



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

AMANDA E. BEAL  
COMMISSIONER

JUDY C. EAST  
EXECUTIVE DIRECTOR

JANET T. MILLS  
GOVERNOR

January 15, 2021

Senator James F. Dill, Senate Chair  
Joint Standing Committee on Agriculture, Conservation and Forestry  
Maine Senate  
3 State House Station  
Augusta, ME 04333

Representative Margaret M O'Neil, House Chair  
Joint Standing Committee on Agriculture, Conservation and Forestry  
Maine House of Representatives  
2 State House Station  
Augusta, ME 04333

***RE: 2020 Annual Performance Report – Maine Land Use Planning Commission (LUPC)***

Dear Senator Dill and Representative O'Neil:

Enclosed please find the Land Use Planning Commission's Annual Performance Report for 2020. This report, required by 12 M.R.S. § 685-H:

- Highlights the Commission's efforts over the last calendar year;
- Contains permit processing data, including processing times;
- Provides the status of the Commission's regional planning and zoning initiatives; and
- Identifies the Commission's goals for 2021.

We hope you find this report is informative. If you would like, I am prepared to present the report to the committee and to answer any questions you or your fellow committee members may have. Please contact the Commission's Director, Judy East, if you would like to schedule a report presentation.

Sincerely,

Everett Worcester, Chair  
Land Use Planning Commission

Enclosure

cc: Judy East, Director, Land Use Planning Commission  
Amanda Beal, Commissioner, Department of Agriculture, Conservation and Forestry



LAND USE PLANNING COMMISSION  
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

ANNUAL PERFORMANCE REPORT – 2020

REPORT TO THE JOINT STANDING COMMITTEE ON  
AGRICULTURE, CONSERVATION AND FORESTRY

January 15, 2021



**TABLE OF CONTENTS**

	<u>Page</u>
EXECUTIVE SUMMARY .....	1
I. INTRODUCTION .....	3
II. PURPOSE OF THE COMMISSION.....	3
III. OVERVIEW OF THE COMMISSION’S ACTIVITIES IN 2020.....	6
A. Location of New Development and Subdivision Standards .....	6
B. Concept Plans, Terminations and Expirations .....	7
C. Rezonings for Large Scale Development .....	8
D. Deorganizations/Organizations.....	10
E. Assisting Property Owners .....	11
F. Certification of Larger-scale Development .....	12
G. Completed Rulemakings.....	13
H. The Commission and its Staff.....	13
I. COVID-19 and Land Use in the UT .....	14
J. State and Federal Inter-Agency Coordination .....	15
IV. REPORT ITEMS REQUIRED BY SECTION 685-H .....	16
A. Number of Permits Processed in 2020 by Category .....	16
B. Time for Rendering a Decision.....	19
C. Preapplication Consultation Activities .....	23
D. Regional Planning and Zoning Initiatives.....	24
E. Staff and Commissioner Training.....	26
V. COMMISSION GOALS FOR 2021 .....	28
Appendix A: LUPC Commissioners as of December 31, 2020 .....	A-1
Appendix B: Types of LUPC Permits and Actions .....	B-1

## **EXECUTIVE SUMMARY**

The Land Use Planning Commission enjoyed another productive year in 2020. After years of consultations with stakeholders and experts, as well as Commission study and analysis, the Commission adopted the Adjacency and Subdivision rules in 2019 with the full expectation that it will improve outcomes for environmental protection, natural character, and regional economic health. As with any substantial change, careful review of the results is important. In 2020, the Commission developed a workplan to review the effectiveness of the rules, and proposes, with varying resource implications, going beyond the original commitment of a review after 5 years or after approval of five petitions or 100 residential subdivision lots. The workplan proposes an annual summary of outcomes, includes outreach among staff and applicants to understand how the new rules change the number, type and location of rezoning proposals that would otherwise have been proposed if the rules had not changed, and provides a proposal for collection of specific data that could be used in the evaluation of outcomes for both non-resource or non-recreation-based development, and for resource or recreation-based development. The workplan, reviewed and improved with substantial stakeholder involvement, and the first year of data, are provided [on the LUPC web site](#).

Several re-zoning proposals for large scale development captivated the Commission's attention this year. The Concept Plan for the Moosehead Lake Region was terminated at the request of the landowner and a regional planning effort was launched by LUPC staff for the community to discuss and determine the kind of development, if any, they wish to see in the years to come. Commission staff have responded to the constraints of the COVID-19 pandemic in multiple ways described throughout this report. In the Moosehead regional planning process this has involved innovative online mapping and survey techniques as well as numerous phone calls to identify stakeholders and gather community input. Safe and virtual outreach efforts will continue into 2021. Another large and novel project is the review of a petition to rezone 570+ acres for a metallic mineral mine in northern Penobscot County, the first application of rules adopted in 2013 for such a project. Saddleback Mountain also consumed considerable attention as new owners proposed rezoning that would allow solar facilities on residential units, a mid-mountain facility, and a grid scale solar installation to support snow making and lift operations. Saddleback Mountain opened in December after 5 years of closure.

This annual report summarizes these activities and initiatives, as well as other key projects undertaken by the Commission in 2020 including deorganizations in Atkinson and local assumption of land use authority in Kinsbury as well as certification of larger-scale development to Maine DEP under the Site Location of Development Act. In 2020 the Commission certified a hydro substation expansion, a grid-scale solar energy project, and the New England Clean Energy Connect (NECEC) utility transmission corridor.

Several Rulemaking initiatives were adopted to address standards for marijuana businesses and to clarify standards (Chapter 10); others were provisionally adopted to change our fee structure (Chapter 1); and others drafted to update our administrative procedures (Chapters 3 and 4).

Pursuant to 12 M.R.S. § 685-H, this report also summarizes the Commission's permitting activity. In 2020, the Commission issued 659 permits, representing approval of 99 percent of all complete applications received. Of the permits issued, 492 were building permits and 55.5

percent of these were approved the same day the application was determined to be complete and 85.5 percent were approved within a week. Extensive additional detail is provided in this report.

We include a section this year on development trends in our service area to compare the number and location of permit activity in the year before and during the COVID-19 pandemic. As in the rest of Maine, Commission staff have seen a sharp increase in development activity and inquiries about permitting requirements from prospective buyers. We updated and created several brochures to aid regional staff in responding to this increase.

Another new section this year describes a considerable amount of interagency coordination with our state and federal partners. This includes participation by the Director on the Maine Climate Council, re-issuance of the five year Maine General Permit from the Army Corps of Engineers in collaboration with the Maine Departments of Environmental Protection and Marine Resources, among several other initiatives.

The Commission provides valuable services to residents of and property owners in the unorganized and deorganized areas, as well as to surrounding regions and, more broadly, the entire State. This report provides a high-level overview of the Commission’s work in 2020 and concludes with a look ahead to the Commission’s goals for 2021.



Big Lyford Pond, Frenchtown Twp 2019 B. Hinkel

## I. INTRODUCTION

Title 12, section 685-H requires the Commission to provide an annual performance report to the Legislature. This section states:

*1. Report due. By January 15, 2013 and by January 15th annually thereafter, the commission shall report to the joint standing committee of the Legislature having jurisdiction over conservation matters regarding the commission's performance under this subchapter for the previous year and goals for the coming year.*

*2. Report components. The report must include:*

*A. The number of permits processed for the previous calendar year, by category;*

*B. A summary of preapplication consultation activities;*

*C. The average time for rendering a decision, with goals for improving processing times;*

*D. The status of regional planning and zoning initiatives, with goals for the calendar year; and*

*E. A description of staff and commission training initiatives to ensure increased customer service and consistency in application of commission rules and regulations, with goals for the calendar year ahead.*

*3. Public meeting. The chair of the commission shall present the annual performance report to the joint standing committee of the Legislature having jurisdiction over conservation matters at a meeting of that committee. The committee shall give the public an opportunity to comment on the performance report at this meeting.*

This document constitutes the Land Use Planning Commission's annual performance report for calendar year 2020. This is the ninth year in which the Commission has provided the report.

## II. PURPOSE OF THE COMMISSION

The Land Use Planning Commission serves as the planning and zoning authority for the unorganized and deorganized areas of the State. These areas include all townships (424), most plantations (28), and some towns (7). All of these areas, collectively referred to as the UT, either have no local government or have chosen not to administer land use controls at the local level.

Along with carrying out its planning and zoning responsibilities, the Commission issues permits for smaller development projects, such as home constructions and camp renovations, and for many activities with the potential to impact natural resources, such as waterbodies or wetlands. For larger development projects requiring Department of Environmental Protection (DEP) review under the Site Location of Development Law or qualifying as grid-scale wind energy development, the Commission certifies that proposed land uses are allowed and that proposed development activities comply with applicable Commission land use standards not considered by DEP.

The responsibility of serving the UT and helping guide land use in these areas represents a unique challenge. These areas are diverse and cover over half the State, encompassing

approximately 10.4 million acres. The areas served by the Commission include the largest contiguous undeveloped area in the northeast. The UT also includes more than forested areas and timberland. The Commission serves rural communities and villages, farmland area, and coastal islands (*e.g.*, Monhegan and Matinicus). Most of the area in the UT is privately owned. While eight counties (Aroostook, Piscataquis, Somerset, Penobscot, Washington, Franklin, Oxford, and Hancock) account for approximately 97 percent of the geographic area, 13 of Maine’s 16 counties include some area served by the Commission. (A map of the area served by the Commission is shown on the following page.)

