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LAND USE PLANNING COMMISSION  
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EXECUTIVE DIRECTOR

February 21, 2024

Senator Henry Ingwersen, Senate Chair  
Joint Standing Committee on Agriculture, Conservation and Forestry  
Maine Senate  
3 State House Station  
Augusta, ME 04333

Representative William Pluecker, House Chair  
Joint Standing Committee on Agriculture, Conservation and Forestry  
Maine House of Representatives  
2 State House Station  
Augusta, ME 04333

***RE: 2023 Annual Performance Report – Maine Land Use Planning Commission (LUPC)***

Dear Senator Ingwersen and Representative Pluecker:

Enclosed is the Maine Land Use Planning Commission's Annual Performance Report for 2023. 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 2024.

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

Sincerely,

Betsy Fitzgerald, Chair  
Land Use Planning Commission

Enclosure

cc: Stacie R. Beyer, Executive Director, Land Use Planning Commission  
Amanda E. Beal, Commissioner, Department of Agriculture, Conservation and Forestry (DACF)  
Randy Charette, Deputy Commissioner, DACF  
Nancy McBrady, Deputy Commissioner, DACF  
Judy East, Director, Bureau of Resource Information and Land Use Planning, DACF  
Emily Horton, Director of Policy and Community Engagement, DACF

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# LAND USE PLANNING COMMISSION

## ANNUAL PERFORMANCE REPORT

### CALENDAR YEAR 2023



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Randy Charette  
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## EXECUTIVE SUMMARY

The calendar year 2023 was another challenging year for the Department of Agriculture, Conservation and Forestry's (DACF) Land Use Planning Commission (Commission or LUPC). Starting in 2020 and continuing through 2023, the Commission's focused tracking of incoming building permit applications showed a substantial increase in applications over the previous 2016-2019 levels. Staff resources were strained with the increase in applications, a corresponding increase in requests for information, and incoming telephone calls and e-mails remaining at a staggering level. Staff turnover and shortages of qualified job candidates were still prevalent and added to the strain. At the end of 2022, 25% of the agency's positions (six total) were vacant due to various factors, including high workloads, salary levels, and internal and external promotional opportunities. Nearly all the vacant positions were filled by the end of 2023. However, over the previous 18-month period, 21 of LUPC's 24 positions have seen turnover. Hiring and training for these roles took significant staff time. Regardless of all these factors, the Commission staff continued to perform remarkably, maintaining high customer service levels and reasonable application processing times throughout the year. More details and analysis are provided in this report's "Number of Permits Processed in 2023" and "Time for Rendering Decision" sections. In addition, this report highlights the Commission's work on several large-scale projects, summarizes the Commission's work over the calendar year 2023, and responds to the annual performance reporting requirements of Title 12, section 685-H.

Several large planning projects were completed in 2023. The most notable was the successful renewal or adoption of replacement zoning for the resource and concept plans expiring in 2023 and early 2024. In 2023, the Commission renewed the White Mountain National Forest Resource Plan. It also approved replacement zoning for the expiring Attean Twp. and Dennistown Plt. Concept Plan, and Brassua Lake Concept Plan. Over 22,000 acres were rezoned in these planning projects. With this work, there will only be six custom zoning plans left in the service area, with the next expiration date not until 2032. Significant policy work, including several community and virtual meetings, was also completed in preparation for rulemaking to improve the regulation of short-term rentals and accessory structures in the Commission's service area and update the Commission's lighting standards.

The Commission is reviewing one rezoning proposal for a large-scale development project. Wolfden Mt. Chase, LLC submitted the rezoning application. That application proposes a 374-acre Planned Development Subdistrict to allow a new metallic mineral mine in T6 R6 WELS, north of Patten, Northern Penobscot County. The Commission received the application on January 18, 2023, and held a series of technical and public sessions for the public hearing in October 2023. A public deliberation session was held on December 13, 2023, and a final decision is expected in February 2024.

In 2023, the Commission completed two rulemaking proceedings, including revisions to its Chapter 10, *Land Use Districts and Standards*. Revisions to Chapters 2 and 10 implemented: 1) updates to terms and township names to maintain consistency with Maine laws, 2) updates to match revised statutory language, 3) the removal of an automatic hearing requirement for zoning petitions involving a D-PD subdistrict, 4) the addition of parking space requirements for non-residential development, 5) clerical edits and clarifications, and 6) the removal of Appendix E.

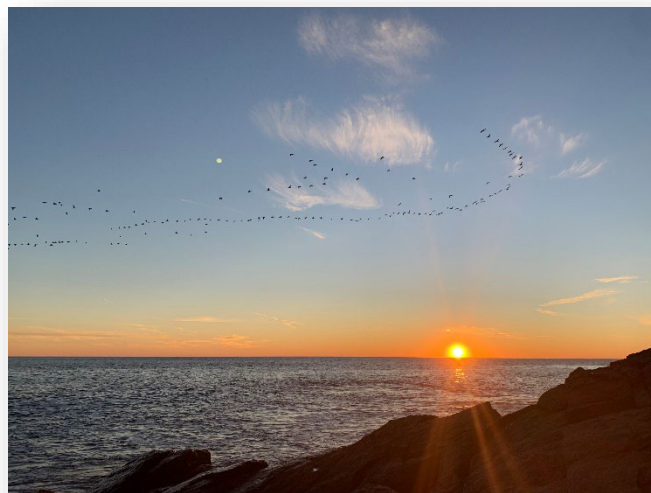
Revisions to Chapter 4 designated two specific types of applications as being "routine" and therefore authorized staff to act on those applications. The two types of applications include: 1) applications to amend wetland subdistrict boundaries when supported by on-site wetland delineations, and 2) applications for the adoption of official Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps produced by the Federal Emergency Management Agency. Details are provided in the

"Completed Rulemaking" section of this report. In addition, pursuant to [12 M.R.S. §685-A\(7-A\)\(B\)\(6\)](#), the Commission has submitted the Chapter 10 revisions under separate cover to the Joint Standing Committee on Agriculture, Conservation and Forestry.

Also, in 2023, Commission staff responded with the Maine Department of Environmental Protection (DEP) and DACF's Maine Forest Service (MFS) to the Canadian Pacific Kansas City train derailment in Sandwich Academy Grant Twp. The train derailed on April 15, 2023. The aftermath of the derailment prompted a difficult cleanup overseen by DEP to remove the wreckage and minimize the environmental damage caused by the diesel, hydraulic fluid, and engine oil spillage, and disturbed soils resulting from the cleanup efforts. MFS was the lead agency in responding to sediment discharges to adjacent wetlands and streams, the Moose River, and Little Brassua Lake from heavy equipment use of land management roads to access the derailment site. LUPC staff consulted with DEP and MFS during the remediation phase, and LUPC is the lead agency overseeing the restoration efforts at the site. As an inter-agency project manager, LUPC will steer the effort toward a successful outcome. Natural resource restoration of the site is anticipated for spring 2024. A more detailed description is located on the [Featured Projects page](#) of LUPC's website.

Pursuant to 12 M.R.S. § 685-H, this report includes a summary of the Commission's permitting activity. In 2023, the Commission issued 575 permits, representing approval of 99 percent of all complete applications received. Of the permits issued, 457 were building permits; 32 percent of these were approved the same day the application was determined to be complete, and 73 percent were approved within a week. This report provides additional detail in the "Number of Permits Processed in 2023" and "Time for Rendering a Decision" sections.

The Commission provides valuable services to residents and property owners in the unorganized and deorganized areas of Maine, 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 2023 and concludes with a look ahead to the Commission's goals for 2024. The Commission expects that 2024 will continue to be demanding. The highest policy and planning priorities for 2024 include focused attention on policy work around climate change, completing rule revisions related to accessory dwelling units, short-term rentals, and updated lighting standards; developing a new system for managing and communicating land use data; and beginning the initial research and planning for updating the Commission's Comprehensive Land Use Plan. Priorities for permitting and customer service include implementing the agency's new enforcement work plan, updating permit application forms, building effective outreach programs with critical stakeholders, and updating the LUPC website to give applicants easy access to more self-help resources. Tasks that need attention far exceed the available LUPC staff resources; therefore, without additional resources, it is likely that several of the high-priority goals will need to be carried forward to 2025.



Monhegan, 2023, A. Oncita, LUPC

## 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 the calendar year 2023. This is the eleventh year in which the Commission has provided the report.

