

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

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

ANNUAL PERFORMANCE REPORT – 2017

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

January 12, 2018



**TABLE OF CONTENTS**

	<u>Page</u>
SUMMARY .....	2
I. INTRODUCTION .....	3
II. OVERVIEW OF THE COMMISSION’S ACTIVITIES IN 2017 .....	3
A. Community Guided Planning and Zoning .....	3
B. Petitions to Remove Places from the Expedited Permitting Area .....	4
C. Location of Development and the Adjacency Principle .....	5
D. Fish River Chain of Lakes Concept Plan .....	6
E. Deorganizations/Organizations .....	6
F. Assisting Property Owners .....	7
G. Certification of Larger-scale Development .....	7
H. Completed Rulemakings .....	8
I. Planned and Initiated Rulemakings .....	8
J. The Commission and its Staff .....	8
III. REPORT ITEMS REQUIRED BY SECTION 685-H .....	10
A. Number of Permits Processed in 2017 by Category .....	10
B. Time for Rendering a Decision .....	13
C. Preapplication Consultation Activities .....	18
D. Community Guided Planning and Zoning .....	19
E. Staff and Commissioner Training .....	20
1. Staff Training and Customer Service .....	20
2. Commissioner Orientation and Continuing Education .....	21
IV. COMMISSION GOALS FOR 2018 .....	22
Appendix A: LUPC Commissioners as of December 31, 2017 .....	A-1
Appendix B: Types of LUPC Permits and Actions .....	B-1
Appendix C: Wind Expedited Permitting Area Map and Table .....	C-1



## **SUMMARY**

The Land Use Planning Commission enjoyed another productive year in 2017. Prospective planning and zoning remained a leading priority. Washington County, as part of the Commission's Community Guided Planning and Zoning (CGPZ) initiative, completed its review of land use activities in the county, identified zoning changes desired in two plantations, and proposed rule changes, similar to those adopted in Aroostook County, to assist rural business development. The Commission completed rulemaking to implement the recommended changes, with the new rules scheduled to go into effect in January 2018.

Along with the regionally focused CGPZ initiative, the Commission continued to examine its approach to guiding the location of development through application of the adjacency principle across all the unorganized and deorganized areas of the State (the UT). This examination has involved considerable outreach, including landowner meetings, stakeholder and focus group meetings, and a public survey. Notice of the survey was mailed to every property owner of record in the UT that the Commission could identify. Over 2,000 individuals participated in the survey. The Commission anticipates completion of adjacency review within the coming year.

The Commission also expects to complete review of the Fish River Chain of Lakes Concept Plan in 2018. Irving Woodlands submitted a revised concept plan proposal in 2017. A public hearing on the plan is anticipated later this winter. The project involves rezoning over 51,000 acres around four connected lakes in Aroostook County: Long, Mud, Cross, and Square.

This annual report summarizes these activities and initiatives, as well as other key projects undertaken by the Commission in 2017. The report also summarizes the Commission's permitting activity. In 2017, the Commission issued 561 permits, representing approval of 99.6 percent of all complete applications received. Of the permits issued, 437 were building permits and the majority of these were approved the same day the application was determined to be complete.

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 2017 and concludes with a look ahead to the Commission's goals for 2018.

## 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 2017. This is the sixth year in which the Commission has provided the report.

## II. OVERVIEW OF THE COMMISSION'S ACTIVITIES IN 2017

### A. Community Guided Planning and Zoning

The Commission's Community Guided Planning and Zoning (CGPZ) initiative allows regions to self-identify and individuals within a region to work collaboratively to plan for future land uses in their area of the State. Washington County completed CGPZ in 2017.

In 2015, Washington County began its CGPZ process after the convening agency – the Washington County Council of Governments (WCCOG) – sought and received funding from the Washington County Commissioners. In the spring of 2015, the LUPC worked with WCCOG, and a steering committee representing local government, environmental, recreational, large and small landowner, and resident interests to design the planning process. The resulting process document established the procedure for the various interests in this region to work together to develop land use recommendations. The Commission approved the process document at its August 2015 meeting.

Washington County completed the planning portion of the CGPZ process in early 2017. The planning portion included an extensive effort to inform and include residents, landowners and others with ties to the unorganized territories in Washington County. A planning committee, which included a cross-section of stakeholders, held monthly meetings in Washington County between January 2016 and February 2017. In addition, there were a total of 13 public meetings and an online survey to gather input from the public.

Generally, local residents participating in the process favored maintaining the existing rural character of the Washington County unorganized territories over increased opportunity for development. From all the data analyzed and input received, the WCCOG prepared *A Regional Plan for Washington County Unorganized Territories* (the Regional Plan) with recommendations to the LUPC for balancing increased opportunity with protection of existing character. The Washington County Commissioners endorsed the Regional Plan on July 13, 2017. Subsequently, the LUPC considered the Washington County CGPZ recommendations in two parts. First, in August 2017, the Commission approved new zoning in Grand Lake Stream and Baring Plantation. In December 2017, the Commission adopted new rules to tailor the Rural Business Development (D-RB) subdistrict for Washington County. The D-RB subdistrict originally was developed as part of the Aroostook County CGPZ initiative to provide expanded opportunities for small businesses to located in new areas with greater ease. The D-RB will soon be available in Washington County, with new rules going into effect in January 2018.

