

IV. CONCEPT PLAN IMPLEMENTATION

A. Zoning

The present Commission's land use management subdistrict (M-GN) and protection subdistricts (P-GP, P-SL, P-WL and P-FW) for the Lake Concept Plan area will be modified to Resource Plan Protection Subdistrict (P-RP). The extent of these areas and the zones that the P-RP designation replaces are shown on Map #5.

1. Purpose

The purpose of the Brassua Lake Resource Plan Protection Subdistrict is to provide for the efficient and effective management of the subdistrict and to provide for the protection of those resources in the subdistrict in need of protection.

2. Description of Resource Plan Protection (P-RP) Subdistrict

This subdistrict covers 5,673 +/- acres of land that borders both the East and West shoreline on the northern part of Brassua Lake and lands surrounding Baker Pond. The subdistrict lies entirely within Tomhegan Township, T1 R2 NBKP, lying 2.5 miles to the west of Moosehead Lake and 25 miles north of Greenville, Maine. This subdistrict includes 10 miles of shoreline and is depicted on the Lake Concept Plan Map #5. The subdistrict does not include the existing ten (10) outlots adjacent to the Lake Concept Plan, which shall remain as presently zoned.

3. Duration

The duration of this subdistrict shall be twenty (20) years from the effective date hereof.

4. Extension

Prior to its expiration, the Lake Concept Plan may be renewed and extended upon approval of the Commission and the applicant. The applicant must provide the Commission with written notice of whether it intends to extend or renew the Lake Concept Plan one (1) year prior to the expiration of this Lake Concept Plan. If the Lake Concept Plan is proposed for renewal, the renewed Lake Concept Plan must be substantially complete and submitted to the Commission six (6) months prior to the current Lake Concept Plan's expiration date. If the applicant or the Commission do not wish to renew the Lake Concept Plan, or cannot agree upon the terms of a renewal, the Commission will, in conformity with its Comprehensive Land Use Plan, statutes, and standards, designate appropriate zoning subdistricts for those areas encompassed by this Lake Concept Plan to become effective upon expiration of this Plan.

5. Effective Date

The effective date of this Subdistrict shall be the date of approval of the Lake Concept Plan by the Land Use Regulation Commission.

B. Phasing of Development and Conservation

The phasing in of the conservation and development measures proposed in this Lake Concept Plan shall occur as follows:

1. Following approval of this Lake Concept Plan by the Land Use Regulation Commission, Moosehead Wildlands, Inc. will grant the Permanent Conservation Easement Area, in perpetuity, to Western Mountains Foundation as holder and to Maine Department of Conservation – Bureau of Parks and Lands as third party. This area is in Tomhegan Township as shown on Map #6.
2. When an application is filed for the development in Area C, the remaining 3,330 +/- feet of shorefront, to a depth of 500 feet, approximately 32 +/- acres will be added to the Permanent Conservation Easement Area and the remaining 193 +/- acres of Area C will be added to the Conservation Area.
3. When an application is filed for the development in Area D, the remaining 365 +/- feet of shorefront, to a depth of 500 feet, approximately 5 +/- acres will be added to the Permanent Conservation Easement Area.

C. Land Use Standards Applicability

Any allowed uses within the concept plan area shall be governed by the following:

1. **Existing Outlots, as illustrated on Map 6:**
The existing Land Use Districts and Standards in place at the time an allowed use or permit application is submitted to LURC.
2. **New Lots:**
 - a. Protection Subdistricts and Land Use Standards as part of this Concept Plan;
 - b. Appendix 1 – Development Restrictions as part of this Concept Plan; and
 - c. Appendix 2 through 15 Land Use Standards as part of this Concept Plan.
3. **Prohibited Uses:**
All uses not expressly allowed, with or without a permit, shall be prohibited.

If none of the standards within this concept plan provide guidance, then LURC's Land Use Rules and Standards effective at the time of a ruling may be used as guidance in determining whether a proposal is permitted.

In cases where two or more provisions of this document apply to a particular structure, use or lot, the more restrictive provision shall control.