## II. PURPOSE OF THE COMMISSION

LUPC serves as the planning and zoning authority for the unorganized and deorganized areas of the State. These areas include all townships (426), most plantations (26), and some towns (7). Collectively referred to as the Commission's service area or the UT, these areas 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 many permits for smaller development projects, such as building permits for home constructions and camp renovations, and for activities with the potential to impact natural resources, such as water bodies or wetlands. For larger development projects requiring DEP review under the Site Location of Development Law, Maine Metallic Mineral Mining Act, or qualifying as grid-scale wind energy development, the Commission certifies whether proposed land uses are allowed and whether proposed development activities comply with applicable Commission land use standards not considered by DEP.

Serving the UT and helping guide land use in these areas represents a unique challenge. These diverse areas cover over half the state, encompassing approximately 10.5 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, villages, farmland areas, 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 areas the Commission serves. (A map of the area served by the Commission is shown on the following page.)

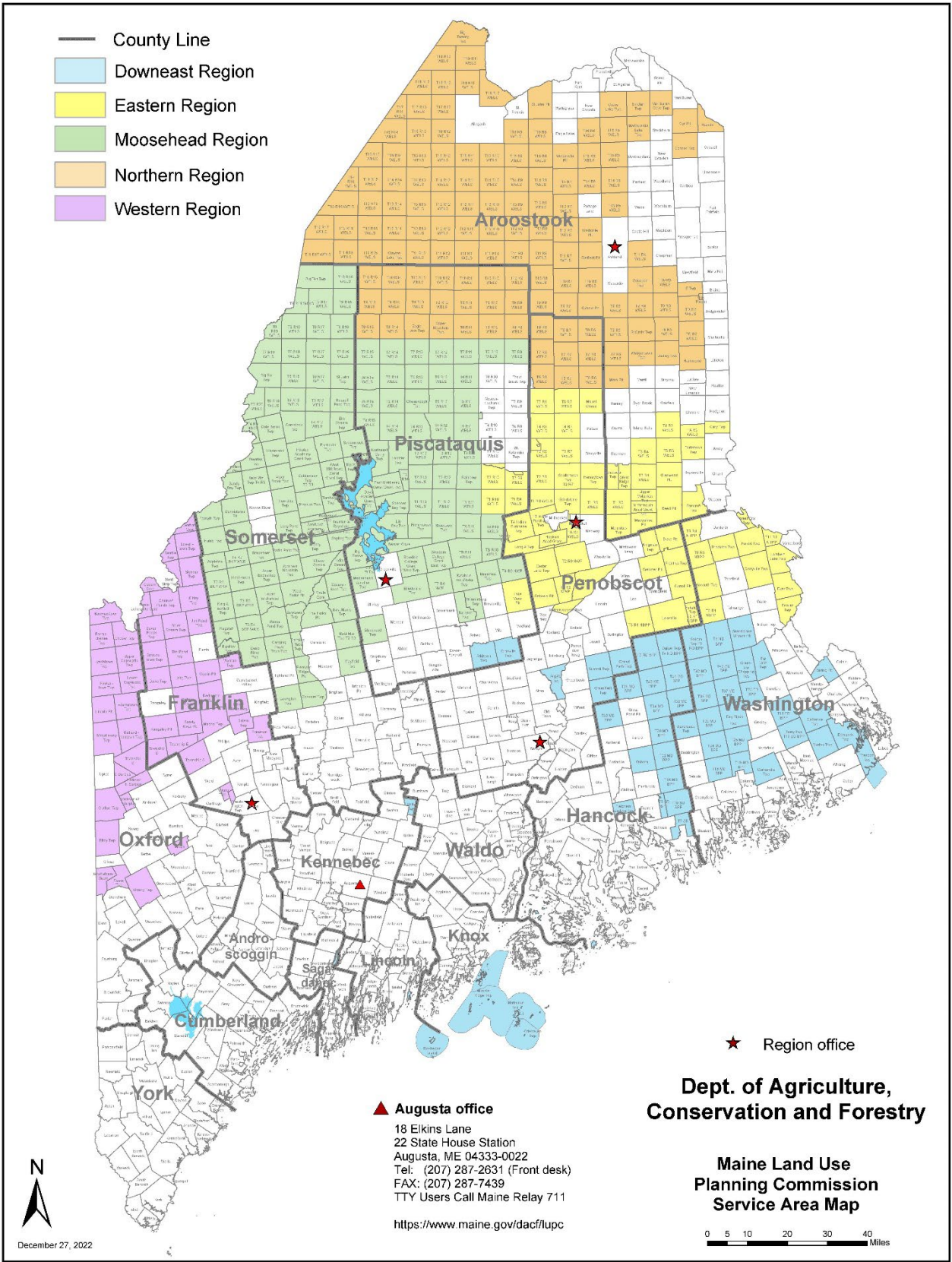
The UT is essential to the vitality of the State and local economies, contains critical natural resources, is home to many Maine people, and is enjoyed by Maine residents and visitors pursuing outdoor recreation activities, including hunting, fishing, boating, hiking, and camping.

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 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.



Baxter, 2023, A. Oncita, LUPC





### III. OVERVIEW OF THE COMMISSION'S ACTIVITIES IN 2023

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

In a 2019 rulemaking, LUPC updated its interpretation of the adjacency principle, which is an initial screen for where new zones for developing 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 the 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.

After years of consultations with stakeholders and experts, as well as Commission study and analysis, the Commission adopted the 2019 "Revised Application of the Adjacency Principle & Subdivision Standards" rule, with the full expectation that it will improve outcomes for environmental protection, natural character, and regional economic health. As with any substantial change, a careful review of the results in a timely and ongoing manner is essential. In addition to collecting data about rezoning and permit approvals as part of the ordinary course of work, the Commission committed to reviewing 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 the adoption of the rule revisions, the Commission has developed a [work plan 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, research, and assessment tasks.

The work plan meets the commitments made in 2019 to review the effectiveness of the rules and proposes, with varying resource implications, going beyond that original commitment. For example, the work plan expands on the original commitment by including an annual summary of outcomes. The work plan and the Annual Adjacency and Subdivision Reports from 2020-2023 are [on the LUPC website](#).

#### B. Concept and Resource Plans: Terminations, Expirations, and Renewals

##### White Mountain National Forest Resource Plan

The White Mountain National Forest Resource Plan and accompanying Resource Protection (P-RP) Subdistrict, initially approved by the Commission in 1979, protect approximately 31,000 acres of national forest within the Commission's service area, including much of the 14,000-acre federally designated Caribou-Speckled Mountain Wilderness Area. The purpose of the P-RP subdistrict is to provide for the more efficient

and effective management of single or multiple protection subdistricts. Commission staff worked collaboratively with the United States Forest Service staff, who manage the national forest, and in 2023, the Commission approved a 30-year renewal of the Plan.

#### **A Concept Plan for the Lands of Lowell & Co. Timber Assoc. in Attean Twp. and Dennistown Plt.**

A Concept Plan for the Lands of Lowell & Co. Timber Associates in Attean Township and Dennistown Plantation (the Plan) expired on July 1, 2023. The Plan was initially approved by the Commission in 1993 as the first concept plan in Commission history. The Resource Protection Subdistrict (P-RP) encompassed 17,060 acres and 34.9 miles of shoreline on 11 ponds. The Plan resulted in the transfer of nearly 12 miles of shorefront on Attean Pond to the State of Maine and a permanent right-of-way across the Attean/Holeb portage trail. These areas are administered by DACF's Bureau of Parks and Lands. The Plan also resulted in creating the 330-acre Benjamin Valley Ecological Preserve, conserving an additional 3,400 acres in the Benjamin Valley, and 31,570 feet of protected shoreline on Mud, Little Big Wood, and Wood ponds.

Commission staff reached out to the current major landowner in late 2022 and determined there was no desire to renew the Plan. When a Plan expires and is not renewed, the Commission must designate appropriate replacement zoning in accordance with its comprehensive land use plan, statute, and rules. Working with landowners, staff created draft replacement zoning maps presented at the March 8, 2023, Commission meeting. The draft replacement zoning maps were posted to a 30-day public comment period, which closed on April 14, 2023. At its May 10, 2023, meeting, the Commission approved the replacement zoning for the lands included in A Concept Plan for the Lands of Lowell & Co. Timber Associates in Attean Township and Dennistown Plantation under Amendment F to Zoning Petition ZP 532, which became effective at the expiration of the Plan.