## **B. Petitions to Remove Places from the Expedited Permitting Area**

As provided in [Public Law 2015, chapter 265](#), residents of the unorganized and deorganized areas who are registered to vote in Maine had the opportunity to petition to remove all or part of the township, town, or plantation in which they are registered to vote from the expedited permitting area for wind energy development. Removal means that prior to any future windpower development proposals, the land area proposed for development would need to be rezoned. Petitions had to be filed on an official form developed by the Commission, signed by at least 10% of the number of registered voters residing in that township, plantation, or town that voted in the most recent gubernatorial election, and received by the Commission between January 1, 2016 and June 30, 2016.

The Commission received requests and provided petitions forms for 53 specified places. Forty-four petitions were filed with the Commission, 42 of which had at least the minimum number of valid signatures and were found to be valid petitions. Through the petition process, 40 petitions were granted without substantive review, removing 39 specified places (typically entire townships or plantations) from the expedited permitting area without substantive review. (The difference between the number of petitions granted and number of places removed is the result of several petitions applying to overlapping geographic areas.)

In response to requests filed with the Commission, the LUPC conducted substantive review of the petitions for Milton Township (Oxford County) and Carroll Plantation (Penobscot County). Following this review, which included separate public hearings, in December 2016 the Commission determined the petition to remove Milton Township from the expedited permitting area did not satisfy the statutory criteria for removal. In February 2017, the Commission



concluded the petition to remove Carroll Plantation met the governing criteria. The Commission's determination with regard to Milton Township was appealed to Superior Court. In August 2017, the court affirmed the Commission's decision; no further appeal was filed. As a result, Milton remains in the expedited permitting area. Carroll Plantation has been removed.

Cumulatively, 40 places covering approximately 701,000 acres were removed from the expedited permitting area through the citizen petition process. With the removal of these places, the total acreage within the unorganized and deorganized areas of Maine, that also is within the expedited permitting area, has been reduced by 21 percent. (*See Appendix C for a map illustrating places removed and the places remaining within the expedited permitting area.*)

### **C. Location of Development and the Adjacency Principle**

In directing the Commission to adopt zoning starting in 1971, the legislature sought to improve the health of the State's rural economy, communities, and the environment for the benefit of future generations. The laws establishing and governing the Commission recognize the importance of development to the economy and that the mountains, lakes, ponds, rivers, and other resources in the Commission's service area add to the quality of life for residents and attract visitors.

Right now, new homes can be built in most places, but new zones for subdivisions or commercial development need to be within a mile by road of existing development. This policy, known as the adjacency principle, is meant to encourage future development in places that keep costs low for road maintenance and emergency services, keep land available for forestry, agriculture and recreation, and promote the health of existing communities. However, the way the Commission currently implements the adjacency principle is too blunt a tool to effectively guide new development to the best locations in each of the different regions that the Commission serves.

In 2017, the Commission reached out to people who live, work, own property, or recreate in the towns, townships, or plantations served by the LUPC. One tool for recording feedback has been a public survey. The purpose of the survey was to find out what kind of development people would like to see in their communities or areas in the future, and where new development should be located. The Commission also convened several focus group meetings with stakeholders knowledgeable about economic development, issues important to private landowners, regional planning and services provided by county government, and environmental considerations. All of this information was used to develop a planning framework to implement the adjacency principle in a way that will recognize differences between regions, and help the Commission better accomplish the sound planning principles described in the purpose and scope section of 12 M.R.S. § 681.

In 2018, specific zoning tools based on information from residents, property owners, and other stakeholders, will be developed to help the Commission guide development to suitable locations in the unorganized territories, as it fulfills its planning responsibilities and looks to Maine's future.

#### **D. Fish River Chain of Lakes Concept Plan**

In June 2017, the Commission received an amended zoning petition from Allagash Timberlands LP; Aroostook Timberlands LLC; and Maine Woodlands Realty Company (collectively Irving). The proposal involves rezoning a portion of Irving's land in the Fish River Lakes region in Aroostook County in order to implement a concept plan.

Concept plans are landowner-created, long-range plans for the development and conservation of a large area. These plans indicate the areas where development is to be focused, the relative density of proposed development, and the means by which significant natural and recreational resources are to be protected. The Commission established the concept plan process as a flexible alternative to traditional subdivision and development regulation, designed to accomplish both public and private objectives. Concept plans are initiated by a landowner and must be approved by the Commission.

Irving's proposed concept plan involves over 51,000 acres in northeastern Aroostook County. Elements of the proposed 30-year plan include:

- Zoning of approximately 1,900 acres for new development, including up to 330 new dwellings and 102 lots for commercial or light industrial development;
- Sale of approximately 400 existing residential lease lots;
- A 14,600-acre conservation easement; and
- A small network of remote rental cabins or remote campsites and water access sites.

The Commission is reviewing the proposal and working toward a public hearing in the region during late winter, followed by a decision in early summer.

#### **E. 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.

On July 1, 2017, deorganization of Oxbow Plantation (Aroostook County) became effective. The official name of the former plantation is now Oxbow North Township. (There is an existing Oxbow Township in Oxford County.) In 2017, the Commission also assisted with deorganization efforts in Cary Plantation (Aroostook County) and Codyville Plantation (Washington County). For the last several years the Town of Atkinson also have been pursuing deorganization.

## **F. Assisting Property Owners**

A routine part of Commission staff's day involves answering customers' questions. Staff also conduct hundreds of field visits to meet on site 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, these visits are conducted 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 now and reduce the need for undesirable and time-intensive enforcement in the future. Staff also conduct follow-up, post-construction site visits, at a randomly selected sub-set of sites visited prior to construction, to help ensure compliance with previously issued permits and applicable land use standards.

