



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

Memorandum

To: Commission Members
From: Nick Livesay
Date: May 7, 2015
Re: Categorization of Proposed Solid Waste Transfer Station

Mike Theriault Construction, LLC (Theriault Construction) has filed a permit application with the Department of Environmental Protection (DEP) for construction and operation of a solid waste transfer station in Greenville Junction Township. Staff seek guidance from the Commission on how to characterize and categorize the proposed land use. The direction provided by the Commission will influence whether the proposed site will need to be rezoned prior to permitting by DEP.

I. Background

A. General Overview of Proposal

The proposed transfer station would be used to burn wood waste and construction and demolition debris (CDD). Residuals and any waste separated prior to burning would be removed from the transfer station and properly disposed of off-site. Operation of the transfer station would be an extension of Theriault Construction's existing business. For example, Theriault Construction currently clears brush and generates CDD as part of demolition activities the company is hired to complete. The proposed transfer station would be private, but also accept wood waste and CDD, by appointment, from other entities (e.g., other local contractors).

The transfer station would consist of a 1.98 acre waste handling area that would be accessed over a gravel road located within a 50' wide right of way. The waste handling area would include the following:

- 50' x 50' concrete pad for burning waste
- 75' x 75' storage area for CDD
- 180' x 240' brush and tree limb storage area
- Rolloff storage bin for non-burnable waste to be exported off-site
- Rolloff storage bin for ash material

The attached site plan shows the waste handling area, which would be located within a larger, 27.2 acre lot owned by Laura Theriault. This property is within the M-GN subdistrict and located just

behind the Moosehead Industrial Park. Access to the waste handling area would be Moosehead Industrial Way across the lot labeled Lot 15 in the site plan, through an existing wooded strip just behind this lot, and connecting with an existing access road already in place on the 27.2 acre property. A portion of the access across Lot 15 exists today and a portion would have to be constructed. Lot 15 is owned by Theriault Construction and located within the Commercial Industrial Development (D-CI) subdistrict. Lot 15 is part of the Moosehead Industrial Park.

DEP permits solid waste facilities and transfer stations are one type of solid waste facility. The facility DEP will review will include the solid waste handling area and associated access way.

B. Allowed Land Uses

In the M-GN subdistrict the following are uses allowed with a permit:

- (18) Solid waste disposal facilities affecting an area less than 2 acres in size
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- (27) Other structures, uses, or services which the Commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses

(Ch. 10.22,A,3,c.) Chapter 10 provides:

The purpose of the M-GN subdistrict is to permit forestry and agriculture management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required.

(Ch. 10.22,A,1.)

II. Options for Categorizing the Proposed Transfer Station

A threshold question when reviewing the proposed transfer station is whether the proposed use is allowed in the M-GN subdistrict. Small solid waste disposal facilities, those affecting less than two acres, are allowed. The Commission's Chapter 10 rules do not define solid waste facility, solid waste disposal facility, or transfer station. A plain reading of the rules, however, suggests a transfer station is not a solid waste disposal facility. This is because no waste disposal occurs at a transfer station. This plain reading is consistent DEP's definitions for these terms as used in DEP's Solid Waste Management Rules.

While not controlling, DEP's definitions are informative. Chapter 400 of DEP's rules contains the following definitions, quoted here in relevant part:

- "Solid waste facility" means any land area, structure, location, equipment or combination of them, used for the handling of solid waste. These include but are not limited to solid waste transfer stations, landfills, incinerators, processing facilities, composting facilities, storage facilities and agronomic utilization sites.

- "Solid waste disposal facility" means a solid waste facility for the incineration or landfilling of solid waste.
- "Transfer station" means any solid waste facility constructed and managed for the transfer of solid waste.
- "Waste handling area" means the portion of the facility site used for handling waste, including leachate. It includes that portion of the site within the solid waste boundary plus all associated structures and areas used for handling waste. It does not include the solid waste facility access road, internal roadways, monitoring wells, leachate transport pipelines, or storm water management structures.
- "Facility site" means any developed land area of a solid waste facility, including internal access roads controlled by the facility site owner or operators, structures (including those for erosion and sedimentation control), parking lots, and waste handling areas, or any areas thereof approved by the Department for that development, but excluding monitoring wells.