#### **Brassua Lake Concept Plan**

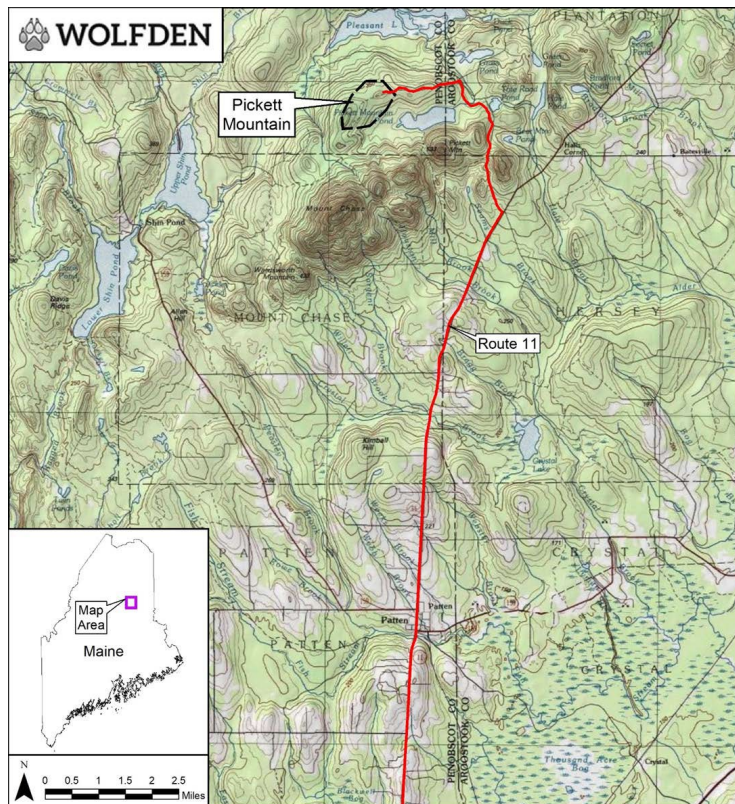
The Brassua Lake Concept Plan (the Plan) expires on January 29, 2024. The Plan was approved by the Commission in 2004. The Resource Protection Subdistrict (P-RP) encompasses 5,673 acres in Tomhegan Township and includes over 15 miles of Brassua Lake and Baker Pond shoreline. The Plan resulted in 57,630 feet of protected shoreline on these ponds.

Commission staff reached out to the current major landowner in early 2023 and determined there was no desire to renew the Plan. When a Plan expires and is not renewed, the Commission must designate appropriate replacement zoning in accordance with its comprehensive land use plan, statute, and rules. Working with landowners, staff created a draft replacement zoning map, which was presented at the Commission meeting on September 13, 2023. The draft replacement zoning maps were posted to a 30-day public comment period, which closed on October 20, 2023. At its December 13, 2023, meeting, the Commission approved the replacement zoning for the lands included in the Brassua Lake Concept Plan under Amendment A to Zoning Petition ZP 682, which will become effective at the expiration of the Plan.

## C. Large-scale Rezoning Proposals

### Pickett Mountain Mine Planned Development Subdistrict

On January 18, 2023, Wolfden Mt. Chase LLC applied to rezone approximately 374 acres of land in T6 R6 WELS from General Management and Protection Subdistricts to a Planned Development Subdistrict (D-PD) to allow for the development and operation of a metallic mineral mine, the Pickett Mountain Mine. The application is subject to the Commission's Chapter 12 rules (*Mining and Level C Mineral Exploration Activities*), which require a public hearing before a final decision on the application. On February 24, the Commission accepted the application as "complete for processing" and requested reviews from other state agencies and contracted consultants.



On June 7, the Commission posted initial notice of the required public hearing, including information on filing petitions to intervene. Two petitions to intervene were filed, one from H. C. Haynes, Inc. supporting the application and one from the Penobscot Nation, Houlton Band of Maliseet Indians, Natural Resources Council of Maine, and the Conservation Law Foundation in opposition. Maine Audubon requested and was granted "Interested Person" status and was consolidated with the tribes and nonprofits intervenor group. On October 16-18, the Commission held hearing sessions in Millinocket, including technical and public testimony sessions. An additional session of public testimony was held on October 23 in Bangor.

In accordance with the Commission's Chapter 5 rules (*Rules for the Conduct of Public Hearings*), the record closed to public comments on November 2, ten days after the Bangor public testimony session, and closed to rebuttal comments

one week after that on November 9. Wolfden and the intervenors submitted post-hearing briefs on November 21, at which point the record was closed. The Commission held a deliberation session on the application at its regular business meeting on December 13 and plans a final decision at its February 14, 2024, regular business meeting in accordance with its rule to act on an application for zone change within 90 days after the final closure of the hearing (Chapter 4, *Rules of Practice*, Section 4.05, E).

## 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 most 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 May 2023, Commission staff attended a meeting with the town of Dennysville at its request. The purpose of the meeting was to provide an overview of the deorganization process. At a subsequent meeting, residents voted down the proposal to deorganize 21 (no) to 9 (yes).

The 131<sup>st</sup> Legislature approved the deorganization of Drew Plantation, which became effective on July 1, 2023. Also, during 2023, Commission staff assisted Brighton Plantation officials regarding the Plantation's land use program. Brighton Plantation assumed land use control authority in 1998. After initial inquiries in late 2022, officials created a local committee in the spring of 2023 to update the Plantation's comprehensive plan, land use ordinance, and zoning map. Commission's staff will continue to work with Brighton officials to ensure that any updates to their ordinances, map, and plan will not be less protective of resources than the rules and standards adopted by the Commission, as required by statute.

*“Just wanted to let you know that we had a great workshop [w]ednesday evening with three of your staff members...They were very well prepared and informative...Again, thanks for making them available for an evening meeting. We will certainly share our positive experience with other communities.”*

*Bob Farrar, Coplin Plantation Board of Assessors*

Staff continues to monitor progress by the Town of Chester as they work toward assuming land use authority over a portion of the Town that was annexed from T2 R8 NWP in 1997. The Commission has overseen land use for this portion of Chester since the annexation because the Town has not completed the process required by Title 12 to assume land use control of the annexed area.

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

Commission staff were called upon in 2023 to answer numerous questions associated with increased permitting demand and a very active real estate market. Pre-application support and consultation activities are consistently the best way to facilitate timely reviews of applications. LUPC staff undertook several different initiatives to provide pre-application assistance. One 2023 initiative that added further pre-application support for the public was the creation of the LUPC Application Overview Video. This 5-minute animated video, voiced by a LUPC intern, describes the information needed and tips on completing permit applications. The video also explains to applicants how to use the application's bookmarks and links to move to required sections easily. Also in 2023, implementing a new Building Permit Application and related resources was a staff priority to assist property owners. Supporting resources included several website improvements. LUPC updated the Application Forms webpage with features to improve property owners' understanding of building permit application requirements. Another companion piece to the new Building Permit Application form was a completed application sample. This sample, a self-help resource illustrating a complete application for property owners, was added to the Application Forms webpage. LUPC also updated the *Your Building Permit Application* page. This page is designed to help the public with a checklist of frequently missed items. In addition, the page includes links to help connect applicants with professionals they may need to complete their building permit applications, such as site evaluators, local plumbing inspectors, and septic installers. Another staff initiative to facilitate pre-application consultations involved Western Region staff holding office hours in

the Dallas Plantation office. This area has some of the highest permitting numbers, and this new initiative was well received by the Plantation and its residents.

To respond to the demand from both existing and prospective property owners, in addition to the several updates completed in 2020 and 2021, the Commission posted three more updated brochures or informative links to the [LUPC website](#):

**Accessory Structure Brochure**- This updated brochure describes recent changes allowing certain accessory structures to be constructed without a permit subject to standards. (Published August 25, 2023)

**Guidelines for Vegetative Stabilization of Disturbed Soil**- This provides a link to Appendix B of the Commission's Chapter 10 rules and guidelines for stabilizing disturbed soil with vegetation to protect water quality, wetlands, and wildlife as required under the Commission's standards. (Published June 9, 2023)

**Wildfires in Maine Brochure**- This brochure provides helpful information to homeowners on reducing the risk of wildfire. (Published October 25, 2023)

## **F. Certification and Permitting of Large-scale Development Proposals**

### **Site Law Certifications**

Since 2012, the Commission has not been responsible for permitting most larger development projects within Maine's unorganized and deorganized areas. DEP reviews and permits most of these projects, including grid-scale wind and solar energy development and projects triggering the Site Location of Development Law. For these larger projects, LUPC fills a role like a municipal planning board. It is responsible for certifying to 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 DEP in its review. However, in 2023, the Commission did not issue any certifications to the DEP for the Site Location of Development Act or other permit applications requiring certification.