D. Land Use Standards Applicable to the Concept Plan Resource Plan Protection (P-RP) Subdistrict

1. The following land use standards apply to all areas within the P-RP subdistrict except those areas designated Wetland Protection (P-WL), Shoreland Protection (P-SL), and Fish and Wildlife Protection Subdistrict (P-FW) on Map 5 of the Concept Plan or as described in sections D.2, D.3, and D.4, below:

a. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses are allowed without a permit from the Commission:

- (1) 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;
- (2) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (3) Wildlife and fishery management practices;
- (4) Service drops and buildings and structures necessary for the furnishing of public utility services placed greater 250 feet from the normal high water mark, 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. Wire and pipeline extensions, which do not meet the definition of service drops, shall require a permit
- (5) Level A mineral exploration activities, including associated access ways, in accordance with Appendix 4, herein;
- (6) Surveying and other resource analysis;
- (7) Signs in accordance with Appendix 12, herein, except that:
 - (a) Signs for individual lots are limited to “for sale” or “for lease” signs and signs identifying residential or dwelling owners, provided such signs are in accordance with any applicable development restrictions and Appendix 12, herein, and
 - (b) Signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (8) Non-permanent docking structures;
- (9) Forest management activities, provided that such activities are in compliance with Appendix 6, herein;

- (10) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations.
- (11) Level A road projects;
- (12) Land management roads, and water crossings of minor flowing waters, in accordance with Appendix 5, herein;
- (13) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (14) Filling and grading in accordance with Appendix 7, herein;
- (15) Public hand-carry launches in accordance with Appendix 10, herein;
- (16) Driveways associated with residential uses in accordance with Appendix 8, herein;
- (17) Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with Appendix 4 b, (1), herein, except that no ponds are allowed in Area A; and
- (18) Mineral extraction operations less than 5 acres in size, located within designated areas on Map 6.

b. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed within this subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B, and in accordance with this concept plan:

- (1) Timber harvesting which is not in conformance with the standards for such activity in Appendix 6;
- (2) Land management roads and water crossings of minor flowing waters which are not in conformance with the standards for such activities in Appendix 5; water crossings of standing waters and of major flowing waters;
- (3) Level B and C road projects, except for water crossings of minor flowing waters as provided for in D,1,a, (12);
- (4) Level A mineral exploration activities, including associated access ways, which are not in conformance with the standards for such activities in Appendix 4;
- (5) Mineral extraction for road purposes no greater than 5 acres in size;
- (6) Shoreland alterations, excluding marinas, permanent docking facilities, water-access ways, trailered ramps, hand-carry launches and water crossings of minor flowing waters;
- (7) Hand-carry launches addressed in D,1,a,(15) which are not in conformance with the standards for such activities in Appendix 10, herein, and private trailered launches located within Area B or C and private hand-carry launches;

- (8) Filling and grading, except as provided in D,1,a,(14), and draining, dredging and alteration of the water table or water level for other than mineral extraction;
- (9) Campsites and campgrounds;
- (10) Utility facilities other than service drops serving uses authorized under these standards or under this Concept Plan;
- (11) Non-commercial structures for scientific, educational and/or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (12) Single family detached dwelling units;
- (13) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with Appendix 8, herein;
- (14) Normal maintenance and repair of roads and structures;
- (15) Mineral extraction operations located within designated areas on Map 6 and
 - (a) affecting an area less than 5 acres in size and which are not in conformance with the standards for such activities established in Appendix 4, herein;
 - (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;
- (16) Commercial sporting camps of up to 8,000 square feet in floor area for all principal buildings concerned;
- (17) Other structures, uses or services that are essential for uses listed in Section D,1,a or b, provided such activity is in accordance with this concept plan; and
- (18) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan and this concept plan and are not detrimental to the resources or uses which they protect.

c. Special Exceptions:

The following uses may be allowed within this subdistrict as special exceptions upon issuance of a permit from the Commission pursuant to 12 MRSA Section 685-A(10), and subject to the applicable requirements set forth in this concept plan, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Private trailered ramps.

d. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-RP Protection Subdistricts.