If the transfer station is not a solid waste disposal facility, for the transfer station to be an allowed use within the M-GN subdistrict it would have to fall within the "other consistent uses" category listed above. There are two ways the Commission might interpret and apply the other consistent uses category that could support a determination that the proposed transfer station is an allowed use in the M-GN. Both are noted below and will be discussed further at the upcoming meeting. If the Commission determines neither of these alternative is an appropriate fit, rezoning likely will be needed.

A. Solid Waste Transfer Station Affecting an Area Less than 2 Acres in Size

Although small solid waste transfer stations are not included in the list of permitted uses within the M-GN subdistrict, small solid waste disposal facilities are part of the list. Both are a type of solid waste facility and, in that regard, are very similar. Each involves the handling of solid waste, truck traffic associated with waste delivery, and some form of on-site waste storage.

It is reasonable to think the Commission might conclude a solid waste transfer station affecting an area less than 2 acres in size is of similar type, scale and intensity as a solid waste disposal facility affecting less than 2 acres. Coupled with findings that a transfer station of this scale is a land use consistent with the purposes of the M-GN subdistrict and the CLUP and not detrimental to the resources or uses they protect, such a transfer station would be an allowed use in the M-GN.

If a transfer station affecting less than 2 acres is an allowed use, the question that follows is whether the proposed transfer station qualifies. The waste handling area would be 1.98 acres and under the 2-acre threshold. In categorizing transfer stations and considering which level of review to apply, DEP rules provide for "reduced procedures" for transfer stations with a waste handling area less than 2 acres. If the Commission similarly focuses on the size of the waste handling area and concludes that only this area, and not associated access roads, is the area affected by the solid waste transfer station, the transfer station proposed by Theriault Construction would be an allowed use in the M-GN. If the Commission includes the access roads that are part of the facility site in the affected area calculations, the proposed transfer station exceeds the 2-acre threshold.

Whether the Commission believes it is appropriate to exclude transfer station access roads from the area affected by the facility will be a topic for discussion at the upcoming Commission meeting.

B. Solid Waste Transfer Station Affecting More than 2 Acres, But Qualifying as an Other Consistent Use within the M-GN

Alternatively, the Commission could find the exact number of acres affected by the proposed transfer station is not dispositive in evaluating whether the transfer station is an allowed use within the M-GN subdistrict. Even if the overall solid waste facility as identified by DEP, including access roads, affects approximately 3 acres, the Commission still could conclude, based on the characteristics of the proposed land use, that all of the requirements of the other consistent uses category are satisfied. This would involve finding the proposed transfer station:

- a) Is consistent with the purpose of the M-GN;
- b) Is consistent with the purposes of the CLUP;
- c) Is not detrimental to the resources or uses the M-GN zoning and CLUP protect; and
- d) Is a similar type, scale and intensity to other allowed uses.

As part of this analysis, particularly with respect to d), the Commission might consider that the proposed facility would be private and only accept wood waste and CDD. Associated traffic would be minimal. Theriault Construction estimated in its DEP application that four to five trucks per week will deliver waste to the facility. Notably, no municipal solid waste (e.g., household garbage) would be handled. Wood material would be burned, but no on-site disposal would occur.

III. Next Steps

Staff look forward to discussing how to characterize and categorize the proposed solid waste transfer station and receiving direction from the Commission. Staff believe there are three primary options for moving forward. The Commission could direct staff to:

Option A: Treat the proposed transfer station as affecting an area less than 2 acres and, therefore, as similar in type, scale and intensity as a solid waste disposal facility affecting an area less than 2 acres in size.

If staff then finds upon further analysis that the proposed use is consistent with the purposes of the M-GN subdistrict and CLUP, and is not detrimental to the resources or uses the M-GN and CLUP protect, the proposed use should be treated as an allowed use under Ch. 10.22,A,3,c(27).

Option B: Treat the proposed transfer station as affecting an area more than 2 acres, but still as similar in type, scale and intensity as other allowed uses in the M-GN.

