

Land Use and Permitting

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Real estate development continues to be vital to northern New England's economy. However, the process of turning plans and drawings into bricks and mortar presents multiple regulatory challenges. Preti Flaherty's expertise in guiding clients through project permitting and approval is unmatched. We represent landowners, developers, municipalities, investors and other clients in the New England region on various aspects involved in making major developments a reality. We guide clients through local, state and federal land use, permitting, conveyancing, zoning, regulatory and environmental compliance issues.

Our services include:

- Land development and redevelopment agreements
- Development and contract zoning agreements
- Subdivision planning and site plan review
- Governmental approvals including federal, state and municipal approvals
- Variances and special use permits
- Operational licenses and signoffs
- Environmental auditing and DEP compliance and permitting
- Land Use Regulation Commission development compliance and permitting
- Timberland transactions
- Conservation easements and land conservation
- Financing
- Zoning, land use and eminent domain litigation

REPRESENTATIVE MATTERS

• When Plum Creek, the largest private landowner in the U.S., unveiled its plan to develop 420,000 acres in the pristine woods of Northern Maine, they turned to us to move the immense project forward. The largest land development project in Maine quickly became the most controversial. Our first challenge was to find the delicate balance between development and environmental conservation. In a grueling process that lasted 3½ years, our attorneys maneuvered through supporters and opponents who tried to tip that balance in one direction or the other, with contentiousness and media attention at every turn.

Using our knowledge of the state's Land Use Regulation Commission (LURC) and our insight into the views of all parties involved, we created a multi-faceted approach to overcome numerous hurdles.

A historic undertaking

Plum Creek's vision required LURC approval to rezone the entire acreage. Before submitting this ambitious plan to LURC, we carefully researched and drafted a Concept Plan that asked approval to rezone the land, allowing Plum Creek to develop 16,000 acres around two lakes, but setting aside 392,000 acres to be permanently preserved as sustainable forest.

When the media first published the Plan's details, public controversy quickly centered around the proposed development of 975 house lots and two resorts. Intense opposition from several environmental groups raised the level of contention, making for a long, occasionally rancorous process. Four weeks of public hearings. 177 witnesses. 18 interveners. All of it conducted in the full glare of media coverage.

Long-term benefits

After years of research and fine tuning, our diligence came full circle when LURC approved the Concept Plan. Hundreds of thousands of acres were to be permanently opened to traditional recreation. 150 miles of trails were to be created, and permanent protection was guaranteed to 213 miles of shoreline, 70 pristine ponds, and huge blocks of wildlife habitat.

Our Real Estate, Land Use and Environmental attorneys were directly involved in every aspect of the plan, an undertaking both highly technical and extremely sensitive. We worked side-by-side with Plum Creek through all negotiations—with every party, at every hearing, through each plan revision—ultimately winning over every member of LURC.

A delicate balance

The approved Concept Plan contained benefits both immediate and long-term: employment, housing, sustainable forestry, wildlife habitat, and a natural wonderland that Maine can enjoy forever.

- Our long-term relationship with the Maine Turnpike Authority includes involvement at all stages in the permitting and contracting for its numerous projects, which include building, bridges and highways.
- We successfully defended Packard Development in litigation related to the proposed "Morrill's Crossing" development in Portland, Maine. The plan will bring a residential/retail/commercial mixed-use project, including a Shop 'n Stop supermarket, condominiums, apartments and retail space, to a blighted parcel in the heart of the city. When Packard faced resistance by a group of neighbors challenging the contract zoning agreement that had been reached with the City, we successfully defended the agreement in Superior Court. That success kept the project on track and allowed Packard to continue with the permitting process.
- For Plum Creek, the nation's largest private landowner, our firm led a team that petitioned Maine's Land Use Regulation Commission (LURC) to rezone nearly 420,000 acres of land in Northern Maine. After proceedings lasting three and a half years, Plum Creek's petition to rezone was unanimously approved by LURC. The Concept Plan is the largest development plan in Maine history and the effort was by far the most complex and contentious regulatory proceeding in Maine history. The rezoning authorizes Plum Creek to develop approximately 16,000 acres for 975 house lots and land for two resorts on Moosehead Lake. The Plan sets aside conservation easements of 392,000 acres to be permanently preserved as sustainable forestry and establishes a significant affordable housing program.
- Preti Flaherty represented a developer in a combined hotel and residential condominium project. We handled the purchase and sale agreement for the acquisition of the property, as well as a conditional rezoning. We represented the client before the city planning board and city council and secured a site plan and subdivision approval. We also assisted the client with a Voluntary Response Action Plan (VRAP), protecting the client from any future environmental liability claims.
- We represent the developer of a residential subdivision development in the heart of Kennebunkport, Maine. The plan calls for a mix of different types of residential housing over the 87-acre parcel and is the largest residential development in the town's history.
- We represented the Camden Affordable Housing Organization in connection with its development of "Lupine Terrace," a 24-unit workforce housing project in Camden, Maine. The project is Camden's largest subdivision and will provide housing to moderate income working families in Maine's least affordable housing market. Our Land Use and Permitting Group coordinated the subdivision permitting for Lupine Terrace and is currently representing the client in Superior Court in connection with an appeal by certain abutters.
- Our Real Estate Group represented New Page, the owner in the sale of the hydroelectric assets of the Rumford Falls Power Co. in Rumford, Maine, an affiliate of Brookfield, formerly known as Brascan, at a purchase price in excess of \$100 million. The electrical generating facility and adjacent paper mill had been operated as an integrated operation, requiring intricate real estate structuring, including shared water rights and cross-easements. The matter also involved complex contractual arrangements for the sharing of key infrastructure components during a post-sale transition period.
- We represented Saddleback, Inc. following its purchase in 2003 of a ski area and over 8,000 acres on Saddleback Mountain. Our Land Use and Permitting Group and Real Estate Group assisted the family owners in transforming the existing ski resort into an environmentally sensitive, affordable, family-oriented vacation area. We successfully took Saddleback's interests before LURC and gained subdivision permits to allow additional ski trails and 54 condominium units. We continue to coordinate additional aspects of the project – creating condominiums and house lots (with appropriate architectural control covenants). We also assisted Saddleback in presenting its 10-year development plan for approval at LURC.