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STATE OF MAINE
112TH LEGISLATURE
SECOND REGULAR SESSION

REPORT OF
THE JOINT STANDING COMMITTEE ON
ENERGY AND NATURAL RESOURCES
ON ITS STUDY OF
SUBDIVISION LAW

MARCH 1986

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Sen. Ronald Usher
Sen. Judy C. Kany
Sen. Jerome A. Emerson
Rep. Michael H. Michaud
Rep. Darryl N. Brown *
Rep. Edward L. Dexter
Rep. Paul F. Jacques
Rep. James Mitchell *
Rep. Vinton T. Ridley
Rep. Annette M. Høglund *
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REPORT OF THE JOINT STANDING COMMITTEE ON
ENERGY AND NATURAL RESOURCES ON ITS
STUDY OF SUBDIVISION LAW

I. INTRODUCTION

LD 1229, "AN ACT to Bring into Conformity Municipal and State Subdivision Laws," was approved as a carryover bill by the First Session of the 112th Legislature and the Energy and Natural Resources Committee was authorized by the Legislative Council to study the subdivision laws during the interim. A copy of LD 1229 is attached. A four member subcommittee was formed consisting of Rep. James Mitchell as chairman, Rep. Darryl Brown, Rep. Annette Hoglund and Rep. Muriel Holloway.

The bill proposed to make 4 changes in the definition of "subdivision" contained in the Site Location of Development Law (Title 38, §482, sub-§5) in order to make that law more consistent with the Municipal Subdivision Law (Title 30, §4956). Copies of the pertinent provisions of the 2 laws and an outline comparing them are attached.

II. THE SITE LOCATION OF DEVELOPMENT AND MUNICIPAL SUBDIVISION
LAWS

The municipal subdivision law requires towns to review

activities meeting the definition of "subdivision" and establishes a number of performance standard type criteria which must be met before a subdivision may be approved. That law was originally enacted in 1957. The purposes of the municipal subdivision law are, first, to protect the health and safety of homeowners and the community by assuring that structures and their systems are situated in a healthy and safe manner. The second purpose is to provide a means to guide the growth which is occurring in a municipality. This allows for controlled and orderly residential development and the provision of necessary municipal service.

The Site Location of Development Law (38 MRSA chapter 3, Article 6) enacted in 1969 requires that certain, large-scale developments, including activities meeting the definition of "subdivision" (§482, sub-§5 which defines subdivision was added in 1971) be approved by the Board of Environmental Protection. The purpose of the site law is to provide for State control of various large-scale projects which are likely to have an effect on the environment of the State or some region of the State.

While there are some similarities, the 2 subdivision laws have many dissimilarities. Given the differences, it is, perhaps, inevitable that some confusion exists and calls for consistency occur. However, several interested parties expressed the opinion that the differences are primarily due to the fact that the laws were enacted at different times and for different purposes.

In most cases subdivisions requiring review and approval under the Site Law will also require review and approval under the municipal subdivision law. The reverse is often not true. The fact that a subdivider has attained approval under one law does not exempt him or her from the need to attain approval under the other where required. In such cases, a subdivider must obtain 2 approvals -- one at the State level and one at the municipal level.

III. SUMMARY OF LD 1229

Specifically, LD 1229 proposed the following changes in Title 38:

A. Exempt the sale, lease or transfer of any interest in land to an abutting owner from consideration as a lot for subdivision purposes, regardless of when, how or from whom that abutter acquired his or her land. A similar exemption already exists in the current Site Law (see 38 MRSA §482, sub-§5, ¶D, sub-¶1) which exempts transfer to an abutter except where the intent of the transfer is to circumvent the intent of the Site Law. The municipal subdivision law exempts transfers to abutters, regardless of intent.

B. Define parcel of land as all contiguous land in the same ownership and provide that land on opposite sides of a public or private road shall be considered separate parcels for subdivision purposes, unless the road was established after January 1, 1970, by the owner of land on both sides of the road. Essentially the same provision exists in the municipal subdivision law.

