

TO: EASTBROOK PLANNING BOARD

**FROM: HANCOCK COUNTY
PLANNING COMMISSION**

**REVISIONS TO THE EXISTING LAND USE
CHAPTER FOR SPO REVIEW**

August 5, 2010

1. LAND USE GOAL

To encourage orderly growth and development in appropriate areas of Eastbrook, while protecting the Town's character, making efficient use of public services and preventing development sprawl.

2. PURPOSE

The purpose of this section is:

- a. to identify and understand the uses of land throughout the town in terms of amounts and locations of land devoted to various land uses;
- b. to identify and understand the changes in the town's land use patterns and how they might affect future land use patterns;
- c. to identify areas which pose natural hazards to development.

3. HISTORIC LAND USE

After its settlement in the early 1800's, Eastbrook's growth was based primarily on agriculture and forestry. As early as 1904, with the construction of the Molasses Pond House, the natural resources of the town attracted visitors interested in fishing and hunting. This tradition continued with the development of numerous summer camps, primarily located around the town's three ponds. A large percentage of the land remained in woodland and farms, despite an increase in the number of residences.

The past ten years have seen primarily residential growth. It is impossible to accurately tally recent construction, since the Planning Board has only kept records of building permits issued since 1988. According to the First Selectman, whose estimates the Committee considers far more accurate than the census, 16 new year-round residential units were constructed between 1980 and 1990. In addition, an unknown number of seasonal residences were built. In the past ten years, a total of 23 new lots were created through three approved subdivisions. Not all of these lots have been sold and built upon.

Although there has been some commercial growth in the past ten years, virtually all new businesses have been operated out of residents' homes. Therefore, they do not represent a trend toward a different land use pattern in Eastbrook.

Similarly, some of the commercial farms have expanded their farmed area. However, most of the growth has consisted of planting new Christmas tree orchards on parcels already owned by farmers. Conversion of land to active farming has not been a major trend in Eastbrook.

The most dynamic changes in land use in Eastbrook have revolved around Diamond Occidental's leased land around Molasses Pond. In 1989, Diamond put up for sale 90 lots it had previously leased to camp owners. Approximately 75% of these lots have been sold to former lessees. In addition, Diamond Occidental has indicated that it may remove some of their land from Tree Growth.

4. EXISTING LAND USES

a. Inventory

1. Land Use Records

Although Eastbrook's land use records are by no means complete, based on aerial photographs, windshield surveys, and Committee members' knowledge, it is possible to obtain a general overview of the land use of the town, and to generate an approximate land use map. Existing land use areas and locations in Eastbrook are mapped on Map ___: Existing Land Use. Figure K.1 shows approximate acreage of various types of land use. Previous sections of this plan, including Housing, Agricultural and Forest Resources, and Recreation also deal with specific issues of land use in more detail.

2. Undeveloped Land

Over 50% of the Town of Eastbrook is covered with commercial forest property which falls under the Tree Growth Tax Law. This land belongs to three owners: Diamond Occidental, Champion International, and Wayne French. An additional 17% is made of pond surfaces and the Lyle Frost Wildlife Management Area. The remaining land, approximately 8000 acres, is privately owned. Much of this privately owned land is also undeveloped. Some is farmed (see Section II.J: Forest and Agricultural Resources) or kept as woodlots.

3. Developed Land

Most of the development in Eastbrook is single-family residential; there are approximately 150 year-round and 270 seasonal residences. There are no multifamily units in the town. There is one small store and around twenty home-based businesses, such as contractors, loggers and a bed and breakfast reservation service.

FIGURE K.1 EASTBROOK LAND OWNERSHIP BY USE APPROXIMATE NUMBER OF ACRES		
	Acreage	Percentage
Lyle Frost WMA (including Scammon Pond surface)	1818	7.9
Pond Surface (excluding Scammon)	2180	9.5
Tree Growth Tax Parcels	11,940	51.8
Other	7102	30.8
Total	23,040	100.0
Source: Eastbrook Tax Records		

b. Planning Implications: Existing Land Use Patterns

The vast majority of Eastbrook, as shown above, is covered in woods, ponds, and blueberry fields. Compared to many towns, only a small portion is developed, and nearly all of that development is either seasonal homes or single family housing. These conditions combine to create the rural character of the town.