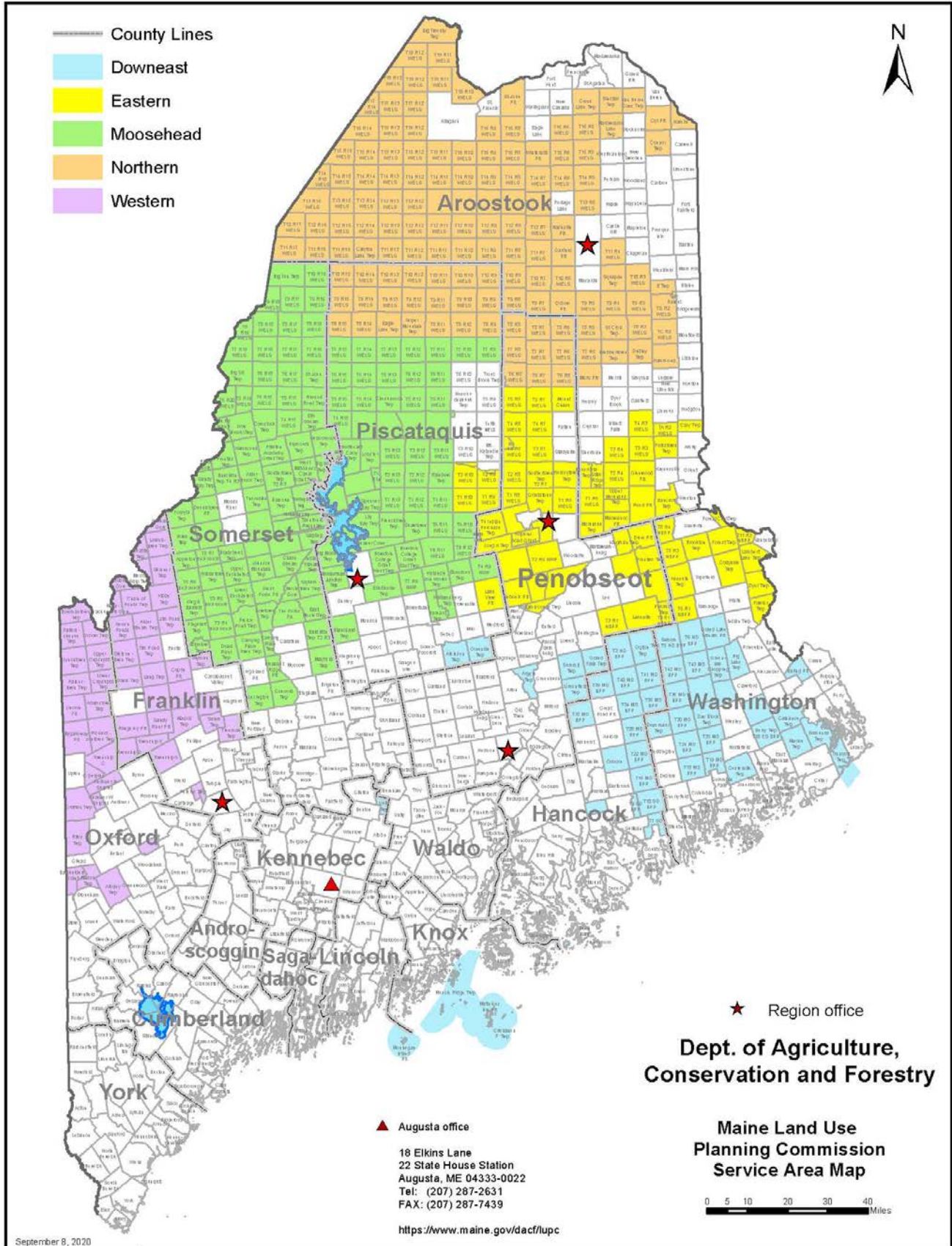
The UT is important to the vitality of both the State and local economies, contains important natural resources, is home to many Mainers, and enjoyed by Maine residents and visitors in pursuit of outdoor recreation activities, including hunting, fishing, boating, hiking, and camping.

The Legislature created the Commission in September of 1971 to extend principles of sound planning, zoning and development to the unorganized and deorganized areas of the State to:

- Preserve public health, safety and general welfare;
- Support and encourage Maine's natural resource-based economy and strong environmental protections;
- Encourage appropriate residential, recreational, commercial and industrial land uses;
- Honor the rights and participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the State;
- Prevent residential, recreational, commercial and industrial uses detrimental to the long-term health, use and value of these areas and to Maine's natural resource-based economy;
- Discourage the intermixing of incompatible industrial, commercial, residential and recreational activities;
- Prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads;
- Prevent the despoliation, pollution and detrimental uses of the water in these areas; and
- Conserve ecological and natural values.



Cranberry Peak looking toward Flagstaff Lake, 2020 B. Hinkel





### III. OVERVIEW OF THE COMMISSION’S ACTIVITIES IN 2020

#### A. Location of New Development and Subdivision Standards

In a 2019 rulemaking, the Land Use Planning Commission (the LUPC) updated its interpretation of the adjacency principle, which is an initial screen for where new zones for development of a residential subdivision or business can be created. This high-level screen is just the first step – the rezoning process still applies, and permits are still required for most uses. The adjacency principle guides most development toward existing development and away from undeveloped areas helping to lower tax burdens, ensuring land remains available for forestry, agriculture and recreation, and promoting the health of existing communities. The 2019 rulemaking also improved the layout and design standards for subdivision development.

In developing the 2019 rule changes, the Commission spent more than three years conducting surveys, focus group meetings, community meetings, meetings with stakeholders and meetings with town select boards and town councils. It was an extensive process that included a lot of opportunity for public input, including two formal public hearings. The rulemaking was also shaped by prior regional planning work conducted in Aroostook, Washington, Somerset and Franklin Counties.

After years of consultations with stakeholders and experts, as well as Commission study and analysis, the Commission adopted the 2019 Adjacency and Subdivision rule with the full expectation that it will improve outcomes for environmental protection, natural character, and regional economic health. As with any substantial change, careful review of the results in a timely manner, and on an ongoing basis, is important. In addition to collecting data about rezoning and permit approvals as part of the normal course of work, the Commission made a commitment to review the effectiveness of applying the updated location of development (adjacency) policy and subdivision standards. In particular, the Commission agreed to review the effectiveness of the rule changes:

- Five years after the adoption of the rules;
- Upon the approval of five petitions for rezoning to create new, or expand existing, development subdistricts in any single county; or
- Upon the approval of 100 residential subdivision lots outside of concept plans, whichever comes first.

The Commission felt that these milestones would be early enough to allow the Commission to make adjustments, if needed, to ensure the intended results.

Since adoption of the rule revisions, the Commission has developed a [workplan to assess and report on the outcomes of the rule changes](#) including [a video describing its contents](#) that:

- Expands and refines data collection and data entry, and
- Sets out four goals, each with strategies, and research and assessment tasks.

The workplan meets the commitments made in 2019 for review of the effectiveness of the rules, and proposes, with varying resource implications, going beyond that original commitment. The workplan expands on the original commitment by proposing an annual summary of outcomes. In addition, it includes outreach among staff and applicants to understand how the new rules change the number, type and location of rezoning proposals that would otherwise have been proposed if the rules had not changed. The workplan provides a proposal for collection of specific data that could be used in the evaluation of outcomes for both non-resource or non-recreation-based development, and for resource or recreation-based development.

Finally, the workplan outlines some important challenges and limitations to collecting or interpreting data that the Commission believes should be considered in the review of any reports on the outcomes and outreach conducted. The final workplan incorporates feedback from stakeholders provided during a 4 month review process that included a virtual public meeting and accompanying written comment period held in September and October of 2020.

The workplan and the first annual report are [posted on the LUPC web site](#). It is important to note that the workplan will be finalized at the January 13, 2021 Commission meeting simultaneously with publication of the first annual report. As a result, not all the analysis called for by the workplan is included in the first report. Where appropriate, the Commission notes if future reports would include additional or different analysis on a given topic.

## **B. Concept Plans, Terminations and Expirations**

### **Termination of the Concept Plan for the Moosehead Lake Region**

The former Land Use Regulation Commission approved the 380,074-acre Concept Plan for the Moosehead Lake Region in 2009 after four years of review and intense public engagement. The Plan permanently conserved over 390,000 acres both in the plan area and in a separate parcel known as the Roaches Pond Tract. Another 16,910 acres were designated for development of up to 2,025 residential and short-term housing units.

On September 23, 2019, Weyerhaeuser submitted a petition to terminate the Concept Plan for the Moosehead Lake Region and rezone those lands to Protection and Management subdistricts. This was the first time the Commission had considered a request to terminate a concept plan. Due to the economic recession of 2008 and 2009, none of the planned development had occurred and Weyerhaeuser felt that the development contemplated in the Concept Plan was no longer feasible or beneficial to the region. The petition was deemed complete for processing on March 9, 2020.

On July 15, 2020, after considering comments from resource agencies and stakeholders, the Commission voted to terminate the Concept Plan and adopt replacement zoning. The termination and replacement zoning became effective July 30, 2020. This termination eliminated the development rights associated with the Concept Plan.

### **Expiration of the First Roach Pond Concept Plan**

The Commission was notified on December 2, 2020 that Weyerhaeuser does not wish to renew the First Roach Pond Concept Plan when it expires on January 24, 2022. The Plan covers approximately 1,436 acres in Frenchtown Township, Piscataquis County, the majority of which is located within 500 feet of the shoreline of First Roach Pond. Expiration of the Plan will not

affect subdivisions or development already reviewed and approved under the Plan, including six subdivisions and a total of 92 residential lots. Permanent conservation measures implemented under the Plan will remain, including deed covenants, deed restrictions, and common open space within approved subdivisions; conservation covenants restricting development on 494 acres of surrounding timberland; and a 525-acre conservation easement on the shoreline of First Roach Pond. The Commission has begun the process of preparing replacement zoning appropriate for the existing resources and development that has occurred over the life of the concept plan.

### **Expiration of the Whetstone Pond, Foss Pond, and Hilton Ponds Concept Plan**

On March 11, 2020, the Commission voted to adopt replacement zoning for areas formerly included in the Whetstone Pond, Foss Pond, and Hilton Ponds Concept Plan in Kingsbury Plantation. The area covered by the plan, which resulted in four subdivision permits totaling 32 residential lots and a permanent conservation easement held by Maine Woodland Owners and the State of Maine, includes four lakes, streams, and commercial forest land. The landowner decided not to renew the 15-year plan and so the Commission developed zoning appropriate for the existing resources and development that had occurred over the life of the concept plan. For example, residential development subdistricts were established in places that had been permitted for residential subdivision, and protection subdistricts were established around resources such as lakes, streams, steep slopes, and wetlands.

## **C. Rezoning for Large Scale Development**

### **Saddleback Planned Development Subdistrict**

In February 2020, the Commission received an application for the transfer from Saddleback Land & Timber Corporation, and Saddleback, Inc. to Saddleback Community Loan Company, LLC (*a.k.a.*, Arctaris Impact Fund), all Commission approved permits and zoning approvals regarding the Saddleback Planned Development (D-PD) Subdistrict. The transfer of permits responds to the recent Saddleback Community Loan Company purchase of the Saddleback Resort in Franklin County.

**Saddleback base lodge, the South Branch chairlift, and the valley below. May 2020, T. Beaucage**



The planned development subdistrict is a custom zoning approach to accommodate large-scale, well-planned development that depends upon a particular natural feature or location. The large-scale development proposed for D-PD subdistricts sometimes includes a mix of uses, including residential subdivisions and a range of commercial uses.