C. Exempt lots of 40 acres or more from consideration when determining whether enough lots have been created to trigger subdivision review under the Site Law. The same exemption exists in the municipal subdivision law.

D. Exempt a single-family residential lot created by a subdivider for his own use from review under the Site Law.

Such a lot would not be counted for subdivision purposes if retained by the developer for 5 years. A similar provision exists in the municipal subdivision law.

IV. COMMITTEE DELIBERATIONS

The subcommittee met 3 times in December and early January to discuss the issue of subdivision law conformity. Comments were received on the bill and on subdivision law generally from the Department of Environmental Protection, the Maine Municipal Association, private attorneys, the Maine Association of Realtors, the Maine Natural Resources Council and private citizens.

After discussion of various other approaches, the subcommittee decided to focus only on the issues raised by LD 1229. The changes proposed in that bill and the discussions of the subcommittee and other interested parties are summarized below.

A. Exemption for transfer to abutter.

LD 1229 proposes to add an additional exemption to 38 M.R.S.A. §482, sub-§5, ¶D. Presently, paragraph D exempts certain transactions from being considered to create a lot for purposes of determining whether the Site Location of Development Law applies. The proposed language would exempt the "(s)ale, lease or transfer of any interest in

land to the owner of land abutting thereon regardless of when how or from whom that owner acquired the abutting land."

Discussion: It was pointed out that currently Paragraph D, subparagraph 1, exempts the "(s)ale or lease of lots to an abutting owner..." except where that transaction is intended to circumvent the Site Law. After some discussion the subcommittee decided that the proposed new language on "how, when or from whom acquired" was meant to soften the intent restriction of the existing law. DEP staff indicated that the department has never challenged a transaction on the grounds that it was intended to circumvent the law, but also pointed out that part of the reason for that may be the existence of the language prohibiting such transactions. Maine Municipal Association representatives indicated that no intent restriction exists in the municipal subdivision law which may lead to attempts to circumvent that law by means of straw transfers to abutments in order to avoid subdivision review.

The subcommittee concluded that the existing transfer to abutment language is necessary and should remain in the Site Law although it differs from the municipal subdivision law in that it exempts only those transfers which are not intended to circumvent the law. Therefore, the proposed language of LD 1229 relating to transfer to an abutment is

unnecessary, and would, in fact, be inconsistent and confusing if adopted.

B. Definition of parcel and treatment of land on opposite sides of a road as two parcels.

LD 1229 proposes to define "parcel of land" as "all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate parcel of land unless that road was established by the owner of land on both sides of the road subsequent to January 1, 1970."

Discussion: Opponents of the proposal claim that addition of the "contiguous" requirement would reduce DEP's ability to review major development which is not contiguous but which constitutes a common scheme of development and which could have significant environmental impact. Proponents argue that such a requirement would be consistent with the municipal subdivision law.

The opposite side of the road proposal is one which has been before the Committee in previous sessions. Proponents of the change are concerned that an existing owner of land on one side of a road, who has created some lots, but not enough to trigger subdivision review, will be inhibited from taking advantage of an opportunity to buy

land across the road for fear of falling within the definition of subdivision and triggering review.

Opponents maintain that the proposal would allow development of, for example, a 38 acre parcel divided evenly by a road (because neither side would meet the 20 acre minimum size requirement) without Site Law review while a 38 acre parcel not divided by a road could not be developed without review. Opponents maintain such a result is unfair, difficult to administer because of the apparent unfairness, and not justified environmentally since the impact of a development will be substantially the same whether divided by a road or not.

C. Exemption for lots of more than 40 acres.

LD 1229 proposes to exempt lots of more than 40 acres from the definition of "subdivision" in the Site Location of Development Law by adding a new paragraph G to 38 MRSA, §482, sub-§5.

Discussion: Presently, the municipal subdivision law does not count lots of more than 40 acres when determining whether a sufficient number of lots have been created to trigger subdivision review. No such provision exists in the Site Law.