If staff then finds upon further analysis that the proposed use is consistent with the purposes of the M-GN subdistrict and CLUP, and is not detrimental to the resources or uses the M-GN and CLUP protect, the proposed use should be treated as an allowed use under Ch. 10.22,A,3,c(27).

Option C: Treat the proposed transfer station as a use not allowed in the M-GN subdistrict, meaning rezoning would be needed to accommodate the proposed solid waste facility.

TBM No.	DESCRIPTION	ELEV.	DATE
1	REVISIONS PER DEF. COMMENTS		01/27/15
2	REVISIONS PER DEF. COMMENTS		02/12/15

NO.	REVISION	DATE
1	REVISIONS PER DEF. COMMENTS	01/27/15
2	REVISIONS PER DEF. COMMENTS	02/12/15

PROJECT TITLE
SITE PLAN

PROJECT
NEW WOOD WASTE BURN FACILITY

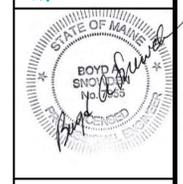
PROJECT OWNER
MIKE THERIAULT
P.O. BOX 731
GREENVILLE, MAINE 04441

OWNER ADDRESS
MOOSEHEAD INDUSTRIAL WAY
GREENVILLE, MAINE 04441

PROJECT SCALE
HORIZONTAL: 1" = 100'

PLAN DATE
JANUARY 2, 2015

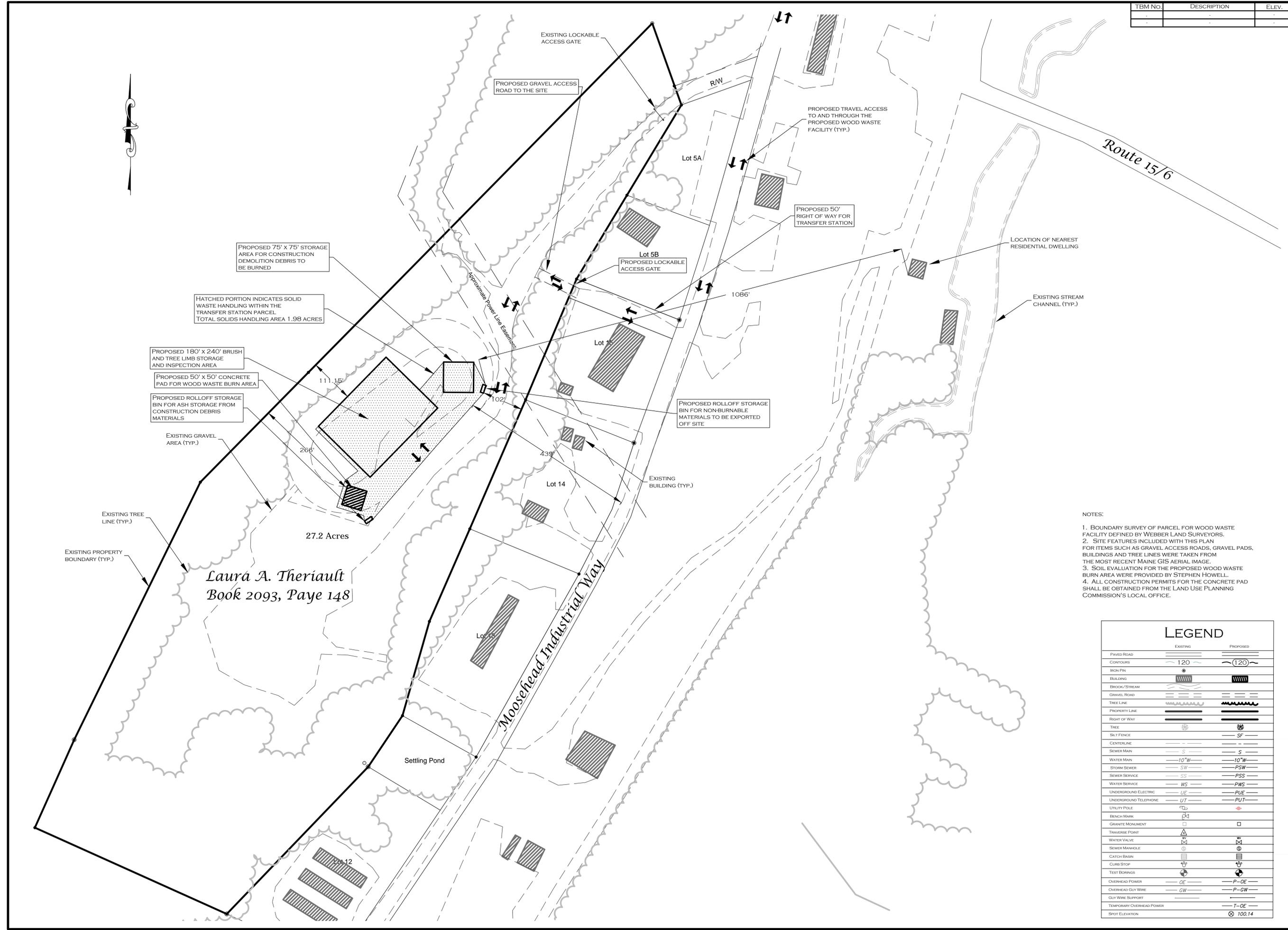
SNOWDEN CONSULTING ENGINEERS, INC.
34 LIBBY HILL, PROFESSIONAL BUILDING, SUITE 2
OAKLAND, MAINE 04963
PHONE: 207-465-4400 FAX: 207-465-4441
EMAIL: BSNOWDEN@SNOWDENENGINEERS.COM



