



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

WALTER E. WHITCOMB  
COMMISSIONER

PAUL R. LEPAGE  
GOVERNOR

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

# PERMIT

## AMENDMENT J TO DEVELOPMENT PERMIT DP 3739 BY SPECIAL EXCEPTION

The staff of the Maine Land Use Planning Commission (LUPC or Commission), after reviewing the application and supporting documents submitted by Araminta's Dream LLC (Applicants or Permittees) for Amendment J to Development Permit DP 3739, finds the following facts:

1. Applicants: Araminta's Dream LLC  
Attn: Holden W. and Susan R. Nelson  
90 Christopher Road  
North Yarmouth, Maine 04097
2. Date of Completed Application: May 06, 2015
3. Location of Proposal: Monhegan Plantation, Lincoln County, Maine  
Maine Revenue Service Map LIP01; Plan 08; Lot 36  
Lincoln County Registry of Deeds: Book 2633, Page 147 and  
Book 1960, page 252
4. Zoning: Aquifer Protection Subdistrict (P-AR)  
Shoreland Protection Subdistrict (P-SL)  
General Development Subdistrict (D-GN)
5. Lot Size: 1.10<sup>±</sup> acres / 47,793 square feet (owned)
6. Principal Building: Existing "Monhegan House" (see file for sizes and locations of attached decks, walkways, porches, additions, storage/pantry areas, and walk-in cooler).
7. Accessory Structures: Existing "Lobster Pot" Building (14 ft. by 16 ft.) with Existing Bathroom Addition (9 ft. by 14 ft.), and Existing Deck (6 ft. by 25 ft.).  
Existing "Novelty" Building (30 ft. by 30 ft.-size includes an 8 ft. by 12 ft. first floor take-out area) with Existing Uncovered Deck with Sign (8 ft. by 14 ft.), Existing South-side Stairway with Base Deck (4 ft. by 16 ft.), and Existing North-side Stairway with Base Deck (4 ft. by 16 ft.).  
Existing "Swallow's Nest" Building (14 ft. by 16 ft.)

18 ELKINS LANE, HARLOW BUILDING

PHONE: 207-287-2631

[www.maine.gov/dacf](http://www.maine.gov/dacf)

FAX: 207-287-7439

Existing Storage Shed (20 ft. by 20 ft.)  
Existing Generator Building (8 ft. by 20 ft.)  
Existing Fuel Tank with Cofferdam (8 ft. by 15 ft.)  
Existing Enclosure for Generator and Fuel Tank (18 ft. by 20 ft.)  
Existing Sound Fence for Generator (52 feet long, 8 feet high)

8. Existing Sewage Disposal Overboard Discharge  
(Maine Department of Environmental Protection Waste Discharge License #W006545-40-B-R)  
Proposed Advanced Wastewater Treatment System/Sewage Disposal Overboard Discharge  
Proposed Complete Non-engineered System
9. The “Monhegan House” property, formerly owned by Victor Lord, Jean Lord and Zoe Zanidakis, is developed with a non-conforming hotel and accessory structures including the “Lobster Pot” building, the “Novelty” building, and the “Swallow's Nest” building, all constructed prior to the inception of the Commission. There is an unnamed brook which transects the property and flows underneath the Monhegan House. The property is located at the corner of Horn's Hill Road and Main Road. There is a right-of-way located on the eastern side of the property which accesses another property.
10. Development Permit DP 3739, issued to Victor R. and Jean E. Lord on August 27, 1986, authorized: a 9 foot by 14 foot single story bathroom addition onto the “Lobster Pot” building; the conversion of a 8 foot by 12 foot portion of the first floor of the “Novelty” building into a food take-out facility; the addition of a 6 foot by 6 foot uncovered deck onto the “Novelty” building; and the establishment of a 40 seat restaurant in the “Monhegan House”.
11. Amendment A to Development Permit DP 3739, issued to Victor R. and Jean E. Lord on October 21, 1986, authorized a change in dimensions of the 6 foot by 6 foot uncovered deck permitted under Development Permit DP 3739 to an 8 foot by 14 foot uncovered deck.
12. A Certificate of Compliance for Development Permit DP 3739 was issued on May 14, 1987.
13. Amendment B to Development Permit DP 3739, issued to Victor R. and Jean E. Lord on November 24, 1993, authorized after-the-fact approval for the conversion of a generator storage building into a one bedroom bunkhouse known as the “Swallow's Nest” building. Amendment B also authorized the reconstruction of a second story access stairway on the south side of the “Novelty” building and the construction of a 4 foot by 16 foot deck at the base of that stairway.
14. Amendment C to Development Permit DP 3739, issued to Jean E. Lord on August 11, 1995, reflected her sole ownership of the property and authorized the construction of a 3 foot wide, second story access stairway and entrance on the north side of the “Novelty” building and the construction of a 4 foot by 16 foot deck at the base of that stairway.