Discussion in the subcommittee centered on the possible harm which could result if such an exemption were added to Title 38. Proponents of the exemption felt that with 40+ acre lots the potential for environmental damage was slight and that these large lots ought not to trigger review. Furthermore, they argued that if the exempt 40 acre lot is further divided in the future, it will be subject to review under the municipal subdivision law if 3 or more lots are created or under the Site Law if 5 or more lots totalling 20 acres are created.

Opponents of the exemption maintain that many subdivisions will escape review under the Site Location Law because developers may use fewer than 20 acres of the exempted 40 acre lot which will not trigger Site Location review and that the review under the municipal subdivision law is not intended to preclude or substitute for Site Law review. They claim the Legislature has specifically recognized that 2 levels of review may be necessary by enacting two different subdivision laws to be administered independently. Furthermore, while many towns do an admirable job administering the municipal subdivision law, some observers feel that not all of them are prepared for a thorough, in-depth review of subdivisions within their borders. MMA representatives pointed out that some towns are, themselves, concerned about the existence of the 40 acre exemption in municipal subdivision law. However, at

present, their concern is tempered by the realization that the 40 acre lots may be reviewed under the Site Law.

Opponents also contend that an exemption already exists in the Site Law for the large lot developer. No subdivision is created under that law where all lots exceed 10 acres in size.

D. Exemption for a single family residential lot used by developer.

LD 1229 would add a new paragraph H to 38 MRSA §482, sub-§5 exempting from the definition of subdivision a lot created by a subdivider and used by him for 5 years as a single family residence.

Discussion: The subcommittee considered this a somewhat limited additional exemption and was generally in favor of the proposed change. This proposal would allow a developer to establish 1 more lot than currently allowed without triggering subdivision review if he or she retains one of the lots for his or her own use.

Representatives of the Maine Municipal Association proposed and the subcommittee accepted rewording of the exemption as follows:

"Five years after a subdivider establishes a single-family residence for his own use on a lot and actually uses the lot for that purpose during that period, that lot shall not be counted as a lot."

The purpose of the amended language is to more closely track the language of the municipal subdivision law and to clarify that the lot must be actually used by the subdivider as a single-family residence.

V. COMMITTEE RECOMMENDATIONS

The Energy and Natural Resources Committee recommends that (A) the proposed exemption for transfer to an abuttor regardless of when, how, or from whom that abutting land was acquired not be enacted and (B) the exemption for a single-family residence established by a subdivider for his own use as amended by the Maine Municipal Association proposal be enacted.

The Committee was divided on whether (A) the definition of parcel should be limited to contiguous parcels and parcels on opposite sides of a road should be counted as 2 parcels for subdivision purposes and (B) 40 acre or larger lots should be

exempted from subdivision review. A majority of the Committee favored adding both these provisions; the minority opposed them.

Copies of the Committee's majority and minority legislation reported by the Committee are attached.

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document No. 1229
6

7 H.P. 872 House of Representatives, April 9, 1985
8 Reference to the Committee on Energy and Natural Resources suggested
9 and ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Stevens of Bangor.
Cosponsored by Representative Jackson of Harrison, Senator Trafton of
Androscoggin and Senator Danton of York.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Bring into Conformity Municipal and
18 State Subdivision Laws.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 38 MRSA §482, sub-§5, as amended by PL 1983, c.
23 788, §§1 to 3, is further amended to read:

24 5. Subdivision. A "subdivision" is the division
25 of a parcel of land into 5 or more lots to be offered
26 for sale or lease to the general public during any
27 5-year period if such lots make up an aggregate land
28 area of more than 20 acres except for the following:

29 A. All the lots are at least 10 acres in size;

30 B. All the lots are at least 5 acres, and the
31 municipality has adopted additional regulations
32 governing subdivisions pursuant to Title 30, sec-
33 tion 4956, and the lots less than 10 acres are of
34 such dimensions as to accommodate within the

