PAUL R. LEPAGE
GOVERNOR

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

Memorandum

To: LUPC Commissioners

From: Hugh Coxe, Chief Planner

Date: June 4, 2015

Re: AMC Maine Woods II, LLC, consideration of zoning D-RF subdistrict for recreational lodging facility; T1 R12 WELS and TA R12 WELS, Piscataquis County

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Introduction

The Petitioner, AMC Maine Woods II, LLC, ("AMC") proposes to rezone 38.2 acres of their property to Recreational Facility Development (D-RF) Subdistrict which allows Level D Recreational Lodging Facilities. Level D Facilities:

- allow larger-scale development while conserving the natural resources and recreation values of the development site and surrounding areas,
- have moderate to high impacts on existing resources within the development site and surrounding areas,
- may provide limited on-site goods and/or services to meet the needs of guests, and
- if permitted as a Level D – Expanded Access facility, may be of a type, scale and design intended to meet the goods and services needs of the public at large.

The D-RF is a subdistrict that was added to chapter 10 in 2013 as part of the recreational lodging rule revisions. This zoning petition is the first petition for a D-RF subdistrict since those rules went into effect.

Recreational Lodging and the Recreation Facility Development Subdistrict

Goals of Recreational Lodging Rules. The 2013 recreational lodging rule revisions represent a different approach to regulating land uses within the LUPC's jurisdiction. The goals of the rule revisions were to base regulation of recreational lodging on impacts rather than individual use listings; provide predictability and flexibility in the permitting process; update regulations to better incorporate new technology and customer demands; and protect resources and traditional uses.

The rules are intended to accommodate a range of recreational facilities in appropriate locations, based on the level of use, scale, and compatibility with existing uses and resources. The approach of the rules is to categorize facilities, based on approximate impacts, and to determine appropriate locations for each category.

Purpose of the D-RF. When determining the appropriateness of locations for each category during the rule making process, the small to moderate impact facilities (levels A- C) were generally permitted in development and management districts and some protection subdistricts. For Level D facilities, which allow for more activity, up to 20,000 square feet of floor area, and as many as 250 overnight guests, the rules provide for a greater level of review to determine what locations are appropriate. The D-RF subdistrict is one mechanism for providing that additional look at the appropriateness of the location (the geographic allowance area and special exception criteria also serve that role in some subdistricts).

The purpose of the D-RF subdistrict is to allow for development of these more intensive recreation facilities in locations that would not be suitable for other types of commercial development, recognizing that recreation facilities often rely on, and are compatible with, settings which are distant from existing patterns of development, but are relatively accessible to visitors. Development in a D-RF subdistrict does not provide the basis for subsequent rezonings of the area, or surrounding area, to other development subdistricts.

Where the D-RF is Appropriate. The D-RF Subdistrict is appropriate in locations that provide access to recreational opportunities that are not overly sensitive to increased public use but are not present in developed areas. The D-RF is appropriate in areas that are distant from other development, but where the location of a facility would not unreasonably interfere with existing uses, such as forestry or recreation opportunities, and will not substantially increase the demand for public services.

Proposed Rezoning

Location. The area proposed for rezoning is a part of AMC's 28,300 acre Roaches Ponds Tract in T1 R12 WELS and Shawtown Township (TA R12 WELS). The Site includes approximately 2,100 feet of shoreline on Second Roach Pond including the shoreline along the existing Medawisla Sporting Camps. The proposed facility would be accessed from Smithtown Road, an unimproved privately owned land management road that provides multi-use access to the lands owned by AMC.

While this location would not be suitable for most types of commercial development, the proposed recreational lodging facility would be compatible with this setting. The site provides a relatively remote and natural setting to attract customers, is accessible to visitors, and provides access to numerous recreational opportunities such as hiking, fishing, paddling, hunting, camping, snowmobiling, biking and skiing. The proposed facility would not interfere with existing uses or

recreation resources and development of the facility would not substantially increase the demand for public services.

Area to be Rezoned. The 38.2 acre area proposed for rezoning is sufficient for the intended development and uses and also for reasonable future expansion needs or changes in uses. For a D-RF it is generally acceptable to include more land than is required for the intended development in order to accommodate change and expansion to the recreational lodging facilities without requiring further rezoning. Because the D-RF excludes all other potentially incompatible uses, and limits the amount of development and activity to a level D facility regardless of the amount of land that is in the D-RF, the impact from the facility and its use is not tied to the size of the D-RF zone.

The D-RF boundaries should be drawn to limit development near existing resources and uses likely to be affected by the development such as water bodies, wildlife habitat, and areas for primitive or traditional recreation. Ideally, the boundaries should be readily identifiable on the ground because they coincide with natural features, roads, parcel lines or other permanent measurable locations.

The boundaries of the proposed D-RF extend along the shoreline only so far as is needed to reasonably accommodate the proposed development, are bounded by shorelines and roadways where possible, and extend inland from the shoreline to include land sufficient for the proposed development and to accommodate future uses or expansion.

Rezoning Criteria. The petitioner has presented substantial evidence that the proposed land use district is consistent with the standards for district boundaries, the comprehensive land use plan and the purpose, intent and provisions of Chapter 206-A; and the proposed land use district has no undue adverse impact on existing uses or resources.

Should the Commission approve the petition to rezone, AMC will file an application to amend Development Permit DP 4954 to add a new lodge with dining room, 6 guest cabins, 1 bunk house, 3 cabins for staff, parking facilities, septic system, storage barn, and various accessory sheds.