According to the Opinion Survey, it is very important to the residents of Eastbrook that the town preserve the current land use patterns which contribute to the rural character of the community. The Land Use Plan (Section VII) has been developed with this goal in mind. It is important that this Land Use Plan be implemented through ordinance revisions and that it be updated every five years.

5. NATURAL AREAS POSING PHYSICAL RESTRICTIONS TO DEVELOPMENT

a. Inventory: Natural Areas Posing Physical Restrictions to Development

There are several types of areas which occur naturally which pose physical restrictions to development. In these areas, development may be endangered by natural hazards, such as floods, or may damage the environment. Physical restrictions to development include poor soils, steep slopes and flood hazard zones. These areas are shown on Map #13: Physically Restricted Land.

1. Soils Unsuitable for Septic Systems

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Since there are no centralized wastewater treatment facilities in Eastbrook, most residences utilize septic systems. Some kinds of soils are appropriate for septic systems; others are not. Septic systems in unsuitable soils are likely to fail, possibly contaminating ground or surface waters. For this reason, the plumbing code specifies soil requirements for new septic systems.

A medium intensity soils survey of Eastbrook's soils was completed by the Soil Conservation Service in 1966. This information is considered accurate to the nearest only fourteen acres. Therefore while adequate for general community planning purposes, it is not suitable for the planning and designing of specific developments.

For general community planning purposes, the information provided by the Soil Conservation Service's medium intensity soils survey was analyzed to determine those soils which present the least constraints/limitations on future growth and development. To accomplish this analysis, soils were ranked for development suitability by the Hancock County Soil Conservation Service according to limitations such as high water tables, shallow depths to bedrock, poor drainage, low strength, frequent flooding, and steep slopes. Figure K.3 lists all soils in Eastbrook, profiling their suitability for development. Hydric soils, which are typically wetlands or floodplains, are mostly unsuitable for residential housing, and have also been indicated on Figure K.3. Maps of the county soil survey are available either at the Hancock County Soil Conservation Service or from the Selectmen or Planning Board of the Town of Eastbrook.

Map #13: Physically Restricted Land shows areas with soils unsuitable for septic systems, according to the Maine State Plumbing Code. It shows that most of Eastbrook is suitable for septic systems.

2. Steep Slopes

In addition to these areas already discussed, one primary environmental limitation to development is topography; more specifically, the slope of land. In general most land use activities encounter serious problems and significant additional construction and maintenance costs when located on slopes greater than fifteen percent (15%). The Maine State Plumbing Code prohibits new septic systems on slopes greater than fifteen percent.

There are several small areas in Eastbrook with slopes of greater than fifteen percent; these have been included on Map #13: Physically Restricted Land as having a physical restriction to development. Although construction in these areas may be possible, devising appropriate wastewater disposal and erosion control would pose significant challenges to the developer.

3. Floodplains

Floodplains are especially unsuitable for development because they can reasonably be expected to be covered at some time by floodwater. The enormous public costs involved in flood damage and flood control nationwide resulted in the establishment of a national Flood Insurance Program which helps the victims of floods to rebuild their homes and businesses and which reduces the

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future risk of flood losses. The Town of Eastbrook voted in 1990 to participate in the Flood Insurance Program; however, due to technicalities, the town was suspended from the Program. Eastbrook fully expects to rejoin the NFIP in 1991. Under this Program, the Town will adopt an ordinance which sets forth constructions standards for development in Flood Hazard Zones.

The Flood Hazard Areas identified under the National Flood Insurance Program are shown on Map #13: Physically Restricted Land as having a physical restriction to development due to the risks associated with periodic flooding. The maps show the area of 100 year flood, known as "A Zones." Although the maps are considered by the town to be inaccurate, they should be used until a remapping takes place.

