

# Appendix A

## Deliberation Table for Financial Practicability

## Financial Practicability

### Key Criteria and References

“A land use district boundary may not be adopted or amended unless there is substantial evidence that:...The proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of this chapter...”. 12 M.R.S. § 685(A)(8-A).

"The purpose of the D-PD subdistrict is to allow for large scale, well-planned development" proposals for which the Commission will consider provided they "can be shown to be of high quality and not detrimental to other values" of the Commission's jurisdictional area. 01-672 C.M.R. ch. 10, §10.21(H)(1).

“Whether a project is technically feasible and financially practicable is a particularly important consideration for a custom zone, such as a D-PD subdistrict, that will be specifically established for a single large-scale development project. A project that is not technically feasible and financially practicable is not a well-planned or high-quality development and therefore would not satisfy the requirements of 01-672 C.M.R. ch. 12, § 4(B)(l)(a) or 4(C)(l)(p).” ZP779, Exhibit 4.5\_2020-03-06\_LUPC Letter AdInfo Request 1. (LUPC intends to take official notice of this non-confidential agency record.)

Note: The statutory decision-making criteria for zone changes in 12 M.R.S. § 685(A)(8-A) and the standards for mining D-PDs in Chapter 12 do not require a demonstration of the financial capacity or technical ability of the applicant.

Reference	Supports approval	Central Questions	Supports denial
Guide for Deliberation, Part III, pages 1 - 3	Role of a junior vs. major mining company	<ul style="list-style-type: none"> <li>Is a PEA the appropriate level of information for financial practicability at the zoning stage?</li> <li>Should more weight be placed on the PEA’s conclusions and the Chapter 200 requirements, OR Stu Levit's comments regarding the unproven mineral resource and record evidence on metal prices and volatility?</li> </ul>	Unproven mineral resource
	Experience of individual Wolfden employees		Metal demand/ price/ volatility
	<b>Preliminary Economic Assessment (PEA)</b>		Impacts of inflation on projected construction and operational costs
	<b>SWCA’s review of the PEA</b>		
	<b>Chapter 200 requirements</b>		

- Have all the significant factors been captured?
- How would Commissioners answer and evaluate the central questions?
- Has the staff weighed the factors appropriately?

# Appendix B

## Deliberation Table for Socioeconomics

## Socioeconomics

### Key Criteria and References (emphasis added below)

“When reviewing a petition to change a subdistrict to a D-PD Development Subdistrict for the purposes of metallic mineral mining...the Commission...shall consider the following factors when determining consistency with the purpose, intent and provisions of 12 M.R.S.A. Chapter 206-A: (a) Positive and negative impacts upon the areas within and adjacent to the Commission's jurisdiction resulting from the change in use and development of the area. Such impacts may include, but are not limited to, *impacts to regional economic viability, Maine's natural resource-based economy*, local residents and property owners, ecological and natural values, recreation, and public health, safety, and general welfare.” 01-672 C.M.R. ch. 12, § 4(B)(2)(a).

“When reviewing a petition to change a subdistrict to D-PD Development Subdistrict for the purposes of metallic mineral mining or Level C mineral exploration activities and applying the statutory criteria for approval as set forth in B(1)(b) of this section, the Commission shall consider the following potential impacts: (a) *Potential short and long term socioeconomic impacts, both positive and negative*, upon the immediate area and communities likely to be affected by the proposed activities and resulting from the construction, operation and closure of the proposed activity.” 01-672 C.M.R. ch. 12, § 4(B)(3)(a).

“In considering these impacts and determining whether any adverse impact associated with the proposed rezoning is an undue adverse impact on existing uses or resources, the Commission shall consider the *potential* for a metallic mineral mining ... permittee *to avoid, minimize, or mitigate* to the extent permitted by law, a potentially adverse impact so that the resulting impact is not an undue adverse impact.” 01-672 C.M.R. ch. 12, § 4(B)(3).

Reference	Supports approval	Central Question	Supports denial
Guide for Deliberation, Part IV, pages 4 - 6	Depressed local economy/ direct spending in the region	<ul style="list-style-type: none"> <li>Should more weight be placed on the conclusions of the Stepwise Report, Rachel Bouvier’s review, and the Chapter 200 requirements; OR on the past records of the mining industry and potential impacts on human health?</li> </ul>	Potential overestimation of locally filled jobs/ best-case-scenario assessment of socioeconomic impacts
	<b>Economic Assessment of the Proposed Pickett Mine Project, prepared by Stepwise Data Research (Stepwise Report)</b>		Limited project life
	<b>Conclusions of RBouvier Consulting, LUPC economic consultant</b>		Potential for ARD/ML generation; human health effects
	Local resolutions/ Ms. Thurston Hill's testimony		History of boom-bust cycles in mining operations worldwide
	<b>Chapter 200 requirements</b>		

- Have all the significant factors been captured in the staff analysis?
- How would Commissioners answer and evaluate the central question?
- Has the staff weighed the factors appropriately?