Staff Recommendation

The staff recommends that the Commission approve AMC's zoning petition as set out in the draft *Findings of Fact and Decision.*

Attachments:

Findings of Fact and Decision (DRAFT)

Map with proposed zoning

PAUL R. LEPAGE
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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
106 HOGAN ROAD, SUITE 8
BANGOR, MAINE 04401

COMMISSION DECISION
IN THE MATTER OF

AMC Maine Woods II, LLC

Finding of Fact and Decision (DRAFT)

ZONING PETITION ZP 750

The Maine Land Use Planning Commission (the LUPC or Commission), at a meeting of the Commission held June 10, 2015 at Brewer, Maine, after reviewing the petition and supporting documents submitted by AMC Maine Woods II, LLC (the Petitioner or AMC) for Zoning Petition ZP 750, review agency and staff comments, and other related materials on file, and conducting a site visit, pursuant to 12 M.R.S. Sections 681 et seq. and the Commission's rules, finds the following facts:

1. Petitioner: AMC Maine Woods II, LLC
   Attn: Mr. Walter Graff
   5 Joy Street
   Boston, MA 02108

2. Date of Completed Petition: February 11, 2015

3. Property Location: T1 R12 WELS, Piscataquis County
   Maine Revenue Service Map P1037, Plan 01; Lots 2.1, 2.2 & 2.3
   Shawtown Twp. (TA R12 WELS), Piscataquis County
   Maine Revenue Service Map P1036, Plan 01; Lots 1 & 1.4

4. Current Zoning at Development Site: (D-GN) General Development Subdistrict
   (M-GN) General Management Subdistrict
   (P-GP) Great Pond Protection Subdistrict
   (P-SL2) Shoreland Protection Subdistrict
   (P-WL1 & 3) Wetland Protection Subdistrict

5. Proposed Zoning at Development Site: (D-RF) Recreation Facility Development Subdistrict

6. Total Contiguous Acres: Approximately 28,300 Acres (Roach Ponds Tract)

7. Acres to be Rezoned: 38.2 Acres (Medawisla Lodge Sporting Camps)

Administrative History:

8. On August 28, 2013, the LUPC issued Shoreland Alteration Permit SA 1068, with conditions, to AMC for the reconstruction of the existing rock dam on Second Roach Pond with integrated fish passage. The rock dam extends from the shoreline of the Medawisla Lodge and Sporting Camps across Second Roach Pond to the opposite shoreline that is encumbered with an easement.

9. On June 20, 2014, Development Permit DP 4954 was issued to the petitioner for the reconstruction of the existing Medawisla Lodge and Sporting Camps, which included the reconstruction of the main lodge with dining hall, reconstruction of 5 cabins, and the reconstruction / conversion of the barn to a bath house. This included the demolition and removal of 2 cabins and 7 accessory structures. The petitioner was also proposing to replace and upgrade the existing subsurface sewage disposal system serving the reconstructed structures.

10. On September 17, 2014, the LUPC issued AMC a Notice of Violation EC 14-47 for failure to comply with the conditions of Shoreland Alteration Permit SA 1068 including the unauthorized blockage of flow from Second Roach Pond to the Roach River for the period August 8 through 18, 2014.

11. On December 8, 2014, the LUPC issued Amendment A to Shoreland Alteration Permit SA 1068, which authorized the corrective action work in Second Roach Pond for temporary over winter conditions to minimize potential flooding conditions.

12. On April 8, 2015, the Commission ratified an amended Administrative Settlement Agreement with AMC to resolve the violations referenced in the notice of violation EC 14-47.

13. Notice of Filing. Notice of the proposed zoning petition was properly made to appropriate parties and the public as required under Chapter 4 of the Commission's rules. No comments or requests for a public hearing were received from the public regarding the petition.

Project Information:

14. Proposed New Zoning. The Petitioner proposes to rezone 38.2 acres of their property to Recreational Facility Development (D-RF) Subdistrict which allows Level D-Expanded Access Recreational Lodging Facilities. The purpose of the D-RF Subdistrict is to allow for development of moderate intensity recreational facilities – which often rely on, and are compatible with, settings which are distant from existing patterns of development, but are relatively accessible to visitors - in locations that would not be suitable for other types of commercial development.

15. Proposed New Facility. The proposed new Level D-Expanded Access Recreational Lodging Facility (the Facility) would be located within a 38.2 acre area (the Site), which is a part of the petitioner's 28,300 acre Roaches Ponds Tract. The proposed Site for the Facility extends into two townships, T1 R12 WELS and Shawtown Township (TA R12 WELS).

The proposed Facility would include the expansion of the existing Medawisla Lodge Sporting Camps to add a new Lodge with dining room, 6 guest cabins, 1 bunk house, 3 cabins for staff, parking facilities, septic system, storage barn, and various accessory sheds. The proposed new structures within the expanded area for the Facility would be located in a forested waterfront area on ridge with 13-14% slope that rises approximately 21 feet above Second Roach Pond. The cabins solely used for housing guests would be setback at least 100 feet from the normal high water mark of Second Roach Pond. The new lodge and all other structures (with the exception of a boat equipment shed) would be setback at least 150 feet from the normal high water mark of Second Roach Pond. The former logging road, known as Yoke Pond Road, would be upgraded to provide vehicle access to the new expanded facility.