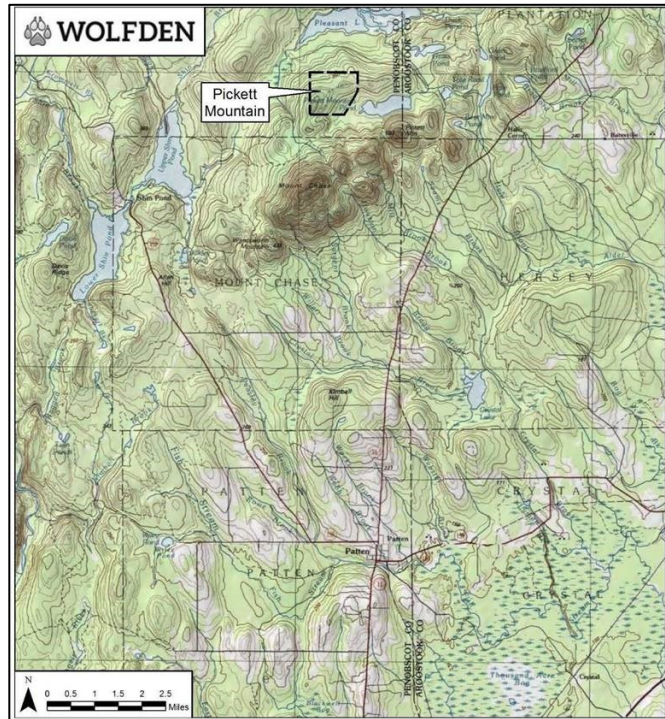
In August 2020, the Commission received a zoning petition from Saddleback Community Loan Company, LLC to revise the D-PD Subdistrict and the related Saddleback Development Plan. The revisions consist of focused updates and expansions of the resort, primarily including the addition of a 45-acre grid-scale solar energy generation facility to reduce operating costs, and the replacement of a warming hut with a new mid-mountain lodge.

The pre-Commission alpine ski resort had closed in 2015; however, following sale in January 2020 and a very busy ten months, the Saddleback Community Loan Company reopened the mountain in mid-December.

The Commission is wrapping up its review of the zoning petition and will be issuing a decision at its January meeting, and anticipates issuing several related permits by spring 2021. However, numerous permits within, and additional zoning changes to, the Saddleback D-PD are anticipated over the foreseeable future.

### **Pickett Mountain Planned Development Subdistrict**

On January 27, 2020, Wolfden Mt. Chase, LLC filed a petition to rezone approximately 528.2 acres of land from a General Management Subdistrict and Shoreland Protection Subdistricts to a Planned Development Subdistrict (D-PD) in T6 R6 WELS, near Mt. Chase, in Northern Penobscot County. The proposed purpose of the D-PD subdistrict is for a metallic mineral mine and associated buildings and infrastructure. The zoning petition is subject to, and will be reviewed under, the Commission’s Chapter 12 rules (Mining and Level C Mineral Exploration Activities). This will be the first application of the [Chapter 12 rules](#) since they were revised in May of 2013.



A petitioner wishing to seek a metallic mineral mining permit from the Department of Environmental Protection under the Maine Metallic Mineral Mining Act (Title 38, chapter 3, subchapter 1, article 9) for a project located wholly or in part within the unorganized areas of the State must first petition and receive approval from the Commission for a change in the subdistrict boundary to a custom, Planned Development (D-PD) Subdistrict. The D-PD subdistrict is the only Commission zoning subdistrict that would allow for metallic mineral

mining. The purpose of any D-PD subdistrict is to allow for large scale, well-planned development that depends on a particular natural feature or location that is available at the proposed site.

The Commission accepted the zoning petition as complete for processing on September 12, 2020. Since that time, Commission staff have been working with the petitioner to obtain all additional information needed to complete the Commission’s review, analyzing submissions from the petitioner and public comment, coordinating technical reviews by several State agencies, and assisting contractors hired by the Commission to review certain aspects of the petition. A copy of the petition and amendments, public comments to date, and information about the process, are available for download from the [LUPC Wolfden Zoning Permit project-specific webpage](#). Once the Commission has all the information needed to complete its review, it will begin the required public hearing process, likely early to mid-summer 2021. Final deliberations and a decision by the Commission will follow the close of the public hearing.

#### **D. Deorganizations/Organizations**

The Commission fills a seat on the Maine Commission for Municipal Deorganization, and works with communities that are deorganizing. Title 30-A, section 7205(5) requires that for “municipalities not under the jurisdiction of the Maine Land Use Planning Commission, the Maine Land Use Planning Commission shall prepare a zoning map of the municipality within one year of the effective date of deorganization.” The Commission provides land use services and maintains land use guidance maps for plantations, and therefore deorganization of a plantation generally does not require preparation of a new land use guidance map; deorganization of a municipality typically does.

In November 2018, the residents of the Town of Atkinson (Piscataquis County), Cary Plantation (Aroostook County), and Codyville Plantation (Washington County) all voted to deorganize. The deorganization of each became effective July 1, 2019. The Commission worked with community members to draft the zoning map for Atkinson Township. At the February 12, 2020 meeting, the Commission voted to adopt the zoning map for Atkinson Township; the new zoning became effective February 27, 2020. The Commission already served Cary and Codyville Plantations and will continue to do so now that they have become townships.

In 2020, the Commission continued to assist residents of Kingsbury Plantation in Piscataquis County, who successfully petitioned the Commission to assume land use responsibilities from the Commission. To assume local jurisdiction over land use, the plantation created and then adopted land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the Commission (12 M.R.S §685-A,4-A). In Spring 2020, Commission staff assisted the Plantation’s Acting Planning Board with the petition process, and subsequent transfer of authority. Members of the Kingsbury Plantation

““Thank You" hardly seems adequate, especially since you also provided the expertise and experience to offer guidance on each potential action. We all are very grateful!"

Kingsbury Planning Board  
July 19, 2020

Planning Board and Board of Assessors were pleased with the results of this process and are now exercising local authority over land use in the plantation.

### **E. Assisting Property Owners**

Commission staff routinely answer questions from the public and conduct hundreds of field visits with property owners to discuss their development plans. In addition to meeting on site at the request of property owners, staff conduct pre-construction site visits for projects meeting certain criteria, for example, for proposed development with permanent foundations in shoreland areas or in close proximity to roads or property lines. The goal of these site visits is to help property owners achieve compliance prior to expensive investment and to reduce the need for time-intensive enforcement in the future. Sites are visited prior to construction, to help ensure compliance with previously issued permits and applicable land use standards. Staff also conduct random, post-construction site visits, at a sub-set of sites.

In 2020, Commission staff completed over 390 site visits. The majority of these were done to assist property owners understand their development options, such as whether they can expand their camp. Over 30 of these site visits were randomly selected for post-construction inspections to review foundations that were installed between 2018 and the fall of 2020. All of these foundations were located in compliance with the rules or pursuant to a building permit. Although completing pre-construction visits and random follow-up inspections allocates staff time away from office-based permit writing responsibilities, this time appears well spent and successfully helps property owners achieve compliance.

As the data provided in Sections III I and IV A. below demonstrate, Commission staff were called upon in 2020 to answer questions associated with a significant increase in both permitting demand and a very active real estate market. To ensure consistency across regional offices and to respond to the demand from both existing and prospective property owners we posted several new or updated brochures to the [LUPC web site](#) including:

- [Buying and Selling Property Brochure](#) – Describes what landowners should know before they buy, develop, or sell land, in the Commission's service area. (Published September 28, 2020)
- [Culvert Sizing Guide Brochure](#) - This guide helps landowners meet standards for culverts used in permanent stream crossings. (Published October 20, 2020)
- [Information Available from the LUPC Fact Sheet](#) - This provides a summary with embedded web site links of the primary documents, mapping tools, subscription service instructions, and service area for the Land Use Planning Commission. (Published November 2, 2020)
- [Structure Height Fact Sheet](#) - This fact sheet describes the LUPC structure height rules with definitions of maximum structure height in different circumstances and helpful diagrams for how to measure the height of a structure. (Published November 5, 2020)
- [Adult Use Marijuana Fact Sheet](#) - This fact sheet provides information on how adult use marijuana businesses are zoned, permitted, and licensed in the LUPC service area. (Published October 29, 2020)

- [Medical Marijuana Fact Sheet](#) - This fact sheet provides information on how medical marijuana businesses are registered, zoned, and permitted in the LUPC service area. (Published November 20, 2020)

## **F. Certification of Larger-scale Development**

Since 2012, the Commission has not been responsible for permitting larger development projects within the unorganized and deorganized areas of Maine. The Department of Environmental Protection (the DEP) reviews and permits these projects including grid-scale wind energy development and projects triggering the Site Location of Development Law. For these larger projects the Land Use Planning Commission fills a role similar to that of a municipal planning board and is responsible for certifying to the DEP that the development (a) is an allowed use within the subdistricts in which it is proposed and (b) complies with land use standards not considered by the DEP in its review.

In 2020, the Commission issued a certification for a large development project in the matter of Central Maine Power Company's proposed New England Clean Energy Connect (NECEC) project. The Commission's review commenced in the fall of 2017. In April and May 2019, the Commission held a joint hearing with the DEP and, in September 2019, conducted a deliberative session on the matter. The Commission's final decision was issued in early 2020.

Even though the Commission worked efficiently with Maine DEP to coordinate our review process and public consultation with their deliberations, staff analyzed the cost of the Site Law Certification at ~\$150,000 or ~\$75,000/year for which the Commission has no authority to charge fees. In 2020, the Commission provisionally adopted changes to its Chapter 1 Rules (Fees). These are the first updates to Commission fees since 2007 and would, in part, capture some of the costs associated with Site Law Certifications. These [provisionally adopted rules](#) are major substantive and must be reviewed and approved by the legislature before going into effect. They do not duplicate any fees imposed by other state agencies and are capped at \$5,000.

Also in 2020, the Commission issued certifications to the DEP for Site Location of Development Act and Natural Resources Protection Act applications filed by:

- Three Rivers Solar Power, LLC. The proposal included development of a 100-megawatt, grid-scale solar energy generation facility with six fields of solar panels totaling 465 acres on a 1,115-acre parcel of land in T16 MD BPP. The proposal also included construction of two substations, a series of underground collector utility lines, photovoltaic inverter units, access roads, and parking areas. The Commission issued a Certification of Allowed Use to the DEP, stating that their request for certification was accepted as complete for processing and the proposed project was an allowed use in the affected Commercial Industrial Development Subdistrict on November 25, 2019. Subsequently, on February 12, 2020, after completing its review of the request, the Commission certified to the DEP that the proposed project complied with the applicable provisions of the Commission's Land Use Standards.
- Great Lakes Hydro America, LLC. The proposal included expansion of the fenced substation to the west by approximately 25,000 square feet in order to site 3 to 5

prefabricated storage buildings. The storage buildings house modular lithium-ion batteries with a total combined storage capacity of 10MW. The proposal also included a 280-foot long extension of the existing private gravel access road. The request for certification was accepted as complete for processing on January 2, 2020. Subsequently, on March 11, 2020, after completing its review of the request, the Commission certified to the DEP that the proposed project was an allowed use in the affected General Management Subdistrict (M-GN) and complied with the applicable provisions of the Commission’s Land Use Standards.