4. Ridgelines and Hilltops

A review of topographical maps shows that Eastbrook has many hilltops and ridgelines. Development on these features poses several challenges. First, these sites may be difficult for emergency vehicles to reach if they are in a remote location. Second, soils are frequently shallow making it difficult to install a septic system or well. Third, ridgeline development often disrupts scenic views. This means that development on ridgelines should be subject to detailed review guidelines.

An emerging issue facing Eastbrook is large-scale wind generation facilities. These are uses that can only be located in areas where there is a regular supply of wind. This is usually on hilltops and ridgelines. Areas with high wind generation potential are shown at: <http://www.hpcme.org/eastbrook/index.htm>.

Due to noise, shadow flicker, and visual impacts, large-scale wind generation facilities are best located away from residential areas. The exact distance should be based in part on how far sound travels. This will involve a sound assessment prepared by qualified professionals. Locations should also be based on visual impacts. It is important that facilities are located in a manner that minimizes disruptions of scenic views of statewide or local importance.

b. Planning Implications: Natural Areas Posing a Hazard to Development

Because of the difficulty of building and maintaining appropriate wastewater treatment systems in areas with poor soils, development should be discouraged in areas with soils unsuitable for septic systems. If any development is allowed in these areas, it should be carefully regulated, with careful attention given to accelerated surface water runoff and erosion.

The Town should be sure to acquire digitized soil suitability maps once they have been prepared by the Hancock County ~~Regional~~ Planning Commission and use them as general references, recognizing their limitations, for planning purposes.

Because of the potential for loss of life and property during floods and the enormous costs

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involved in cleanup and rebuilding after floods, further **development in** floodplains should be avoided and only compatible, non-intensive uses permitted. Existing development and incompatible land use activities in flood areas should not be allowed to expand or should be amortized for their eventual elimination to the maximum extent feasible.

Although development may be feasible in some areas designated by the "Natural Areas Posing a Hazard to Development" map, this map should be used for general planning purposes. Eastbrook should not plan for its growth area to be concentrated in poor soils, steep slopes or floodplains. Due to their noise, shadow flicker, and other impacts large-scale wind generators are not a suitable use in growth areas. They should be confined to rural areas where there is little likelihood of residential development.

However, since development decisions are made on a site by site basis, since specific regulations exist for development in these areas and since the available maps are inaccurate, the Land Use Plan does not prohibit all development in all of these areas.

76. REGIONAL PLANNING IMPLICATIONS FOR LAND USE

Because land use activities affect the environment in surrounding towns as well, the State of Maine has imposed several land use regulations on all municipalities. State regulations on shorelands, septic suitability, water quality, lot sizes, wetlands, floodplains, and protection of endangered species all must be considered in the land use policies of a municipality.

The primary regional land use issue in Eastbrook is water quality in its ponds. In the Water Resources section (Section IIG), a watershed management program is proposed. This program would control the runoff of pollutants, particularly phosphorus, from towns development within sensitive ponds' watersheds. Because parts of these watersheds lie in other towns, neighboring towns should be encouraged to adopt the same standards to protect the quality of Eastbrook's ponds.

Another regional land use issue is large-scale wind energy development. This is likely to occur primarily in the adjoining unorganized territories. The town may want to coordinate its review of any large-scale wind energy project that crosses town boundaries with the state agencies responsible for development review in the unorganized territories. If there is a project that also locates in an adjoining organized town, the Eastbrook planning board would probably want to coordinate its review with the planning board in the adjoining town.

87. EXISTING LAND USE RESTRICTIONS

a. Eastbrook Land Use Guidance Ordinance

Revised in 1990, this ordinance establishes three shoreland zones in Eastbrook. These zones are shown on Map #12: Existing Zoning. Those three shoreland zones are: Resource Protection, Shoreland Residential, and Rural Residential. The ordinance proscribes lot sizes, use, and development standards for those zones.