Most guests would be overnight lodgers. Overnight guests and the public would have access from the Facility to publically available hiking, biking and skiing trails, as well as access to Second Roach Pond and the Roach River. The proposed rezoning includes approximately 3,100 feet of shore frontage on both Roach River and Second Roach Pond.

16. Current Conditions on the Proposed New Facility. The part of the Site within T1 R12 WELS includes approximately 2,100 feet of shoreline Second Roach Pond, which includes the shoreline along the existing pre-Commission Medawisla Sporting Camps (Sporting Camps). The Sporting Camps are located in an approximately 6.6 acre area of the Site currently zoned General Development (D-GN) Subdistrict. The existing D-GN Subdistrict has approximately 1,100 feet of shoreline along Second Roach Pond. The remaining 1,000 feet of shoreline along Second Roach Pond is undeveloped and zoned Great Pond Protection (P-GP) Subdistrict. The P-GP area is a low forested ridge with mixed hardwood typical to the surrounding forested area. The remainder the Site located within T1 R12 WELS is a General Management (M-GN) Subdistrict, which is located inland from the limits of the D-GN and P-GP subdistricts.

    The petitioner obtained a Development Permit (DP 4954) to reconstruct the Medawisla Sporting Camps on June 20, 2014. The reconstructed sporting camps would become part of the Facility within the proposed the 38.2 acre Recreation Facility Development (D-RF) Subdistict. Most of the 38.2 acres Site is located in Shawtown Township. This portion of Site has approximately 1,000 feet of shoreline on Roach River and is currently a General Management (M-GN) Subdistrict, Shoreland Protection (P-SL2) Subdistrict, Great Pond Protection (P-GP) Subdistrict and Wetland Protection (P-WL1 & P-WL3) Subdistricts. The access road to the site and some of the structures associated with the proposed Facility are located within this portion of the site. The majority of the proposed trails for non-motorized recreational activities would be located in this part of the Site also.

17. Site Location and Access.

    A. *Vehicle Access.* The proposed Facility would be accessed from Smithtown Road, an unimproved privately owned land management road that provides multi-use access to the lands owned by AMC. Smithtown Road is accessed from the privately owned Sias Hill Road, which extends between the Golden Road to the north and Lily Bay Road in Kokadjo to the south. AMC has an access easement from Plum Creek Timber Company to access the site from Sias Hill Road and Smithtown Road. Lily Bay Road is a public road.

B. *Utility Access*. There are no public utilities extending to the site.

18. Soil Suitability and Mapping. A Class A-High Intensity Soils Survey and a Class C-Medium High Intensity Soil Survey was conducted to identify and map soils within the project area. The Class C-Medium High Intensity Soil Survey was undertaken in the previously developed areas within the existing Medawisla Sporting Camp. The Class A-High Intensity Soil Survey was undertaken within the areas proposed for new development, including the main lodge, new cabins and associated new development. In areas not proposed for development, the published USDA NRCS Soil Survey, which is a Class D level survey, was used to assess soil conditions. The summary of the soil surveys concluded that the redevelopment of the existing Medawisla Sporting Camp was located on soils generally suitable for the intended use. The area for the proposed new development is almost entirely located on soils with Medium or High soil potential ratings.

    The Maine State Soil Scientist reviewed the soil surveys submitted with this zoning petition and stated that the proposed area for rezoning appears to have suitable soils and slopes to accommodate the proposed project.

19. Wastewater Disposal. The Facility would be served by on-site water (drilled well) and subsurface wastewater disposal systems. The "Soil Survey and Site Evaluation Report" submitted with the petition documented that there are soils suitable for the installation of appropriately sized subsurface wastewater disposal systems to serve the proposed Facility.

20. Rivers, Lakes and Wetlands.

    A. The project is located on the shorelines of Second Roach Pond a Great Pond (P-GP) Protection Subdistrict and Roach River a Shoreland Protection (P-SL2) Subdistrict. The existing Medawisla Sporting Camp is located in an area that would be a P-GP, but has been zoned as a General Development (D-GN) Subdistrict. The proposed rezoning would change these Subdistricts to a Recreation Facility Development (D-RF) Subdistrict. All future development would continue to require appropriate setbacks from the shorelines of the Roach River and the Second Roach Pond as part of permitting process.

    B. There are wetlands delineated and/or zoned P-WL1, Wetlands of Special Significance and P-WL3, Forested Wetlands within the project area. The proposed rezoning would change these Subdistricts to a Recreation Facility Development (D-RF) Subdistrict. All future development would continue to recognize and apply appropriate protections and setbacks to all wetlands delineated as part of permitting process.

    The proposed new development appears to meet all applicable setbacks from the existing P-GP, P-SL2 and P-WL1 Subdistricts. Any forthcoming permitting decision would require the development to meet all applicable setbacks. Pursuant to Development Permit DP 4954 the existing on-going reconstruction of the Medawisla Sporting Camps was found to be consistent with the D-GN Subdistrict and compliant with all applicable setbacks from the P-GP, P-SL2 and P-WL1 Subdistrcits.

21. Land Division History. The Petitioner submitted an outlined 20-year land division history as part of the application for Development Permit DP 4954 and indicated that no non-exempt divisions have occurred on their parcels in the past 20 years.

22. Existing Development in the Area. The proposed area for rezoning includes an existing commercial sporting camp facility located within a D-GN Subdistrict and adjacent undeveloped areas currently within the P-GP and M-GN Subdistricts. The surrounding area is undeveloped and currently used for timber harvesting and outdoor recreational activities, such as snowmobiling, cross country skiing, hunting, fishing and hiking.