In total, since the Commission assumed certification responsibilities in September of 2012, the Commission has issued eleven certifications for development of new facilities, four for grid-scale wind energy projects, one for a proposed wood pellet facility in Washington County (that was not constructed), one for an outdoor education campus facility and associated trail system in Penobscot County, one for an RV park in Washington County, one for a defense training facility in Penobscot County, one for the NECEC transmission corridor, one for the Three Rivers Solar Energy Facility, and one for a substation expansion proposed by Great Lakes Hydro America, LLC. In addition, the Commission has issued six certification determinations for development activity at existing or previously certified facilities. A re-certification of the Weaver Wind project was not included in these figures.

#### **G. Completed Rulemakings**

In 2020, the Commission amended its Chapter 10 Land Use Districts and Standards to:

- update the standards to address odors, lighting, and signs related to marijuana businesses;
- clarify distinctions between constructed ponds, water impoundments, and water bodies;
- clarify and simplify terminology within the D-PR Subdistrict; and
- implement basic lighting standards to avoid light pollution from lighting within greenhouses.

The adopted amendments also implemented numerous clerical edits such as, inconsistencies, updating citations, removing outdated provisions, removing redundancies, alphabetizing certain lists, and revising the usage of the word “shall.”

Pursuant to 12 M.R.S. §685-A(7-A)(B)(6), the Commission has submitted these revisions under separate cover to the Agriculture, Conservation and Forestry Joint Standing Committee.

#### **H. The Commission and its Staff**

The [Commission](#) is a nine-member, citizen board with both county and gubernatorial appointees. Eight of the seats are filed by the counties with the most acreage within the unorganized and deorganized areas of the State. Each of the following counties (listed from largest to smallest in terms of qualifying acreage) is responsible for filling one seat: Aroostook, Piscataquis, Somerset, Penobscot, Washington, Franklin, Oxford, and Hancock. The final seat on the board is filled by the Governor. All individuals nominated to serve on the Commission are subject to a public hearing held by the Joint Standing Committee on Agriculture, Conservation and Forestry and confirmation by the State Senate. The qualifications an individual must possess to serve on the



Commission and the appointment process for both counties and the Governor are set in 12 M.R.S. § 683-A. (See Appendix C for a list of the Commissioners.)

The Commission typically meets once per month and may meet more regularly if needed. The Commission schedules its meetings in different regions of the State, in or near unorganized or deorganized areas. In selecting meeting locations, the Commission attempts to hold meetings close to geographic areas involving matters of public interest. Since April 2020, pursuant to the Governor’s emergency legislation ([PL 2019, ch. 617](#)) concerning the COVID-19 pandemic, the Commission has conducted its meetings virtually using the Microsoft Teams software platform, including two public hearings.

The Commission is supported by [21 staff](#). This includes a director, a permitting and compliance manager, a planning manager, 11 permitting and compliance staff, four full-time planners, one part-time planner, a GIS specialist, and a secretary associate.

The LUPC operates [offices](#) in Ashland, Augusta, Bangor, East Millinocket, Wilton, and Greenville.

## I. COVID-19 and Land Use in the UT

As noted in several sections of this performance report, the Commission and its staff adjusted quickly and seamlessly to the exigencies of the COVID-19 pandemic. The web site and regional offices immediately posted contact information for all staff, home office locations were established and supported by Maine IT and internal LUPC staff, and personal protective equipment was secured for field vehicles and personnel. Careful recordkeeping also ensured that CARES act funding will reimburse LUPC for these expenditures.

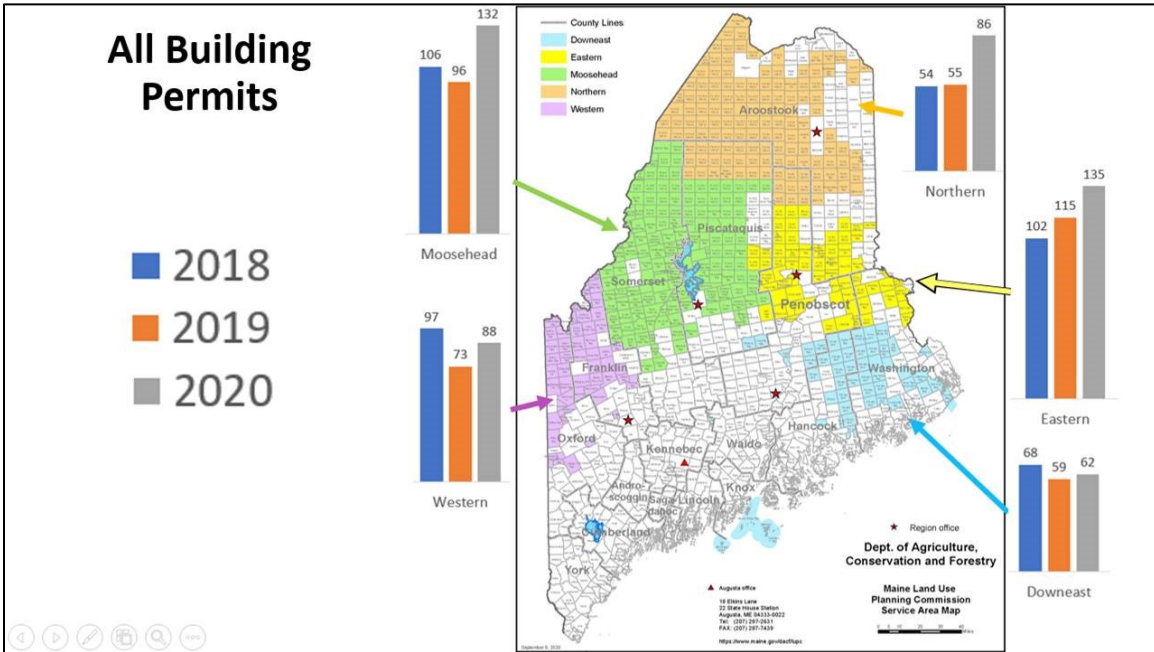
In early staff discussions, we correctly anticipated the potential for increased interest in building permit activity in the UT. The data provided below pursuant to 12 M.R.S. § 685-H demonstrates this increase. Regional office staff noticed in the summer months what the [Maine Association of Realtors documented in November](#): a significant increase in the number of real estate transactions and the price of Maine real estate. While there are many hypotheses for this dynamic staff believe the following are significant drivers toward increased building permit activity in the UT:

- Working remotely and remote learning,
- “stay-cationing”, and
- Pandemic “refugees” and pandemic emigration.

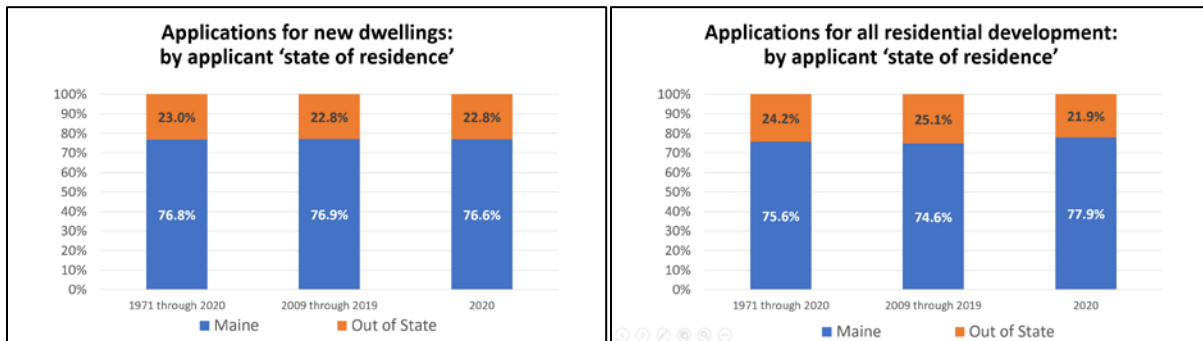
The data provided in Section IV below follow the format required by statute. Here we offer a comparison of the change in 2020 compared to 2019:

- the number of new actions remain more prevalent than permit amendments, and have increased by 43%
- residential development increased by 26%
- applications for new dwellings increased by 47%
- applications for new, expanded, or relocated garages increased by 60%
- applications for new, expanded, or relocated accessory structures increased by 96%

We also asked where this activity was most prevalent in the LUPC service area. That data is depicted below.



Finally, even though the Maine Association of Realtors (reference linked above) indicate that "One-third of November's sales involved out-of-state buyers, compared to one-fourth during November of 2019", LUPC data demonstrate remarkable consistency in all applicants' state of residence for LUPC permits over its entire 49 year history, the last 10 years, and in 2020.



## J. State and Federal Inter-Agency Coordination

Commission staff contributed to several interagency coordination efforts in 2020. Director Judy East served on the Maine Climate Council and as co-chair of its Community Resilience, Emergency Management and Public Health working group. This culminated in the issuance of [Maine Won't Wait, a Four-Year Plan for Climate Action](#). Commission staff contributed their expertise in the analysis of Commission rules as part of the community resilience strategies. Also in 2020, the Commission coordinated with the Maine Departments of Environmental Protection and Marine Resources in reviewing the renewal of the Maine General Permit with the Army

Corps of Engineers. The result was a renewal for five years of the water quality certification by DEP and the Commission, and the State’s concurrence with the Corps’ consistency determination to “maintain water quality in the waters of the State of Maine”. Other interagency cooperation efforts spanned multiple agencies and functions including input and review of solar siting guidelines, review of municipal Comprehensive Plans adjacent to our service area, participation in the Maine In Lieu Fee program for wetlands mitigation, engaging with the Maine GeoLibrary regarding their ongoing orthoimagery upgrade program, supporting the stream crossing grants program in evaluating eligible culvert upgrade opportunities, and securing data sharing agreements with the Maine Revenue Service.

#### **IV. REPORT ITEMS REQUIRED BY SECTION 685-H**

##### **A. Number of Permits Processed in 2020 by Category**

In administering its land use standards, the Commission issues permits for a range of activities, including: shoreline alterations, new dwellings, campgrounds, construction of certain roads, subdivisions, and utility lines. While not permitting actions, the Commission also reviews and acts on matters such as zoning petitions. For the purposes of this annual report, these other actions are included in the permitting summary tables. Not all development or Commission assistance, however, is captured in these tables or this report. Many activities are allowed without a permit, such as the development of certain accessory structures and agricultural activities. Although the Commission assists the public with understanding any requirements applicable to these activities, where a permit is not required this activity is not reflected below.

As noted above, since 2012, larger projects within the unorganized and deorganized areas are permitted by the DEP (*i.e.*, projects triggering DEP review under the Site Location of Development Law or qualifying as grid-scale wind energy development). For these projects, the LUPC must certify to the DEP the proposed development (a) is an allowed use within the subdistrict or subdistricts in which it is proposed and (b) meets any land use standard established by the Commission not considered in the DEP’s permit review. A LUPC certification is not a permit. However, for the purpose of this report and calculating the processing times presented in this report, certifications are included among the permits grouped together under the heading “All Other” in the tables below.

