REBUTTAL COMMENTS RECEIVED FOR PROPOSED ZONE CHANGE APPLICATION
ZP 805
(MAYNARD'S LLC)

[NOTE: Exhibit 02 - hearing requests and early public comments, and portions of Exhibit 11 public hearing [written copy of oral comments, and an audio file of oral comments], also include comments.]

The following pages compile all other written statements in rebuttal of those filed by the May 26th deadline.

The hearing record is now closed.

All future materials produced through agency action will be posted on the LUPC's ZP 805 project-specific webpage (www.maine.gov/DACF/lupc/projects/maynards-maine/index.html).

ZP 805 Maynard's of Maine

Hearing Record

This exhibit includes the following sub-exhibits:

Exhibit #	Date	Description
13	05/29/2026	Rebuttal Comments
a.	05/29/2026	G. Louis – Applicant's Attorney

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May 28, 2026

Land Use Planning Commission
Department of Agriculture, Conservation and Forestry
22 State House Station
Augusta, ME 04333

RE: Rebuttal Submission in Support of Maynard's in Maine Application for Rezoning

Dear Planning Commission:

As you know, on May 13, 2026, the Land Use Planning Commission ("Commission" or "LUPC") conducted a public hearing related to Maynard's in Maine's ("Maynard's") Application for Rezoning (the "Application") pertaining to its property in Rockwood, Maine (the "Property"). Following the public hearing, parties were entitled to submit additional written comments. Interested Party James Walckner submitted such additional written comments on May 26, 2026 (the "Additional Comment"). This letter serves as Maynard's rebuttal to Mr. Walckner's comments.

The Additional Comment raises five issues: (1) only the portion of the Property that is developed should be rezoned; (2) the Commission staff should not be co-applicants; (3) Maynard's did not sufficiently reach out to affected neighbors; (4) the Application did not provide sufficient information on the number of potential visitors; and (5) assertions made by emergency services are unsubstantiated. Mr. Walckner is correct that Maine law allows for a parcel to straddle two different zoning districts. However, as explained in depth below, intentionally doing so defies encouraged planning practices, increases administrative burdens, and contravenes LUPC guidance. Accordingly, Maynard's renews its request that the Commission rezone the entirety of the Property at issue. With regard to the final four points raised in the Additional Comment, these matters are premature and are more appropriately raised at a later date.

1) The Entirety of the Property Should Be Rezoned to D-GN.

Mr. Walckner's request that the Commission, to the extent that it rezones the Property, should only rezone the 14 acres that are currently developed, runs contrary to good planning practices, increases the specter of administrative headaches, defies LUPC guidance, and is not in the public interest.

It must be noted that Maine law does allow "split-lots." *See Kittery v. White*, 435 A.2d 405, 406-407 (Me. 1981). Yet, simply because a split-lot is permitted, that does not mean that it is required or a good idea.[1]

It is generally well accepted that intentionally dividing a parcel between two separate zoning district is not a good planning practice. In fact, the Maine Supreme Court has noted that "many courts have been critical of zone boundaries drawn without regard for existing property lines…" *Stucki v. Plavin*, 291 A.2d 508, 510 (Me. 1972). First, it creates significant confusion for landowners and regulating authorities regarding what specific uses may occur, and where such uses may occur, on the split property. For example, in *Gagne v. Lewiston Crushed Stone Co.*, the Law Court encountered a dispute centering on permitted land use where a property straddled the line between an industrial and residential zone. As a result, all parties disagreed as to whether the industrial uses could exist on all portions of the property, or if they would be sequestered to a portion of the parcel. *See Gagne v. Lewiston Crushed Stone Co.*, 367 A.2d 613 (Me. 1976). Moreover, the confusion that gave way to *Gagne* is not unique. *See e.g. Stucki v. Plavin*, 291 A.2d 508 (Me. 1972); *Kittery v. White*, 435 A.2d 405, 406-407 (Me. 1981); *Seal Harbor, LLC v. Inhabitants of Ogunquit*, 2011 Me. Super. LEXIS 5 (Me. Super. Jan. 7, 2011); *Grimes v. Town of Wells*, 2000 Me. Super. LEXIS 132 (Me. Super. June 16, 2000). As demonstrated through these cases, this confusion leads to litigation and consequently unnecessary expenses for all involved.

In addition, a split-lot may lead to additional administrative burdens for the Commission. As you know, different zoning districts allow different uses and have different dimensional requirements. Generally, parcels are developed under a unified plan. Often, landowners seeking to develop properties under a unified plan will seek a variance to simplify the regulations they are required to comply with. *See e.g. Wen Mei Lu v. City of Saratoga Springs*, 162 A.D.3d 1291 (NY App. June 14, 2008); *13 Associates v. Zoning Hearing Board of Springfield Township*, 479 A.2d 677 (Pa. Commw. Ct. 1984). When a parcel is contained entirely within one district, no variances are required for the property to be subject to uniform regulatory standards. Accordingly, allowing the entirety of the Property to be rezoned will not only benefit Maynard's, and anyone seeking to challenge its actions taken on the Property, but also the Commission by likely decreasing its administrative burden. Moreover, to the extent that lawsuits arise from ambiguity regarding what uses are permitted on certain portions of the Property, as the permitting authority the Commission would likely be party to future suits calling into question is permitting decisions.