15. Amendment D to Development Permit DP 3739, issued to Zoe A. Zanidakis on May 10, 1996, transferred Development Permit DP 3739 into her name; authorized the conversion of three hotel rooms within the “Monhegan House” into employee bunkrooms, an employee bathroom, a customer bathroom, a storage room, and an office; construction of an exterior 5 foot by 50 foot walkway onto the “Monhegan House”; and construction of a 15 foot by 20 foot storage building.
16. Amendment E to Development Permit DP 3739, issued to Zoe A. Zanidakis at a meeting of the Commission held on July 17, 1996 in Rockland, Maine, granted after-the-fact approval for the construction of an 8.5 foot by 12 foot walk-in cooler addition onto the “Monhegan House”; and authorized the installation of a generator facility with fuel storage to provide electricity for structures located on the property.
17. A Certificate of Compliance for Amendment E to Development Permit DP 3739 was issued on April 15, 1997.
18. Amendment F to Development Permit DP 3739, issued to Zoe A. Zanidakis on April 24, 1997, authorized: a change in the dimensions of the 15 foot by 20 foot storage building permitted under Amendment D to Development Permit DP 3739 to a 20 foot by 20 foot storage building; enclosure of an existing 9 foot by 12 foot deck attached to the “Monhegan House” for storage and pantry space; construction of a 12 foot by 105 foot enclosed porch onto the “Monhegan House” for additional seating capacity for the restaurant; and construction of a 6 foot by 25 foot deck onto the “Lobster Pot” building.
19. Amendment G to Development Permit DP 3739, issued to Zoe A. Zanidakis on May 22, 1997, authorized the construction of a roofed shed over the generator facility and a sound barrier fence on three sides of the facility.
20. Amendment H to Development Permit DP 3739, issued to Holden Nelson on November 15, 2000, reflected the transfer of title of the property and Development Permit DP 3739 to his name and re-authorized the construction of the 12 foot by 105 foot enclosed porch onto the “Monhegan House” for additional seating capacity for the restaurant and the 6 foot by 25 foot deck onto the “Lobster Pot” building, as permitted under Amendment F to Development Permit DP 3739.
21. Amendment I to Development Permit DP 3739, issued to Holden and Susan Nelson on June 01, 2007, authorized the expansion of an existing 6 foot by 8 foot deck on the north side of the “Monhegan House” to 8 feet by 30 feet and authorized the reconstruct the existing porch on the south and west sides of the “Monhegan House”. The proposal included expanding the porch roof to cover the entire porch.
22. *Proposal Summary.* The Applicants now propose to install an advanced wastewater treatment system for the commercial development on the property as required by the Maine Department of Environmental Protection and to install a complete non-engineered subsurface wastewater disposal system to serve a 5-bedroom residential portion of the property and the seasonal public restrooms.

23. *Site Conditions and Background.* The Applicant's property is currently serviced by an overboard sewage disposal system which discharges to the Atlantic Ocean. The MDEP requires that system be eliminated or upgraded. A public water supply well is located on the property; the well requires a 300 foot radial setback from a disposal field. Soils on the property are thin or absent (ledge covered). A minor stream bisects the property and drains to the Meadow, the island's primary aquifer source of public potable water. Water meters indicate that during peak periods of use, water usage of the property is on the order of 1,500 gallons per day. Utilizing the location of the public water supply, the soil conditions, the location of the stream, the location of the Meadow and aquifer, and the water usage records, an on-site feasibility study was performed to see whether a subsurface wastewater disposal system could be designed for the property to replace the overboard discharge system.
24. *Recommendations.* The study revealed that suitable soils which meet the entire properties wastewater disposal needs and meet the minimum requirements for a conventional system compliant with the State of Maine's Subsurface Waste Wastewater Disposal Rules, were absent on the property; therefore, the disposal needs were separated into two categories: an advanced wastewater treatment system for the main commercial uses on the property; and a complete non-engineered system for the residential and remaining uses on the property.
- A. Advanced Wastewater Treatment System. It was determined that the best wastewater management option for the commercial portion of the property would be to maintain the overboard discharge but incorporate best available treatment technology into the system. The new advanced system would include grease traps, multiple primary septic tanks with a capacity 1.5 times the design flow, an advanced treatment aeration system, and a disinfection treatment unit to eliminate any residual bacteria prior to overboard discharge. The area to be filled and graded for the installation of the system would be: 20 feet by 60 feet in size; within a P-AR subdistrict; within a P-SL subdistrict; and setback back approximately 26 feet from the unnamed minor flowing water which flows underneath the Monhegan House and bisects the 47,793 square foot lot. No other location on the lot could be found for the placement of the advanced wastewater treatment system; the system would connect into the overboard discharge.
- B. Complete Non-engineered System. In addition, the Applicants propose to install a complete non-engineered subsurface wastewater disposal system to serve a 5-bedroom residential portion of the property and the seasonal public restrooms. The area to be filled and graded for the installation of the system would be: approximately 18 feet by 50 feet in size; set back at least 75 feet from the unnamed minor flowing water which flows underneath the Monhegan House and bisects the lot; and within a P-AR subdistrict. No location outside the P-AR subdistrict could be found for the placement of the system.
25. *Erosion and Sedimentation Control.* The Applicants stated that erosion control best management practices would be implemented in accordance with the Commission's Standards and the Maine Department of Environmental Protection's, *Maine Erosion and Sediment Control BMP's*. The Applicants' contractor would use standard construction techniques and erosion and sediment controls such as mulch, hay bales and silt fence to

stabilize disturbed soils and prevent sediment from leaving the site, entering the unnamed stream or the Meadow.

26. According to Section 10.23,B,3,d,(3) of the Commission's *Land Use Districts and Standards*, (Standards or *Ch. ...*) filling and grading, except as provided in Section 10.23,B,3,b, may be allowed within P-AR subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.
27. According to Section 10.23,L,3,c,(7) of Commission's Standards, filling and grading which is not in conformance with the standards in Section 10.27,F may be allowed within P-SL 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.
28. According to Section 10.27,F of the Commission's Standards, filling and grading activities 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.
29. According to Section 10.27,F,5 of the Commission's Standards, where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in Table 10.27,F-1.