In 2017, Commission staff completed over 400 site visits. The majority of these were done to assist property owners understand their development options. Fifty-five of these randomly selected post-construction inspections conducted to review foundations that were installed between 2014 and mid-2017. All of these foundations had been located in compliance with the property owner's 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 has been successful in helping property owners achieve compliance.

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

With the enactment of the 2012 reform legislation, P.L. 2011, ch. 682, the Commission is no longer responsible for permitting larger development projects within the unorganized and deorganized areas of Maine. The Department of Environmental Protection (DEP) now reviews and permits these projects – grid-scale wind energy development and projects triggering the Site Location of Development Law. For these larger projects now permitted by DEP, the Land Use Planning Commission, in many respects filling the role of a municipal planning board, 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.

In 2017, the Commission certified one project, the proposed development of an outdoor education campus facility offering outdoor recreational opportunities to middle and high school-aged students, together with an associated recreational trail system extending along the East Branch of the Penobscot River. The project is proposed in Soldiertown Twp. (T2 R7 WELS), Penobscot County.

In total, since the Commission assumed certification responsibilities in September of 2012, the Commission has issued six 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), and the Soldiertown project noted above. In addition, the Commission has issued five certification determinations for development activity at existing or previously certified facilities.

## **H. Completed Rulemakings**

In 2017, the Commission amended its Chapter 10 Land Use Districts and Standards to:

- Allow portable rock crushing equipment in the Aquifer Protection (P-AR) Subdistrict by special exception;
- Update the Commission’s zoning of flood prone areas in response to the Federal Emergency Management Agency flood insurance rate map changes for Washington County; and
- Remove two places, Carrol Plantation and Kingsbury Plantation (excluding the portion of Kingsbury developed with a windpower project), from the expedited permitting area for wind energy development.

In addition, joint rulemaking with the Maine Department of Environmental Protection to reorganize and clarify the Administrative Regulations for Hydropower Projects, completed in 2016, became effective in 2017.

## **I. Planned and Initiated Rulemakings**

The Commission anticipates the following rulemakings in 2018:

- Adoption of standards regarding Commission certification of metallic mineral mining (see 2017 P.L., ch. 142);
- Update of standards governing metallic mineral exploration;
- Revision of standards related to the length of time campers may be parked in one location within a campground (see 2017 P.L., ch. 236);
- Adoption of criteria regarding the location of grid-scale solar energy generation facilities;
- Overhaul of the Commission’s subdivision standards; and
- Update consistent with any refinement of the adjacency principle.

## **J. 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 A 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.

At the end of 2017, the Commission was supported by 20 staff. This includes a director, a permitting and compliance manager, a planning manager, 10 permitting and compliance staff, four full-time planners, one part-time planner, a GIS specialist, and a secretary associate. One ES III position currently is vacant.

The LUPC operates offices in Ashland, Augusta, Bangor, East Millinocket, Farmington, and Greenville.

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

#### **A. Number of Permits Processed in 2017 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, the 2012 reform legislation established larger projects within the unorganized and deorganized areas are now permitted by 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 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 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 2017, the Commission received 19 building permit applications, one development permit applications, and 17 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, 2017<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	437			1		438
DP	Development Permit	42					42
All Other		82		1			83
BCP	Bridge Construction Permit	2					2
FOP	Forest Operation Permit	8					8
GP	Great Pond Permit	42		1			43
HP	Hydropower Permit	3					3
RP	Road Construction Permit	2					2
SA	Shoreland Alteration Permit	1					1
SD	Service Drop Permit	15					15
SLC	Site Law Certification	1					1
SP	Subdivision Permit	3					3
ULP	Utility Line Permit	2					2
WL	Wetland Alterations Permit						
ZP	Zoning Petition	3					3
<b>TOTAL</b>		<b>561</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>563</b>

<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 may not have been completed. Additionally, some activities may have been completed without a permit where a permit was required.

**Table 2. Permit Processing, 2017 by County**

Permit Type	Permit Type Name	Total Actions by County													
		AR	FR	HA	KE	KN	LI	OX	PE	PI	SA	SO	WA	WL	TOTAL
BP	Building Permit	74	52	20	1	1	3	32	74	92		54	35		438
DP	Development Permit	7	14			1	1		3	2		9	5		42
All Other		18	9	4			1	1	8	17		14	11		83
BCP	Bridge Construction Permit		1									1			2
FOP	Forest Operation Permit	2	3	1					1	1					8
GP	Great Pond Permit	10		2				1	2	10		9	9		43
HP	Hydropower Permit											3			3
RP	Road Construction Permit	1								1					2
SA	Shoreland Alteration Permit	1													1
SD	Service Drop Permit	3	3	1					3	5					15
SLC	Site Law Certification								1						1
SP	Subdivision Permit		1				1						1		3
ULP	Utility Line Permit		1						1						2
WL	Wetland Alterations Permit														
ZP	Zoning Petition	1										1	1		3
	<b>TOTAL</b>	<b>99</b>	<b>75</b>	<b>24</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>33</b>	<b>85</b>	<b>111</b>	<b>0</b>	<b>77</b>	<b>51</b>	<b>0</b>	<b>563</b>
<i>Towns, Plantations, Townships, and (Islands) served by the LUPC</i>		125	31	16 (71)	1	3 (88)	3 (37)	21	46	90 (109)	1	87	37 (70)	(2)	460 (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, 2012-2017 Totals**