Next, LUPC guidance itself discourages splitting the Property into two separate districts. The LUPC 2010 Comprehensive Land Use Plan notes that "the principal development issue is

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[1] Many jurisdictions around the country have expressly prohibited split-zoned lots. *See e.g.* Municipal Code, Mt. Pleasant, SC, Title XV, Chapter 156, Section 156.023 ("the creation of a split-zoned lot, whether through rezoning or the abandonment of an existing lot line is prohibited, except on lots where a portion of the lot is comprised of water or marsh"; County Code, Kittitas County, WA, Title 16, Chapter 16.04, Section 16.04.025 ("No lot created through the provisions of this Title or adjusted through the boundary line adjustment process shall contain more than one land use classification").

not the amount of development taking place in the jurisdiction, but rather where it is located" going so far as to label this a "central issue." 2010 LUPC Comprehensive Plan, 123. The 2010 Plan explains that "dispersing development" in particular is of concern. The Application squarely addresses this topic and conforms to the goals of the 2010 Plan. The 2010 Plan further provides that, "the adjacency principle has been a valuable tool in guiding development and will remain central to the consideration in rezonings..." 2010 LUPC Comprehensive Plan, 128. In refining its guidance on the adjacency principle, the LUPC has explained that "rezoning for commercial uses would be possible in primary locations if the use is a good fit for the site and the neighboring uses." Land Use Planning Commission, *Location of Development (Adjacency) Rule Revision Summary*, Apr. 3, 2026. The LUPC has determined the Property is within a primary location. *Id.*

Because the entirety of the Property is in a primary location, the entirety of the Property is well situated for development. This fact notwithstanding, because a portion of Property is already developed, further adjacent development is encouraged. Failing to allow adjacent development may lead to this activity being conducted elsewhere—where intensive uses do not already exist. It is undisputed that one of the Commission's goal is to protect pristine and natural environments in Maine. By rezoning the entirety of the Property, the Commission would eliminate the need for Maynard's to construct a recreation facility farther away from existing uses.

Last, a decision to not rezone the entirety of the Property would not be in the public interest. Simply put, if Maynard's only rehabilitates the existing structures on the Property, its business would not be economically viable.[2] It needs to develop other portions of the Property in order to survive. As noted in the Application, a rezoning of the entire Property is necessary for this development. As the Commission heard at the May 13, 2026 public hearing, the public is overwhelmingly in support of Maynard's redevelopment plan. In fact, other than Mr. Walckner and his wife, no member of the public spoke in opposition to the Application at the public hearing. Should only a portion of the Property be rezoned, Maynard's will not exist into the future—contrary to the clear preference of the public.

Accordingly, Maynard's respectfully requests that the Commission rezone not just the currently developed portion of the Property, but the entirety of the Property.

2) Arguments Made In The Additional Comment Are Premature

In addition to requesting that only a portion of the Property be rezoned, the Additional Comment also argued: (1) the Commission staff should not be co-applicants; (2) Maynard's did not sufficiently reach out to affected neighbors; (3) the Application did not provide sufficient information on the number of potential visitors; and (4) assertions made by emergency services

[2] In fact, the previous owners of Maynard's sold the business to the current owners because the existing state of the business was not economically viable.

are unsubstantiated. These arguments are not relevant to the Commission's current inquiry which is restricted only to the rezoning criteria set forth in 12 M.R.S. § 685-A(8-A).

Mr. Walckner's claim that the Commission staff should not be co-applicants does not bear on whether: (1) 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 Title 12, Chapter 206-A; and (2) the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area. *See* 12 M.R.S. § 685-A(8-A). To the extent Mr. Walckner claims that a conflict of interest or bias exists, such a claim is inappropriate at this procedural juncture and is improperly raised in this administrative context. With regard to outreach to neighbors as well as the adequacy of information presented to the Commission, these issues relate to the permitting process and not the rezoning process. As discussed at length during the May 13, 2026 hearing, the sole issue before the Commission at this time is whether the Application meets the requirements of 12 M.R.S. § 685-A(8-A). Issues related to emergency services, traffic, and the impact an expanded recreation facility may have on neighbors is premature and is best addressed when/if a permit for such uses is applied for.

As a result, the final four issues raised in the Additional Comment cannot serve as a basis to deny the Application.

Maynard's is committed to promoting access to outdoor recreation while protecting Maine's unique and unmatched woods and waters. Approving the Application and rezoning the entirety of the Property to the D-GN zone will accomplish these twin goals.

Very truly yours,

Gray Louis