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

30. The facts are otherwise as represented in Development Permit application DP 3739, subsequent amendment requests, and supporting documents.

**Based upon the above FINDINGS and the following ANALYSIS, the Commission CONCLUDES that:**

1. The purpose of the P-AR subdistrict is to protect the quantity and quality of ground water supply used or potentially available for human or industrial consumption. P-AR subdistricts are described as areas identified by the Commission as having soil rated as highly permeable and/or surficial geologic units that are highly permeable and are hydrologically connected through highly fractured bedrock units to a ground water supply which is currently, or anticipated to be, used for public, industrial or agricultural purposes, or areas identified by the Commission as aquifer recharge areas based on studies by appropriate qualified persons or agencies where the Commission determines that such areas warrant water quality protection (*Ch. 10.23,B,1 and 2*).

Both proposed sewage disposal system would be located within the (P-AR) Aquifer Protection Subdistrict established by the Commission in 1990 to protect the quantity and quality of the island's primary source of public potable water, otherwise known as the Meadow. The Meadow is a nine acre bog wetland underlain by an approximately 282 acre sand deposit aquifer and, although some individual drilled wells, dug wells, and cisterns are also utilized, it serves as the principal drinking water supply for the island. Development in this subdistrict must be carefully considered. Additionally, the advanced treatment system would be located within the P-SL subdistrict which bisects the property. The unnamed stream discharges to the Meadow.

For this development, the Applicants must show for both sewage disposal systems, and the filling and grading associated with the installation of both systems, that there is no alternative site which is both suitable to the proposed use and reasonably available. The Applicants must further show that the use of both sewage disposal systems, and the filling and grading associated with the installation of both systems, can be buffered from the aquifer. Lastly, for the advance treatment system, the Applicants must additionally show by a preponderance of the evidence that the filling and grading shall be conducted in a manner which produces no undue adverse impact upon the unnamed stream.

2. The Applicants have shown in their feasibility study that there is no other alternative but to install an advance treatment system to adequately deal with the wastewater from the commercial development on the property. Further, review of the lot indicates that because of the size of the lot, the location of the public water well and the existing development on the lot, there is no other location for the advance treatment system but the one chosen. Additionally, the site evaluator found no other location that could be used for the installation of the complete non-engineered subsurface wastewater disposal system to serve the 5 bedroom residential portion of the property and the seasonal public restrooms.

Therefore, the Commission concludes that both the filling and grading and the two sewage disposal systems meet the special exception no alternative location criteria of the Section 10.23,B,3,d,(3) of the Commission's Standards.

3. The wastewater from the advanced treatment system will continue to overboard discharge to the Ocean; therefore, it is not anticipated that there will be impacts to the unnamed stream, Meadow, or underlying aquifer. Additionally, the complete non-engineered subsurface wastewater disposal system has been designed to be in compliance with the State of Maine Wastewater Disposal Rules and it is not anticipated that there will be impacts to the unnamed stream, Meadow, or underlying aquifer from this system. Therefore, the Commission concludes that, as long as both system remain functioning properly, they will meet the buffering criteria of Section 10.23,B,3,d,(3) of the Commission's Standards.
4. The Applicants have stated that their contractor will use standard construction techniques and erosion and sediment controls such as mulch, hay bales and silt fence to stabilize disturbed soils and prevent sediment from leaving the site, entering the unnamed stream or the Meadow. Therefore, the Commission concludes that, as long as erosion control methods are installed and maintained throughout the project, the proposal will be conducted in a manner which produces no undue adverse impact upon the unnamed stream or Meadow and the proposal will meet the no undue adverse impact criteria of Section 10.27,F of the Commission's Standards.
5. 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.

**Therefore, the staff approves the request of Araminta's Dream LLC with the following Conditions:**

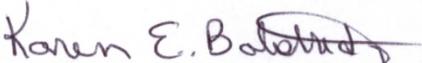
1. The *Standard Conditions of Approval for All Development Permits* (ver. 04/04), a copy of which is attached.
2. Except as provided for in this permit, all activities shall be in conformance with the Standards for: *Erosion and Sedimentation Control (Ch. 10.25,M)*; *Vegetation Clearing, (Ch. 10.27,B)*; *Filling and Grading, (Ch. 10.27,F)*; and the *Guidelines for Vegetative Stabilization*, Appendix B of the Commission's Standards, revised September 01, 2013, copies of which are attached.
3. Where soil is proposed to be disturbed, erosion and sedimentation control structures, including but not limited to silt fences, sediment traps, settling basins, water bars, and hay bales must be installed prior to commencement of construction. Measures to control erosion during and after construction, including but not limited to hay mulch, re-seeding and water bars, must be employed. Once implemented or put in place, erosion control devices and measures must be maintained to insure proper functioning. Disturbed areas reseeded and stabilized with mulch, shall achieve and maintain 85% vegetative cover; in

areas where re-vegetation is not initially successful, additional measure to control erosion and sedimentation must be undertaken as often as necessary to be effective.

4. Both waste treatment systems must be installed entirely within the boundary lines of the Permittees' property.
5. Installation, use, and maintenance of the Advanced Wastewater Treatment System and the Complete Non-engineered System must be in compliance with all the applicable criteria of the Maine Subsurface Wastewater Disposal Rules and any other governing rules and regulations.
6. The Permittees shall secure and comply with all other applicable licenses, permits, and authorizations of all federal, state and local agencies.
7. Except as provided for in this permit, all Conditions of Development Permit DP 3739 and subsequent Amendments A through I shall remain in effect.