Tables 1 through 4 present the number of permits processed, by permit type. Only complete applications are processed. As a result, if the Commission receives an incomplete application, it will be returned to the applicant. In 2020, the Commission received 28 building permit applications, seven development permit applications, and 22 applications in the “all other” category that were never completed. Incomplete applications are not reflected in the following tables. Tables 1 and 4 also show the type of action (*i.e.*, outcome) on various types of permits. Appendix D describes each type of permit and action listed in these tables.

**Table 1. Permit Processing, 2020<sup>1</sup> by Outcome**

Permit Type	Permit Type Name	Count by Action Type					TOTAL
		Approved	Approved / Denied in-part	Denied	Application Withdrawn	Application Returned	
BP	Building Permit	492		1	2	8	503
DP	Development Permit	44					44
All Other		112					112
BCP	Bridge Construction Permit	3					3
FOP	Forest Operation Permit	4					4
GP	Great Pond Permit	52					52
HP	Hydropower Permit	1					1
RP	Road Construction Permit	5					5
SA	Shoreland Alteration Permit	6					6
SD	Service Drop Permit	26					26
SLC	Site Law Certification	4					4
SP	Subdivision Permit	5					5
ULP	Utility Line Permit	1					1
WL	Wetland Alterations Permit	1					1
ZP	Zoning Petition	4					4
	<b>TOTAL</b>	<b>648</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>8</b>	<b>659</b>

**Table 2. Permit Processing, 2020 by County**

Permit Type	Permit Type Name	Total Actions by County													TOTAL
		AR	FR	HA	KE	KN	LI	OX	PE	PI	SA	SO	WA	WL	
BP	Building Permit	104	72	11	1	2	1	16	85	100		70	41		503
DP	Development Permit	9	7				1	3	3	9		9	3		44
All Other		24	14	2	0	1	0	6	14	24	0	16	11	0	112
BCP	Bridge Construction Permit							1	1				1		3
FOP	Forest Operation Permit		3					1							4
GP	Great Pond Permit	14		1					3	16		9	9		52
HP	Hydropower Permit							1							1
RP	Road Construction Permit	2	1						1			1			5
SA	Shoreland Alteration Permit	1	3					1				1			6
SD	Service Drop Permit	5	2					2	7	5		4	1		26
SLC	Site Law Certification	1	1	1					1						4
SP	Subdivision Permit		4						1						5
ULP	Utility Line Permit									1					1
WL	Wetland Alterations Permit					1									1
ZP	Zoning Petition	1								2		1			4
	<b>TOTAL</b>	<b>137</b>	<b>93</b>	<b>13</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>25</b>	<b>102</b>	<b>133</b>	<b>0</b>	<b>95</b>	<b>55</b>	<b>0</b>	<b>659</b>
	<i>Towns, Plantations, Townships, and (Islands) served by the LUPC</i>	<i>124</i>	<i>31</i>	<i>16</i>	<i>1</i>	<i>3</i>	<i>2</i>	<i>21</i>	<i>46</i>	<i>91</i>	<i>1</i>	<i>88</i>	<i>36</i>	<i>(2)</i>	<i>460</i>
				<i>(71)</i>		<i>(88)</i>	<i>(37)</i>			<i>(109)</i>			<i>(70)</i>		<i>(308)</i>

Aroostook (AR); Franklin (FR); Hancock (HA); Kennebec (KE); Knox (KN); Lincoln (LN); Oxford (OX); Penobscot (PE); Piscataquis (PI); Sagadahoc (SA); Somerset (SO); Washington (WA); Waldo (WL)

<sup>1</sup> The LUPC’s permitting data represent activities that required permit approval from the LUPC when applicants sought permit approval. Commission initiated actions, such as Commission initiated rezonings, are not included in permitting data. Generally, approval is sought prior to commencement of the activity requiring a permit. In some instances, individuals apply for after-the-fact permits for activity previously undertaken without the required permit. This table and the following tables include after-the-fact permits in the totals. Additionally, some activities do not require permit approval. Permitting trends only loosely reflect development trends, in that an unknown number of activities permitted by the LUPC may not have been started or completed. Additionally, some activities may have been completed without a permit where a permit was required.

**Table 3. Permit Processing, 2015-2020 Totals**

Permit Type	Permit Type Name	Total Applications Processed					
		2015	2016	2017	2018	2019	2020
BP	Building Permit	379	410	438	404	398	503
DP	Development Permit	57	55	42	57	44	44
All Other		93	111	83	132	79	112
BCP	Bridge Construction Permit	0	2	2	0	0	3
FOP	Forest Operation Permit	7	6	8	7	7	4
GP	Great Pond Permit	35	45	43	80	46	52
HP	Hydropower Permit	0	1	3	0	1	1
RP	Road Construction Permit	4	4	2	6	2	5
SA	Shoreland Alteration Permit	13	11	1	7	5	6
SD	Service Drop Permit	14	25	15	17	7	26
SLC	Site Law Certification	2	1	1		4	4
SP	Subdivision Permit	4	6	3	5	2	5
ULP	Utility Line Permit	5	2	2	1	1	1
WL	Wetland Alterations Permit	3	1	0	3	0	1
ZP	Zoning Petition	6	7	3	6	4	4
<b>TOTAL</b>		<b>529</b>	<b>576</b>	<b>563</b>	<b>593</b>	<b>521</b>	<b>659</b>

**Table 4. Permit Processing, Annual Average by Outcome Over 30 Years (1991-2020)**

Permit Type	Permit Type Name	Annual Average of Applications Processed					Total
		Approved	Approved / Denied in-part	Denied	Application Withdrawn	Application Returned	
BP	Building Permit	367	3	1	1	4	376
DP	Development Permit	45	1	0	0	1	47
All Other		64	1	0	0	2	67
BCP	Bridge Construction Permit	2	0	0	0	0	2
FOP	Forest Operation Permit	6	0	0	0	<1	6
GP	Great Pond Permit	21	<1	<1	0	<1	22
HP	Hydropower Permit	1	0	0	0	0	1
RP	Road Construction Permit	3	0	0	0	<1	3
SA	Shoreland Alteration Permit	5	<1	0	0	<1	5
SD	Service Drop Permit	9	0	0	0	0	9
SP	Subdivision Permit	6	<1	0	0	<1	6
ULP	Utility Line Permit	4	0	<1	0	<1	5
WL	Wetland Alterations Permit	1	<1	0	0	<1	1
ZP	Zoning Petition	6	<1	<1	0	<1	7
<b>TOTAL</b>		<b>476</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>7</b>	<b>490</b>

In administering its land use standards, the Commission also issues a range of other determinations regarding land uses and development, including: advisory rulings, boat launch notifications, certifications of compliance, coastal zone management area consistency reviews, letters of exemption, review and approval of certain activity permitted by the Maine Forest Service, and water quality certifications. While these actions do not involve the issuance of permits, they are official determinations made by the Commission. Table 5 presents the number of these determinations processed, by type. Appendix D describes each type of action listed in Table 5.

**Table 5. Other Land Use Determinations, 2020**

Determination Type	Actions Processed
Advisory Rulings	10
Boat Launch Notifications	1
Certifications of Compliance	14
Coastal Zone Management Area Consistency Determinations	1
Letters of Exemption	0
Maine Forest Service Review and Approvals	1
Water Quality Certifications (not incorporated in other permits)	0
<b>TOTAL</b>	<b>27</b>

**B. Time for Rendering a Decision**



GOAT icon

The Commission utilizes a database referred to as the Geographic Oriented Action Tracker (GOAT) to manage and track permitting activities. Many stages of the permit review process are cataloged in GOAT. For example, an action status and date are entered when an application is filed, when an application is complete, when a final action or disposition occurs (*e.g.*, approval, denial, withdrawal of application), and when a certificate of compliance is issued. The permit processing time – the time for rendering a decision – can be calculated by

comparing the date when an application is complete with the date of final action or disposition. The following figures and tables illustrate the processing times for the three main categories of permits – the same categories identified in the tables above:

- A. Building Permits (*i.e.*, residential development);
- B. Development Permits (*i.e.*, non-residential development); and
- C. All Other Permits.

Permit processing times may be impacted by any number of factors. For example, a thorough or well-prepared application may help expedite review. Staff diligence and permitting workload also are factors. Common factors that may add to permit processing times, or otherwise warrant consideration when reviewing processing time data, include the following:

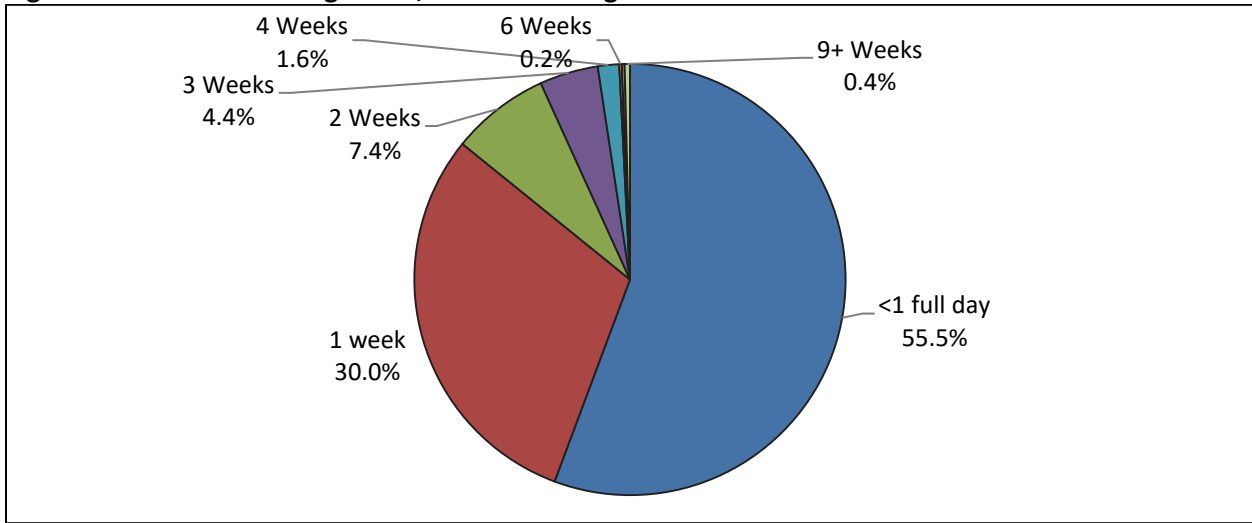
- Some permit actions may be after-the-fact permits, permits sought and issued after the development occurred without proper permit authorization. After-the-fact permits typically require additional review time due to the complexities of resolving components of the development that already exist, yet may not comply with the rules and standards.
- Permits that are denied typically involve longer review times due to the effort to identify an approvable project. The same is true for withdrawn applications. In some instances an applicant may choose to withdraw a proposal rather than proceed and obtain a formal denial.
- Permit processing times may include periods when applications were put on hold to await information from the applicant.
- Some permit processing times include time required for review by outside agencies,

notice periods preceding public comment, public comment periods, public hearings and the associated notice period, and/or presentation to the Commission for action at a monthly business meeting.