### **Large-scale Development Proposals**

In 2023, Saddleback, under Arctaris Impact Fund ownership, received permit approval for an 11-lot subdivision named Upper Green Drake, a Bicknell Thrush habitat management plan, and a common open space and wildlife passage corridor. The corridor is a 70-acre area along Rock Pond Stream that is protected and preserved for future generations. Saddleback brought their development into compliance by obtaining after-the-fact approval for eight activities, ranging from the Molly Chuckamunk surface lift to Cross-Country Ski Center structures. Saddleback completed and received compliance certification on the 22-unit Parmachenee A-Frames Condominium Subdivision, the mid-mountain lodge advertised extensively as The Nest, and the much-lauded Saddleback House employee housing project. The Saddleback House is Maine's first ski-in/ski-out employee housing project. As part of an effort to bring affordable housing to staff, resort management guaranteed rent would be capped at 30 percent of an employee's salary, following federal affordable housing guidelines.

## **G. Sandwich Academy Grant Township Train Derailment**

On the morning of April 15, 2023, a westbound Canadian Pacific Kansas City (CPKC) train derailed in Sandwich Academy Grant Township, Somerset County, near milepost 56 of their Moosehead Subdivision rail line. LUPC staff responded with the DEP and MFS. The aftermath of the derailment prompted a difficult

cleanup overseen by DEP to remove the wreckage and minimize the environmental damage caused by the diesel, hydraulic fluid, and engine oil spillage, and disturbed soils resulting from the cleanup efforts. LUPC staff conducted ground and aerial inspections of the site and access roads with the MFS. On April 27, 2023, a joint Notice of Violation was issued by the MFS and LUPC to CPKC for sedimentation into waterbodies from derailment cleanup activities. MFS took the lead in responding to the sediment discharges to adjacent wetlands and streams, the Moose River, and Little Brassua Lake from heavy equipment use of land management roads to access the derailment site. LUPC staff consulted with DEP and MFS during the remediation phase, and LUPC is the lead agency overseeing the restoration efforts at the site. As an inter-agency project manager, LUPC will steer the effort toward a successful outcome. Natural resource restoration of the site is anticipated for spring 2024. A more detailed description is located on the [Featured Projects page](https://www.maine.gov/dacf/lupc/projects/sagt-trainderailment/index.html) of LUPC's website (<https://www.maine.gov/dacf/lupc/projects/sagt-trainderailment/index.html>).

## **H. Completed Rulemakings**

In 2023, the Commission completed two rulemaking proposals, which became effective on August 11, 2023.

- Chapter 2 and Chapter 10 Miscellaneous Revisions: Revisions to Chapters 2 and 10, Land Use Districts and Standards, include updates to terms and township names to maintain consistency with Maine laws, updates to match revised statutory provisions, the removal of an automatic hearing requirement for zoning petitions involving a Planned Development subdistrict, the addition of parking space requirements for non-residential development, and clerical edits and clarifications. All revisions were routine in nature.
- Chapter 4 Miscellaneous Revisions: Revisions to Chapter 4 designate two specific types of rezoning applications as being 'routine' and, therefore, authorize staff to act on those applications. The two types of applications include 1) applications to amend wetland subdistrict boundaries when supported by on-site wetland delineations and 2) applications for the adoption of official Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Hazard Boundary Maps produced by the Federal Emergency Management Agency. All other revisions represented typical rule maintenance.

Pursuant to [12 M.R.S. §685-A\(7-A\)\(B\)\(6\)](#), the Commission has submitted the Chapter 10 revisions under separate cover to the Joint Standing Committee on Agriculture, Conservation and Forestry.

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

The [Commission](#) is a nine-member citizen board with county and gubernatorial appointees. Eight of the seats are filled 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 Governor fills the final seat on the board. 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 A for a list of the current Commissioners.*)

The Commission typically meets once monthly 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. Between April 2020 and August 2021, according to the Governor's emergency

legislation ([PL 2019, ch. 617](#)) concerning the COVID-19 pandemic, the Commission conducted its meetings virtually using the Microsoft Teams software platform, including two public hearings. On September 8, 2021, the Commission met in person and adopted a Remote Participation Policy. Since then, the Commission has used hybrid formats to conduct regular business meetings and public hearings.

With a recent authorization to fill a new Environmental Specialist III position, the Commission is supported by [25 staff](#) positions operating out of six [offices](#) in Ashland, Augusta, Bangor, East Millinocket, Greenville, and Wilton. The current Executive Director, Stacie Beyer, was confirmed unanimously by the Commission in December of 2022. The staff also includes a permitting and compliance manager, a planning manager, 13 permitting and compliance staff, six full-time planners (one limited duration position ending June of 2025 unless continued or made permanent), a programmer analyst, a mapping and graphic arts specialist (limited duration position ending June of 2025 unless continued or made permanent) and an Office Specialist II. In 2022, the Commission experienced substantial staff turnover and staffing shortages, with 25% of positions vacant at the end of the year. Although managing the staffing shortages was challenging, open positions allowed for the internal promotion of exceptional employees and a continuing effort to build an effective team to fulfill the Commission's mandate. Over the 18-month period ending in November 2023, 21 out of 24 authorized staff positions experienced turnover. However, at the end of 2023, the Commission had only two positions vacant.

#### **J. Inter-Agency Coordination**

Inter-agency coordination in 2023 focused on climate change resilience and adaptation, particularly regarding increased wildfire risk and defense planning. LUPC staff collaborated with the Bureau of Resource Information and Land Use Planning Senior Climate Planner and MFS in creating a new educational brochure on [Wildfires in Maine](#). LUPC staff also supported MFS in two applications for grant funding to create first-of-its-kind community wildlife defense plans for portions of Penobscot County and Washington County that include organized municipalities and unorganized townships.

Also, on the state level, Commission staff: 1) met with multiple State agencies and stakeholders regarding the regulation of non-water dependent floating structures responsive to LD 626, 2) participated in a multi-agency training seminar on writing agency decision documents, 3) attended meetings of the Water Resources Planning Committee, and 4) met with Department of Inland Fisheries and Wildlife staff regarding updates to the Beginning with Habitat Focus Areas of Statewide Ecological Significance. Ongoing, Commission staff consult with multiple state agencies to review development projects to ensure no undue adverse impacts to potential resources present in the vicinity.

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

#### **A. Number of Permits Processed in 2023 by Category**

In administering its land use standards, the Commission issues permits for a range of activities, including shoreline alterations and construction of new dwellings, campgrounds, certain roads, subdivisions, and utility lines. While not permitting actions, the Commission also reviews and acts on matters such as zoning petitions. These other actions are included in the permitting summary tables for this annual report. However, not all development or Commission assistance is captured in these tables or this report. Many activities, such as developing certain accessory structures and agricultural activities, are allowed without a permit. 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 DEP (*i.e.*, projects triggering DEP review under the Site Location of Development Law, Maine Metallic Mineral Mining Act, or qualifying as grid-scale wind energy development). For these projects, LUPC must certify to DEP that the proposed development 1) is an allowed use within the subdistrict or subdistricts in which it is proposed, and 2) meets any land use standard established by the Commission not considered in DEP's permit review. A LUPC certification is not a permit. However, for this report and calculating the processing times presented, certifications are included among the permits grouped 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. If the Commission receives an incomplete application, it will be returned to the applicant. In 2023, the Commission received 57 building permit applications, 11 development permit applications, and 20 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 B describes each type of permit and action listed in these tables.