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 BANGOR, MAINE, THIS 20<sup>TH</sup> DAY OF MAY, 2015.

By:   
\_\_\_\_\_ *for* Nicholas D. Livesay, Executive Director

Existing Storage Shed (20 ft. by 20 ft.)  
Existing Generator Building (8 ft. by 20 ft.)  
Existing Fuel Tank with Cofferdam (8 ft. by 15 ft.)  
Existing Enclosure for Generator and Fuel Tank (18 ft. by 20 ft.)  
Existing Sound Fence for Generator (52 feet long, 8 feet high)

8. Existing Sewage Disposal Overboard Discharge  
(Maine Department of Environmental Protection Waste Discharge License #W006545-40-B-R)  
Proposed Advanced Wastewater Treatment System/Sewage Disposal Overboard Discharge  
Proposed Complete Non-engineered System
9. The “Monhegan House” property, formerly owned by Victor Lord, Jean Lord and Zoe Zanidakis, is developed with a non-conforming hotel and accessory structures including the “Lobster Pot” building, the “Novelty” building, and the “Swallow's Nest” building, all constructed prior to the inception of the Commission. There is an unnamed brook which transects the property and flows underneath the Monhegan House. The property is located at the corner of Horn's Hill Road and Main Road. There is a right-of-way located on the eastern side of the property which accesses another property.
10. Development Permit DP 3739, issued to Victor R. and Jean E. Lord on August 27, 1986, authorized: a 9 foot by 14 foot single story bathroom addition onto the “Lobster Pot” building; the conversion of a 8 foot by 12 foot portion of the first floor of the “Novelty” building into a food take-out facility; the addition of a 6 foot by 6 foot uncovered deck onto the “Novelty” building; and the establishment of a 40 seat restaurant in the “Monhegan House”.
11. Amendment A to Development Permit DP 3739, issued to Victor R. and Jean E. Lord on October 21, 1986, authorized a change in dimensions of the 6 foot by 6 foot uncovered deck permitted under Development Permit DP 3739 to an 8 foot by 14 foot uncovered deck.
12. A Certificate of Compliance for Development Permit DP 3739 was issued on May 14, 1987.
13. Amendment B to Development Permit DP 3739, issued to Victor R. and Jean E. Lord on November 24, 1993, authorized after-the-fact approval for the conversion of a generator storage building into a one bedroom bunkhouse known as the “Swallow's Nest” building. Amendment B also authorized the reconstruction of a second story access stairway on the south side of the “Novelty” building and the construction of a 4 foot by 16 foot deck at the base of that stairway.
14. Amendment C to Development Permit DP 3739, issued to Jean E. Lord on August 11, 1995, reflected her sole ownership of the property and authorized the construction of a 3 foot wide, second story access stairway and entrance on the north side of the “Novelty” building and the construction of a 4 foot by 16 foot deck at the base of that stairway.

15. Amendment D to Development Permit DP 3739, issued to Zoe A. Zanidakis on May 10, 1996, transferred Development Permit DP 3739 into her name; authorized the conversion of three hotel rooms within the “Monhegan House” into employee bunkrooms, an employee bathroom, a customer bathroom, a storage room, and an office; construction of an exterior 5 foot by 50 foot walkway onto the “Monhegan House”; and construction of a 15 foot by 20 foot storage building.
16. Amendment E to Development Permit DP 3739, issued to Zoe A. Zanidakis at a meeting of the Commission held on July 17, 1996 in Rockland, Maine, granted after-the-fact approval for the construction of an 8.5 foot by 12 foot walk-in cooler addition onto the “Monhegan House”; and authorized the installation of a generator facility with fuel storage to provide electricity for structures located on the property.
17. A Certificate of Compliance for Amendment E to Development Permit DP 3739 was issued on April 15, 1997.
18. Amendment F to Development Permit DP 3739, issued to Zoe A. Zanidakis on April 24, 1997, authorized: a change in the dimensions of the 15 foot by 20 foot storage building permitted under Amendment D to Development Permit DP 3739 to a 20 foot by 20 foot storage building; enclosure of an existing 9 foot by 12 foot deck attached to the “Monhegan House” for storage and pantry space; construction of a 12 foot by 105 foot enclosed porch onto the “Monhegan House” for additional seating capacity for the restaurant; and construction of a 6 foot by 25 foot deck onto the “Lobster Pot” building.
19. Amendment G to Development Permit DP 3739, issued to Zoe A. Zanidakis on May 22, 1997, authorized the construction of a roofed shed over the generator facility and a sound barrier fence on three sides of the facility.
20. Amendment H to Development Permit DP 3739, issued to Holden Nelson on November 15, 2000, reflected the transfer of title of the property and Development Permit DP 3739 to his name and re-authorized the construction of the 12 foot by 105 foot enclosed porch onto the “Monhegan House” for additional seating capacity for the restaurant and the 6 foot by 25 foot deck onto the “Lobster Pot” building, as permitted under Amendment F to Development Permit DP 3739.
21. Amendment I to Development Permit DP 3739, issued to Holden and Susan Nelson on June 01, 2007, authorized the expansion of an existing 6 foot by 8 foot deck on the north side of the “Monhegan House” to 8 feet by 30 feet and authorized the reconstruct the existing porch on the south and west sides of the “Monhegan House”. The proposal included expanding the porch roof to cover the entire porch.
22. *Proposal Summary.* The Applicants now propose to install an advanced wastewater treatment system for the commercial development on the property as required by the Maine Department of Environmental Protection and to install a complete non-engineered subsurface wastewater disposal system to serve a 5-bedroom residential portion of the property and the seasonal public restrooms.