2. The following land use standards apply to all areas within the P-RP subdistrict designated Wetland Protection (P-WL) on Map 5 of the Concept Plan, or those areas identified as wetlands when on-site delineation is required. Surface water bodies and areas meeting the description of wetlands, below, shall also be regulated by the land use standards of this subsection.

a. Description of Wetlands:

- (1) P-WL1: Wetlands of special significance:
 - (a) Areas enclosed by the normal high water mark of flowing waters, stream channels, and standing waters, except for constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
 - (b) Freshwater wetlands, as follows:
 - (i) Within 250' of the normal high water mark of any body of standing water greater than 10 acres;
 - (ii) Containing at least 20,000 square feet in total of the following: Aquatic vegetation, emergent marsh vegetation, or open water, unless the wetlands are the result of constructed ponds less than 10 acres in size which are not fed or drained by flowing waters;
 - (iii) That are inundated with floodwater during a 100-year flood event;
 - (iv) Containing significant wildlife habitat;
 - (v) Consisting of, or containing, peatlands, except that the Commission may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance; or
 - (vi) Within 25' of a stream channel.
- (2) P-WL2: Scrub shrub wetlands, as follows:
 - (a) Scrub shrub and other nonforested freshwater wetlands, excluding those covered under P-WL1; and
 - (b) Constructed ponds less than 10 acres in size, which are not fed or drained by flowing waters.
- (3) P-WL3: Forested freshwater wetlands, excluding those covered under P-WL1 and P-WL2.

Areas meriting protection as P-WL1, P-WL2, or P-WL3 will be identified by the Commission after consideration of relevant data including, without limitation, identification of freshwater and coastal wetlands 15,000 sq. ft. or larger by the National Wetlands Inventory and, when on-site delineation is required, identification of freshwater and coastal wetlands of any size by methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987).

Wetlands identified on Map 5 of this Concept Plan may contain inclusions of upland areas or other wetland types smaller than 15,000 square feet that do not conform to the description of wetlands, above. Such inclusions will be regulated in accordance with Section D.2 of this Concept Plan.

b. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed within this subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) 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;
- (2) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (3) Wildlife and fishery management practices;
- (4) Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring and digging and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;
- (5) Level A road projects;
- (6) Surveying and other resource analysis;
- (7) Signs in accordance with Appendix 12, herein, except that:
 - (a) Signs for individual lots are limited to “for sale” or “for lease” signs and signs identifying residential or dwelling owners, provided such signs are in accordance with any applicable development restrictions and Appendix 12, herein, and
 - (b) Signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (8) Non-permanent docking structures;
- (9) Forest management activities in compliance with Appendix 6, herein;
- (10) Land management roads in P-WL3 wetlands, other than water crossings, and land management roads in P-WL1 or P-WL2 wetlands, other than water crossings, that alter less than 43,560 square feet of such subdistricts.
- (11) Water crossings of minor flowing waters in accordance with Appendix 5, herein;
- (12) Boating;
- (13) Use of sea or ski planes;
- (14) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;

- (15) Fish weirs and traps;
- (16) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (17) Service drops for telephone or electrical service, including associated vegetative clearing, provided:
 - (a) the line extension does not cross or run beneath a coastal wetland, river, stream, or brook;
 - (b) the placement of wires or installation of utility poles is located entirely upon the premises of the customer requesting service, upon an established utility line easement, upon a roadway right-of-way or, in the case of telephone service, on existing utility poles; and
 - (c) the total length of the extension is less than 2,000 feet;
- (18) Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size within a P-WL2 or P-WL3 Subdistrict which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with Appendix 4 b, (1);
- (19) Filling, grading, draining, dredging or otherwise altering less than 4,300 square feet of a P-WL2 or P-WL3 wetlands;
- (20) Public hand-carry launches within a P-WL2 or P-WL3 wetland or within the normal high water mark of flowing waters, stream channels, or standing waters;
- (21) Driveways associated with residential uses within P-WL 2 and P-WL3 wetlands, in accordance with Appendix 8, herein.

c. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed within this subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Land management roads which are not in conformance with the standards for such uses in Appendix 5, or which will alter 43,560 sq. ft. or more of a P-WL1 or P-WL2 wetland;
- (2) Level B road projects, other than crossings of minor flowing waters as provided for in Section D,2,b, (11);
- (3) Water crossings of minor flowing waters which are not in conformance with the standards for such uses in Appendix 5, herein and water crossings of tidal waters, standing waters, and of major flowing waters;
- (4) Shoreland alterations, excluding marinas, permanent docking facilities, water access ways, trailered ramps, hand-carry launches, water crossings of minor flowing waters, and motorized recreational gold prospecting;
- (5) Hand-carry launches addressed in D,2,b, (20) which are not in conformance with the standards for such activities in Appendix 10, herein, private

trailed launches located within Area B or C and private hand-carry launches;

- (6) Filling, grading, and dredging, other than for riprap associated with water crossings and except as provided for in Appendix 7, herein;
- (7) Creation, alteration or maintenance of constructed ponds, which are not fed or drained by flowing waters
 - (a) of less than 4,300 square feet in size within a P-WL2 or P-WL3 Subdistrict which exceed the standards of Appendix 4, b, (1);
 - (b) 4,300 square feet in size or greater within a P-WL2 or P-WL3 Subdistrict; and
 - (c) within P-WL1 subdistrict;
- (8) Driveways associated with non-residential uses within P-WL2 and P-WL3 wetlands; driveways associated with residential uses within P-WL2 and P-WL3 wetlands which are not in conformance with Appendix 8, herein;
- (9) Other structures, uses or services that are essential to the uses listed in Section D,3,2b and 2c provided such activity is in accordance with this concept plan; and
- (10) Other structures, uses or services which the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan and this concept plan and are not detrimental to the resources or uses which they protect.

d. Special Exceptions:

Except as provided for in 2,b,(19), the following uses may be allowed within P-WL Protection Subdistricts as special exceptions upon issuance of a permit from the Commission according to 12 MRSA §685-A (10) and subject to the applicable requirements set forth in this concept plan provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses or resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Level C road projects.

e. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-WL Subdistricts.

3. The following land use standards apply for all those areas within the P-RP subdistrict designated Shoreland Protection (P-SL) on Map 5 of the Concept Plan, and those areas meeting the description, below.

a. Description:

P-SL1: Areas within 250 feet of the normal high water mark, measured as horizontal distance landward of such high water mark, of flowing waters downstream from the point where such waters drain 50 square miles or more.

P-SL2: Areas within 75 feet, measured as a horizontal distance landward, of

- (a) the normal high water mark of stream channels upstream from the point where such channels drain 50 square miles;
- (b) the upland edge of those wetlands identified in section IV.D.2.a as P-WL2 or P-WL3;
- (c) the upland edge of those wetlands identified in section D,2.a(1)(b) as P-WL1 freshwater wetlands; and the normal high water mark of standing bodies of water less than 10 acres in size, but excluding standing bodies of water which are less than three acres in size and which are not fed or drained by a flowing water.

b. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses are allowed without a permit from the Commission:

- (1) 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;
- (2) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (3) Wildlife and fishery management practices;
- (4) Service drops;
- (5) Level A mineral exploration activities, including associated access ways;
- (6) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (7) Surveying and other resource analysis;
- (8) Signs, in accordance with Appendix 12, herein, except that:
 - (a) Signs for individual lots are limited to “for sale” or “for lease” signs and signs identifying residential or dwelling owners, provided such signs are in accordance with any applicable development restrictions and Appendix 12, herein, and

- (b) Signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (9) Forest management activities in compliance with Appendix 6, herein;
- (10) Land management roads, and water crossings of minor flowing waters in compliance with Appendix 5, herein;
- (11) Level A road projects;
- (12) Mineral extraction, affecting an area less than 2 acres, for road purposes;
- (13) Non-permanent docking;
- (14) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (15) Filling and grading in accordance with Appendix 7, herein;
- (16) Creation, alteration or maintenance of constructed ponds of less than 4,300 square feet in size, which are not fed or drained by flowing waters, provided they are constructed and maintained in conformance with Appendix 4,b, and (1);
- (17) Public and commercial hand-carry launches; and
- (18) Driveways associated with residential uses in compliance with Appendix 8, herein.

c. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Forest activities which are not in conformance with Appendix 6, herein;
- (2) Land management roads, and water crossings of minor flowing waters which are not in conformance with Appendix 5, herein; standing waters, and of major flowing waters;
- (3) Level A mineral exploration activities, including associated access ways, which are not in conformance Appendix 4, herein;
- (4) Mineral extraction for road purposes affecting an area of 2 to 5 acres in size and such activities affecting an area of less than 2 acres which are not in conformance with Appendix 4, herein;
- (5) Level B and C road projects, other than crossings of minor flowing waters as provided for in Section D,3,b,(10);
- (6) Filling and grading, except as provided in Appendix 7, herein;
- (7) Non-commercial structures for scientific, educational or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by this subdistrict;
- (8) Campgrounds and campsites;

- (9) Shoreland alterations, excluding marinas, permanent docking facilities, water-access ways, trailered ramps, hand-carry launches and water crossings of minor flowing waters;
- (10) Hand-carry launches addressed in D,3,b,(17) which are not in conformance with the standards for such activities in Appendix 10; private hand-carry launches and commercial trailerable ramps;
- (11) Single family detached dwelling units;
- (12) Utility facilities, excluding service drops;
- (13) Driveways associated with non-residential uses; driveways associated with residential uses which are not in conformance with Appendix 8, herein;
- (14) Other structures, uses or services that are essential for uses listed in Section 3.b and 3.c, above, provided such activities are in accordance with this concept plan; and
- (15) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan, and this concept plan and are not detrimental to the resources or uses which they protect.

d. Special Exceptions:

None.

e. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-SL Subdistricts.

4. The following land use standards apply for all those areas within the P-RP subdistrict designated Fish and Wildlife Protection (P-FW) on Map 5 of the Concept Plan.

a. Description:

This subdistrict shall include wildlife and fishery habitat the Commission determines are in need of special protection pursuant to the following standards:

- (1) Significant fish spawning nursery and feeding areas, critical habitat of endangered and threatened fish and wildlife species ascertained by state or federal agencies, and habitat of fish or wildlife species needing special protection by other means, including by a state fish or wildlife conservation plan.
- (2) The shelter portions of deer wintering areas when the following conditions are met:
 - (a) The following must be shown for all shelter portions of deer wintering areas proposed for a P-FW subdistrict:
 - (i) Documentation of use as a deer wintering area during a minimum of two years over the most recent 10 year period at the time of designation; for at least one of such years, such documentations shall be based upon ground observation by a wildlife biologist of the Department of Inland Fisheries and Wildlife during or following a period of winter conditions, but no later than May 1 in any year, showing extent of deer use for winter shelter as evidenced by deer tracks, current and past deer browsing, deer pellet depositions, and/or bedding sites, such that a population of at least 20 deer per square mile in the shelter area may be estimated. A P-FW Subdistrict may be established for an area with an estimated population of fewer than 20 deer per square mile if, in the Commission's judgement, it is necessary to meet the purpose of the P-FW Subdistrict. In this regard, the Commission may be guided by "Planning for Maine's Inland Fish and Wildlife Resources, 1986-1991", of the Maine Department of Inland Fisheries and Wildlife, and associated documents, including the white-tailed deer assessment and strategic plan, as they may be amended from time to time; and
 - (ii) Occurrence of forest stands that are composed of over 50 percent conifer stems and contain a conifer crown closure of over 50 percent with predominant tree heights of over 35 feet; and

