STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
191 MAIN STREET
EAST MILLINOCKET, MAINE 04430

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

BUILDING PERMIT BP 15622, AFTER-THE-FACT

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Robert and Hope MacDonald for Building Permit BP 15622, finds the following facts:

1. Applicant: Robert and Hope MacDonald
   65 Water Street
   Millinocket, Maine 04430

2. Date of Completed Application: July 11, 2016

3. Location: T1 R8 WELS, Penobscot County, Maine
   Maine Revenue Service Plan 02, Lot 86
   Piscataquis County Registry of Deeds: Book 13828; Pages 201-206
   Formerly Katahdin Timberlands, LLC Lease Lot #ML-86

4. Zoning: (D-RS) Residential Development Subdistrict

5. Lot Size: 3.6 Acres (owned)

6. Principal Building: Existing pre-Commission Residential Dwelling (26.5 ft. by 33 ft.)

7. Accessory Structures: Existing Bunkhouse (12 ft. by 10 ft.)
   Existing Bunkhouse (12 ft. by 10 ft.)
   Existing Bunkhouse (12 ft. by 24 ft.)
   Existing Bunkhouse (12 ft. by 32 ft.)
   With Attached Decks (8 ft. by 23.5 ft.) and (4 ft. by 24 ft.)
   Existing Cabin/Shed (13 ft. by 15 ft.)
   Existing Shed (8 ft. by 4 ft.)
   Existing Shower House (8 ft. by 16 ft.)

8. Sewage Disposal: Septic of Unknown Design or Installation Date

9. Affected Waterbody: Millinocket Lake

   The Commission has identified Millinocket Lake as a management class 7, resource class 1B, accessible, undeveloped lake with the following resource ratings: significant fisheries, outstanding

wildlife, significant scenic, significant shore character, significant cultural, and significant physical resources.

Background and Existing Conditions

10. The applicants' lot was historically developed with a pre-Commission 26.5 foot by 33 foot dwelling located 80 feet from the normal highwatermark of MillinocketLake, greater than 50 feet from the access road, and greater than 15 feet from other property boundary lines. The residential dwelling is served by a septic system of unknown design or date of installation. The lot is further developed with a pre-Commission 13 foot by 15 foot cabin/shed located 80 feet from the shoreline, an 8 foot by 4 foot shed located 95 feet from the shoreline, four bunkhouses (12 foot by 10 foot, 12 foot by 10 foot, 12 foot by 24 foot, and 12 foot by 32 foot with attached 8 foot by 23.5 foot and 4 foot by 24 foot decks) and an 8 foot by 16 foot shower house all located greater than 100 feet from the shoreline of the lake, 50 feet from the access road, and 15 feet from property boundary lines.

11. On June 20, 2016, staff of the Maine Land Use Planning Commission conducted an inspection of the subject property as part of the Commission's legal responsibilities for regulating land use activities in the unorganized areas of Maine and following a citizen complaint. At the time of the inspection, staff observed a 13 foot by 78 foot residential driveway constructed 56 feet from the normal high water mark of Millinocket Lake without prior approval from the Commission and in excess of standards. [*Reference: Enforcement Case EC 2016-26, Resolved with this permit]*

Proposal

12. The applicants now seek after-the-fact approval for the construction of a 13 foot wide by 78 foot long gravel driveway located 56 feet from the normal high water mark of Millinocket Lake. All areas of disturbed soil, except for the gravel driveway, will be reseeded and mulched. The applicants state the project will not create an undue adverse impact on the lake due to the vegetative buffer between an existing gravel access path, from which the driveway will be extended, and the lake. In addition, the driveway will alleviate the need for additional parking spaces in an existing area that is currently utilized for Lots 84 and 85.

Commission Review Criteria

13. Pursuant to Section 10.21,K,3,c,(7) of the Commission's Land Use Districts and Standards, driveways associated with residential uses which are not in conformance with the standards of Section 10.27, H may be allowed within D-RS subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.

14. Pursuant to Section 10.27,H of the Commission's Land Use Districts and Standards, driveways not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

15. Pursuant to Section 10.27,H,2,a,(1) of the Commission's Land Use Districts and Standards, the minimum water body setback for a driveway which accesses an undeveloped lot or a lot having

residential structures is 100 feet from the nearest shoreline of a body of standing water greater than 10 acres in size, such as Millinocket Lake.

Review Comments:

16. The Maine Historic Preservation Commission has reviewed this proposal and has no concerns regarding archaelogical or architectureal resources for this project.

17. The Maine Natural Areas Program has reviewed this proposal and found there are no rare botanical features that will be disturbed within the project site.

18. The Maine Department of Inland Fisheries and Wildlife has reviewed this proposal and anticipates minimal, if any, impacts to fisheries and wildlife resources.