23. *Site Conditions and Background.* The Applicant's property is currently serviced by an overboard sewage disposal system which discharges to the Atlantic Ocean. The MDEP requires that system be eliminated or upgraded. A public water supply well is located on the property; the well requires a 300 foot radial setback from a disposal field. Soils on the property are thin or absent (ledge covered). A minor stream bisects the property and drains to the Meadow, the island's primary aquifer source of public potable water. Water meters indicate that during peak periods of use, water usage of the property is on the order of 1,500 gallons per day. Utilizing the location of the public water supply, the soil conditions, the location of the stream, the location of the Meadow and aquifer, and the water usage records, an on-site feasibility study was performed to see whether a subsurface wastewater disposal system could be designed for the property to replace the overboard discharge system.
24. *Recommendations.* The study revealed that suitable soils which meet the entire properties wastewater disposal needs and meet the minimum requirements for a conventional system compliant with the State of Maine's Subsurface Waste Wastewater Disposal Rules, were absent on the property; therefore, the disposal needs were separated into two categories: an advanced wastewater treatment system for the main commercial uses on the property; and a complete non-engineered system for the residential and remaining uses on the property.
- A. Advanced Wastewater Treatment System. It was determined that the best wastewater management option for the commercial portion of the property would be to maintain the overboard discharge but incorporate best available treatment technology into the system. The new advanced system would include grease traps, multiple primary septic tanks with a capacity 1.5 times the design flow, an advanced treatment aeration system, and a disinfection treatment unit to eliminate any residual bacteria prior to overboard discharge. The area to be filled and graded for the installation of the system would be: 20 feet by 60 feet in size; within a P-AR subdistrict; within a P-SL subdistrict; and setback back approximately 26 feet from the unnamed minor flowing water which flows underneath the Monhegan House and bisects the 47,793 square foot lot. No other location on the lot could be found for the placement of the advanced wastewater treatment system; the system would connect into the overboard discharge.
- B. Complete Non-engineered System. In addition, the Applicants propose to install a complete non-engineered subsurface wastewater disposal system to serve a 5-bedroom residential portion of the property and the seasonal public restrooms. The area to be filled and graded for the installation of the system would be: approximately 18 feet by 50 feet in size; set back at least 75 feet from the unnamed minor flowing water which flows underneath the Monhegan House and bisects the lot; and within a P-AR subdistrict. No location outside the P-AR subdistrict could be found for the placement of the system.
25. *Erosion and Sedimentation Control.* The Applicants stated that erosion control best management practices would be implemented in accordance with the Commission's Standards and the Maine Department of Environmental Protection's, *Maine Erosion and Sediment Control BMP's*. The Applicants' contractor would use standard construction techniques and erosion and sediment controls such as mulch, hay bales and silt fence to

stabilize disturbed soils and prevent sediment from leaving the site, entering the unnamed stream or the Meadow.

26. According to Section 10.23,B,3,d,(3) of the Commission's *Land Use Districts and Standards*, (Standards or *Ch. ...*) filling and grading, except as provided in Section 10.23,B,3,b, may be allowed within P-AR subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) there is no alternative site which is both suitable to the proposed use and reasonably available to the applicant; (b) the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible; and (c) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.
27. According to Section 10.23,L,3,c,(7) of Commission's Standards, filling and grading which is not in conformance with the standards in Section 10.27,F may be allowed within P-SL 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.
28. According to Section 10.27,F of the Commission's Standards, filling and grading activities 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.
29. According to Section 10.27,F,5 of the Commission's Standards, where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in Table 10.27,F-1.

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

30. The facts are otherwise as represented in Development Permit application DP 3739, subsequent amendment requests, and supporting documents.

**Based upon the above FINDINGS and the following ANALYSIS, the Commission CONCLUDES that:**

1. The purpose of the P-AR subdistrict is to protect the quantity and quality of ground water supply used or potentially available for human or industrial consumption. P-AR subdistricts are described as areas identified by the Commission as having soil rated as highly permeable and/or surficial geologic units that are highly permeable and are hydrologically connected through highly fractured bedrock units to a ground water supply which is currently, or anticipated to be, used for public, industrial or agricultural purposes, or areas identified by the Commission as aquifer recharge areas based on studies by appropriate qualified persons or agencies where the Commission determines that such areas warrant water quality protection (*Ch. 10.23,B,1 and 2*).

Both proposed sewage disposal system would be located within the (P-AR) Aquifer Protection Subdistrict established by the Commission in 1990 to protect the quantity and quality of the island's primary source of public potable water, otherwise known as the Meadow. The Meadow is a nine acre bog wetland underlain by an approximately 282 acre sand deposit aquifer and, although some individual drilled wells, dug wells, and cisterns are also utilized, it serves as the principal drinking water supply for the island. Development in this subdistrict must be carefully considered. Additionally, the advanced treatment system would be located within the P-SL subdistrict which bisects the property. The unnamed stream discharges to the Meadow.

For this development, the Applicants must show for both sewage disposal systems, and the filling and grading associated with the installation of both systems, that there is no alternative site which is both suitable to the proposed use and reasonably available. The Applicants must further show that the use of both sewage disposal systems, and the filling and grading associated with the installation of both systems, can be buffered from the aquifer. Lastly, for the advance treatment system, the Applicants must additionally show by a preponderance of the evidence that the filling and grading shall be conducted in a manner which produces no undue adverse impact upon the unnamed stream.