23. Anticipated Impacts on Existing Uses and Resources.

    A. *Traffic*. Petitioner states there is an anticipated increase in traffic between Kokadjo and the Medawisla Facility due to the increased recreational opportunities offered at a larger recreational lodging facility.

    B. *Noise*. The proposed non-motorized recreational uses at the Facility are not anticipated to generate noise levels which would be inconsistent with the Commission's Standards. The generator will be housed in a sound-deadening structure in order to reduce noise to a minimum while it is running.

    C. *Economic.* The Petitioner states that the reconstruction of the Medawisla facility will employ local builders and tradespeople over a two-year period. Once constructed, Medawisla will employ three new, full-time salaried positions, plus three additional seasonal staff and will accommodate up to 72 guests. Based on a recent survey of guests at AMC's other Maine facilities:
    • 20% stayed overnight in a nearby town
    • 67% purchased a meal at a local restaurant
    • 77% shopped at a local store
    • 89% purchased gas or convenience items
    • 25% visited a historic site or cultural institution
    • The average local spending was $138

    D. *Wildlife*. The Maine Department of Inland Fish and Wildlife reviewed the proposal and stated that no significant wildlife or wildlife habitat concerns are anticipated with this proposal.

    E. *Historic*. The Maine Historic Preservation Commission reviewed the proposal and the petitioner's Phase I archaeological survey (MHPC 1073-14), and commented that based on the information submitted, the Commission has concluded that there will be no historic or archaeological properties affected by the proposed construction and reconstruction at the Medawisla Camps on Second Roach Pond.

    F. *Unusual Natural Areas.* The Maine Natural Areas Program reviewed the proposal and searched the Natural Areas Program's Biological and Conservation Data System files for rare or unique botanical features in the vicinity of the proposed site and indicates that according to their current information there are no rare botanical features that would be disturbed within the project site.

G. *Harmonious Fit and Scenic Impacts*. The Petitioner states that by expanding the existing facility, rather than developing on a new site, it will minimize the amount of land rezoned, cleared and developed; take advantage of existing access roads and the existing services in Greenville and Lily Bay; and keep intact as much undeveloped shoreline as possible. There will be no public utilities at the facility and therefore no poles for electric service.

The design of the buildings will be in keeping with the Maine Woods tradition: natural materials and colors will be used, such as a brown or neutral-colored siding, and green metal roofs. The windows will be made with non-reflective glass, and all structures will meet LUPC's building height standards. The construction of the new lodge and cabins will necessitate some vegetative clearing but the new cabins will be built under the forest canopy to the extent possible and, for the driveway and lodge, there will be only enough additional clearing to accommodate construction and winter snow removal.

Some small viewsheds to the pond from the lodge and a potential view of Katahdin may be created, but any clearing will meet applicable LUPC clearing standards. Boaters and fishermen on Second Roach Pond within the immediate vicinity of the lodge may be impacted by limited views of the new lodge and cabins, but views of the lodge from the rest of the pond are blocked by two islands and a long peninsula within 1/2 mile of the lodge site. The driveway into the Medawisla facility is long and curved, making all elements of the development invisible from the Smithtown Road.

H. *Recreation.* The Petitioner states there will be an increase in road traffic between Kokadjo and Medawisla, and an increase in the number of kayakers and canoeists on Second, Third and Fourth Roach Ponds. Additional trails around Medawisla will bring more users into the surrounding forests, which currently see very few hikers and bikers. The fisheries in the region – mainly Second, Third, Fourth, and Trout Ponds will see some increased use, but marketing of Medawisla will focus on paddling, hiking, and biking with less focus on fishing. Generally, current use of the area is mainly concentrated in the spring fishing season, including smelt fishing at the inlet to Second Roach Pond. Those fishermen who do use these waters may see a slight increase in the number of people fishing on these ponds and/or an increase in recreational paddlers (canoes and kayaks).

I. *Public and Community Services.* The Petitioner submitted service provider letters of support and indicating capacity to serve from the Piscataquis County Commissioners, the Piscataquis County Sheriff's Office, the Maine Warden Service, the Maine Forest Service, the Greenville Fire and Rescue, Charles A Dean Memorial Hospital, School Union #60, and the Juniper Ridge Landfill.

Review Criteria:

24. Under 12 M.R.S. § 685-A(8-A) of the Commission's statutes, and Section 10.08 of the Commission's Land Use Districts and Standards (the Standards), a land use district boundary may not be adopted or amended unless there is substantial evidence that:

A. 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 [Chapter 206-A]; and

B. 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.

25. A proposed rezoning must be consistent with the Comprehensive Land Use Plan. 12 M.R.S. § 685-A(8-A)(A). The Commission's 2010 Comprehensive Land Use Plan (the CLUP) includes policies that speak to the protection of recreational resources and the development of recreational facilities and uses:

1. Protect the values of the jurisdiction that provide residents and visitors with a unique array of recreational experiences, especially high-value natural resources and remoteness where they exist.
2. Encourage diverse, non-intensive and nonexclusive use of recreational resources and protect primitive recreational opportunities in certain locations.
3. Accommodate a range of recreational uses and facilities in appropriate locations, based on the level of use, size, scale and compatibility with existing recreational and non-recreational uses. Specifically:
    a. Direct intensive recreational uses and facilities to areas most appropriate for growth, and near existing services and infrastructure.
    b. Accommodate less intensive, nonexclusive recreational uses and facilities in other appropriate locations where such uses and facilities will not adversely affect existing uses and resources.
    c. In more remote locations, accommodate low-impact, small-scale facilities that are most compatible with primitive recreational uses.
4. Consider traditional sporting camps as recreational and cultural resources, worthy of protection from incompatible development and land uses, and give special consideration to sporting camps in the Commission's development standards and in its review of rezoning petitions and development proposals within the immediate vicinity of a sporting camp.
5. Discourage the conversion or expansion of sporting camps located in remote locations to facilities or uses that would unreasonably impact the jurisdiction's natural resources or remote values.
6. Support cooperative efforts that ensure continued public access across, and recreational use of, private lands.
7. Support efforts that ensure continued public access to public waters.
8. Promote respect for and responsible use of private lands.

(CLUP Section 1.2, p. 17.)

26. Pursuant to Section 10.21,I,1 of the Commission's Land Use Districts and Standards the purpose of the D-RF subdistrict is "to allow for development of moderate intensity recreation facilities in locations that would not be suitable for other types of commercial development. Moderate intensity recreation facilities often rely on, and are compatible with, settings which are distant from existing patterns of development, but are relatively accessible to visitors. Such development may be appropriate in locations that provide access to recreational opportunities that are not overly sensitive to increased public use but are not present in developed areas. The D-RF Subdistrict is designed to allow for the location of moderate intensity recreation facilities in areas that are distant from other development, but where the location of such a facility would; not unreasonably interfere with existing uses such as forestry and agriculture activities, fish and wildlife habitat or other recreation opportunities; and will not substantially increase the demand for public services in areas that are distant from existing patterns of development."

27. Pursuant to Section 10.08,B of the Commission's Land Use Districts and Standards, the review standards listed in Section 10.25,A must be considered in applying the statutory zoning criteria in 12 M.R.S. § 685-A(8-A) to proposed changes in subdistrict boundaries adjacent to lakes. Section 10.25, A of the Commission's Land Use Districts and Standards provides:

    The standards set forth below must be met for all subdivisions and commercial, industrial, and other nonresidential structures and uses proposed on land adjacent to lakes. These standards must also be considered in applying the criteria for adoption or amendment of land use district boundaries, as provided in Section 10.08, to proposed changes in subdistrict boundaries adjacent to lakes.

    In applying the standards set forth below, the Commission shall consider all relevant information available including the Maine Wildlands Lake Assessment Findings (Appendix C of this chapter), and relevant provisions of the Comprehensive Land Use Plan.

    1. **Natural and cultural resource values.** The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (Appendix C of this chapter)[;]
    2. **Water quality.** The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
    3. **Traditional uses.** The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
    4. **Regional diversity.** The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;
    5. **Natural character.** Adequate provision has been made to maintain the natural character of shoreland;
    6. **Lake management goals.** The proposal is consistent with the management intent of the affected lake's classification; and
    7. **Landowner equity.** Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

28. The facts are otherwise as represented in Zoning Petition ZP 750 and supporting documents.

Based upon the above Findings and the following analysis, the Commission Concludes:

<u>Consistency with the Standards for District Boundaries</u>

1. According to 12 M.R.S. § 685-A(8-A)(A) of the Commission's statute, a proposed rezoning must be consistent with the Standards for district boundaries in effect at the time.

   A. Section 10.21,I,1 of the Commission's Standards establishes the purpose of the D-RF Subdistrict is to allow for development of moderate intensity recreational facilities in locations that would not be suitable for other types of commercial development. Moderate intensity recreation facilities often rely on, and are compatible with, settings which are distant from existing patterns of development, but are relatively accessible to visitors. (See, finding #26).

   B. The proposed Level D, Recreational Lodging Facility would be located within the 38.2 acre area proposed for rezoning and would be a moderate intensity recreational facility. It would be designed to serve 72 guests and have a staff of 10 and would be open to the public year round. It would host school and other educational groups for outdoor recreation and environmental education programs and would create a networked system of non-motorized trails and a destination for outdoor recreation and nature-based tourism. The facility would be accessible by car in the winter and will offer 4-season trails and "paddle-to" campsites.

      While this location would not be suitable for most types of commercial development, the proposed facility would be compatible with this setting which is distant from existing patterns of development. The facility would rely on this relatively remote and natural setting to attract customers. The site is relatively accessible to visitors and in a location that provides access to numerous recreational opportunities such as hiking, fishing, paddling, hunting, camping, snowmobiling, biking and skiing. The recreational resources in this area are not overly sensitive to increased public use and are not present in a similar scale or quality in nearby developed areas, thus making this location, away from developed area, appropriate for the proposed facility.

      The location of the proposed facility would not unreasonably interfere with existing uses or other recreation opportunities. The lands surrounding the 38.2 acre site are managed for commercial forestry and conservation and are subject to conservation easements which were a part of the Moosehead Lake Region Concept Plan. Development of the facility will not substantially increase the demand for public services. Lily Bay and Greenville have provided services to Medawisla for decades, and the proposed expanded facility will not overburden these service providers.