Permit Type	Permit Type Name	Total Applications Processed					
		2012	2013	2014	2015	2016	2017
BP	Building Permit	450	413	411	379	410	438
DP	Development Permit	56	46	32	57	55	42
All Other		97	102	77	93	111	83
BCP	Bridge Construction Permit	1	3	2		2	2
FOP	Forest Operation Permit	23	13	6	7	6	8
GP	Great Pond Permit	30	36	29	35	45	43
HP	Hydropower Permit			1		1	3
RP	Road Construction Permit		10	4	4	4	2
SA	Shoreland Alteration Permit		4	9	9	13	1
SD	Service Drop Permit		15	18	10	14	15
SLC	Site Law Certification			5	2	2	1
SP	Subdivision Permit		2	4	4	4	3
ULP	Utility Line Permit		3	3	2	5	2
WL	Wetland Alterations Permit		2	2	2	3	1
ZP	Zoning Petition		7	5	6	6	3
	<b>TOTAL</b>	<b>603</b>	<b>561</b>	<b>520</b>	<b>529</b>	<b>576</b>	<b>563</b>



**Table 4. Permit Processing, Annual Average by Outcome Over 30 Years (1988-2017)**

Permit Type	Permit Type Name	Annual Average of Applications Processed					Total
		Approved	Approved / Denied in-part	Denied	Application Withdrawn	Application Returned	
BP	Building Permit	409	5	1		5	420
DP	Development Permit	50	1			2	53
All Other		72	2	1		2	76
BCP	Bridge Construction Permit	3					3
FOP	Forest Operation Permit	7					7
GP	Great Pond Permit	21	1				22
HP	Hydropower Permit	1					1
RP	Road Construction Permit	4					4
SA	Shoreland Alteration Permit	5					5
SD	Service Drop Permit	9					9
SP	Subdivision Permit	8					8
ULP	Utility Line Permit	6					6
WL	Wetland Alterations Permit	1					2
ZP	Zoning Petition	7	1			1	9
<b>TOTAL</b>		<b>531</b>	<b>8</b>	<b>2</b>	<b>0</b>	<b>8</b>	<b>549</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 B describes each type of action listed in Table 5.

**Table 5. Other Land Use Determinations, 2017**

Determination Type	Actions Processed
Advisory Rulings	6
Boat Launch Notifications	0
Certifications of Compliance	44
Coastal Zone Management Area Consistency Determinations	0
Letters of Exemption	0
Maine Forest Service Review and Approvals	3
Water Quality Certifications (not incorporated in other permits)	0
<b>TOTAL</b>	<b>53</b>

**B. Time for Rendering a Decision**

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 work load 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 fully comply with the necessary 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 438 building permit applications, the Commission processed 70 percent in less than one full day and 89 percent in a week or less.
- Development Permits – Of the 42 development permit applications, the Commission processed 38 percent in a week or less and 81 percent in four weeks or less.
- All Other Permits – Of the 83 permit applications in the all other category, the Commission processed 68 percent in a week or less and 85 percent in four weeks or less.