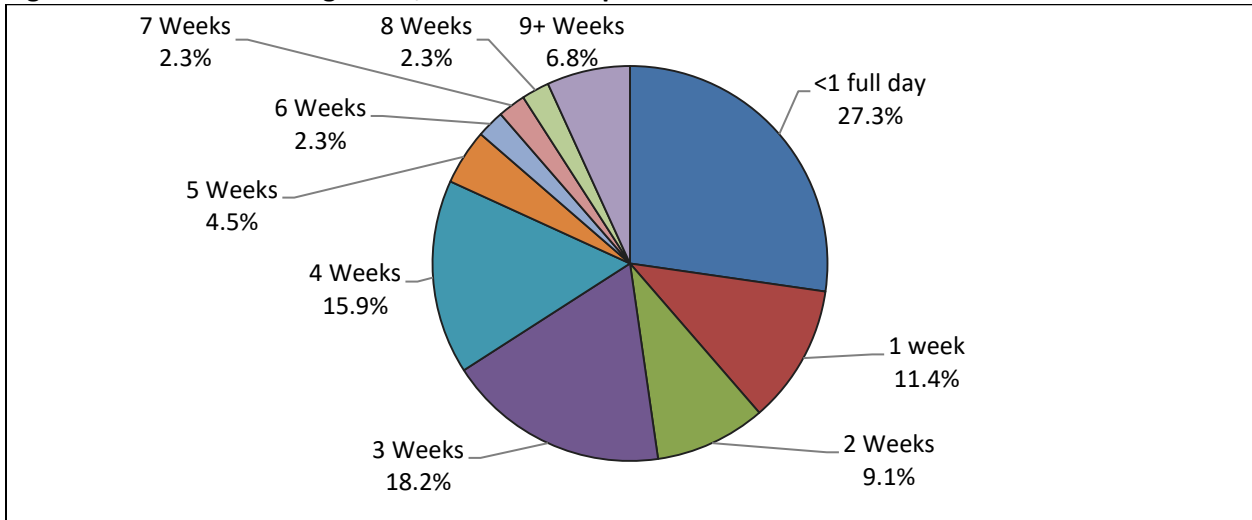
The following Figures A, B, and C show the percentage of permits processed within a given time period. These figures show, for example:

- Building Permits – Of the 503 building permit applications, the Commission processed 55 percent in less than one full day and 85 percent in a week or less.
- Development Permits – Of the 44 development permit applications, the Commission processed 39 percent in a week or less and 82 percent in four weeks or less.
- All Other Permits – Of the 112 permit applications in the all other category, the Commission processed 69 percent in a week or less and 86 percent in four weeks or less.

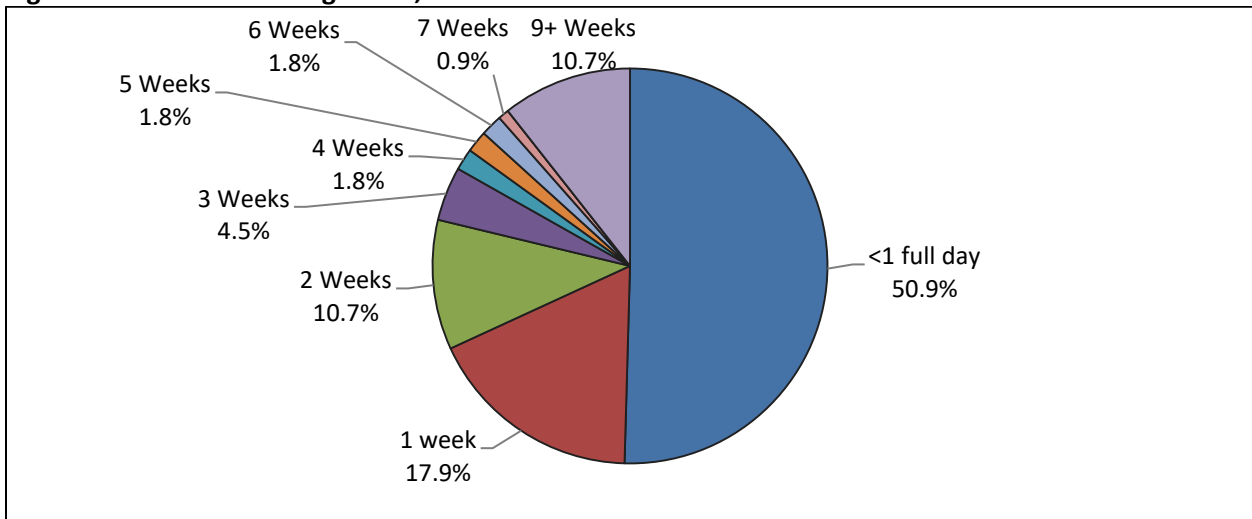
**Figure A. Permit Processing Times, 2020 – Building Permits**



**Figure B. Permit Processing Times, 2020 – Development Permits**



**Figure C. Permit Processing Times, 2020 – All Other Permits**





Tables 6 and 7 present the average and median processing times for 2020 and, to provide context, for the preceding five years. The data for the Table 6 calculations are the same data reflected in Figures A, B, and C above. In each of the following three tables, for the specified category of permit:

- Average = the sum of the processing time for all permit actions divided by the number of actions
- Median = the processing time in the middle of the range of processing times for all permit actions

Where the Commission determined an application was complete and made a final permitting decision the same day, the processing time is less than one full day. In calculating the average and median permit processing times, permitting decisions made in less than one full day are assigned a processing time of zero days. A median processing time of less than one full day (*i.e.*, <1) means the Commission made a final permitting decision on at least half of the applications on the same day the application was deemed complete.

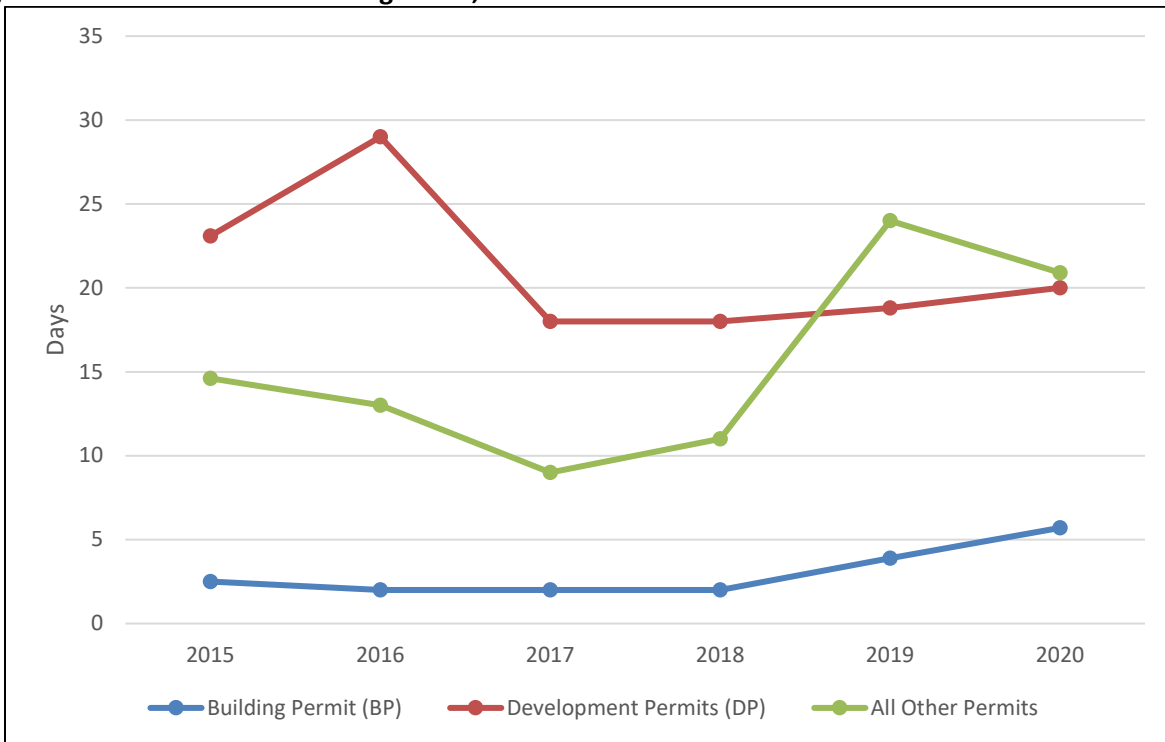
**Table 6. Permit Processing Times, 2020**

Permit Type	Processing Times (Days)	
	Average	Median
Building Permit (BP)	5.7	<1
Development Permits (DP)	20	16.5
All Other Permits	20.9	<1

**Table 7. Annual Permit Processing Times, 2015-2019**

Permit Type	2015		2016		2017		2018		2019	
	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)
Building Permit (BP)	2.5	<1	2	<1	2	<1	2	<1	3.9	1
Development Permits (DP)	23.1	17	29	19	18	14	18	9	18.8	8
All Other Permits	14.6	3	13	<1	9	<1	11	<1	24	6

Figure D. Annual Permit Processing Times, 2015 – 2020



Commission staff have achieved very consistent and efficient permit processing times over the past five years but for two anomalies that show up clearly in Figure D above. The first anomaly was a building permit with a processing time of 1,239 days due to a considerable amount of time when the permit was on hold and staff were assessing how to proceed. While indecisiveness played a role, the turnover in staff (both permitting and regional supervisor) further complicated the matter. Additionally, the “all other” permits group includes the Commission’s review of the New England Clean Energy Connect (NECEC) project which included a public hearing and otherwise lengthy and controversial review process, resulting in a processing time of 817 days. If not included in the calculations, the average processing time for building permits and “all other” permits in 2020 is 3.2 days and 13.8 days respectively. Excluding the anomalies and using these two data points would flatten the curves in Figure 5 and be more representative of agency-wide permit processing time.

### C. Preapplication Consultation Activities

The Commission has developed procedures by which an applicant may request a public pre-application consultation meeting with the Commissioners to discuss a project. This is an option provided for in [Public Law 2011, chapter 682](#). Staff notify potential applicants of this option. In 2020, the Commission did not hold any formal preapplication meetings.

Additionally, Commission staff routinely meet with prospective applicants in order to provide assistance and guidance regarding the application processes. Staff also provide opportunities for unofficial but documented staff opinion through advisory rulings and letters of exemption. In 2020 the staff issued ten advisory rulings.

#### **D. Regional Planning and Zoning Initiatives**

Legislation enacted in 2012 directed the Land Use Planning Commission to “initiate prospective zoning in the unorganized and deorganized areas of the State” and to “coordinate prospective zoning in cooperation with efforts of local planning organizations and regional planning and development districts.” P.L. 2011, ch. 682, § 34. Over the past eight years the Commission has worked to fulfill this mandate through extensive outreach and several Community Guided Planning and Zoning (CGPZ) initiatives. These are prospective zoning projects that are locally driven and collaborative in nature.