2. The Applicants have shown in their feasibility study that there is no other alternative but to install an advance treatment system to adequately deal with the wastewater from the commercial development on the property. Further, review of the lot indicates that because of the size of the lot, the location of the public water well and the existing development on the lot, there is no other location for the advance treatment system but the one chosen. Additionally, the site evaluator found no other location that could be used for the installation of the complete non-engineered subsurface wastewater disposal system to serve the 5 bedroom residential portion of the property and the seasonal public restrooms.

Therefore, the Commission concludes that both the filling and grading and the two sewage disposal systems meet the special exception no alternative location criteria of the Section 10.23,B,3,d,(3) of the Commission's Standards.

3. The wastewater from the advanced treatment system will continue to overboard discharge to the Ocean; therefore, it is not anticipated that there will be impacts to the unnamed stream, Meadow, or underlying aquifer. Additionally, the complete non-engineered subsurface wastewater disposal system has been designed to be in compliance with the State of Maine Wastewater Disposal Rules and it is not anticipated that there will be impacts to the unnamed stream, Meadow, or underlying aquifer from this system. Therefore, the Commission concludes that, as long as both system remain functioning properly, they will meet the buffering criteria of Section 10.23,B,3,d,(3) of the Commission's Standards.
4. The Applicants have stated that their contractor will use standard construction techniques and erosion and sediment controls such as mulch, hay bales and silt fence to stabilize disturbed soils and prevent sediment from leaving the site, entering the unnamed stream or the Meadow. Therefore, the Commission concludes that, as long as erosion control methods are installed and maintained throughout the project, the proposal will be conducted in a manner which produces no undue adverse impact upon the unnamed stream or Meadow and the proposal will meet the no undue adverse impact criteria of Section 10.27,F of the Commission's Standards.
5. 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.

**Therefore, the staff approves the request of Araminta's Dream LLC with the following Conditions:**

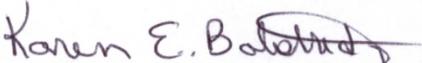
1. The *Standard Conditions of Approval for All Development Permits* (ver. 04/04), a copy of which is attached.
2. Except as provided for in this permit, all activities shall be in conformance with the Standards for: *Erosion and Sedimentation Control (Ch. 10.25,M)*; *Vegetation Clearing, (Ch. 10.27,B)*; *Filling and Grading, (Ch. 10.27,F)*; and the *Guidelines for Vegetative Stabilization*, Appendix B of the Commission's Standards, revised September 01, 2013, copies of which are attached.
3. Where soil is proposed to be disturbed, erosion and sedimentation control structures, including but not limited to silt fences, sediment traps, settling basins, water bars, and hay bales must be installed prior to commencement of construction. Measures to control erosion during and after construction, including but not limited to hay mulch, re-seeding and water bars, must be employed. Once implemented or put in place, erosion control devices and measures must be maintained to insure proper functioning. Disturbed areas reseeded and stabilized with mulch, shall achieve and maintain 85% vegetative cover; in

areas where re-vegetation is not initially successful, additional measure to control erosion and sedimentation must be undertaken as often as necessary to be effective.

4. Both waste treatment systems must be installed entirely within the boundary lines of the Permittees' property.
5. Installation, use, and maintenance of the Advanced Wastewater Treatment System and the Complete Non-engineered System must be in compliance with all the applicable criteria of the Maine Subsurface Wastewater Disposal Rules and any other governing rules and regulations.
6. The Permittees shall secure and comply with all other applicable licenses, permits, and authorizations of all federal, state and local agencies.
7. Except as provided for in this permit, all Conditions of Development Permit DP 3739 and subsequent Amendments A through I shall remain in effect.

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 BANGOR, MAINE, THIS 20<sup>TH</sup> DAY OF MAY, 2015.

By:   
\_\_\_\_\_ *for* Nicholas D. Livesay, Executive Director



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

**STANDARD CONDITIONS OF APPROVAL**  
**FOR ALL DEVELOPMENT PERMITS**

1. The permit certificate must be posted in a visible location on your property during development of the site and construction of all structures approved by this permit.
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 therefrom is subject to the 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. Construction activities authorized in this permit must be substantially started within two (2) years of the effective date of this permit and substantially completed within five (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.
4. The recipient of this permit ("permittee") shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, natural resources protection and air and water pollution control regulations and the Subsurface Wastewater Disposal Rules of the Maine Department of Environmental Protection and the Maine Department of Human Services.
5. Setbacks of all structures, including accessory structures, from waterbodies, roads and property boundary lines must be as specified in conditions of the permit approval.
6. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and advised of the conditions of approval. The new owner or lessee must contact the Land Use Planning Commission to have the permit transferred into his/her name and to reflect any changes proposed from the original application and permit approval.
7. 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.
8. The permittee shall not advertise Land Use Planning Commission approval without first obtaining Commission approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.
9. Once construction is complete, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.

*Administrative Policy Revised 04/04*

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**M. EROSION AND SEDIMENTATION CONTROL**

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The standards set forth below must be met for all development that involves filling, grading, excavation or other similar activities which result in unstabilized soil conditions.