   C. Most rezonings in which a development subdistrict is proposed, result in rezoning only so much land as is necessary to accommodate the proposed development and ensure good design and environmental performance. However, the recreational lodging rules in general, and the D-RF in particular, are intended to accommodate a fair amount of change and expansion to recreational

lodging facilities without requiring further rezoning until the next "threshold" of intensity and scale is crossed. Also if possible, it is preferable to have all the elements of a recreational lodging facility in one subdistrict.

The D-RF excludes all other potentially incompatible uses (unlike, for instance, the D-GN which allows recreational lodging but also many other potentially incompatible commercial uses), and limits the amount of development and activity to a level D facility regardless of the amount of land that is in the D-RF. Therefore, the intensity of use, size of the development, and ultimately the impact from the facility and its use, is not tied closely to the size of the D-RF zone. No matter how big the D-RF zone, any one facility can only fill it up with the amount of development allowed by a level D facility.

Therefore, petitioners rezoning to a D-RF may include an area that is sufficient for intended development and uses, for good design including adequate setbacks, for variations at the development phase due to unanticipated changes, and also for reasonable future expansion needs or changes in uses. For a D-RF it is generally acceptable to include more land than is required for the intended development unless there is some specific reason not to do so.

The D-RF boundaries should be drawn so that the boundaries limit development in, on or near existing resources and uses likely to be affected by the development such as water bodies, wildlife habitat, and areas for primitive or traditional recreation. Ideally, the boundaries should be readily identifiable on the ground because they coincide with natural features, roads, parcel lines or other permanent measurable locations.

D. The size and boundaries of the proposed D-RF are consistent with the standard for D-RF district boundaries because it extends along the shoreline only so far as is needed to reasonably accommodate the proposed development, is bounded by shorelines and roadways where possible, and extends inland from the pond shorelines to include land sufficient for the proposed development, for good design, and to accommodate needed variations from the conceptual site plan due to unanticipated site features.

While the southwest section of the proposed zoning area includes a fair amount of land that does not appear to need to be included to fit the proposed development, that land may be included because it is readily identifiable (it follows parcel lines, water bodies, and fronts the Smithtown road), includes some elements of the facility such as the access drive, and may accommodate future uses related to, and a part of, the recreational lodging facility such as nature trail systems and interpretive stations. By including this land in the D-RF, the rezoning recognizes that the D-RF differs from many LUPC development zones by recognizing that recreational lodging development often requires a dispersed network of development on the site and flexibility to evolve as needs and demands change thereby requiring more land.

E. The D-RF is not intended to tightly constrain development or create dense development. It is intended to protect the resources and existing uses in the area but to do so while providing significant flexibility to the recreational lodging facility. Therefore, for the purposes of rezoning, the proposed D-RF subdistrict is consistent with the standard for district boundaries in effect at the time and is of a size that would accommodate the proposed Facility.

Consistency with the Comprehensive Land Use Plan

2. According to 12 M.R.S. § 685-A(8-A)(A) of the Commission's statute, a proposed rezoning must be consistent with the comprehensive land use plan. The Commission's 2010 Comprehensive Land Use Plan pertaining to the protection of recreational resources and the development of recreational facilities and uses strive to "provide residents and visitors with a unique array of recreational experiences," "encourage diverse, non-intensive and nonexclusive use of recreational resources," "accommodate a range of recreational uses and facilities in appropriate locations," accommodate less intensive, nonexclusive recreational uses and facilities in other appropriate locations where such uses and facilities will not adversely affect existing uses and resource," "give special consideration to sporting camps in the Commission's development standards and in its review of rezoning petitions," "ensure continued public access across, and recreational use of, private lands," and "ensure continued public access to public waters."

    A. The proposed rezoning is intended to accommodate the expansion and redevelopment of the Medawisla Lodge Sporting Camps which were originally built in 1953 with five guest cabins, a lodge and two staff cabins. Recreational lodging facilities such as this are identified in policy as a cultural and recreational resource worthy of special consideration in the Commission's development standards and in its review of rezoning petitions This proposed rezoning and subsequent development would provide a unique array of recreational experiences and encourage diverse, non-intensive and nonexclusive use of recreational resources in appropriate locations. The facility would be relatively accessible to visitors, would be available for nonexclusive use for the public, and in a location that provides access to numerous non-intensive recreational opportunities such as hiking, fishing, paddling, hunting, camping, snowmobiling, biking and skiing. As described in conclusion #1 this relatively remote and natural setting for the proposed D-RF subdistrict would be an appropriate location for a level D recreational facility and the recreational resources in the area are not overly sensitive to increased public use.

    B. The proposed rezoning, expansion and redevelopment of the Medawisla Lodge site would ensure continued public access to, and recreational use of, these private lands that have long been used for recreational activities. Moreover the proposed rezoning and development will help ensure continued public access to the public waters of Second Roach Pond.

Consistency with Chapter 206-A

3. According to 12 M.R.S. § 685-A(8-A)(A) of the Commission's statute, a land use district boundary may not be adopted or amended unless the proposed land use district is consistent with the purpose, intent and provisions of Chapter 206.

    A. Section 685-A(1) establishes the Commission zoning authority: "The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that shall fall into land use districts and designate each area in one of the following major district classifications: protection, management and development." Section 681 states the Legislature "finds that it is desirable to

extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State" to, among other things, "encourage appropriate residential, recreational, commercial and industrial land uses."