1 boundaries of each a rectangle measuring 200 feet (
2 and 300 feet, which abuts at one point the prin-
3 cipal access way or the lots have at least 75
4 feet of frontage on a cul-de-sac which provides
5 access;

6 C. All the lots are at least 5 acres, but do not (
7 make up a total of more than 100 acres and the
8 lots less than 10 acres are of such dimensions as
9 to accommodate within the boundaries of each a
10 rectangle measuring 200 feet and 300 feet, which
11 abuts at one point the principal access way or
12 the lots have at least 75 feet of frontage on a
13 cul-de-sac which provides access;

14 D. Unless intended to circumvent this Article,
15 the following transactions shall not be consid-
16 ered lots offered for sale or lease to the gener-
17 al public:

18 (1) Sale or lease of lots to an abutting
19 owner or to a spouse, child, parent, grand-
20 parent or sibling of the developer; or

21 (2) Personal, nonprofit transactions, such
22 as the transfer of lots by gift or devise; (
23 or

24 (3) Sale, lease or transfer of any interest
25 in land to the owner of land abutting there-
26 on regardless of when, how or from whom that
27 owner acquired the abutting land;

28 E. In those subdivisions which would otherwise
29 not require site location approval, unless in-
30 tended to circumvent this Article, the following
31 transactions shall not, except as hereinafter
32 provided, be considered lots offered for sale or
33 lease to the general public:

34 (1) Sale or lease of mainland lots of 1/2
35 acre or less in size which serve as parking
36 lots and points of access to the water by
37 boats for island property owners; and

38 (2) Sale or lease of common lots created (
39 with a conservation restriction as defined
40 in Title 33, section 667.

(1 These exceptions shall not apply, and the subdivi-
2 sion will require site location approval, when-
3 ever the use of a lot described in subparagraph
4 (1) or (2) changes or the lot is offered for sale
5 or lease to the general public without the limi-
6 tations set forth in subparagraph (1) or (2)-;

(7 F. For the purposes of this section, a parcel of
8 land is defined as all contiguous land in the
9 same ownership, provided that lands located on
10 opposite sides of a public or private road shall
11 be considered each a separate parcel of land un-
12 less that road was established by the owner of
13 land on both sides of the road subsequent to Jan-
14 uary 1, 1970;

15 G. Lots of 40 or more acres shall not be counted
16 as lots; or

17 H. Five years after the creation of a single
18 family residence lot by a subdivider for his own
19 use, that lot shall not be counted as a lot.

(20 STATEMENT OF FACT

21 The purpose of this bill is to apply certain ex-
22 emptions under the municipal subdivision law to the
23 state site location of development law.

24 2212032885

TITLE 30

§4956. Land subdivisions

1. Defined. A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of said first 2 lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a 3rd lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least 5 years prior to such 2nd dividing. Lots of 40 or more acres shall not be counted as lots.

For the purposes of this section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

A "densely developed area" is defined as any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres. A principal structure is defined as any building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises. 1983, c. 458, § 10 (amd).

TITLE 38

5. Subdivision. A "subdivision" is the division of a parcel of land into 5 or more lots to be offered for sale or lease to the general public during any 5-year period if such lots make up an aggregate land area of more than 20 acres except for the following:

A. All the lots are at least 10 acres in size; 1975, c. 712 (rpr).

B. All the lots are at least 5 acres, and the municipality has adopted additional regulations governing subdivisions pursuant to Title 30, section 4956, and the lots less than 10 acres are of such dimensions as to accommodate within the boundaries of each a rectangle measuring 200 feet and 300 feet, which abuts at one point the principal access way or the lots have at least 75 feet of frontage on a cul-de-sac which provides access; 1981, c. 227, § 1 (amd).