Figure A. Permit Processing Times, 2017 – Building Permits

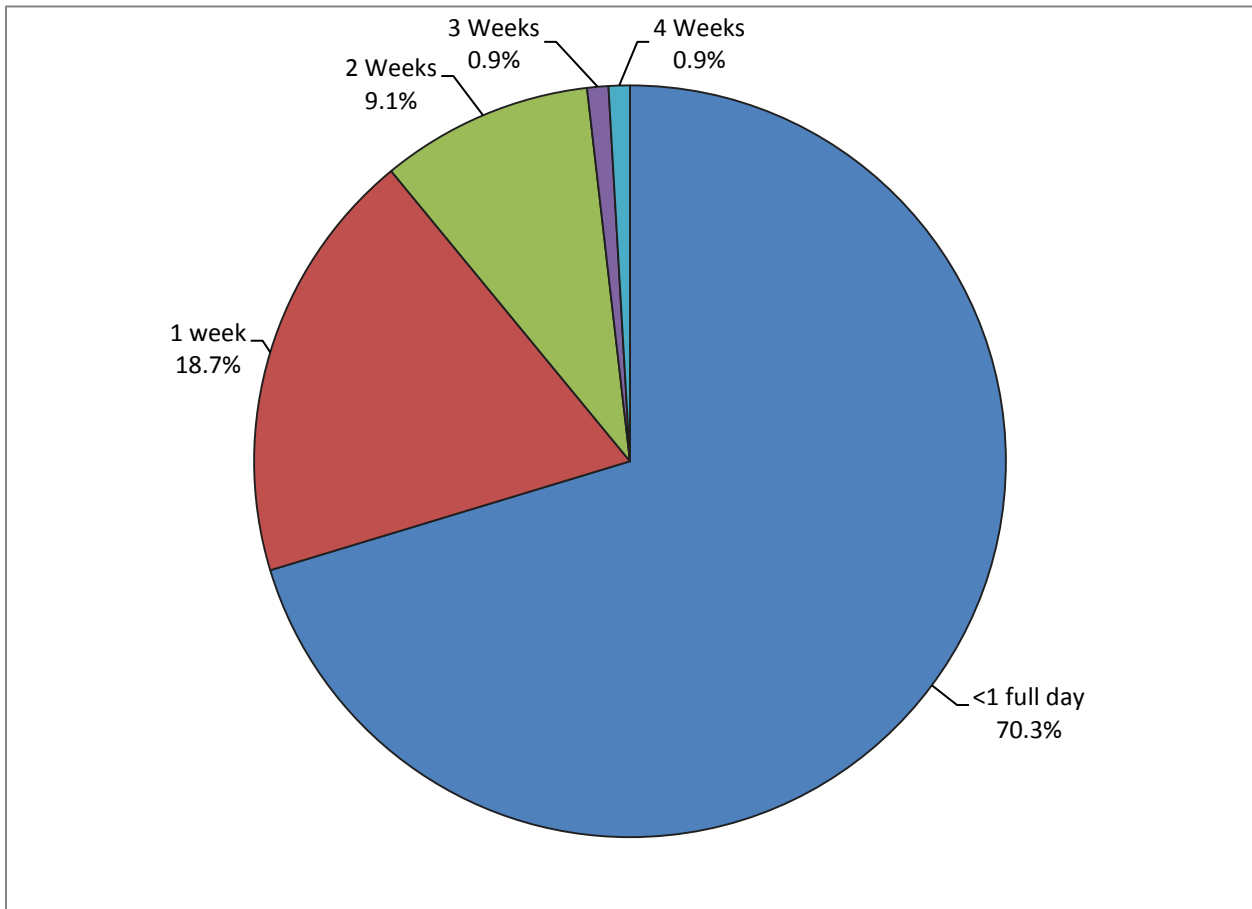


Figure B. Permit Processing Times, 2017 – Development Permits

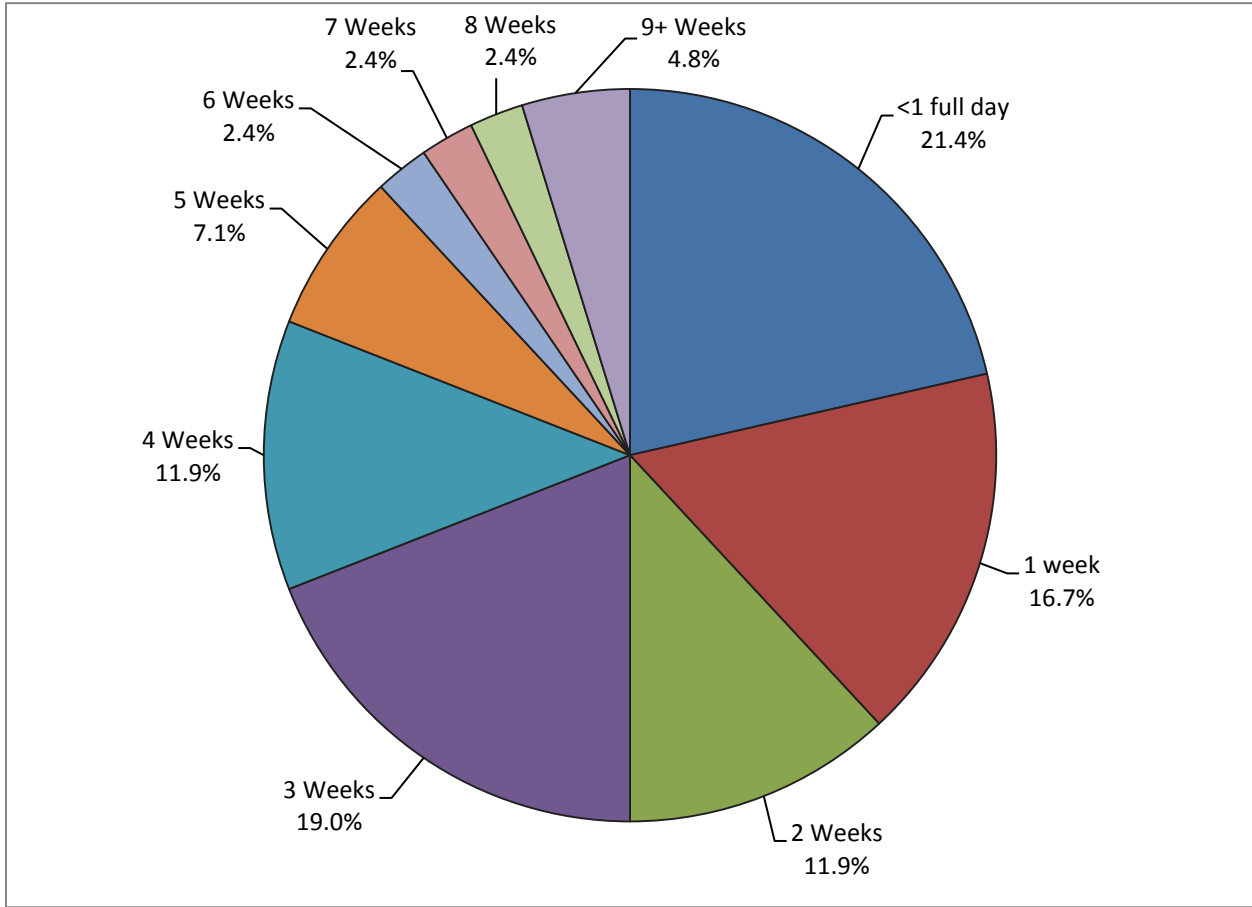
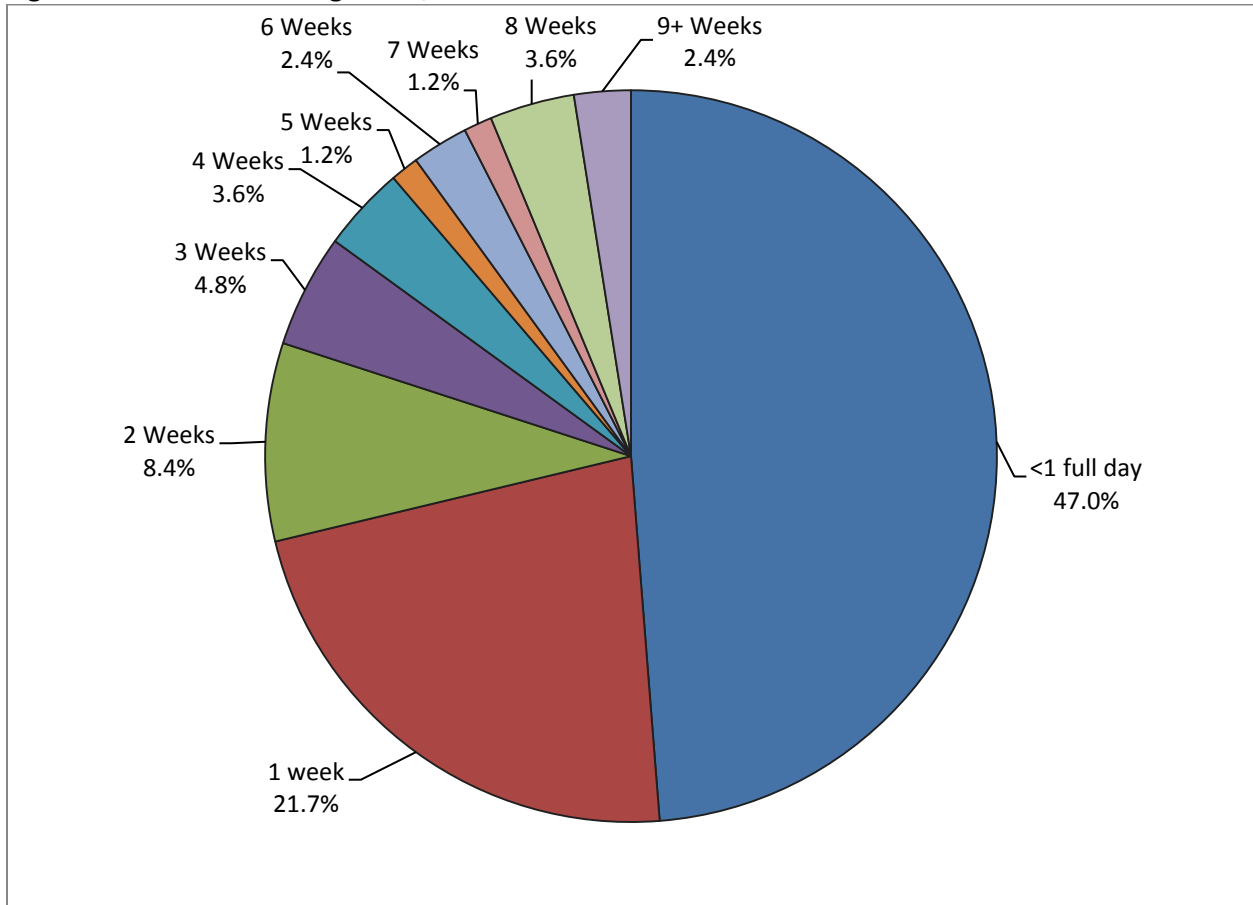


