principal values of the jurisdiction are least impacted and in areas identified by the Commission as most appropriate for development.” (CLUP Section 1.1, p.3).
 - Guiding development at the jurisdiction wide level to areas identified as appropriate development centers by “considering (1) proximity and connectivity by public road to economic centers, organized towns and well established patterns of settlement; (2) compatibility of natural resources with development; (3) demonstrated demand for and public benefit from development;⁴ and (4) availability of public infrastructure, facilities and services.” (CLUP Section 1.2, I.A, p.6).
 - Economic development policies encouraging “forest, recreation and other resource-based industries and enterprises which further the jurisdiction’s tradition of multiple use without diminishing its principal values.” (CLUP Section 1.2, I.B, p.7).

³ Similarly, the purpose and scope provisions of the Commission’s governing statute reflect the importance of this balance. 12 M.R.S. § 681.

⁴ With the removal of the “demonstrated need” prong from the Commission’s statutory rezoning standard, the Commission no longer considers the “demonstrated demand” for development as it once did.

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These provisions indicate that the proposed rezoning fits into the jurisdiction wide goals and policies of the Commission regarding the location of development. The special nature of this area within the jurisdiction, because of the confluence of factors that make residential subdivision development appropriate, and because of the presence of a rare, if not unique, combination of recreation attractions and related recreation resources and amenities, makes a rezoning for a D-RS in this location appropriate as a means to achieving some of the broad goals of the CLUP. Specifically, the proximity of the ski area and other recreational resources provides opportunity for diverse and abundant recreation in a place where the principal values of the jurisdiction are least impacted.

Relative to other areas in the jurisdiction, rezoning the Property to a D-RS would further the goals and policies of the Commission by guiding this type of development to this area. The area is not remote and the recreational users of the ski area and other nearby developed recreational amenities would have no expectation of experiencing an undeveloped landscape in this vicinity. The residents of the proposed development would be able to easily access a variety of recreational opportunities through all four seasons. Established development centers, such as Greenville, Rockwood Strip, and the Big Squaw resort would serve as nearby places for the residents to obtain goods and services.