**Table 1. Permit Processing, 2023<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	456	1		4	1	462
DP	Development Permit	38	1			1	40
<b>All Other</b>		<b>79</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>81</b>
BCP	Bridge Construction Permit	3					3
FOP	Forest Operation Permit	4					4
GP	Great Pond Permit	34					34
HP	Hydropower Permit						0
RP	Road Construction Permit						0
SA	Shoreland Alteration Permit	7			1	1	9
SD	Service Drop Permit	21					21
SLC	Site Law Certification						0
SP	Subdivision Permit	3					3
ULP	Utility Line Permit	3					3
WL	Wetland Alterations Permit	1					1
ZP	Zoning Petition	3					3
<b>TOTAL</b>		<b>573</b>	<b>2</b>	<b>0</b>	<b>5</b>	<b>3</b>	<b>583</b>

**Table 2. Permit Processing, 2023 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	95	91	10	1		4	24	74	71		61	31		462
DP	Development Permit	6	12	1			3		5	6		4	3		40
<b>All Other</b>		<b>34</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>11</b>	<b>7</b>	<b>0</b>	<b>13</b>	<b>7</b>	<b>0</b>	<b>81</b>
BCP	Bridge Construction Permit	1							1				1		3
FOP	Forest Operation Permit								1			2	1		4

<sup>1</sup> LUPC's permitting data represent activities that required permit approval from 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 LUPC may not have been started or completed. Additionally, some activities may have been completed without a permit where a permit was required.



Permit Type	Permit Type Name	Total Actions by County													
		AR	FR	HA	KE	KN	LI	OX	PE	PI	SA	SO	WA	WL	TOTAL
GP	Great Pond Permit	21	1						2	5		5			34
HP	Hydropower Permit														0
RP	Road Construction Permit														0
SA	Shoreland Alteration Permit	2	1					1				4	1		9
SD	Service Drop Permit	8						2	5	1		1	4		21
SLC	Site Law Certification														0
SP	Subdivision Permit		2							1					3
ULP	Utility Line Permit	1							1			1			3
WL	Wetland Alterations Permit						1								1
ZP	Zoning Petition	1						1	1						3
	<b>TOTAL</b>	<b>135</b>	<b>107</b>	<b>11</b>	<b>1</b>	<b>0</b>	<b>8</b>	<b>28</b>	<b>90</b>	<b>84</b>	<b>0</b>	<b>78</b>	<b>41</b>	<b>0</b>	<b>583</b>
	<i>Towns, Plantations, Townships, and (Islands) served by the LUPC</i>	124	31	16 (71)	1	3 (88)	2 (37)	21	46	90 (109)	1	88	36 (70)	(2)	459 (308)

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)

**Table 3. Permit Processing, 2018-2023 Totals**

Permit Type	Permit Type Name	Total Applications Processed					
		2018	2019	2020	2021	2022	2023
<b>BP</b>	<b>Building Permit</b>	<b>404</b>	<b>398</b>	<b>503</b>	<b>526</b>	<b>511</b>	<b>462</b>
<b>DP</b>	<b>Development Permit</b>	<b>57</b>	<b>44</b>	<b>44</b>	<b>41</b>	<b>45</b>	<b>40</b>
<b>All Other</b>		<b>132</b>	<b>79</b>	<b>112</b>	<b>114</b>	<b>94</b>	<b>81</b>
BCP	Bridge Construction Permit	0	0	3	4	0	3
FOP	Forest Operation Permit	7	7	4	11	5	4
GP	Great Pond Permit	80	46	52	42	37	34
HP	Hydropower Permit	0	1	1	0	1	0
RP	Road Construction Permit	6	2	5	5	3	0
SA	Shoreland Alteration Permit	7	5	6	4	5	9
SD	Service Drop Permit	17	7	26	29	18	21
SLC	Site Law Certification		4	4	3	3	0
SP	Subdivision Permit	5	2	5	10	10	3
ULP	Utility Line Permit	1	1	1	1	1	3
WL	Wetland Alterations Permit	3	0	1	1	0	1
ZP	Zoning Petition	6	4	4	4	11	3
	<b>TOTAL</b>	<b>563</b>	<b>593</b>	<b>521</b>	<b>659</b>	<b>681</b>	<b>583</b>

**Table 4. Permit Processing, Annual Average by Outcome Over 30 Years (1994-2023)**

Permit Type	Permit Type Name	Annual Average of Applications Processed					Total
		Approved	Approved / Denied in-part	Denied	Application Withdrawn	Application Returned	
<b>BP</b>	<b>Building Permit</b>	<b>332</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>330</b>
<b>DP</b>	<b>Development Permit</b>	<b>38</b>	<b>&lt;1</b>	<b>&lt;1</b>	<b>&lt;1</b>	<b>1</b>	<b>40</b>
<b>All Other</b>		<b>57</b>	<b>1</b>	<b>&lt;1</b>	<b>&lt;1</b>	<b>2</b>	<b>60</b>
BCP	Bridge Construction Permit	2			<1	<1	2
FOP	Forest Operation Permit	6	<1		<1	<1	6
GP	Great Pond Permit	18	<1	<1	<1	<1	19
HP	Hydropower Permit	<1					0
RP	Road Construction Permit	3	<1		<1	<1	3
SA	Shoreland Alteration Permit	4	<1		<1	<1	4
SD	Service Drop Permit	9	<1		<1	<1	9
SP	Subdivision Permit	4	<1			<1	5
ULP	Utility Line Permit	3	<1	<1		<1	4

Permit Type	Permit Type Name	Annual Average of Applications Processed					Total
		Approved	Approved / Denied in-part	Denied	Application Withdrawn	Application Returned	
WL	Wetland Alterations Permit	1	<1			<1	1
ZP	Zoning Petition	6	<1	<1		<1	7
<b>TOTAL</b>		<b>417</b>	<b>3.77</b>	<b>1</b>	<b>&lt;1</b>	<b>7</b>	<b>430</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 MFS, 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 B describes each type of action listed in Table 5.

**Table 5. Other Land Use Determinations, 2023**

Determination Type	Actions Processed
Advisory Rulings	12
Boat Launch Notifications	0
Certifications of Compliance	14
Coastal Zone Management Area Consistency Determinations	1
Letters of Exemption	0
Maine Forest Service Review and Approvals	0
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 its Geographically Oriented Action Tracker (GOAT) database 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 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.

Any number of factors may impact permit processing times. For example, a thorough or well-prepared application may help expedite review. Staff diligence and permitting workload are also 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 sought and issued after the development occurred without proper permit authorization. After-the-fact permits typically require additional review time

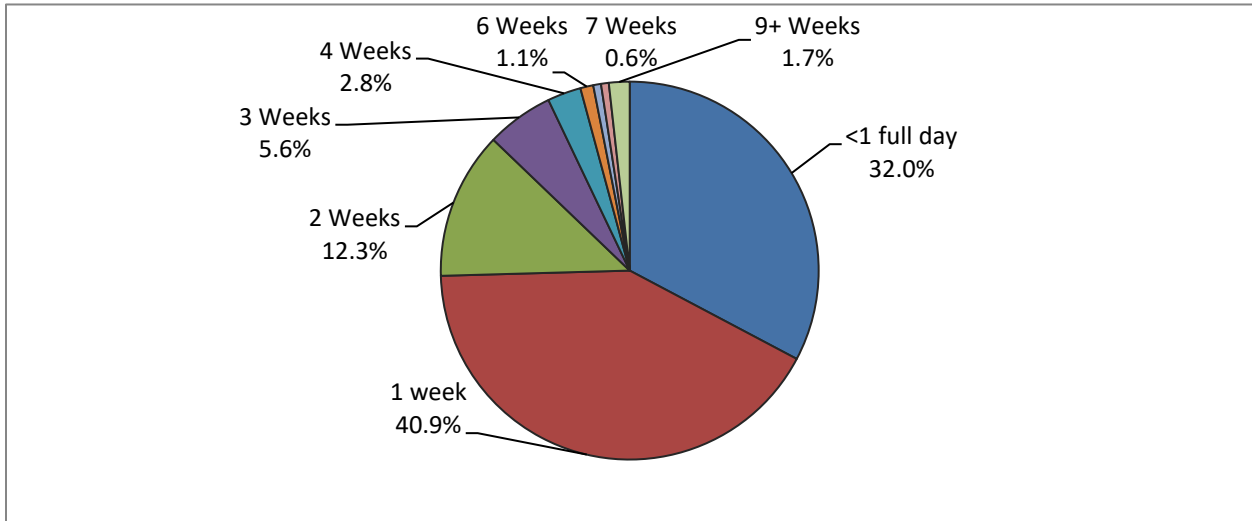
due to the complexities of resolving existing development components that may not comply with applicable rules and standards.

- Permits that are denied typically involve longer review times due to the effort to identify an approvable alternative for the project. The same is true for withdrawn applications. Sometimes, an applicant may 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 the time required for review by outside agencies, notice periods preceding public comment, public comment periods, public hearings and the associated notice period, and presentation to the Commission for action at a monthly business meeting.