Figure C. Permit Processing Times, 2017 – All Other Permits



Tables 6 and 7 present the average and median processing times for 2017 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 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, 2017**

Permit Type	Processing Times (Days)	
	Average	Median
Building Permit (BP)	2	<1
Development Permits (DP)	18	14
All Other Permits	9	<1

**Table 7. Annual Permit Processing Times, 2012-2016**

Permit Type	2012		2013		2014		2015		2016	
	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)	Average (Days)	Median (Days)
Building Permit (BP)	4	<1	3.7	<1	2.8	<1	2.5	<1	2	<1
Development Permits (DP)	98	11	17.8	8	8.9	3	23.1	17	29	19
All Other Permits	38	3	15.7	1	13.5	2	14.6	3	13	<1

### C. Preapplication Consultation Activities

The Commission has developed procedures by which an applicant may request a public preapplication 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 2017, the Commission held a preapplication meeting with the Department of Defense, Veterans and Emergency Management and the Maine Army National Guard to discuss a proposed training facility in Penobscot County.

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 2017 the staff issued 6 advisory rulings.

#### **D. Community Guided Planning and Zoning**

The 2012 reform legislation 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.” After conducting extensive outreach, in 2012 the Commission sought to identify those interested in participating in Community Guided Planning and Zoning (CGPZ) – the prospective zoning directed by the Legislature. Six distinct regions emerged from the letters of interest submitted by County Commissioners, non-profits, citizen groups and others from across the jurisdiction. On February 1, 2013, the Commission selected Aroostook County as the first regional project. Western Maine (including both Somerset and Franklin counties) was selected on May 8, 2014. Washington County began its Community Guided Planning and Zoning process in May 2015.

CGPZ initiatives 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. (See the Commission’s 2016 Annual Report.) 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 own planning efforts and review of its adjacency principle may be able to help address the needs identified by the region during its Stage 1 efforts. Finally, the CGPZ initiative in Washington County, led by the Washington County Council of Governments, was completed in 2017. (See the discussion Washington County CGPZ in Section II.A above.)