Throughout the Community Guided Planning and Zoning process, Commission staff assist sponsoring or convening agencies and each regional steering committee by providing information and highlighting relevant statutory requirements to help ensure that the results of each region’s commitment of time and resources both achieve local goals and are consistent with the Commission’s statutory review criteria and statutory purpose, as well as with the guiding principles adopted by the Commission at the outset of this prospective planning and zoning process.

Prospective planning and zoning in Aroostook County, led by the convening agency Northern Maine Development Commission, was completed in 2015, with rule changes implementing the region’s recommendations going into effect in 2016.

In Western Maine, Stage 1 of the CGPZ initiative was completed in 2015. This regional effort was led by convening agencies Androscoggin Valley Council of Governments (AVCOG) and Kennebec Valley Council of Governments (KVCOG), with support from the Somerset Economic Development Corporation (SEDC). Following completion of the Stage 1 report, which was reviewed and endorsed by the Franklin and Somerset County Commissioners and the executive boards of AVCOG and KVCOG, it was determined that Stage 2 planning by the convening agencies would resume when funding became available. To date, the Western Maine regional planning effort remains dormant, although the Commission through its recent rule revisions resulting from review of its adjacency principle may have helped to address the needs identified by the region during its Stage 1 efforts, particularly those associated with the evolving recreation economy. Also, the Commission will be completing a five year review of the Prospective Zoning Plan for the Rangeley Lakes Region in 2021. Additional needs of the Rangeley area may be identified during this review.

Finally, the CGPZ initiative in Washington County, led by the Washington County Council of Governments, was completed in 2017, with recommended rule changes that went into effect in early 2018.

Insights gained by the Commission through the CGPZ initiatives across multiple regions helped inform the Commission’s review of the adjacency principle. All of the regional planning efforts to date identified shortcomings in the Commission’s application of this principle through the one-mile rule of thumb – shortcomings the Commission has worked to address. Now that the Commission has completed review of the adjacency principle, it will implement the associated rule revisions and the work plan (see Appendices A and B attached) intended to evaluate the implications of those revisions. The results of the evaluation, in addition to feedback from local communities, will help the Commission focus its planning efforts in the year and years to come.

## Moosehead Regional Planning Project

With the termination of the Concept Plan for the Moosehead Lake Region, approximately 17,000 acres of development areas associated with that Concept Plan were removed and replaced with Management and Protection zoning. The Conservation Easements put in place as part of the Concept Plan are permanent and are not affected by the termination. The Land Use Planning Commission is in the beginning stages of the Moosehead Regional Planning Project, in which the community can now help determine what land uses should be allowed in those former development areas.

The Commission is currently gathering input and comments from stakeholders in order to create several “Discussion Maps,” hypothetical zoning maps that will be used to prompt community discussion during public meetings in the Summer of 2021. In particular, the Commission is interested in where future development is appropriate and at what intensity, and where protections from future development are appropriate. The Commission launched [a website and online map-based survey](#) devoted to the regional planning project in December of 2020. This project will continue throughout 2021.



Moosehead Lake and sunshine on Mount Kineo. Photo: Rex Turner, BPL

## E. Staff and Commissioner Training

### Staff Training and Customer Service

In 2020, Commission staff attended both internal and external training sessions and workshops intended to help with the delivery of quality customer service. With the lockdown imposed in March due to the COVID-19 pandemic, staff quickly gained expertise in multiple virtual platforms<sup>2</sup> for internal and external communications, data sharing, and one-on-one interactions with permit applicants. This training was immediately used to conduct virtual Commission meetings with clear and complete instructions to the public who could continue to participate regardless of their Internet access or home phone/computer platforms.

Despite the challenges posed by COVID-19 staff sought out training across multiple areas including subsurface wastewater disposal, remote deed research, spatial analysis and Geographic Information Systems, soils, planning law, carbon budgeting, building three dimensional imagery using lidar technology and data, climate change equity, green banking, and more. The training helps position staff to deliver the quality service the Commission strives to provide.

External staff training in 2020 highlights include:

- *Subsurface Wastewater Training* – Four staff were able to attend training in subsurface wastewater disposal prior to the COVID-19 shutdown. Unfortunately four other regional workshops were cancelled. Even though licensing of subsurface wastewater systems falls under the authority of local public health inspectors and a different statute, it is relevant to LUPC activities and training on this issue will be a priority for 2021 if it becomes available.
- *Laredo/Tapestry Registry Online Training* – On April 9, several permitting staff attended this Online training to learn efficient means of researching property titles with remote access.
- *Northeast ARC User Group Spring Conference* – On May 19, two Senior Planners and the Commission’s GIS Coordinator attended this conference. Sessions at the conference included new technologies in the ArcGIS software suite for Online Apps, the Internet of Things, and tools and techniques in spatial analysis. There were also informative sessions relating to rapid field data acquisition, COVID-19 response solutions to visualize impacts of the pandemic, and how to use ArcGIS Hub to facilitate community engagement, collaboration and data sharing.
- *Reid State Park Soils and Natural Resources Workshop* – On September 4, permitting and compliance and planning staff attended the *Reid State Park Soils and Natural Resources Workshop*. This workshop combined soil evaluation with natural resource identification, wetland determinations and stream identifications, and included discussion

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<sup>2</sup> Microsoft Teams, Sharepoint, Flow, Power Automate, Survey; Zoom; ESRI ArcGIS Survey 123, ArcGIS Hub Website; Electronic and Digital Signatures; Online Facilitation; On-Demand Virtual Meetings; Ergonomics/VDT

of regulatory issues faced by the Commission and other agencies with permitting responsibilities.

- *Northern New England Chapter of the American Planning Association (NNECAPA) Annual Meeting and Conference* – On September 30, planning staff attended this conference that included sessions on planning related law updates, tourism impacts of the COVID-19 pandemic, zoning standards inducing unintended consequences, and community risk evaluation for coastal and inland flooding.
- *Maine Municipal Association Convention* – On October 7-15, planning staff attended and participated in this annual convention. Sessions at the convention included Community Risks of Flooding and Stream Smart Culvert training.
- *Navigable Waters Protection Rule; Section 401 Water Quality Certification Rule* – On December 17, the Director and Planning Manager participated in an Online training organized by the US Army Corps and Engineers and the US Environmental Protection Agency on changes to the rules associated with these two federal statutes; focus included how these changes are distinct from state rules to an audience primarily of permittees and their consultants.

Internal training in 2020 included:

- *Google Earth and Aspect Ratios in Visual Impact Assessment* – On May 12, senior staff received training on how to use ArcGIS tools and spatial analysis to evaluate the visual impact of a particular proposal on surrounding public features like trails, campgrounds and water bodies.
- *Security Training* – During the month of December, LUPC staff completed the 2020 SANS Security Awareness Training. This training helps staff to better recognize and avoid any potential security threats to not only the computer and online files, but also to the organization as a whole.

Through many online classes, staff achieved proficiency in virtual methods and techniques (see Footnote 3), using these as well as staff meetings to promote consistency across regional offices and provide staff with the substantive knowledge to be best positioned to answer questions and address challenges individual property owners may have or face.

### **Commissioner Orientation and Continuing Education**

All new Commissioners receive an orientation/training session prior to their first meeting. This orientation involves a discussion of the controlling statutory and regulatory provisions, the functions served by the Commission and its staff, and the various resources that a Commissioner may refer to for assistance. In addition, orientation also includes a discussion of the legal roles and responsibilities of Commissioners lead by an Assistant Attorney General.

Over the course of a year, the Commission also schedules agenda items at its regular, monthly meetings that serve as annual continuing education on Title 12, chapter 206-A, Commission

rules, and planning and regulatory processes. For example, in 2020 topics presented to the Commission included discussion on the new marijuana rules, proceedings of the Maine Climate Council, and metallic mineral mining.

## V. COMMISSION GOALS FOR 2021

2021 will be an exciting time for planning in rural Maine when this agency celebrates its 50<sup>th</sup> anniversary. The Commission will rigorously monitor the impacts of the 2019 Adjacency and Subdivision rule changes and engage in other rulemaking initiatives. We expect to update our floodplain management standards to address recommendations of “Maine Won’t Wait”, the Action Plan of the Maine Climate Council and to improve user convenience and reduce operating costs. We will develop replacement zoning for an expiring Concept Plan at First Roach Pond, review the Rangeley Lakes Prospective Zoning Plan, and make significant progress in community driven regional planning in the Moosehead Region. Though we anticipate operating in a virtual environment for much of 2021, we continue to develop skills and tools to engage with key local and regional groups and officials that are involved in land use and economic development planning for rural Maine. To improve customer service, we anticipate completion of field testing and then release of new Commission application forms and to continue improving our virtual and regional communication efforts. There is an impressive level of forward momentum right now, and the Commission is poised to play a constructive role as rural residents shape their future.

*Celebrating 50 years of balancing the unique character and vital economy of Maine’s Unorganized Territory*

Throughout each year, the Commission reviews its goals and priorities in order to best focus its efforts and most efficiently use its resources. In all our endeavors we engage with key local and regional groups and officials that are involved in land use and economic development planning for rural Maine.

Specifically, the Commission’s goals for 2021 include:

### **Policy and Rulemaking**

- Implement the work plan to track outcomes of the 2019 Adjacency and Subdivision Rulemaking.
- Engage in rulemaking initiatives to update floodplain management standards to address recommendations of “Maine Won’t Wait,” the Action Plan released in December 2020 by the Maine Climate Council.
- Carryout several rulemakings to update the Commission’s rules of practice and create or revise several other agency rules to improve user convenience, reduce operation costs, or otherwise streamline the Commission’s rules.
- Continue researching policy and rule change options to address accessory dwelling units, short-term rental units, solar sighting standards, and lighting or “Dark Sky” standards.

## Planning and Community Engagement

- Develop and implement replacement zoning for the expiring First Roach Pond Concept Plan.
- Build on the success of the first Community Guided Planning and Zoning projects and continue community outreach and draft potential strategies in the Moosehead Regional Planning process.
- Complete a 5-year review of the Rangeley Lakes Prospective Zoning plan.
- Continue working with towns and plantations potentially interested in making changes to the current authority for land use controls, including assisting the Town of Chester to assume land use control over the area they annexed from T2 R8 NWP Township in 1997, and assisting the Town of Allagash, if they choose to pursue transfer of land use regulatory authority to the LUPC.

## Customer Service

- Continue working with the new owners of Saddleback Resort as they seek to further revise their Development Plan and pursue necessary permits to meet their goals for the ski resort.
- Complete field testing and release new Commission application forms to simplify and improve usability of the format.
- Complete redesign of the Commission’s Geographically Oriented Action Tracker database to improve functionality, particularly relating to the connectivity of geographic locations and Commission actions.
- Continue to expand and enhance the Commission’s effectiveness and modes of communication with landowners, stakeholders, and the public.