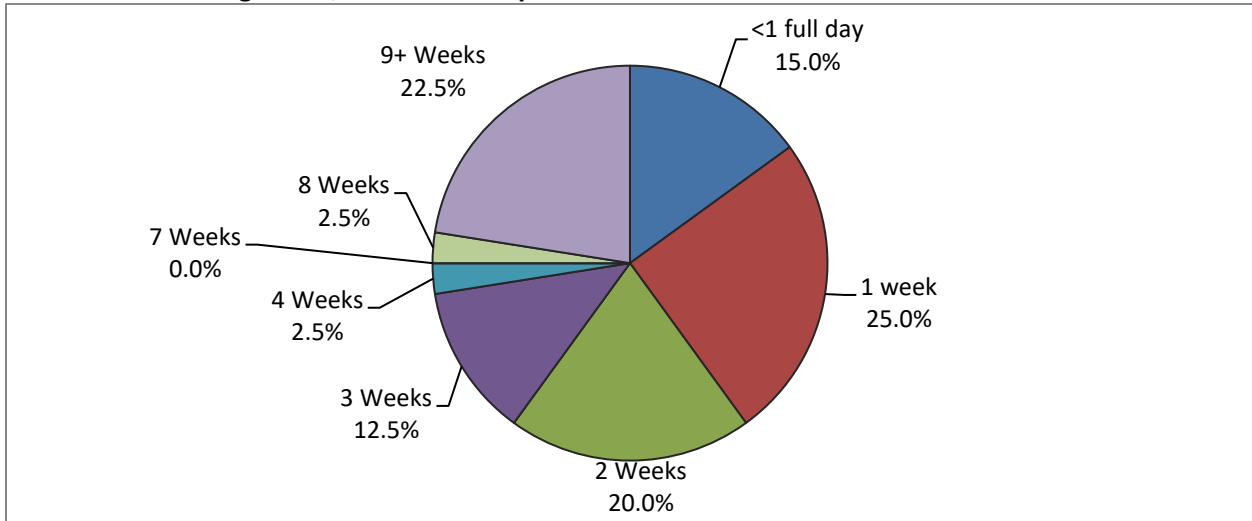
Figures A, B, and C show the percentage of permits processed within a given period. These figures show, for example:

- Building Permits – Of the 462 building permit applications, the Commission processed 32 percent in less than one full day and 73 percent in a week or less.
- Development Permits – Of the 40 development permit applications, the Commission processed 40 percent in a week or less and 75 percent in four weeks or less.
- All Other Permits – Of the 83 permit applications in the "All Other" category, the Commission processed 66 percent in a week or less and 81 percent in four weeks or less.

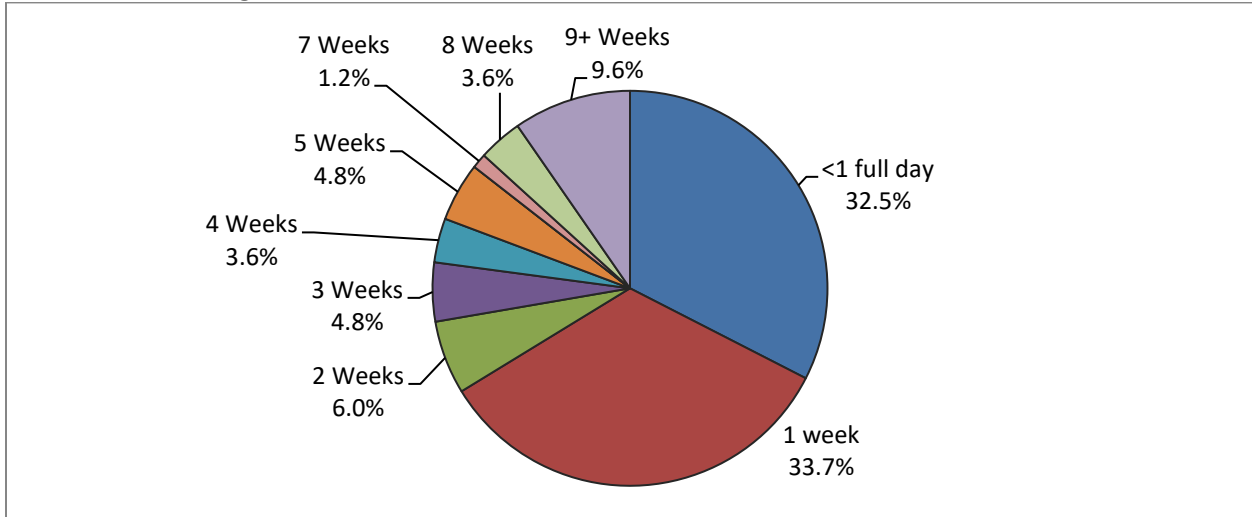
**Figure A. Permit Processing Times, 2023 – Building Permits**



**Figure B. Permit Processing Times, 2023 – Development Permits**



**Figure C. Permit Processing Times, 2023 – All Other Permits**



Tables 6 and 7 present the average and median processing times for 2023 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.

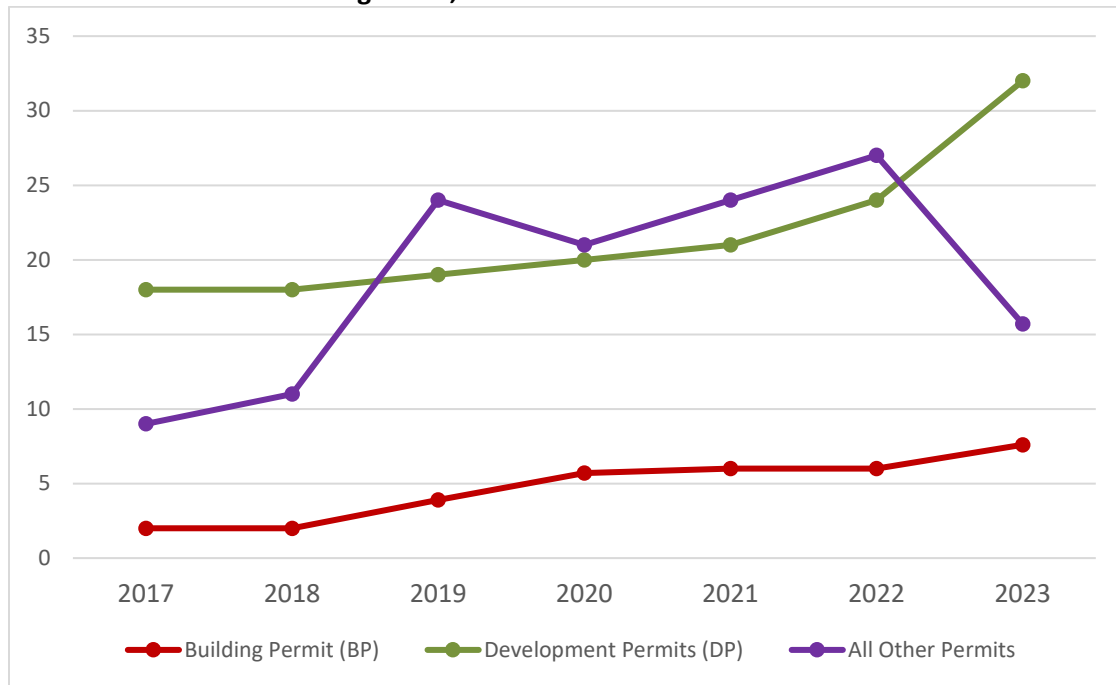
**Table 6. Permit Processing Times, 2023**

Permit Type	Processing Times (Days)	
	Average	Median
Building Permit (BP)	7.6	3.5
Development Permits (DP)	32	10
All Other Permits	15.7	4

**Table 7. Annual Permit Processing Times, 2018-2022**

Permit Type	2018		2019		2020		2021		2022	
	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)
Building Permit (BP)	2	<1	3.9	1	5.7	<1	6.0	3.2	6.1	5
Development Permits (DP)	18	9	18.8	8	20	16.5	20.7	15.0	23.6	14.0
All Other Permits	11	<1	24	6	20.9	<1	23.9	8.0	27	8.0

Figure D. Annual Permit Processing Times, 2017 – 2023



Permit processing times for the past year show a slight increase over the previous five years of data, particularly the average for residential building permit and non-residential development permit applications. Although many factors affect permit processing times, the Commission believes three key factors are at play. First, there has been an increase in building activity in the UT; the overall increase in residential permitting actions in 2023 was up 16% over 2019 levels. Second, in 2021, Commission staff initiated a more appropriate interpretation of the Maine Administrative Procedures Act (APA) regarding public notice requirements (Title 5, Chapter 375, §9052). The public notice requirements of the APA apply to residential building permit applications, and the previous practice of issuing those permits in less than one day from receipt does not comply with the APA. Instituting a public notice period increased the processing time for residential building permits. Finally, Commission staff prioritize issuing residential building permits in a timely manner over issuing the often more complex and time-consuming non-residential development permits. Another factor that must be considered specifically for 2023 is the significant LUPC staff turnover described in Section III(I) of this report. In summary, over the 18-month period ending in November 2023, 21 out of 24 authorized staff positions experienced turnover.

