



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

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COMMISSIONER

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PERMIT

AMENDMENT F TO DEVELOPMENT PERMIT DP 4066 BY SPECIAL EXCEPTION

The staff of the Maine Land Use Planning Commission (LUPC or Commission), after reviewing the application and supporting documents submitted by Tea Pond Lodge & Cabins LLC (Applicant) for Amendment F to Development Permit DP 4066 by Special Exception, finds the following facts:

1. Applicant: Tea Pond Lodge & Cabins LLC
Attn: Craig House and Sandra Lamontagne
PO Box 155
Eustis, Maine 04936
2. Date of Completed Application: July 22, 2015
3. Location of Proposal: Jim Pond Township, Franklin County, State of Maine
Maine Revenue Service Map FR010, Plan 01, as Lot 1.4
Franklin County Registry of Deeds: Book 3723; Page 62
4. Zoning: General Development Subdistrict (D-GN)
General Management Subdistrict (M-GN)
Great Pond Protection Subdistrict (P-GP)
Wetland Protection Subdistrict (P-WL)
Shoreland Protection Subdistrict (P-SL)
5. Lot Size: 42.25[±] acres - owned
6. Development: Recreational Lodging Facility, Level D – Expanded Access
(within a Geographic Allowance Area)
 - A. Principal Building(s): Proposed Owners' Dwelling/Office/Lodge (Previously the Owners' Dwelling/Office (Irregularly shaped-4,673 s.f.)
Existing Cabin #1 – (21 ft. by 20 ft. by 19 ft.) with
Existing Lake-side Covered Porch (7 ft. by 20 ft.)
Existing Cabin #2 (21 ft. by 21 ft. by 20 ft.) with
Existing Lake-side Covered Porch (10 ft. by 21 ft.) and
Existing Back Addition (4 ft. by 8 ft.)

Existing Cabin #3 (18 ft. by 16 ft. by 16 ft.) with
Existing Lake-side Covered Porch (7 ft. by 16 ft.)
Proposed Cabin #10 (Previously the Lodge/Dining/Kitchen (Irregularly
shaped-552 square feet) with
Existing Lake-side Covered Porch (8 ft. by 16 ft.)
Existing Cabin #4 (16 ft. by 30 ft.) with
Existing Back Addition (7 ft. by 9 ft.)
Existing Cabin #5 (18 ft. by 24 ft.) with
Existing East-side Covered Porch (16 ft. by 14 ft.) and
Existing Lake-side Covered Porch (6 ft. by 38 ft.)
Existing Cabin #7 (26 ft. by 30 ft.)
Existing Cabin #7 Outhouse (4 ft. by 4 ft.)
Existing Cabin #8 (21 ft. by 26 ft.)
Existing Cabin #9 (15 ft. by 29 ft.) with
Existing Covered Porch (5 ft. by 29 ft.)
Existing Cabin #9 Outhouse (5 ft. by 5 ft.)
Existing Bathhouse (10 ft. by 20 ft.)

B. Accessory Structure(s): Existing Cabin #7 Woodshed (5 ft. by 8 ft.)
Existing Cabin #9 Woodshed (6 ft. by 8 ft.)
Existing Woodshed #1 (8 ft. by 32 ft.) - To be removed
Existing Woodshed #2 (5 ft. by 25 ft.) - To be removed
Existing Woodshed #3 (40 ft. by 16 ft.) - To be removed
Existing Woodshed #4 (40 ft. by 16 ft.)
Proposed Woodshed #5 (12 ft. by 20 ft.)
Existing Generator Shed #1 (8 ft. by 10 ft.) - To be removed
Existing Boat Storage Shed #1 (6 ft. by 8 ft.) - To be removed
Proposed Boat Storage Shed #2 (8 ft. by 10 ft.)
Existing Canoe Rack #1 - To be removed
Existing Well Pump House #1 (8 ft. by 4 ft.)
Existing Fire Pump House #1 (3 ft. by 4 ft.)
Existing Electrical Utility Junction Shed (8 ft. by 13 ft.)
Existing Solar System Garage (40 ft. by 60 ft.)
Existing Retaining Wall #1 (4 to 6 ft. tall by 138 ft. long, L-shaped)
Existing Retaining Wall #2 (138 ft. long, Irregularly-shaped)
Existing Retaining Wall #3 (1 ft. by 24 ft.)
Proposed Fuel Storage Tank #1 – 500-1000 gallon (1 dispensing devise)

C. Septic System(s): Proposed Complete Non-engineered System (to serve
Owners' Dwelling/Office/Lodge, Cabins #1 through #5,
and Cabin #10)
Existing Cabin #7 Outhouse (4 ft. by 4 ft.)
Existing Cabin #9 Outhouse (5 ft. by 5 ft.) (serves Cabins #8 and #9)

7. Affected Waterbody: Tea Pond

The Commission has identified Tea Pond as a management class 7, resource class 1B, accessible, developed lake with the following resource ratings: significant fisheries resources, significant wildlife resources, outstanding physical resources.