The Resource Protection District consists of all mapped wetlands, slopes over 25%, floodplains, and the Wildlife Management Area. The Shoreland Residential Area consists of all shorefront (250 foot width, excluding wetlands, with the exception of one patch of streamfront/wetland). ~~The rest of the town is zoned Rural Residential.~~

Nearly all structures and development are forbidden in the Resource Protection District. Most uses, structures, and development requirements are the same for Shoreland and Rural districts with two primary exceptions first, many uses in Shoreland areas require special Planning Board permission, and second, shoreland lots must be 80,000 square feet while Rural lots may be 40,000 square feet.

The inland zones are the:

1. **Groundwater Protection Overlay District:** it includes the town's identified sand and gravel aquifers and all land with 500 feet of their mapped boundaries.
2. **Forest Resources Protection District:** it covers any land registered under the Tree Growth Law at the time of adoption of the ordinance.
3. **Village Center/Historic Preservation District:** it includes all land not expressly zoned in the other zoning classifications that lies within an area 500 feet from both sides of Route 200 from the Grange Hall property to Mill Stream (for details see the zoning map).
4. **Roadside Rural Residential District:** this zone consists of all land within 500 feet of Route 200 that is not within the other zones
- 4-5. **Rural Residential District:** this zone includes all other land that is not specifically designated in one of the other zones.

b. Eastbrook Subdivision Ordinance

Revised in 1990, this ordinance established guidelines for the subdivision of parcels of land.

c. Eastbrook Flood Plain Management Ordinance

Adopted in 1990, this ordinance serves to limit development in flood hazard areas. This ordinance satisfies state requirements for Flood Plain Ordinances. However, as mentioned above, the town must re-adopt an Ordinance in 1991 to rejoin the National Flood Insurance Program. Due to inadequate mapping and designation of flood plains, however, the effect of the ordinance is limited. The federal government will map the floodplains in Eastbrook in more detail according to a federal schedule.

d. Planning Imprecations: Existing Land Use Restrictions

Since this plan was drafted in 1990, the town of Eastbrook has made substantial revisions to its land use ordinances. Overall, they are adequate to manage growth in town. One specific deficiency is wind energy facilities. There are no provisions for either small wind energy systems (those for primarily single-family residential use) or large-scale commercial projects.

The ordinances need to have provisions for the various types of wind energy systems. The recommendations on specific standards are addressed in the Growth Management Policies Land Use Plan sections of this plan. While Eastbrook's ordinances are adequate for present needs, they would not serve to guide the town in periods of rapid growth. The Land Use and Subdivision Ordinances, specifically, do not currently reflect the concerns for the location and type of growth discussed throughout this comprehensive plan. The town should consider their revision consistent with the recommendations of the Land Use Plan, Section VII.

8. LAND USE RECOMMENDATIONS

a. Land Use Management Policies

Given the limitations on future growth and development posed by environmental constraints found to occur in Eastbrook,

"This is the policy of the Town of Eastbrook to adopt and periodically update an official Land Use Map which designates areas for future growth and development, areas where the rural character of the community will be protected and enhanced, and which protects vulnerable natural resources from the adverse impact of development, as part of the Town's adopted Comprehensive Plan."

"To adopt and enforce Land Use Regulations which direct future growth and development in areas identified as suitable and appropriate for such growth, and restrict future growth and development in areas where such activities have the potential of adversely affecting identified vulnerable natural resources, as recommended In the Town's adopted Comprehensive Plan."

b. Land Use Growth Management Actions To implement the Policies stated above, it is recommended that the Town of Eastbrook:

1. Prepare and maintain an official Land Use Map designating the recommended Growth and Rural Areas contained in the Section of the Comprehensive Plan.
2. Update its Zoning and Subdivision Ordinances to implement the dimensional, design, locational, and performance recommendations contained in the Proposed Land Use Plan and address the needs of wind energy facilities.