C. All the lots are at least 5 acres, but do not make up a total of more than 100 acres and the lots less than 10 acres are of such dimensions as to accommodate within the boundaries of each a rectangle measuring 200 feet and 300 feet, which abuts at one point the principal access way or the lots have at least 75 feet of frontage on a cul-de-sac which provides access; 1983, c. 788, § 1 (amd).

D. Unless intended to circumvent this Article, the following transactions shall not be considered lots offered for sale or lease to the general public:

(1) Sale or lease of lots to an abutting owner or to a spouse, child, parent, grandparent or sibling of the developer; or

(2) Personal, nonprofit transactions, such as the transfer of lots by gift or devise; or 1983, c. 788, § 2 (amd).

E. In those subdivisions which would otherwise not re-

quire site location approval, unless intended to circumvent this Article, the following transactions shall not, except as hereinafter provided, be considered lots offered for sale or lease to the general public:

(1) Sale or lease of mainland lots of 1/2 acre or less in size which serve as parking lots and points of access to the water by boats for island property owners; and

(2) Sale or lease of common lots created with a conservation restriction as defined in Title 33, section 667.

These exceptions shall not apply, and the subdivision will require site location approval, whenever the use of a lot described in subparagraph (1) or (2) changes or the lot is offered for sale or lease to the general public without the limitations set forth in subparagraph (1) or (2). 1983, c. 788, § 3 (new).
1983, c. 788, § 1-3 (amd).

COMPARISON OF SUBDIVISION LAWS

SITE LOCATION LAW

MUNICIPAL SUBDIVISION LAW

CITATION:	38 M RSA §482, sub-§5	30 M RSA §4956
ADMINISTRATION:	Dept. of Environmental Protection	Municipal planning board or municipal officers
PURPOSE:	To review large scale development which may substantially affect the environment of the region or state	To provide a tool to towns to manage growth within their borders at a rate which is consistent with the cost of and ability to provide services
DEFINITION:	<ul style="list-style-type: none">● Division of a parcel of land● 5 or more lots● offered for sale or lease● within 5 years● affecting more than 20 acres● parcel = land in same ownership, not necessarily contiguous, determination of common scheme of development made by DEP (rule)● may include land on opposite side of road as part of parcel (rule)● exemptions<ul style="list-style-type: none">-sale/lease to certain relatives unless to circumvent law-sale/lease to abuttor unless to circumvent law-gift or devise unless to circumvent law-no exemption for subdivider's own lot-lots of a certain size<ul style="list-style-type: none">·all lots >10 acres·all lots >5 acres and total <100 acresorall lots >5 acres and town has adopted municipal zoningandlots of <10 acres are at least 200' x 300' and abutt access way or have 75' on a cul de sac providing access	<ul style="list-style-type: none">● Division of a parcel/tract of land● 3 or more lots● accomplished by sale, lease, development, building or otherwise● within 5 years● no minimum size● parcel = all contiguous land in same ownership ● land on opposite side of road considered separate parcel unless road established by owner● exemptions<ul style="list-style-type: none">-gift to relative unless to circumvent law-transfer to abuttor-devise, condemnation or court order-exemption for lot used by subdivider as residence for 5 yrs.-lots of certain size<ul style="list-style-type: none">·lots > 40 acres not counted in determining number of lots

MAJORITY

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L.D. 1229

(Filing No. H-)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 872, L.D. 1229, Bill, "AN ACT to Bring into Conformity Municipal and State Subdivision Laws."

Amend the bill in subsection 5, paragraph D, subparagraph (1) in the last line (page 2, line 20 in L.D.) by striking out the following: "er" and inserting in its place the following: 'or'

Further amend the bill in subsection 5, paragraph D, subparagraph (2) in the last line (page 2, line 23 in L.D.) by striking out the following: "or" and inserting in its place the following: 'er'

Further amend the bill in subsection 5, paragraph D, by striking out all of subparagraph (3) (page 2, lines 24 to 27 in L.D.)