In addition to its list of goals and policies the Commission recognizes the necessity of responding to new issues as they emerge or as priorities shift.

Finally, throughout the year, the Commission and its staff are committed to continue working to provide efficient, quality service to the people with whom they interact and the people of Maine.

Great Blue Heron, 2020 B. Hinkel





**Appendix A:  
LUPC Commissioners as of December 31, 2020**

The Land Use Planning Commission is a 9-member, citizen board with both county and gubernatorial appointees. Eight of the seats are filed by the counties with the most acreage within the unorganized and deorganized areas of the State. Each of the following counties (listed from largest to smallest in terms of qualifying acreage) is responsible for filling one seat: Aroostook, Piscataquis, Somerset, Penobscot, Washington, Franklin, Oxford, and Hancock. The final seat on the board is filled by the Governor.

The qualifications an individual must possess to serve on the Commission and the appointment process for both counties and the Governor are set in statute, 12 M.R.S. § 683-A.

The following table shows who currently fills each seat on the LUPC and who has appointed this individual. (Note, seat #8 has been removed; it used to be filled by the LUPC Director.)

<b>Seat No.</b>	<b>Commissioner</b>	<b>Appointing Authority</b>	<b>Appointed</b>	<b>Term Expiration</b>	<b>Comments</b>
1	James May	Governor	4/20/2017	7/9/2020	Renominated 6/30/2020; legislative confirmation pending
2	Millard Billings	Hancock	8/23/2016	7/9/2020	Renominated 3/11/2020; legislative confirmation pending
3	Peter Pray	Penobscot	5/31/2019	7/9/2021	
4	Betsy Fitzgerald, Vice-chair	Washington	7/10/2017	7/9/2021	
5	Lee Smith	Oxford	1/21/2020	1/21/2024	
6	William Gilmore	Franklin	11/23/2015	8/20/2023	
7	Gwendolyn Hilton	Somerset	07/29/2019	7/29/2023	
9	Durward Humphrey	Aroostook	3/23/2017	3/13/2021	
10	Everett Worcester, Chair	Piscataquis	5/23/2017	5/22/2021	

## **Appendix B: Types of LUPC Permits and Actions**

### **Action Types**

Each application received by the Maine Land Use Planning Commission is reviewed and results in a final action or disposition. Final action or disposition includes the following outcomes:

- *Approved* – The proposed activity meets the necessary standards; a decision (permit) indicating approval is issued by staff or the Commission.
- *Approved / Denied in-part* – Parts of the proposed activity meet the necessary standards and are approved, and parts of the proposed activity do not meet the necessary standards and are denied. A decision (*i.e.*, permit) indicating the approved and denied components is issued by staff or the Commission.
- *Denied* – The proposed activity does not meet the necessary standards; a decision (*i.e.*, denial) is issued by staff or the Commission.
- *Application Withdrawn* – The applicant chooses to withdraw their application prior to final action by staff or the Commission. The application is returned and no final action is issued by staff or the Commission.
- *Application Returned* – The application often is incomplete and the applicant has made insufficient effort to address the issue(s). The application is returned and no final action is issued by staff or the Commission.

### **Permit Types & Land Use Determinations**

The Commission uses a variety of action types to identify and record various permitting actions and land use determinations. Each action includes the action type and number (*e.g.*, AR 95-001, BP 123, and ZP 456) at the top of the document and a corresponding entry in the LUPC’s database – Geographic Oriented Action Tracker (GOAT). The following summarizes the various types of permits and land use determinations:

<b>Type</b>	<b>Permit Type</b>	<b>General Description<sup>3</sup></b>
AR	Advisory Ruling	A documented yet informal staff opinion requested at the option of the landowner / developer. Applicants typically seek advisory rulings in order to receive advice as to whether or not a permit is required for specified activities, or for the interpretation of specified provisions of the Commission’s rules. ( <i>See</i> LAR and LOE below.)
BCP	Bridge Construction Permit	Permits for the construction, replacement or repair of bridges.

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<sup>3</sup> [Chapter 10 of the Commission’s rules, \*Land Use Districts and Standards\*](#), contains specific criteria and standards.

Type	Permit Type	General Description <sup>3</sup>
BLN	Boat Launch Notice	A landowner notification to the LUPC, after providing their intent to file notice yet prior to construction or repair of a boat launch, in accordance with Section 10.27,L of the Commission’s <i>Land Use Districts and Standards</i> .
BP	Building Permit	Permits for activities associated with residential development that requires a permit ( <i>e.g.</i> , activities involving: a camp, a garage, porches, etc.).
COC	Certificate of Compliance	A Commission document confirming the development, activity, and/or use complies with both the applicable rules and permits issued.
CZMA Consistency Determination	Coastal Zone Management Area Consistency Determination	A letter from the LUPC staff regarding concurrence with the Federal Consistency Determination; that the proposed activities, in Federal Waters within the coast of Maine, do not trigger review by the LUPC. (16 U.S.C. § 1456(c) and 15 C.F.R, Part 930, Subpart C)
DP	Development Permit	Permits for activities associated with non-residential development that requires a permit ( <i>e.g.</i> , activities involving: commercial sporting camps, retail store, warehouse, mill, wind turbines, campground, resort, etc.)
FOP	Forestry Operations Permit	Permits for forest operations that exceed the standards of Section 10.27,E of the Commission’s <i>Land Use Districts and Standards</i> or are located within a Development Subdistrict or the Mountain Area Protection (P-MA) Subdistrict. FOPs issued after July 15, 2013, depending upon the subdistricts involved, may differ from FOPs issued before that date. ( <i>See</i> MFS-RA below for more details.)
GP	Great Ponds Permit	Permits for activities affecting great ponds ( <i>i.e.</i> , bodies of standing water greater than 10 acres in size). Activities permitted as a Great Ponds Permit include but are not limited to, permanent docks, dredging, some boat launches/ramps, breakwaters, and retaining walls.
HP	Hydropower Permit	Permits for and relating to hydropower activities.
IFN	Intent to File Notice	A landowner notification to the LUPC, of their intent to file a Boat Launch Notification (BLN) described above, in accordance with Section 10.27,L of the Commission’s <i>Land Use Districts and Standards</i> .

Type	Permit Type	General Description <sup>3</sup>
LAR	Letter of Exemption/Advisory Rulings	A letter from the LUPC staff confirming the proposed activity is exempt from one or more provisions of the Commission’s rules and therefore does not require permit approval and a documented, but informal, staff opinion regarding other aspects of the specified project. LARs are issued when both an Advisory Ruling and a Letter of Exemption are appropriate. ( <i>See AR and LOE herein.</i> )
LOE	Letter of Exemption	A letter from the LUPC staff confirming the proposed activity is exempt from one or more provisions of the Commission’s rules and therefore does not require permit approval. Historically, LOEs were issued only for utility lines that were exempt; however, as of 2011 they are used for any proposed activity that is exempt from either the Commission’s review or exempt from permit approval. ( <i>See AR and LAR above.</i> )
MFS-RA	Maine Forest Service Review and Approval	Review and approvals issued by the Commission for timber harvesting activities that are permitted by the Maine Forest Service (MFS) (12 M.R.S. § 685-A(12)). As of July 15, 2013, the MFS regulates timber harvesting, land management roads, water crossings on/for land management roads, and gravel pits less than five acres in size in management and protection subdistricts. When these activities require a permit from the MFS and are conducted in the Unusual Area Protection (P-UA), Recreation Protection (P-RR) and Special River Transition Protection (P-RT) subdistricts, Commission approval is required before the MFS may issue a permit. In these cases, the Commission must determine whether or not the project conforms to its standards that are not otherwise regulated by the MFS. Commission review focuses largely on impacts to existing uses, such as recreational, historic, cultural, or scenic resources, with the technical review of these activities remaining with the MFS. These activities, when conducted in development subdistricts and in development areas in Resource Plan Protection Subdistricts (P-RP) are regulated by the Commission, and not the MFS.
MISC	Miscellaneous	Applications returned or withdrawn prior to assignment of permit type. In GOAT queries these applications will be identified by the unpopulated “Permit_Type” and “ActionNumber” fields.
RP	Road Construction Permit	Permits for the construction, realignment, and substantial repair of roads (excluding land management roads).

Type	Permit Type	General Description <sup>3</sup>
SA	Shoreland Alteration Permit	Permits for activities affecting the shoreline of lakes, ponds, rivers, or streams ( <i>e.g.</i> , activities involving: riprap, dredging, permanent docks, the intrusion of structures into or over a wetland or waterbody, and utility lines within or buried beneath a wetland or waterbody).
SD	Service Drop	Permits for certain utility lines. See Section 10.02 of the Commission’s <i>Land Use Districts and Standards</i> . Some building permits (BP) and development permits (DP) include (d) authorization of a service drop.
SP	Subdivision Permit	Permits to create new lots where the lot(s) do not qualify as exemptions, see Section 10.25,Q,1 of the Commission’s <i>Land Use Districts and Standards</i> .
SPDP	Subdivision/Development Permit	Permits regarding activities including both the subdivision and subsequent development of a land area. This permit type combined the review of and action on subdivision permits (SP) and development permits (DP). <i>Permit type no longer in use.</i>
SLC	Statutory LUPC Certification or Site Law Certification	Certifications issued by the Commission for projects that trigger review by the DEP according to Site Law. In these cases, the Commission must certify whether the use is allowed in the subdistrict(s) in which it is proposed and whether the project conforms to Commission’s standards that are not otherwise effectively applied by the DEP. Projects that typically trigger Site Law include: larger subdivisions, larger commercial development, and grid-scale wind development.
ULP	Utility Line Permit	Permits for certain utility lines ( <i>e.g.</i> , activities involving: electric power transmission or distribution lines, telephone lines, etc.) that require a permit and therefore do not qualify as an exemption or as a Service Drop described above.
WL	Wetlands Alteration Permit	Permits related to the alteration of wetlands ( <i>e.g.</i> , activities involving: filling or dredging of wetlands, etc.).

Type	Permit Type	General Description <sup>3</sup>
WQC	Water Quality Certification	A Commission action certifying that activities meet applicable water quality standards, pursuant to Section 401 of the U.S. Clean Water Act. <sup>4</sup> When permits are required the Commission incorporates the WQC into the permit; stand-alone WQC actions represent certification of projects that did not also require permit approval ( <i>e.g.</i> , FERC relicensing).
ZP	Zoning Petition	Petitions to rezone a specified land area to another subdistrict(s). <i>See</i> Section 10.08 of the Commission’s <i>Land Use Districts and Standards</i> .

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<sup>4</sup> [Executive Order #16 FY 91/92](#) designated LURC (now the LUPC) as the certifying agency for issuance of Section 401 Water Quality Certifications for all activities located wholly within its jurisdiction. Section 401 is a reference to the U.S. Clean Water Act, [33 U.S.C. § 1341](#).