- (b) The Maine Department of Inland Fisheries and Wildlife (MDIFW) has submitted to the Commission a status report containing the following information:
 - (i) Deer population and deer habitat goals for the state and the applicable Wildlife Management District (WMD) 8;
 - (ii) Estimated current population of deer in the state and the applicable WMD;
 - (iii) Amount of land designated as P-FW Subdistricts in the applicable WMD;
 - (iv) Existing information on the amount of deer wintering habitat in organized towns within the applicable WMD;
 - (v) Amount and location of land designated as P-FW Subdistricts in the subject township and all townships abutting the subject township;
 - (vi) A qualitative and, if available, quantitative assessment, based on existing information, of the importance of the area proposed as a P-FW Subdistrict to other wildlife species of particular significance, including those identified by state or federal agencies as Endangered, Threatened, Special Concern, Indeterminate Status, or Watch List; and
- (c) The combined area of the shelter portions of deer wintering areas designated as P-FW or P-4 Subdistricts within the applicable WMD must not exceed 3.5% of the area of that WMD; and
- (d) The Department of Inland Fisheries and Wildlife has consulted with the landowner in one of the following ways:
 - (i) The Department of Inland Fisheries and Wildlife has offered, in writing, to the landowner whose land is under consideration for designation as a P-FW Subdistrict the opportunity to accompany the Department and observe its ground survey of the area proposed for designation, and has met with the landowner following such survey for the purpose of reaching agreement as to the area to be designated as a P-FW Subdistrict. In making its offer, the Department may require prior agreement by the landowner to reasonably limit activities that would affect designation of the area while it remains under consideration:
 - (a) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW Subdistrict;
 - (b) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported in writing to the Commission by the Department and the landowner; or
 - (ii) The Department of Inland Fisheries and Wildlife has not offered, in writing, to the landowner whose land is under consideration for designation as a P-FW Subdistrict the opportunity to accompany the

Department and observe its ground survey of the area proposed for designation, but has met with the landowner following its ground survey for the purpose of reaching agreement as to the area to be designated as a P-FW Subdistrict:

- (a) If the parties have reached agreement regarding the area to be designated, the terms of such agreement must be submitted to the Commission. Such agreement will not compel the landowner to join in a petition to designate the area as a P-FW Subdistrict;
 - (b) If the parties are unable to reach agreement, the substance of and reasons for the disagreement must be reported to the Commission by the Department and the landowner. Notwithstanding that disagreement, if the Commission finds that the area meets the criteria for designation as a P-FW Subdistrict and applies the P-FW designation to the area, within two years of the date of that subdistrict designation, the landowner may request reconsideration of the designation if the landowner has obtained new information indicating the area did not meet the criteria set forth in D,4,a.,2,a,(i) at the time of designation. The Commission will give the Department at least 90 days notice of its receipt of a request for reconsideration prior to deciding that request.
- (3) Upon request or agreement by the landowner, the configuration of a P-FW Protection Subdistrict may be modified in order to provide the subdistrict with boundaries of reasonably regular shape.
- (4) The provisions of Section D,4,a,2 as amended on June 20, 1991, shall apply only to proposals to rezone areas to the P-FW Subdistrict that are submitted to the Commission after June 20, 1991.
- (5) The Commission may change a P-FW Subdistrict by reducing its size or by changing it to another Subdistrict designation if it finds by substantial evidence that:
- (a) The area designated as a P-FW Subdistrict is no longer substantially used as a wintering area by deer and has not been so used for a period of ten years; and
 - (b) The change is consistent with the Comprehensive Land Use Plan; and
 - (c) The change is more appropriate for the protection and management of the resource within the affected area.

Alternatively, the Commission may approve such a subdistrict change if the owner of the affected land designated as P-FW and the Commissioner of the Department of Inland Fisheries and Wildlife agree that such change is appropriate or the area is not needed to meet the deer management objectives established by the Department.

Notwithstanding the above, where a P-4 or P-FW Protection Subdistrict has been established for the purposes of protecting a deer wintering area, that subdistrict shall not be reduced in size as a result of timber harvesting activities which would cause such subdistrict to no longer satisfy the requirements of Section 4,a.2,a,(ii).

b. Uses Allowed Without a Permit:

Subject to the requirements and limitations set forth herein and all applicable Development Restrictions (Appendix 1), conservation easements, and current Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses are allowed without a permit from the Commission:

- (1) 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;
- (2) Trails, provided they are constructed and maintained so as to reasonably avoid sedimentation of water bodies;
- (3) Motorized vehicular traffic on roads and trails, and snowmobiling;
- (4) Signs in accordance with Appendix 12, herein, except that signs within conservation areas are limited to identifying the boundaries of the conservation area; limiting or restricting access to active forest management areas; limiting or restricting access to protected wildlife or plant species; or listing allowed uses within the conservation area; provided such signs are less than 4 square feet in size and in accordance with Appendix 12, herein;
- (5) Wildlife and fishery management practices;
- (6) Level A road projects;
- (7) Surveying and other resource analysis;
- (8) Emergency operations conducted for the public health, safety or general welfare, such as resource protection, law enforcement, and search and rescue operations;
- (9) Forest management activities and land management roads in accordance with Appendix 6, herein, and, provided that timber harvesting and land management road construction are carried out in conformance with the following:
 - (a) Applicant shall confer with the appropriate Biologist of the Department of Inland Fisheries and Wildlife as to how the proposed activity is to occur within the P-FW Protection Subdistrict; at the landowner's option, the applicant may also confer with a Forester of the Bureau of Forestry;
 - (b) If a plan acceptable to the parties cannot be reached stating how the proposed activity should occur, the applicant shall be required to obtain a permit from the Commission;
 - (c) If a plan acceptable to the parties can be reached, the applicant shall notify the Commission in writing with a copy of the field investigation report by the Biologist (and the Forester where he also has been

- consulted) which states how and over what time period the activity is to occur -- the notification letter shall be signed by the person responsible for the proposed activity and the field investigation report shall be signed by the Biologist (and the Forester, where applicable);
- (d) Applicant may proceed with activity in conformity with the plan 14 days after notification to the Commission unless within such time period the Commission disapproves the plan;
 - (e) Applicant shall notify the Commission of completion of activity so that a follow-up field investigation may be carried out by the Commission or its designee.
- (10) Water crossings of minor flowing waters in accordance with Appendix 5, herein;
- (11) Mineral extraction for road purposes involving less than one (1) acre of land, provided that such activity is carried out in conformance with the following:
- (a) Applicant shall confer with the appropriate biologist of the Department of Inland Fisheries and Wildlife for the purpose of developing a plan as to how the proposed activity is to occur within the P-FW Protection Subdistrict and within what time period;
 - (b) If a plan acceptable to the parties cannot be reached stating how the proposed activity should occur, the applicant shall be required to obtain a permit from the Commission;
 - (c) If a plan acceptable to the parties can be reached, the applicant shall submit a copy of the agreed-upon plan, signed by both parties, to the Commission;
 - (d) Applicant may proceed with activity in conformity with the plan 14 days following receipt of the plan by the Commission unless, within such time period, the Commission disapproves the plan;
 - (e) Applicant shall notify the Commission of completion of the activity so that a follow-up field investigation may be carried out by the Commission or its designee.

c. Uses Requiring a Permit:

Subject to the requirements and limitations set forth herein, all applicable Development Restrictions (Appendix 1), conservation easements, and Land Use Standards contained in the Appendices herein (Appendix 2-13), the following uses may be allowed upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. Section 685-B and in accordance with this concept plan:

- (1) Timber harvesting and land management roads for which agreement cannot be reached pursuant to D,4,b, above;
- (2) Water crossings of minor flowing waters which are not in conformance with the standards for such activities in Appendix 5, herein;
- (3) Campsites;
- (4) Level B road projects;

- (5) Shoreland alterations but excluding marinas, permanent docking facilities, water-access ways, trailered ramps and hand-carry launches;
- (6) Signs other than those listed as exempt in Appendix 12, herein;
- (7) Filling and grading in accordance with Appendix 7, herein;
- (8) Other structures, uses or services that are essential for uses listed in Section 4.b and 4.c, above, provided such activities are in accordance with this concept plan; and
- (9) Other structures, uses, or services that the Commission determines are consistent with the purposes of this subdistrict, the Comprehensive Land Use Plan, and this concept plan and are not detrimental to the resources or uses which they protect.

c. Special Exceptions:

The following uses may be allowed within P-FW Protection Subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A., Section 685-A (10), and subject to the applicable requirements set forth in Section 10.17 of this chapter, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan:

- (1) Mineral extraction for road purposes involving one (1) to 5 acres of land; and
- (2) Hand-carry launches.

d. Prohibited Uses:

All uses not expressly allowed, with or without a permit or by special exception, shall be prohibited in P-FW Protection Subdistricts.