**1. General Standards.**

- a.** Soil disturbance shall be kept to a practicable minimum. Development shall be accomplished in such a manner that the smallest area of soil is exposed for the shortest amount of time possible. Operations that result in soil disturbance shall be avoided or minimized in sensitive areas such as slopes exceeding 15% and areas that drain directly into water bodies, drainage systems, water crossings, or wetlands. If soil disturbance is unavoidable, it shall occur only if best management practices or other soil stabilization practices equally effective in overcoming the limitations of the site are implemented.
- b.** Whenever sedimentation is caused by stripping of vegetation, regrading, or other construction-related activities, sediment shall be removed from runoff water before it leaves the site so that sediment does not enter water bodies, drainage systems, water crossings, wetlands, or adjacent properties.
- c.** Soil disturbance shall be avoided or minimized when the ground is frozen or saturated. If soil disturbance during such times is unavoidable, additional measures shall be implemented to effectively stabilize disturbed areas, in accordance with an approved erosion and sedimentation control plan.

**2. Design Standards.**

- a.** Permanent and temporary erosion and sedimentation control measures shall meet the standards and specifications of the “Maine Erosion and Sediment Control BMPs” (Maine Department of Environmental Protection, March 2003) or other equally effective practices. Areas of disturbed soil shall be stabilized according to the “Guidelines for Vegetative Stabilization” (Appendix B of this chapter) or by alternative measures that are equally effective in stabilizing disturbed areas.
- b.** Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all sedimentation control devices have been installed and stabilized.
- c.** Existing catch basins and culverts on or adjacent to the site shall be protected from sediment by the use of hay bale check dams, silt fences or other effective sedimentation control measures.
- d.** If streams will be crossed, special measures shall be undertaken to protect the stream, as set forth in Section 10.27,D.
- e.** Topsoil shall not be removed from the site except for that necessary for the construction of roads, parking areas, building excavations and other construction-related activities. Topsoil shall be stockpiled at least 100 feet from any water body.
- f.** Effective, temporary stabilization of all disturbed and stockpiled soil shall be completed at the end of each workday.

- g.** Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
- h.** All temporary sedimentation and erosion control measures shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been implemented.

### **3. Erosion and Sedimentation Control Plan.**

- a.** For development that occurs when the ground is frozen or saturated or that creates a disturbed area of one acre or more, the applicant must submit an erosion and sedimentation control plan for Commission approval in accordance with the requirements of Section 10.25,M,3,b,(2).
- b.** A Commission approved erosion and sedimentation control plan in conformance with these standards shall be implemented throughout the course of the project, including site preparation, construction, cleanup, and final site stabilization. The erosion and sedimentation control plan shall include the following:
  - (1) For activities that create a disturbed area of less than one acre:
    - (a) A drawing illustrating general land cover, general slope and other important natural features such as drainage ditches and water bodies.
    - (b) A sequence of construction of the development site, including clearing, grading, construction, and landscaping.
    - (c) A general description of all temporary and permanent control measures.
    - (d) Provisions for the continued maintenance of all control devices or measures.
  - (2) For activities that create a disturbed area of one acre or more:
    - (a) A site plan identifying vegetation type and location, slopes, and other natural features such as streams, gullies, berms, and drainage ditches. Depending on the type of disturbance and the size and location of the disturbed area, the Commission may require a high intensity soil survey covering all or portions of the disturbed area.
    - (b) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
    - (c) A detailed description of all temporary and permanent erosion and sedimentation control measures, including, without limitation, seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
    - (d) Provisions for the continued maintenance and inspection of erosion and sedimentation control devices or measures, including estimates of the cost of maintenance and plans for meeting those expenses, and inspection schedules.

**4. Inspection.**

- a.** For subdivisions and commercial, industrial or other non-residential development that occurs when the ground is frozen or saturated or that creates a disturbed area of one acre or more, provision shall be made for the inspection of project facilities, in accordance with Section 10.25,M,4,a,(1) or (2) below:
  - (1) The applicant shall hire a contractor certified in erosion control practices by the Maine Department of Environmental Protection to install all control measures and conduct follow-up inspections; or
  - (2) The applicant shall hire a Maine Registered Professional Engineer to conduct follow-up inspections.
- b.** The purpose of such inspections shall be to determine the effectiveness of the erosion and sedimentation control plan and the need for additional control measures.
- c.** Inspections shall be conducted in accordance with a Commission approved erosion and sedimentation control plan and the following requirements.
  - (1) Inspections shall be conducted at least once a week and after each rainfall event accumulating more than ½ inch of precipitation, until all permanent control measures have been effectively implemented. Inspections shall also be conducted (a) at the start of construction or land-disturbing activity, (b) during the installation of sedimentation and erosion control measures, and (c) at the completion of final grading or close of the construction season.
  - (2) All inspections shall be documented in writing and made available to the Commission upon request. Such documentation shall be retained by the applicant for at least six months after all permanent control measures have been effectively implemented.
- d.** Notwithstanding Section 10.25,M,4,a, development may be exempt from inspection if the Commission finds that an alternative, equally effective method will be used to determine the overall effectiveness of the erosion and sedimentation control measures.

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## B. VEGETATION CLEARING

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Vegetation clearing activities 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.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
  - a. 50 feet of the right-of-way or similar boundary of any public roadway,
  - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and
  - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
  - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a “well-distributed stand of trees” adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a “well-distributed stand of trees” shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

<b>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</b>	<b>Points</b>
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, “other natural vegetation” is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
  - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
  - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
  4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing water, body of standing water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

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**F. FILLING AND GRADING**


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The following requirements for filling and grading shall apply in all subdistricts except as otherwise provided herein.