B. The Commission evaluated the petition with respect to consistency with Chapter 206-A and principles of sound planning, zoning, and development. Having considered the location of the Level D Recreational Lodging Facility, the surrounding uses and resources, the type and intensity of the development the rezoning is intended to foster, the review of agency comments, and the record as a whole, the Commission concludes approval of the petition would be an act of sound land use planning. Therefore, the Commission concludes the proposed rezoning is consistent with the purpose, intent and provisions of Chapter 206-A, which cumulatively are designed to promote sound planning.

Impacts on Existing Uses and Resources

4. According to 12 M.R.S. § 685-A(8-A)(B) of the Commission's statute, the proposed land use district can have no undue adverse impact on existing uses or resources.

A. The location of the proposed facility would not unreasonably interfere with existing uses or other recreation opportunities. The lands surrounding the 38.2 acre site are managed for commercial forestry and conservation and are subject to conservation easements which were a part of the Moosehead Lake Region Concept Plan. Second Roach Pond is used for recreation including fishing, swimming, and boating. Recreational users on Second Roach Pond, depending on their vantage point, might be able to see glimpses of new structural development within the proposed D-RF but there is nothing inherent about recreational lodging development on the site that would make this type of development incompatible with existing recreational uses on this area of the pond or that indicates the proposed rezoning would have an undue adverse impact on recreation in the vicinity. Moreover the recreational lodging rules address visual impacts and provide limits to the amount of clearing that may occur. Finally, application of the Commission's standards, for example the Commission's shoreland clearing and buffering standards, applied at the permitting phase would address potential visual impacts.

This increase in traffic would be consistent with seasonal fluctuations of recreational traffic throughout this region. The existing roads that provide vehicle access from Kokadjo to Medawisla would be able to a handle the increase in recreational traffic to the Facility. The Commission concludes the proposed rezoning and subsequent development of a level D recreational lodging facility in the proposed D-RF subdistrict, would not have an undue adverse impact on existing uses.

B. The proposed rezoning would not have an undue adverse impact on existing resources. The compatibility with existing forest and recreational resources, particularly Second Roach Pond, is discussed above. With regard to existing natural resources, no rare botanical resources or would be disturbed within the project site. IF&W noted there are no significant wildlife or wildlife habitat concerns anticipated on the site. The State Soil Scientist's review indicates the site is suitable for the proposed development. Therefore, the Commission concludes rezoning to D-RF would not have an undue adverse impact on existing resources.

Consideration of Section 10.25,A

5. Section 10.25,A of the Commission's Standards must be considered in applying the criteria for proposed changes to subdistrict boundaries adjacent to lakes. The Commission has done so and the conclusions above remain unaltered. Further, the Commission concludes the proposed rezoning is consistent with the provisions of Section 10.25,A. Specifically:

   A. The proposal is consistent with Section 10.25,A,1 in that proposed rezoning and potential development would not adversely affect the outstanding and significant natural and cultural resource values of Second Roach Pond as described in Appendix C of the Commission's Land Use Districts and Standards. Second Roach Pond has significant resource ratings for fish, scenic character, cultural and physical resources. The proposed rezoning to a D-RF subdistrict would allow for level D recreational lodging development upon obtaining the necessary permits for the development. Future development on the property, in accordance with applicable permitting standards would not adversely affect the lake's resource values. As noted above, the proposed rezoning will not have an undue adverse effect on existing uses or resources; this directly relates to the protection of the natural and cultural resource values of the lake. Additionally, potential impacts, such as visual impacts and erosion, associated with any individual development proposal that could affect the resource ratings would be addressed during permitting.

   B. Water quality impacts were one of the potential impacts considered in the Commission's evaluation of whether the proposed rezoning will have an undue adverse impact on existing resources. Based on the record evidence, the commission concludes that the proposed rezoning is consistent with Section 10.25,A,2 and that by itself, or in conjunction with other development, will not have an undue adverse impact on water quality.

   C. The Commission considered the potential impacts of the proposed rezoning on all existing uses, including traditional uses, in the vicinity of the Property in applying the statutory review criteria discussed above. The proposal is consistent with Section 10.25,A,3 in that it would not have an undue adverse impact on the traditional uses in the area, including such uses on the surrounding waters of Second Roach Pond.

   D. The proposal is consistent with Section 10.25,A,4 in that the proposed rezoning and potential residential development would not substantially alter the diversity of lake-related uses for this section of Second Roach Pond. The same range of recreational opportunities that exist today will continue to exist after the rezoning.

   E. Future development on the site would require permit review and be subject to various standards, such as clearing standards, intended to address potential effects of development on the natural character of the shoreland. The proposed rezoning is consistent with Section 10.25,A,5.

   F. Second Roach Pond is a Management Class 7 lake, a lake "not otherwise classified." The Commission manages Class 7 lakes for multiple uses, giving specific consideration to identified resource values when evaluating the merits of lake-related rezonings and permit applications. As noted above in the discussion 10.25,A,1, the proposed rezoning and potential development will

not have an adverse effect on Second Roach Pond's resource values. The Commission concludes the proposed rezoning is consistent with the management classification for the lake and with Section 10.25,A,6.

G. The lands surrounding Second Roach Pond are subject to conservation easements which were part of the Moosehead Lake Region Concept Plan and which limit future development. Given the easements limitations to future development, the Commission concludes development on Second Roach Pond would not be further limited by the proposed rezoning and thus the landowner equity concerns Section 10.25,A,7 is intended to address are not implicated by the petition.

Therefore, the Commission concludes that the zoning petition is consistent with Section 10.25,A of the Commission's Land Use Districts and Standards.