SUMMARY OF ADMINISTRATIVE HISTORY

8. Historically, the subject property was developed as a pre-Commission commercial sporting camp complex. Development within the complex included a lodge with a kitchen and dining area, five rental cabins, a caretaker's cabin, a shed, and a bathhouse.
9. Development Permit DP 4066, issued to Tea Pond Camps, Inc. on June 26, 1990, authorized the expansion of the bathhouse, the installation of a drilled well, and the installation of a combined sewage disposal system to replace an existing pre-Commission cesspool.
10. Building Permit BP 7478, issued to Tea Pond Camps, Inc. on July 05, 1990, authorized the construction of a seasonal camp and shed and the installation of a combined sewage disposal system to be used by the owner of the complex.
11. Amendment A to Development Permit DP 4066, issued to Tea Pond Camps, Inc. on December 23, 1991, authorized the construction of a storage shed and a workshop.
12. Amendment B to Development Permit DP 4066, issued to Tea Pond Camps, Inc. on January 31, 1992, authorized a change to Condition #3 of Amendment A to Development Permit DP 4066 by changing the setback of the storage shed and workshop from the edge of the snowmobile trail from 75 feet to 25 feet.
13. Amendment C to Development Permit DP 4066, issued to Tea Pond Camps, Inc. on April 12, 2004, authorized the remodeling of cabins #1 through #5 to include bathrooms and kitchens with no expansion in footprint; the construction of a sewage disposal system to serve cabins #1 through #5; the change of use of the caretaker's cabin (Cabin #5), the seasonal camp permitted under Building Permit BP 7478 (Cabin #7), and the storage shed (Cabin #8) and the workshop (Cabin #9) permitted under Amendment A to Development Permit DP 4066 to rental cabins; additions to cabins #6 through #9; construction of four sewage disposal systems to serve cabins #6 through #9; removal of the bathhouse; construction of a 44 foot by 56 foot single family residence/office and combined sewage disposal system; and construction of a 40 foot by 60 foot garage.
14. Amendment D to Development Permit DP 4066, issued to Tea Pond Camps, Inc. on November 28, 2005, authorized a location switch between cabin #6 and the single family residence/office approved under Amendment C to Development Permit DP 4066. The permit also authorized changes to the combined sewage disposal systems and re-authorized the expansion of cabin #6 through #9 as originally approved by Amendment C to Development Permit DP 4066.

15. On February 23, 2015 staff of the Commission conducted an inspection of the development at the facility in response to a request for a Certificate of Compliance for Amendment D to Development Permit DP 4066 which was dated February 09, 2015. A list of potential violations was noted (reference Enforcement Case EC 15-09, active). Subsequently, the Applicants submitted a structure inventory to clarify the size, location and use of each structure in the development.
16. On March 27, 2015, staff issued a Notice of Violation for multiple violations associated with the development at the facility. In brief, those violations included:
 - A. construction of structures in noncompliance with setback requirements and without the required permits (Woodshed #1, Woodshed #2, Woodshed #3, Boat Storage Shed #1, Canoe Rack #1, Retaining Wall #1, and Retaining Wall #2);
 - B. relocation of a structure in noncompliance with setback requirements and without the required permit (Generator Shed #1);
 - C. relocation of a structure without the required permit (Solar System Garage);
 - D. construction of structures without the required permits (Electrical Utility Junction Shed, Fire Pump House, Retaining Wall #3).
17. On April 08, 2015, at a meeting of the Commission in Brewer, Maine, the Commission ratified an Administrative Settlement Agreement (Agreement) for Enforcement Case EC 15-09. In part, the Agreement allowed the landowners to keep Retaining Wall #1 and Retaining Wall #2 with conditions and required the landowners to remove Woodshed #1, Woodshed #2, Woodshed #3, Generator Shed #1, Boat Storage Shed #1, and Canoe Rack #1 from the property within a specified timeframe.
18. Amendment E to Development Permit DP 4066, issued to Tea Pond Camps, Inc. on April 28, 2015, granted after-the-fact permit approval for the construction of the Electrical Utility Junction Shed, Fire Pump House #1 and Retaining Wall #3, and after-the-fact approval for the change of construction location of the Solar System Garage. The permit also authorized permit approval to construct Woodshed #4.
19. Tea Pond Lodge & Cabins LLC purchased the property on April, 06, 2015.