Filling and grading activities 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.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

1. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
2. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistricts which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrict areas, the provisions of Section 10.27,F,4 and 6 shall apply; and
3. Clearing of areas to be filled or graded is subject to the clearing standards of Section 10.27,B; and
4. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and
5. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in the following table:

<b>Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)</b>	<b>Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)</b>
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

6. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

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## APPENDIX B GUIDELINES FOR VEGETATIVE STABILIZATION

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Areas of disturbed soil, including but not limited to areas that are filled, graded or otherwise disturbed during construction projects, should be stabilized according to the following guidelines. These guidelines do not apply to forest management activities and are not strict regulations, and therefore alternative methods of stabilizing soil may be used. However, whenever soil stabilization or stabilization of disturbed areas is required by regulation or by the terms of individual permits, individuals must assure that either these guidelines, or measures equally effective in stabilizing disturbed areas of soil are employed.

The goals to be achieved by proper stabilization are the avoidance of accelerated soil erosion and the avoidance of sedimentation or pollution of water bodies. All stabilization measures must be maintained so that grass or other vegetation remains intact and healthy, otherwise these measures will be ineffective.

In general:

1. Sterile soils such as sands and gravels should be covered with 2 to 4 inches of soil medium that will support vegetative growth.
2. Disturbed soil areas should be graded such that runoff water is either minimized or eliminated from running over the site.
3. Disturbed areas which can be seeded between May 1 and September 15 should be prepared and seeded during that period.
4. Disturbed areas which cannot be seeded between May 1 and September 15 should be mulched with hay, straw or some other suitable material to keep them as stable as possible over the winter, and particularly during spring runoff the following year. For over-wintering, mulch must be tacked down, as it is easily blown around on frozen ground, leaving areas of soil exposed. Mulch hay should be applied at a depth of 4 inches, or between 150 to 200 lbs. per 1,000 square feet, over the disturbed site. Mulched over-wintered areas should be prepared and seeded the following spring as soon as conditions allow.

It is not recommended that disturbed areas be seeded after September 15th (“dormant seeding”) for a number of reasons. Among the reasons, seeding rates are doubled, which is more expensive; timing is critical to ensure that germination does not occur before the following spring; there is an increased risk of sedimentation because sites are generally wetter in the fall; the thicker mulch must be removed in the spring in order to allow the germinating seed to survive; and the application of fertilizer during this time increases the risk of leaching or runoff loss of nutrients into water bodies.

5. Seeding preparation, in addition to providing a soil medium that will support vegetative growth if the site is sterile, includes the application of lime and fertilizer, which should be lightly raked prior to seeding. After the area is seeded, it should be lightly watered and then mulched with 70 to 90 lbs. (2 standard bales) per 1,000 square feet of weed free hay or straw to protect the seed. Keep the site stable and moist, and allow the seed to germinate and grow.
6. For accurate liming as well as fertilization, it is recommended that you have the soil analyzed to determine the specific nutrient requirements of your site.

Lime should be applied at a rate of approximately 140 pounds to 1,000 square feet of area. This rate may vary depending on the natural conditions of the soil on the site. 10-5-20 fertilizer should be applied at a rate of 18.5 lbs. per 1,000 square feet of area. Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection’s recommendations.

7. In shoreland areas in particular, fertilizers should be of the "quick release" low phosphorus type, such as 12-4-8 mixtures applied at a rate of 8 pounds per 1,000 square feet of area. If you are near water bodies, it is important not to apply more than approximately this amount of fertilizer, as excess may be washed into streams or lakes and contribute to lowering water quality and such things as algae blooms in lakes.

Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

Fertilizers should never be applied right before thunder storms or before spring runoff, because the great amounts of water running over the land will wash the fertilizer, particularly phosphorus, into water bodies. However, a light watering after the fertilizer is applied will help bind the phosphorus to the soil.

8. There are many combinations of grasses that can be used. One combination particularly good for providing soil stability, generally referred to as the Soil Conservation Mixture, consists of:  
(Proportions, by weight)

Creeping Red Fescue	35%	Kentucky Bluegrass	25%
Annual Rye Grass	15%	Perennial Rye Grass	10%
Red Top	10%	White Dutch Clover	5%
* Oats - See Below			

This seed would be applied at a rate of 1 pound per 1,000 square feet. These particular grasses do best if mowed no closer than 2-1/2 to 3 inches from the ground. Of course, other seed mixtures are available.

It is important, in choosing a mixture, to choose one suitable for the site being stabilized. There are many different types of seeding mixtures designed for particular site conditions such as shade, sun, and drainage. Any mix should contain some seed which germinates rapidly to provide the quickest stabilization possible while awaiting the germination of the remaining types.

- (\*) For quick germination, oats are very good. They germinate in 7 to 10 days. They should be planted at a rate of approximately 1 to 1-1/2 bushels per acre, in addition to the basic grass mixture. Oats should be mowed when they reach knee height to allow the germinating grasses to receive sunlight.

Alternatives:

As indicated above, other stabilization programs may be used, provided they are equivalently effective in stabilizing disturbed areas and preventing accelerated soil erosion and sedimentation of water bodies. Further assistance may be obtained, including in some cases site-specific recommendations, as follows:

- Local Soil and Water Conservation Districts
- The USDA Natural Resource Conservation Service
- Maine Department of Environmental Protection, Lakes Program
- Landscaping Professionals
- Reputable Lawn and Garden Supply Dealers

The following documents may provide valuable assistance to those developing a soil stabilization plan:

*Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices* (Cumberland County Soil & Water Conservation District and Maine Department of Environmental Protection, 1991)

*Strategy for Managing Nonpoint Source Pollution From Agricultural Sources and Best Management Guidelines* (NPS Agricultural Task Force, 1991)

*Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations, Best Management Practices* (Maine Forest Service, 1991)