Considering the increase in permit applications, the enormous number of associated inquiries from the public, the large and growing issues around enforcement, and most importantly for 2023, staff turnover and the time required to train new staff, the reported permit processing times indicate continued staff efficiency and represent agency actions that remain within reasonable timeframes. The goal for issuing building permit applications is less than ten days, and the goal for issuing development permit applications is less than 60 days. The agency met those goals in 2023.

### **C. Pre-application 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 notifies potential applicants of this option. In 2023, the Commission did not hold any public pre-application meetings.

Additionally, Commission staff routinely meet with prospective applicants to provide assistance and guidance regarding the application processes. Staff also provide unofficial but documented staff opinions through advisory rulings and letters of exemption. In 2023, LUPC staff issued twelve 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 ten years, the Commission has worked to fulfill this mandate through extensive outreach and Community Guided Planning and Zoning (CGPZ) initiatives in Aroostook County, Washington County, and Western Maine and has reported on these efforts in past Annual Performance Reports. Insights gained by the Commission through these past CGPZ initiatives across multiple regions continue to inform the Commission's work with local communities and regional partners throughout the jurisdiction.

While there were no specific projects in 2023 under the auspices of the CGPZ program, LUPC staff wrapped up a project exploring a potential update to the Prospective Zoning Plan for the Rangeley Lakes Region with community leaders. Although the Commission decided not to pursue an update immediately, the background gathered in the discussions with community leaders will be beneficial when the Commission revisits this project. Additionally, in the fall of 2023, the planning staff began preliminary work on a potential future Comprehensive Land Use Plan update, which the Commission expects to have a greater regional focus. Commission staff remains available to assist with future community-driven planning processes in any region should stakeholders propose them, provided the agency has the resources to effectively engage in such a process.

### **E. Staff and Commissioner Training**

#### **Staff Training and Customer Service**

In 2023, Commission staff attended internal and external training sessions and workshops to help deliver quality customer service. Staff sought training across multiple areas, including Survey 123, Field Maps, ESRI Apps, visual impact assessments, Bats of Maine, LUPC hillside standards, wetland identification, Conflict Transformation, Dealing with Difficult People/Situations, and Writing a Decision. Staff also attended conferences that covered a variety of land use planning, natural resources, and technology topics, including the Maine Sustainability and Water Conference, Watershed Managers Roundtable, Moosehead Lake Region Economic Development Summit, Wind Factor Webinar, 2023 NH-ME Climate Networks Exchange, First Street Foundation Flood Risk Model Enhancements, New England Chapter of the American Planning Association Conference, and Maine GIS Users Group Conference. Trainings such as these help position staff to deliver the quality service the

Commission strives to provide.

External staff training in 2023 highlights include:

- *The Art of Conflict Transformation* – On February 5, 2023, Commission staff attended a day-long customized training on *The Art of Conflict Transformation* taught by William Galloway, Head of School, Watershed School. The class introduced LUPC staff to the concept of Conflict Transformation and skills for responding to conflict situations in the workplace. More specifically, staff reflected on the nature of conflict through interactive exercises, practiced skills associated with the Microfocus response to conflict situations, and gained greater confidence and clarity in their ability to respond to conflict when it arises.
- *Writing an Effective Decision* – On November 6, 2023, staff attended a multi-agency workshop taught by the Attorney General's Office on writing an effective decision. Poorly written decisions can lead to time-consuming and costly appeal situations that tie up the Assistant Attorney General and LUPC resources. The workshop covered multiple topics related to writing effective final agency decisions.
- *Security Training* – Between March and December 2023, LUPC staff completed the *2023 Security Awareness Training*. This online training helps staff recognize and avoid potential security threats to the computer, online files, and the organization.

Internal staff training in 2023 highlights include:

- *Survey 123, Field Maps, and ESRI Apps* – On March 26 and 27, 2023, LUPC Mapping and Graphic Arts Specialist Aerial Oncita trained staff on the use of Survey 123, Field Maps, and ESRI Apps. This training will allow staff to use tablets in the field, increasing efficiency in collecting data and sharing information with property owners.
- *Slope, Hillsides, and Visual Impact Assessment* – On March 27, 2023, Planning Manager Ben Godsoe and Senior Planner Tim Carr provided staff training on conducting visual impact assessments, evaluating slopes, and interpreting the LUPC's hillside protection standards. The training assisted staff in implementing the Commission's relatively new hillside standards, particularly in identifying which properties meet the definition of hillside and assessing the potential impacts of hillside development on scenic character and resources.
- *Getting the Feel for Wetlands and Streams* – On July 25, 2023, Permitting and Compliance Manager Audie Arbo led a staff field training on wetland and stream identification. The Mt. Blue State Park training included a high-level review of multiple types of protected natural resources (vernal pools, wetlands, and streams). Additionally, staff had the opportunity to identify and measure from the normal high-water mark of Webb Lake.

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

All new Commissioners receive an orientation/training session before their first meeting. This orientation involves a discussion of the controlling statutory and regulatory provisions, the



functions the Commission and its staff serve, and the various resources that a Commissioner may refer to for assistance. In addition, orientation includes a discussion of the legal roles and responsibilities of Commissioners led by an Assistant Attorney General.

Over 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 other planning and regulatory matters. Commission training in 2023 covered several topics. During the

*Over 50 years of balancing the unique character and vital economy of Maine's Unorganized Territory*

regular meeting in January, Jeff Currier and Joe Mints, MFS, provided a training session for the Commission covering the role of MFS and discussing ways MFS and LUPC can collaborate to reduce wildfire risk and provide forest fire protection for Maine's unorganized territories. In August, the Commission held a half-day workshop on its Compliance and Enforcement Response Policy before considering

revisions to this policy early next year. Other training updates addressed LUPC's current requirements for regulating accessory structures, short-term rentals, and outdoor lighting, as policy work was ongoing before associated rulemaking proceedings. Training sessions and workshops were noticed on the Commission's meeting agendas and were open to Commission staff and the public.

## V. COMMISSION GOALS FOR 2024

The Commission expects that 2024 could be somewhat less challenging, with incoming permit applications and enforcement cases starting to decline, most staff positions filled with well-qualified staff, and one new position on its way to help meet current agency needs. As in 2023, important statewide policy discussions and initiatives will continue to take place, and LUPC will need to play a role, particularly in the implementation of *Maine Won't Wait, a Four-year Plan for Climate Action*, addressing floodplain management, wildfire defense, drought, and associated agricultural water use. As staff resources allow, we will monitor the statewide discussions, complete policy analyses, and develop rule revision proposals that provide the best path forward for Maine's unorganized territories and, where possible, ensure a consistent statewide approach for the people of Maine.

During 2024, Planning staff will begin work on a multi-year effort to update the Commission's Comprehensive Land Use Plan, including the development of a work plan and identifying the necessary resources and partnerships for the project. They will continue efforts to assess climate vulnerability in LUPC's service area, focusing on coastal islands and inland wildfire defense. They also plan a new system for managing and communicating data LUPC collects on land uses in its service area. Policy and rulemaking will address floodplain management, short-term rentals and accessory structures, outdoor lighting, solar facility development and decommissioning, and significant wildlife habitat. As always, Planners are available to help communities that wish to pursue changes to the current authority for land use controls.

Permitting and Compliance staff will implement their newly created enforcement work plan designed to increase staff field presence and reduce the backlog of active and potential enforcement cases. They will also continue work on process efficiency improvements, such as creating or updating decision-document templates, developing consistent standard conditions for all permit types, and drafting new educational materials. In 2024, Permitting and Compliance staff will take a larger role in updating and improving the agency's application forms to enhance user experience and increase process efficiency, and work with the Bureau of Agriculture and a consulting firm retained to create a new application form for agricultural water use projects.