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

### **1. Staff Training and Customer Service**

In 2017, Commission staff attended both internal and external training sessions and workshops intended to help with the delivery of quality customer service. For example, some of the training focused directly on ways to ensure that the public is aware of their responsibility for obtaining subsurface wastewater disposal plans prior to requesting a building permit and methods on how to determine the appropriate clearing in the shoreland areas, along with methods to implement revegetation plans. Other sessions focused on promoting consistency across regional offices and providing staff with the substantive knowledge to be best positioned to answer questions and address challenges individual property owners may have or face. The training helps position staff to deliver the quality service the Commission strives to provide.

External staff training in 2017 included:

- *Technology Training* – During April all permitting and compliance field staff attended radio trainings. This training provided staff a better understanding of current radio operations and technology changes. Staff often work in remote locations and field vehicles are equipped with radios.
- *Forestry Training*– On May 17, permitting and compliance field staff attended training on *How Forestry Laws Affect Municipalities* administered by the Maine Forest Service. The training covered statewide standards for timber harvesting and related activities in the shoreland areas, Forest Operations Notifications (FONs), the Forest Practices Act, and the Tree Growth Law.
- *Subsurface Wastewater Disposal & Internal Plumbing Training* – On May 24, a compliance field staff person attended an in-depth, all-day training held in Caribou. The class was administered by the Department of Health and Human Services. This training further helped staff better understand how site evaluations, permitting, and compliance inspections are performed. Building permit applicants often have questions on these topics.
- *Shoreline Zoning Training* – On May 25, field staff attended shoreline zoning training conducted by the Department of Environmental Protection. This training discussed nonconformance issues, clearing standards, water-dependent uses, and recent shoreland zoning changes in DEP’s Chapter 1000.
- *Gravel Road Training*– On August 4, a field staff person attended training on *Non-Traditional Solutions to Gravel Road Problems*. The training was put on by the Knox-Lincoln Soil & Water Conservation District. The training covered effective road repair practices and how to maintain gravel roads while reducing the amount of erosion and runoff.



- *Managing in State Government Training*– On September 12 and 13, a Commission staff supervisor attended *Managing in State Government*. This training assists new supervisors to better understanding their new roles and responsibilities.
- *Floodplain Training* – On September 14, Commission staff participated in a *Floodplain Management Workshop* put on by the Department’s Floodplain Management Program and the Federal Emergency Management Agency. The training covered permitting roles and responsibilities, development standards, understanding and interpreting elevation certificates, and digital floodplain mapping.
- *Maine Management Summit* – On October 25-27, the Director of the LUPC attended the *2017 Maine Management Summit* organized by the Bureau of Human Resources.
- *Watershed Roundtable* – On November 14, a Commission staff person participated in the *2017 Watershed Roundtable* hosted by the Department of Environmental Protection. The training discussed how to address coastal erosion, methods to use less riprap on shorelines, how to address stormwater runoff, and many other discussion topics.

Internal training in 2017 included:

- *Database, GIS & Zoning Map Training* – On May 2, permitting and compliance field staff attended a training that included discussions of and recent changes to the functionality of the Geographically Orientated Action Tracker (GOAT) database, changes to the LUPC digital zone layer, and website changes for zoning map distribution.
- *Shoreland Clearing & Vegetation Training* – On June 20 or 21, planning and field staff attended a field training day held in Dover-Foxcroft or Seboeis. The training covered how to calculate allowable clearings on shoreland properties and the revegetation requirements on shoreland properties.

## **2. 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 2017 topics presented to the Commission included discussion of the Department of Environmental Protection’s noise rules and how they compare to the Commission’s standards, as well as the Commission certification process, DEP’s Site Law permitting process, and how these two processes dovetail.

#### **IV. COMMISSION GOALS FOR 2018**

Throughout each year, the Commission reviews its goals and priorities in order to best focus its efforts and most efficiently use its resources. Presently, the Commission's goals for 2018 include:

- Completing the review of the Commission's subdivision rules and companion rule revisions.
- Reviewing and refining the Commission's approach to application of the adjacency principle.
- Completing additional rulemakings referenced in Section II.I.
- Reviewing the Fish River Chain of Lakes concept plan proposal that includes the proposed rezoning of more than 51,000 acres in Aroostook County.
- Assisting the Town of Baileyville assume land use planning, zoning, and permitting authority over annexed unorganized territory.
- Completing certification review of the proposed New England Clean Energy Connect.
- Undertaking a review of the Commission's Land Use Standards and identifying and implementing beneficial changes.

The Commission anticipates adding to this list as the year progresses and new issues emerge.

Finally, throughout the year and in addition to its list of goals and policies, the Commission and its staff are committed to working to provide efficient, quality service to the people with whom they interact and the people of this State.

**Appendix A:  
LUPC Commissioners as of December 31, 2017**

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>
9	Durward Humphrey	Aroostook	3/123/17	3/13/21	
10	Everett Worcester, Chair	Piscataquis	5/23/17	5/22/21	
7	Phil Curtis	Somerset	7/30/15	7/29/19	
3	--	Penobscot			vacant
4	Betsy Fitzgerald, Vice-chair	Washington	7/10/17	7/9/21	
6	William Gilmore	Franklin	11/23/15	8/20/19	
5	Robert Everett	Oxford	11/19/15	11/4/19	
2	Millard Billings	Hancock	8/23/16	7/9/20	
1	James May	Governor	4/20/17	7/9/20	

## 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 (*i.e.*, 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:

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 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.

<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>
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 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 10.27,L of the Commission’s <i>Land Use Districts and Standards</i> .