Final Conclusions

6. In summary, and for reasons explained above, the Commission concludes that the proposed rezoning of 38.2 acres of the petitioner's property for the development of a Level D, Recreational Lodging Facility:
   A. Is consistent with the standards for district boundaries in effect at the time;
   B. Is consistent with the Commission's 2010 Comprehensive Land Use Plan;
   C. Is consistent with the purpose, intent and provision of Title 12, Chapter 206-A;
   D. Will not have an undue adverse impact on existing uses or resources; and
   E. Is consistent with the provisions of Section 10.25,A of the Commission's Land Use Districts and Standards.

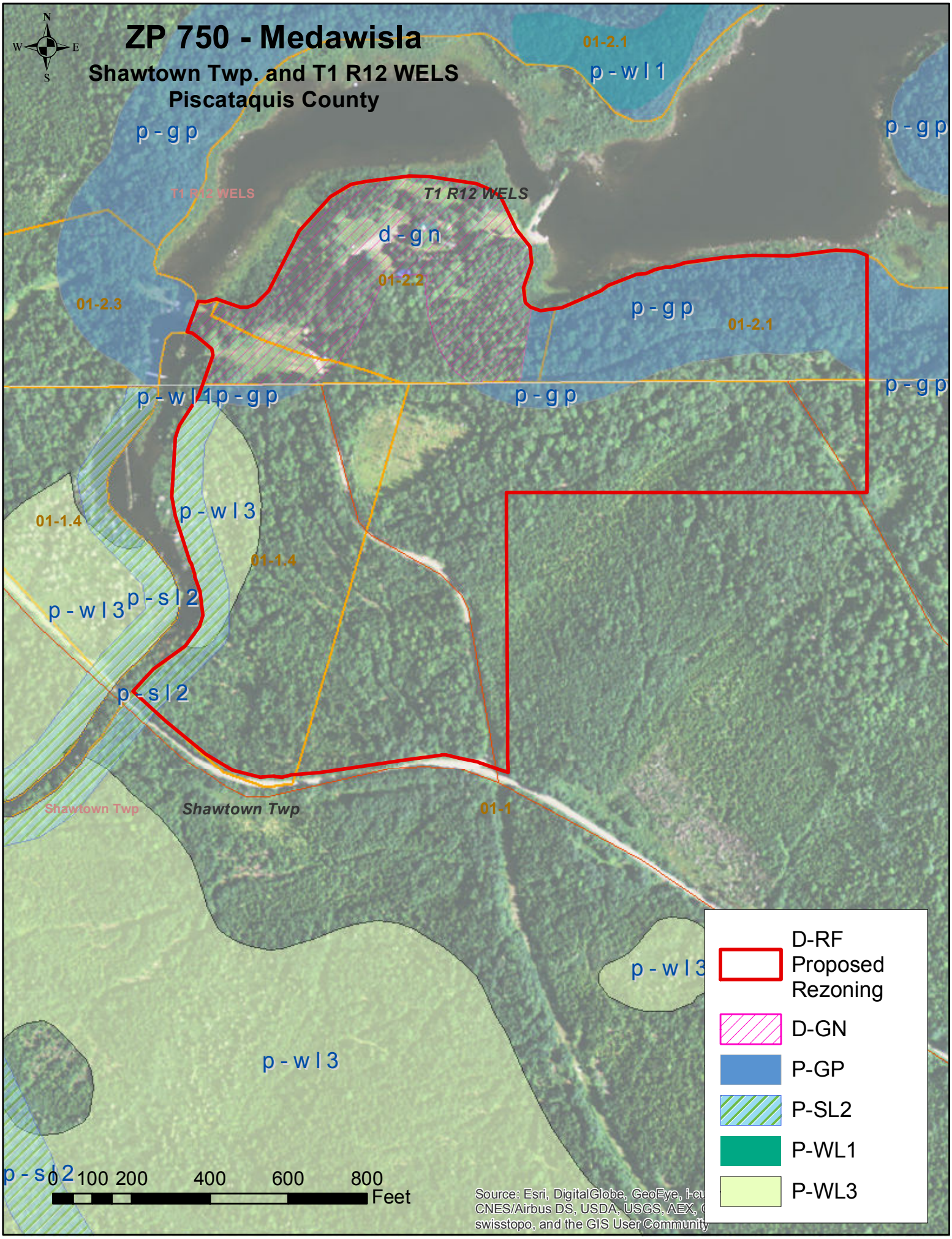
Therefore, the Commission approves the petition of AMC Maine Woods II, LLC to rezone 38.2 acres from (D-GN) General Development Subdistrict, (P-GP) Great Pond Protection Subdistrict, (P-SL2) Shoreland Protection Subdistrict, (P-WL1&3) Wetland Protection Subdistrict and (M-GN) General Management Subdistrict to (D-RF) Recreation Facility Development Subdistrict.

In accordance with 5 M.R.S. § 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.

DONE AND DATED AT BREWER, MAINE, THIS 10TH DAY OF JUNE, 2015.

By: _____
Nicholas D. Livesay, Executive Director

This change in Subdistrict designation is effective on June 25, 2015.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Feet
Source: Esri, DigitalGlobe, GeoEye, i-cu
CNES/Airbus DS, USDA, USGS, AEX,
swisstopo, and the GIS User Community
D-RF Proposed Rezoning
D-GN
P-GP
P-SL2
P-WL1
P-WL3