FINAL PLAN

FILE NAME: FINAL PLAN_01_02_15_REV_02_12_15
PROJECT No.: SITE-14-022

SHEET No.
1



- NOTES:**
- BOUNDARY SURVEY OF PARCEL FOR WOOD WASTE FACILITY DEFINED BY WEBBER LAND SURVEYORS.
 - SITE FEATURES INCLUDED WITH THIS PLAN FOR ITEMS SUCH AS GRAVEL ACCESS ROADS, GRAVEL PADS, BUILDINGS AND TREE LINES WERE TAKEN FROM THE MOST RECENT MAINE GIS AERIAL IMAGE.
 - SOIL EVALUATION FOR THE PROPOSED WOOD WASTE BURN AREA WERE PROVIDED BY STEPHEN HOWELL.
 - ALL CONSTRUCTION PERMITS FOR THE CONCRETE PAD SHALL BE OBTAINED FROM THE LAND USE PLANNING COMMISSION'S LOCAL OFFICE.

LEGEND	
EXISTING	PROPOSED
PAVED ROAD	PAVED ROAD
CONTOURS	CONTOURS
IRON PIN	IRON PIN
BUILDING	BUILDING
BROOK/STREAM	BROOK/STREAM
GRAVEL ROAD	GRAVEL ROAD
TREE LINE	TREE LINE
PROPERTY LINE	PROPERTY LINE
RIGHT OF WAY	RIGHT OF WAY
TREE	TREE
SILT FENCE	SILT FENCE
CENTERLINE	CENTERLINE
SEWER MAIN	SEWER MAIN
WATER MAIN	WATER MAIN
STORM SEWER	STORM SEWER
SEWER SERVICE	SEWER SERVICE
WATER SERVICE	WATER SERVICE
UNDERGROUND ELECTRIC	UNDERGROUND ELECTRIC
UNDERGROUND TELEPHONE	UNDERGROUND TELEPHONE
UTILITY POLE	UTILITY POLE
BENCH MARK	BENCH MARK
GRANITE MONUMENT	GRANITE MONUMENT
TRAVERSE POINT	TRAVERSE POINT
WATER VALVE	WATER VALVE
SEWER MANHOLE	SEWER MANHOLE
CATCH BASIN	CATCH BASIN
CURB STOP	CURB STOP
TEST BORINGS	TEST BORINGS
OVERHEAD POWER	OVERHEAD POWER
OVERHEAD GUY WIRE	OVERHEAD GUY WIRE
GUY WIRE SUPPORT	GUY WIRE SUPPORT
TEMPORARY OVERHEAD POWER	TEMPORARY OVERHEAD POWER
SPOT ELEVATION	SPOT ELEVATION