# Appendix C

## Deliberation Table for Wildlife Resources/ Habitats

**Wildlife Resources/ Habitats**

Key Criteria and References: (emphasis added below)

“When reviewing a petition to change a subdistrict to D-PD Development Subdistrict for the purposes of metallic mineral mining or Level C mineral exploration activities and applying the statutory criteria for approval as set forth in B(1)(b) of this section, the Commission shall consider the following potential impacts:

(d) Potential impacts to existing uses and natural resources including, but not limited to: forest resources; historic sites; wildlife and plant habitats; scenic resources; water resources; and recreation resources.” 01-672 C.M.R. ch. 12, §12(4)(B)(3)(d).

Reference	Supports approval	Central Question(s)	Supports denial
Guide for Deliberation, Part V, pages 6 - 8	Limited size of the proposed cleared area	<ul style="list-style-type: none"> <li>Should more weight be given to the lack of identified significant wildlife habitats and imperiled botanical resources in the project area, existing roads and logging activity, and Chapter 200 requirements; or to the potential for wildlife and habitat impacts more generally from the proposed mining activities?</li> </ul>	Potential effects of increased traffic, blasting, fencing, lighting, and noise on wildlife
	<b>The project area lacks significant identified wildlife habitats; has low potential for imperiled botanical resources</b>		Canada Lynx critical habitat overlaps project area
	No known Northern Long-Eared Bat hibernacula in the project vicinity; proposal to time clearing to minimize impacts on bats		Part of a larger geographic area that is significant for supporting species migration, climate resiliency, and biodiversity
	Proposed 75’ buffer zone around wetlands, streams, and vernal pools; proposal to maintain current hydrology		
	<b>Existing roads and logging activity</b>		
	Limited project duration and potential for beneficial reclamation		
	<b>Chapter 200 requirements</b>		

- Have all the significant factors been captured in the staff analysis?
- How would Commissioners answer the central question?
- Has the staff weighed the factors appropriately?

# Appendix D

## Deliberation Table for Natural Character

## Natural Character

Key Criteria and References: Comprehensive Land Use Plan for Areas Within the Jurisdiction of the Maine Land Use Regulation Commission, revised 2010.

1.1. Vision for the Jurisdiction – “The Commission has identified four principal values that, taken together, define the distinctive character of the jurisdiction:.... **Natural character**, which includes the uniqueness of a vast forested area that is largely undeveloped and remote from population centers. Remoteness and the relative absence of development in large parts of the jurisdiction are perhaps the most distinctive of the jurisdiction's principal values, due mainly to their increasing rarity in the Northeastern United States. These values may be difficult to quantify but they are integral to the jurisdiction's identity and to its overall character.” (CLUP, p. 2)

1.2 Goals and Policies – “The Commission's policies shall be directed toward the achievement of the vision for the jurisdiction and the following three broad goals:...

3. Maintain the natural character of certain areas within the jurisdiction having significant natural values and primitive recreational opportunities.” CLUP, p. 5.

Reference	Supports approval	Central Question	Supports denial
Guide for Deliberation, Part VI, pages 8 - 11	Buffering requirements within the zone and relatively small footprint/development area (~129 acres cleared)	<ul style="list-style-type: none"> <li>Do you agree the proposed location is appropriate for the proposed development and the balance of the evidence shows there will be no undue adverse impact on natural character?</li> </ul>	The project site and surrounding area are forested.
	Preliminary outdoor lighting schematic; truck transportation during daytime hours		Proposal converts 129 acres to an industrial use
	<b>Wolfden’s viewshed analysis and noise assessment; conclusions of Tech Environmental, LUPC consultant</b>		Increased car and truck activity in the area
	<b>DEP Chapter 200/ LUPC Chapter 13 reviews</b>		
	Short project life; potential for beneficial reclamation		
	<b>Located close to organized towns and a State road; not a remote location</b>		

- Have all the significant factors been captured in the staff analysis?
- How would Commissioners answer the central question?
- Has the staff weighed the factors appropriately?