Further amend the bill in subsection 5, paragraph F, in the first line (page 3, line 7 in L.D.) by striking out the underlined word "section" and inserting in its place the underlined word 'subsection'

Further amend the bill in subsection 5, paragraph F, in the 2nd line (page 3, line 8 in L.D.) by striking out the underlined word "continguous" and inserting in its place the underlined word 'contiguous'

Further amend the bill in subsection 5, by striking out all of paragraph H (page 3 lines 17 to 19 in L.D.) and inserting in its place the following:

'H. Five years after a subdivider establishes a single-family residence for his own use on a lot and actually uses the lot for that purpose during that period, that lot shall not be counted as a lot.'

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STATEMENT OF FACT

2 The original bill added 3 additional exemptions
3 from the definition of "subdivision" which currently
4 exists in the municipal subdivision law to the site
5 location of development law. The original bill also
6 defined the term "parcel" for the purposes of the
7 site location law in a manner similar to the defini-
8 tion under the municipal law. This amendment, which
9 is the result of a study by the committee on Energy
10 and Natural Resources deletes from the bill the pro-
11 posed exemption for transfer to abutters, retains the
12 definition of "parcel," retains the exemption for
13 lots of 40 acres or more and replaces the exemption
14 after 5 years for a lot created by a subdivider for
15 his own use with new language to clarify that the
16 subdivider must, use the lot for 5 years as a
17 single-family residence.

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MINORITY

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L.D. 1229

(Filing No. H-)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 872, L.D. 1229, Bill, "AN ACT to Bring into Conformity Municipal and State Subdivision Laws."

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 38 MRSA §482, sub-§5, ¶D, as amended by PL 1983, c. 788, §2, is further amended to read:

D. Unless intended to circumvent this Article, the following transactions shall not be considered lots offered for sale or lease to the general public:

(1) Sale or lease of lots to an abutting owner or to a spouse, child, parent, grandparent or sibling of the developer; or

(2) Personal, nonprofit transactions, such as the transfer of lots by gift or devise; or

Sec. 2. 38 MRSA §482, sub-§5, ¶E, as enacted by PL 1983, c. 788, §3, is amended to read:

E. In those subdivisions which would otherwise not require site location approval, unless intended to circumvent this Article, the following transactions shall not, except as hereinafter provided, be considered lots offered for sale or lease to the general public:

(1) Sale or lease of mainland lots of 1/2 acre or less in size which serve as parking lots and points of access to the water by

COMMITTEE AMENDMENT " " to H.P. 872, L.D. 1229

1 boats for island property owners; and

2 (2) Sale or lease of common lots created
3 with a conservation restriction as defined
4 in Title 33, section 667.

5 These exceptions shall not apply, and the subdivi-
6 sion will require site location approval, when-
7 ever the use of a lot described in subparagraph
8 (1) or (2) changes or the lot is offered for sale
9 or lease to the general public without the limi-
10 tations set forth in subparagraph (1) or (2); or

11 Sec. 3. 38 MRSA §482, sub-§5, ¶F is enacted to
12 read:

13 F. Five years after a subdivider establishes a
14 single-family residence for his own use on a lot
15 and actually uses the lot for that purpose during
16 that period, the lot shall not be counted as a
17 lot.'

COMMITTEE AMENDMENT " " to H.P. 872, L.D. 1229

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STATEMENT OF FACT

2 The original bill added 3 additional exemptions
3 from the definition of "subdivision" which currently
4 exists in the municipal subdivision law to the site
5 location of development law. The original bill also
6 defined the term "parcel" for the purposes of the
7 site location law in a manner similar to the defini-
8 tion under the municipal law. This amendment, which
9 is the result of a study by the joint standing com-
10 mittee on Energy and Natural Resources, deletes from
11 the bill the proposed exemption for transfer to
12 abutters; deletes the definition of "parcel;" deletes
13 the exemption for lots of 40 acres or more; and re-
14 places the exemption after 5 years for a lot created
15 by a subdivider for his own use with new language to
16 clarify that the subdivider must use the lot for 5
17 years as a single-family residence.

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