19. The facts are otherwise as represented in Building Permit application BP 15622 and supporting documents.

Based upon the above Findings, the staff Concludes that:

1. In accordance with the provisions of Section 10.21,K,3,c,(7) and Section 10.27,H of the Commission's Land Use Districts and Standards, the proposed residential driveway would not be in conformance with the standards of Section 10.27, H in that it would not meet the 100 foot water body setback, but would be allowed in a D-RS subdistrict upon issuance of a permit from the Commission provided the proposed activity is conducted in a manner which produces no undue adverse impact upon the resources and uses in the area. The driveway would be no closer to Millinocket Lake than an existing gravel access path from which it extends, would be visually screened from the lake by the existing vegetative buffer, and would not adversely impact any archeological, botanical, fisheries or wildlife resources and uses in the area.

2. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the request of Robert and Hope MacDonald with the following Conditions:

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.

2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation is subject to prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.

3. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.

4. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Air and Water Pollution Control Regulations; Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; and the Maine Department of Transportation, Driveway Entrance Permit, a physical E-911 address from your County Commissioner's Office.

5. The driveway must be located and constructed so that (a) it will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) it will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland or roadway.

6. Except for the travel surface of the driveway, all areas of disturbed soil must be promptly reseeded and mulched to prevent soil erosion. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.

7. The driveway authorized under this permit must be setback a minimum of 56 feet from the normal high water mark of Millinocket Lake on the west side of the peninsula, a minimum of 100 feet from the lake on the east side of the peninsula, and a mimimum of 15 feet from all other property boundary lines.

8. **Nothing in this permit shall be construed to release the permittee(s) from any liability or responsibility arising from any violation, including Enforcement Case EC 16-26, or to be considered a waiver of the authority of the Commission or the state to fully pursue or prosecute such violations.**

9. Once construction is complete, the permittees shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittees comply with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT EAST MILLINOCKET, MAINE, THIS 29th DAY OF SEPTEMBER, 2016.

By: _____
for Nicholas Livesay, Executive Director

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JUL 07 2016

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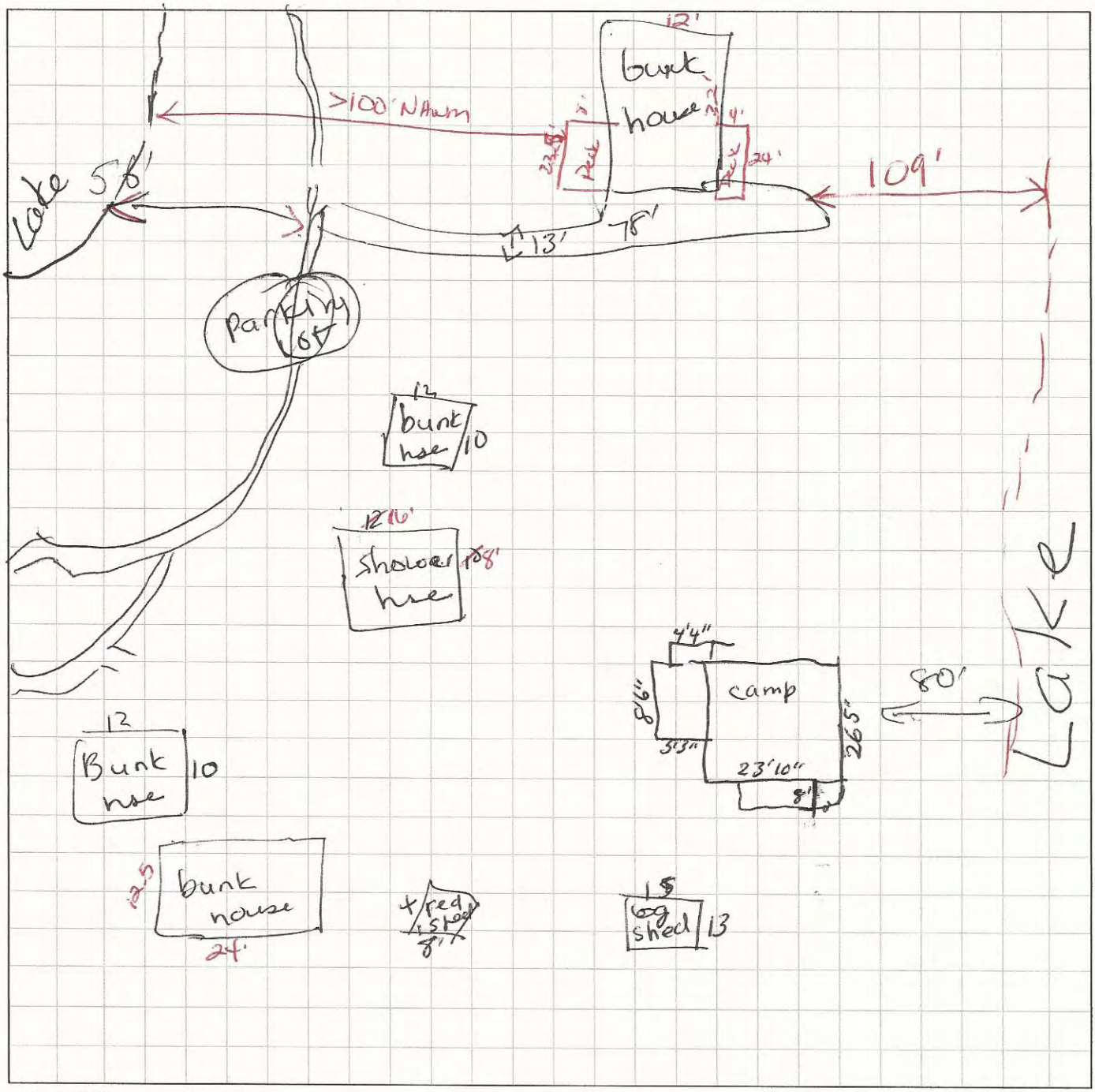
For office use: 49008 Tracking No. BP 15622 Permit No.