# Appendix E

Deliberation Table for  
Historical and Cultural Resources/ Relevant Tribal  
Impacts

## Historical and Cultural Resources/ Relevant Tribal Impacts

### Key Criteria and References (emphasis added below)

The Commission's actions must be guided by the following goals and policies:

“[i]dentify and protect unique, rare and representative cultural resources to preserve their educational, scientific and social values...[c]ollaborate with other agencies, groups and landowners in efforts aimed at the protection of cultural resources...[c]onsistently require the completion of archaeological surveys for large development proposals.” Comprehensive Land Use Plan for Areas Within the Jurisdiction of the Maine Land Use Regulation Commission, rev. 2010, p. 13.

“Regulate mining operations to minimize water, air, land, noise and visual pollution, to ensure public safety and health, and to avoid undue adverse impacts on fisheries, wildlife, botanical, natural, historic, archaeological, recreational and socioeconomic values.” CLUP, p. 15.

“...the Commission shall consider the following potential impacts:...Potential impacts to existing uses and natural resources including, but not limited to: ...historic sites; ...water resources; ...In considering these impacts and determining whether any adverse impact associated with the proposed rezoning is an undue adverse impact on existing uses or resources, the Commission shall consider the *potential* for a metallic mineral mining ... permittee *to avoid, minimize, or mitigate* to the extent permitted by law, a potentially adverse impact so that the resulting impact is not an undue adverse impact.” 01-672 C.M.R. ch. 12, §4(B)(3).

Reference	Supports approval	Central Questions	Supports denial
Guide for Deliberation, Part VII, pages 11 - 13	The initial survey recommendation of the Maine Historic Preservation Commission (MHPC)	<ul style="list-style-type: none"> <li>For historic resources, should more weight be placed on MHPC’s review and mitigation measures to protect historic resources or on the need for a more detailed survey at this stage of the project?</li> <li>Are the primary concerns for cultural resources and relevant tribal impacts the potential impacts on water resources, and therefore, more appropriately considered under that separate topic?</li> </ul>	Potential to find additional historic resources
	<b>The Northeast Archaeology Research Center, Inc., Phase 0 Assessment Report (Phase 0 Report)</b>		Inaccuracy of predictive models
	<b>The MHPC acceptance of the Phase 0 Report</b>		
	<b>Available mitigation measures to avoid, protect, or excavate and remove archaeological resources</b>		

- Have all the significant factors been captured?
- How would Commissioners answer and evaluate the central questions?
- Has the staff weighed the factors appropriately?

# Appendix F

Deliberation Table for  
Water and Fish Resources/ Aquatic Habitats

## Water and Fish Resources/ Aquatic Habitats

### Key Criteria and References (emphasis added below)

“...to demonstrate to the satisfaction of the Commission that a petition meets the criteria..., a petition ...must, at a minimum, contain the following:... A description of general measures that may be undertaken to assure that mining in the specified location will not have undue adverse impacts on existing uses and resources and measures that a permittee may take to avoid, minimize or mitigate any adverse impacts...” 01-672 C.M.R. ch. 12, § 4(C)(1)(m)

“The decisions that the Commission is making on the types of information needed during rezoning are aimed at determining what resources are going to be impacted by a mine and if those impacts pose a risk that is too great to allow rezoning to go forward. The Commission has not in general asked for highly technical information that will be required by DEP as part of their more technical site review.” Basis Statement and Summary of Comments for Proposed Amendments to Chapter 12, p. 29.

“In considering these impacts and determining whether any adverse impact associated with the proposed rezoning is an undue adverse impact on existing uses or resources, the Commission shall consider the potential for a metallic mineral mining ... permittee to avoid, minimize, or mitigate to the extent permitted by law, a potentially adverse impact so that the resulting impact is not an undue adverse impact.” 01-672 C.M.R. ch. 12, § 4(B)(3).

Reference	Supports approval	Central Question	Supports denial
Guide for Deliberation, Part VIII, pages 13 - 15	Modest size/ near-vertical geometry	Which should carry more weight: <ul style="list-style-type: none"> <li>Dr. Maest’s testimony that predictive models are inaccurate and no mine has been able to achieve the necessary level of protection, OR</li> <li>Dr. Finley’s testimony on modern-era geochemical characterizations, technological improvements, and current Chapter 200 rule requirements</li> </ul>	High-quality water nearby (Class A, sustenance fishing, cultural value)
	Buffers/ distance to lakes and rivers		Important fisheries downstream (wild brook trout, Atlantic salmon, cultural value)
	<b>Available prevention/ mitigation measures</b>		Potential for ARD/ML generation
	<b>Modern-era technology/ geochemical characterizations</b>		Inaccuracy of predictive models
	<b>Chapter 200 requirements</b>		History of mine operations

- Have all the significant factors been captured?
- How would Commissioners evaluate the central question?
- Has the staff weighed the factors appropriately?