Type	Permit Type	General Description <sup>2</sup>
LAR	Letter of Exemption/Advisory Rulings	<p>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>)</p>
LOE	Letter of Exemption	<p>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>)</p>
MFS-RA	Maine Forest Service Review and Approval	<p>Review and approvals issued by the Commission for timber harvesting activities that are permitted by the Maine Forest Service (MFS) (12 M.R.S.A. § 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.</p>
MISC	Miscellaneous	<p>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.</p>

Type	Permit Type	General Description <sup>2</sup>
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 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>2</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>3</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> .

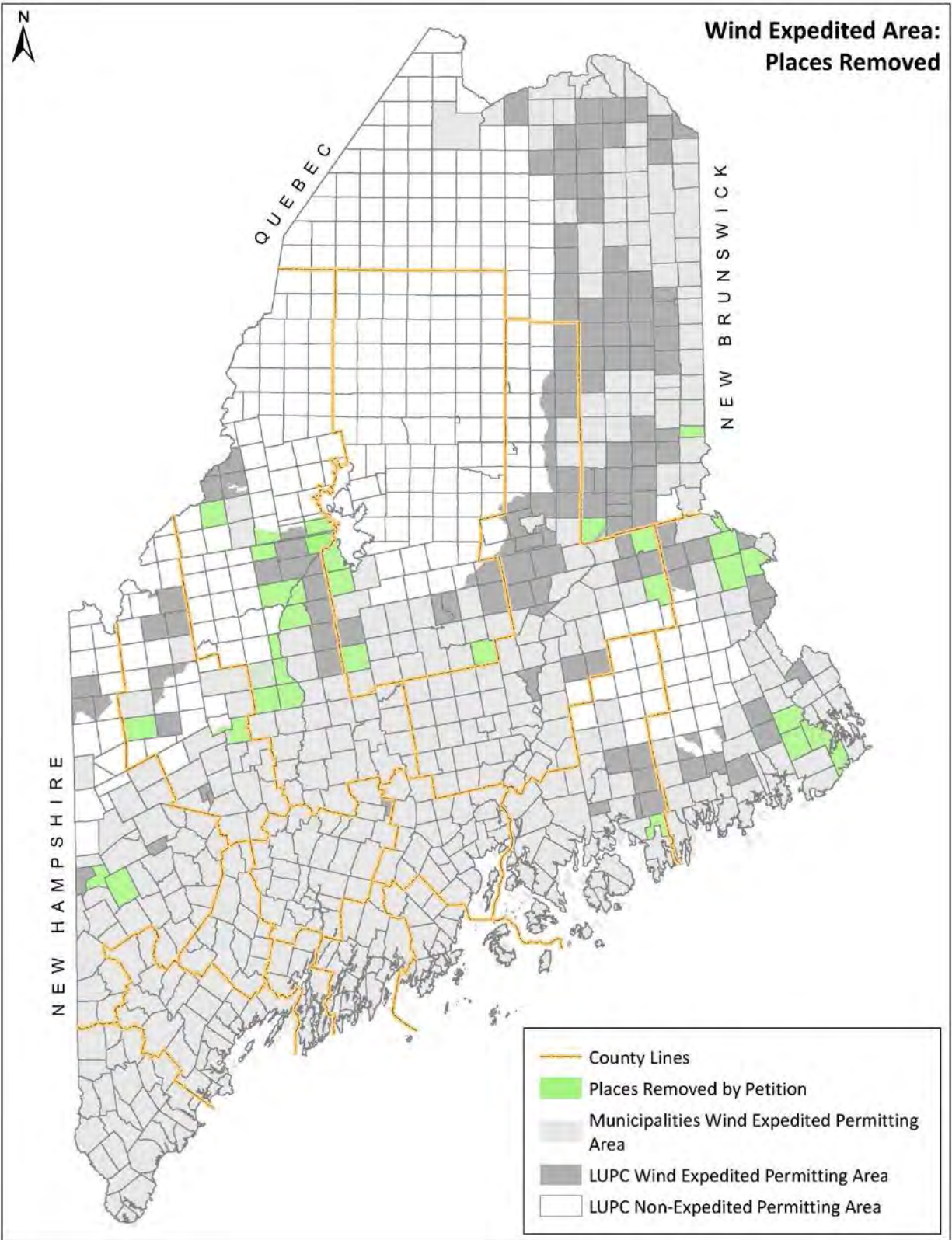
---

<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.



**Appendix C:  
Wind Expedited Permitting Area Map and Table**

*Page intentionally left blank, see next page*



**Places Removed**

**Aroostook County**

Cary Plantation  
Molunkus Township

**Franklin County**

Freeman Township  
Rangeley Plantation  
Salem Township

**Hancock County**

T 7 SD BPP

**Oxford County**

Albany Township  
Mason Township

**Piscataquis County**

Big Moose Township  
Cove Point Township  
Harfords Point Township  
Kingsbury Plantation  
Moosehead Junction Township  
Orneville Township

**Penobscot County**

Carroll Plantation  
Drew Plantation

**Somerset County**

Carrying Place Township  
Concord Township  
Dennistown Township  
Highland Plantation  
Lexington Township  
Long Pond Township  
Misery Gore Township  
Moxie Gore  
Parlin Pond Township  
Pleasant Ridge Plantation  
Rockwood Strip (T1 R1 NBKP)  
Sandbar Tract Township  
Sapling Township  
Taunton & Raynham Academy Grant  
The Forks Plantation  
West Forks Plantation

**Washington County**

Cathance Township  
Codyville Plantation  
Edmunds Township  
Forest City Township  
Forest Township  
Lambert Lake Township  
Marion Township  
Trescott Township