EXHIBIT D-1: SITE PLAN

Prepare a bird's-eye view site plan that shows your entire property and includes all the elements described for **Exhibit D** in the instructions. Do not use colors. Refer to the instructions for a sample site plan.



Notes/Legend:

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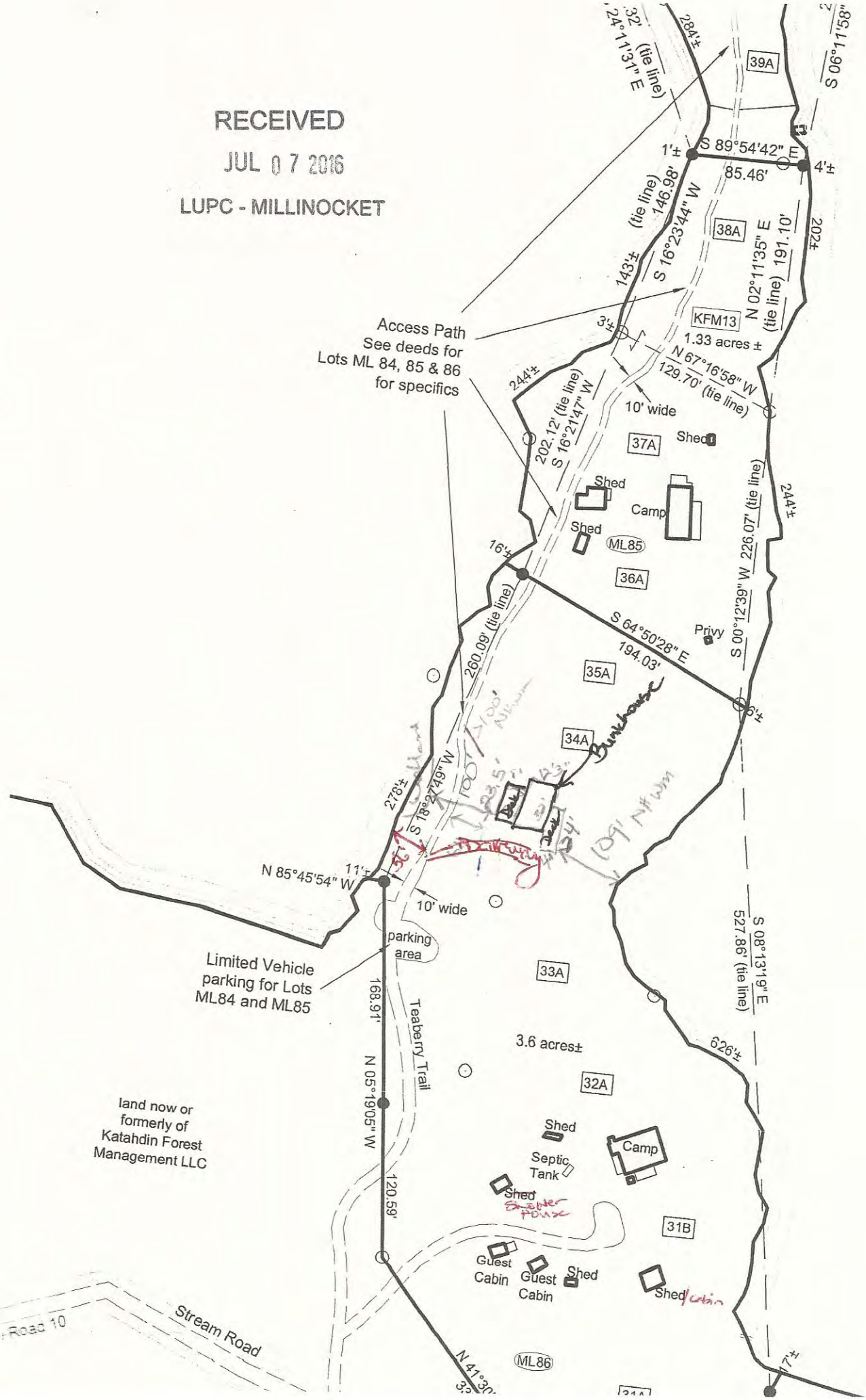

Kilmas
Millinocket Lake p - w l 1 o w
MacDonald Site Location
Teaberry
d - r s
T1 R8 WELS
Boom Chain
Stream
01-1
Red Pine
Wildland
Beech
Evergreen
p - g p
p - w l 1
p - s l 1