To improve customer service, LUPC staff will develop a new program to expand and enhance the effectiveness of the Commission's outreach with landowners, stakeholders, and the public. Staff will also continue to work on new educational materials and make them available on its website. Working with MaineIT, they will develop a project in the DocuWare software platform to archive and organize documents, including permitting records, and explore creating online Building Permit Applications and notice forms to provide a more user-friendly, efficient process for submitting these documents. In addition, LUPC will continue to work on other website improvements to help landowners have direct access to the most requested information and obtain answers to the most frequently asked questions.

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

Specifically, the Commission's goals for 2024 include the following:

### **Policy and Rulemaking**

- Continue to engage in policy development and rulemaking initiatives to address relevant recommendations of *Maine Won't Wait, a Four-year Plan for Climate Action* released in December 2020 by the Maine Climate Council, as well as the update to this plan scheduled for release toward the end of 2024, including updating the Commission's floodplain management standards, collaborating with MFS on wildfire risk and defense, and streamlining procedures for agricultural water use and water withdrawals.
- Implement policy and rule changes to address accessory dwelling units, short-term rental units, and other identified housing needs of the Commission's service area.
- Complete the necessary research and begin a rulemaking process for updating the Commission's twenty-year-old lighting standards.
- Develop conceptual standards and possible rule changes for Part II of the Commission's rulemaking to expand solar siting and development standards, particularly for the construction of small and mid-size solar energy generation facilities and decommissioning those facilities.
- Complete initial research and seek early stakeholder input on a process for developing new LUPC standards for significant wildlife habitats, including vernal pools.

## Planning and Community Engagement

- Draft a work plan to outline the process and identify the necessary resources and partnerships for a multi-year, stakeholder-informed effort to update the Commission's Comprehensive Land Use Plan. The current version is more than ten years old.
- Continue efforts to assess climate vulnerability in LUPC's service area, including coastal and inland flood risks and community wildfire risks.
- Develop a new system to manage and communicate land use data collected by the Commission and to partner with other agencies and stakeholders to improve the accessibility and credibility of this data.
- Refocus efforts on updating the Commission's Land Use Guidance Maps that still use an older, black-and-white format to the new, easier-to-read color map format.
- Continue working with towns and plantations potentially interested in making changes to the current authority for land use controls, including assisting those towns that have expressed interest in returning to LUPC's service area, as resources allow.

## Permitting and Compliance

- Implement the newly completed enforcement work plan to increase staff field presence and reduce the backlog of pending active and potential enforcement cases. The 2024 work will focus on staff training, integrating compliance data in the Geographically Oriented Action Tracker database, updating enforcement procedures, and creating an online complaint reporting system.
- Continue work on process efficiency improvements, including creating new decision-making templates, developing consistent standard conditions of approval for all permit types, and working on relevant public educational materials.
- Update and improve permit application forms to match current requirements, enhance user experience, and reduce the burden on LUPC Permitting and Compliance staff. The goals of this effort include receiving more complete permit applications and increasing processing efficiency.
- Work with the Bureau of Agriculture to streamline the permitting process for agricultural water use permits. This work will include contracting with and advising a consulting firm to develop a new, activity-specific application form for agricultural water use projects.

“I recently had several questions regarding Permits & Regulations and I was very impressed with the help I received... [LUPC staff] were courteous, patient, and extremely knowledgeable.”

- Brownville landowner

## Customer Service

- Expand and enhance the effectiveness of the Commission's modes of communication with landowners, stakeholders, and the public. Build a focused and consistent outreach program for critical stakeholders, including towns and plantations, real estate agents, permitting consultants and agents, and contractors.



Seagull, 2023, A. Oncita, LUPC

- Expand on the work completed in 2023 to identify and educate landowners on frequently asked questions, common errors in permit applications, and common land use violations. Projects will consist of developing online resources, including FAQ documents, written application instructions, and additional training videos to assist landowners and applicants more efficiently. LUPC plans to update its website to make new self-help resources more easily accessible to applicants.
- Research options for creating an online version of the Building Permit Application and self-verification notice forms, including using the DocuWare software platform.

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 continuing work to provide efficient, quality service to the people with whom they interact and the people of Maine as a whole.

**Appendix A:  
LUPC Commissioners as of December 31, 2023**

The Land Use Planning Commission is a 9-member citizen board with county and gubernatorial appointees. Eight of the seats are filled 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 Governor fills the final seat on the board.

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 Commission 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>
1	Perry Ellsworth	Governor	4/11/2022	7/9/2024
2	Millard Billings	Hancock	2/26/2021	7/9/2024
3	Peter Pray	Penobscot	7/9/2021	7/9/2025
4	Betsy Fitzgerald, Chair	Washington	7/9/2021	7/9/2025
5	Lee Smith	Oxford	1/21/2020	11/4/2023
6	Vacant	Franklin		
7	Gwendolyn Hilton, Vice-chair	Somerset	7/30/2023	7/29/2027
9	Leo Trudel	Aroostook	4/22/2021	3/13/2025
10	Everett Worcester	Piscataquis	7/13/2021	5/22/2025

## Appendix B: Types of LUPC Permits and Actions

### Action Types

Each application the Maine Land Use Planning Commission receives 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 (*i.e.*, permit) indicating approval is issued by staff or the Commission.
- *Approved / Denied in part* – Parts of the proposed activity meet the required standards and are approved, and parts of the proposed activity do not meet the required 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 required standards; staff or the Commission issue a decision (*i.e.*, denial).
- *Application Withdrawn* – The applicant chooses to withdraw their application before 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 LUPC's database – Geographic Oriented Action Tracker (GOAT). The following summarizes the various types of permits and land use determinations:

Type	Permit Type	General Description <sup>2</sup>
AR	Advisory Ruling	A documented, yet informal, staff opinion requested at the option of the landowner/developer. Applicants typically seek advisory rulings to receive advice on whether a permit is required for specified activities or 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.
BLN	Boat Launch Notice	A landowner notification to LUPC, after providing their intent to file notice yet before 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> .

<sup>2</sup> [Chapter 10 of the Commission's rules, \*Land Use Districts and Standards\*](#), contains specific criteria and standards.

Type	Permit Type	General Description <sup>2</sup>
BP	Building Permit	Permits for activities associated with residential development that require a permit ( <i>e.g.</i> , activities involving a camp, a garage, or porches).
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 LUPC staff regarding concurrence with the Federal Consistency Determination that the proposed activities in Federal Waters within the coast of Maine are consistent with State core laws. (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 stores, warehouses, mills, wind turbines, campgrounds, or resorts)
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. (See 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 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> .
LAR	Letter of Exemption/Advisory Rulings	A letter from 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 an Advisory Ruling and a Letter of Exemption are appropriate. (See AR and LOE herein.)

Type	Permit Type	General Description <sup>2</sup>
LOE	Letter of Exemption	A letter from 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 exempt utility lines; however, as of 2011, they are used for any proposed activity exempt from either the Commission's review or from permit approval. (See AR and LAR above.)
MFS-RA	Maine Forest Service (MFS) Review and Approval	Review and approvals issued by the Commission for timber harvesting activities that are permitted by MFS (12 M.R.S. § 685-A(12)). As of July 15, 2013, 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 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 MFS may issue a permit. In these cases, the Commission must determine whether or not the project conforms to its standards that MFS does not otherwise regulate. Commission review focuses mainly on impacts to existing uses, such as recreational, historical, cultural, or scenic resources, with the technical review of these activities remaining with MFS. When conducted in development subdistricts and development areas in Resource Plan Protection Subdistricts (P-RP), the Commission, not MFS, regulates these activities.
MISC	Miscellaneous	Applications returned or withdrawn before the 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).
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 water body, and utility lines within or buried beneath a wetland or waterbody).



Type	Permit Type	General Description <sup>2</sup>
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>This permit type is no longer in use.</i>
SLC	Statutory LUPC Certification or Site Law Certification	Certifications issued by the Commission for projects that trigger DEP review under the 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 standards not otherwise effectively applied by 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 or telephone lines) 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).
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>3</sup> When permits are required, the Commission incorporates the WQC into the permit; stand-alone WQC actions represent certifications 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). See Section 10.08 of the Commission's <i>Land Use Districts and Standards</i> .

<sup>3</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](#).