SUMMARY OF KEY STANDARDS

20. Under the provisions of Section 10.02, 168 of the Commission's *Land Use Districts and Standards* (Standards or *Ch. 10...*), "Recreational Lodging Facilities" are defined as: Site improvements, a building or group of buildings, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. Recreational lodging facilities primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based. The term includes, but is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing. To be included in a recreational lodging facility, rental units must be served by an on-site attendant while guests are present. Related development that is located more than one half mile, measured in a straight line, from the nearest structure

providing guest services, such as dining, gathering places, retail, shower house, dumping station, check-in office, and equipment rental shall be considered a separate facility, unless the owner chooses to consider them as one facility. Caretaker or attendant housing will not be used to establish the one half mile distance unless no other guest services are provided. If no guest services are provided then all development on the regulatory parcel shall be considered part of the same facility and may be part of a facility on an adjoining parcel: For the purposes of Land Use Planning Commission rules, recreational lodging facilities are divided into five levels: [Levels A through E]...

Level B Facilities have low impacts on existing resources within the development site and surrounding areas. Level B facilities are specifically designated by *Ch. 10.27, Q,1* of the Commission's Standards.

Level D Facilities have moderate to high impacts on existing resources within the development site and surrounding areas. Level D facilities may provide limited on-site goods and/or services to meet the needs of guests, though these are not of a type, scale or design intended to meet the goods and services needs of the public at large that is not an overnight guest. The standards for these facilities are designed to allow larger-scale development while conserving the natural resource and recreation values of the development site and surrounding areas. Level D facilities are specifically designated by *Ch. 10.27, Q,1* of the Commission's Standards. A Level D facility characterized by any of the factors in *Ch. 10.27, Q,1, Table B* of the Commission's Standards is referred to as a "Level D – Expanded Access" facility. A Level D facility may be located in a geographic allowance area as provided in *Ch. 10.27, Q,3* of the Commission's Standards.

21. *Recreational Lodging Facility Level Determination.* Note: when elements of a recreational lodging facility are located within multiple subdistricts, at least one of the subdistricts (the primary subdistrict) must allow the level of recreational lodging facility proposed as a whole. Each other subdistrict (the secondary subdistrict(s)) may contain, singularly, only those elements of the facility that are allowed within that subdistrict.

A. Primary Subdistrict Standards:

- (1) Level D – Expanded Access Recreational Lodging Facilities (inside or outside geographic allowance area) may be allowed within a D-GN subdistrict as a special exception, either singly or in combination, 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 of the Commission's Standards, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive to such increased traffic and activity are adequately protected *Ch. 10.21, C,3,d,(3),(a)*.

- (2) The applicable Level D – Expanded Access recreational lodging facilities factors for this proposal include the following (*Ch. 10.27, Q, I, Table A and B*):
- a) on-site recreation activities, features, and/or services as defined in Ch. 10.02,167 that produce some noise, odor and are partially screened;
 - b) may be served by public utilities and/or indoor plumbing;
 - c) up to 20,000 square feet of principal buildings;
 - d) up to 90,000 square feet of clearing footprint within 250 feet of Tea Pond;
 - e) up to 500 square feet of retail or not more than 10% of the floor area of the principal buildings, whichever is larger (*Expanded Access Adjustment*);
 - f) dining amenities, fuel sales, and recreation activities, features and /or services as defined in Ch. 10.02,167, which are available to guests and the public (*Expanded Access Adjustment*); and
 - g) overnight occupancy for up to 400 persons (*Expanded Access Adjustment*).

B. Secondary Subdistrict(s) Standards:

- (1) Level B recreational lodging facilities may be allowed within M-GN 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 of the Commission’s Standards (*Ch. 10.22,A,3,c,(13),(b)*).
- (2) Level B recreational lodging facilities may be allowed within P-GP 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 of the Commission’s Standards, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those other uses and resources within this subdistrict with which it is incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan (*Ch. 10.23,E,3,d,(2),(b)*).
- (3) The applicable Level B recreational lodging facilities factors, for the portions of the proposal within the M-GN and P-GP subdistricts include the following (*Ch. 10.27, Q, I, Table A*):
 - a) on-site recreation activities, features, and/or services as defined in Ch. 10.02,167 that produce low noise, odor and are mostly screened;
 - b) may be served by public utilities and/or indoor plumbing;
 - c) up to 8,000 square feet of principal buildings;
 - d) up to 36,000 square feet of clearing footprint within 250 feet of Tea Pond;
 - e) up to 100 square feet of retail or not more than 5% of the floor area of the principal buildings, whichever is larger;
 - f) dining amenities, fuel sales, and recreation activities, features and /or services as defined in Ch. 10.02,167, which are available to guests only; and
 - g) overnight occupancy for up to 100 persons.

22. The dimensional requirements of the Commission’s Standards applicable to this recreational lodging facility include:

- A. a minimum lot size of 40,000 square feet (*Ch. 10.26,A,2*);

- B. a minimum shoreline frontage of 300 feet (*Ch. 10.26,B,2*);
 - C. a minimum road frontage of 200 feet (*Ch. 10.26,C,1,b*);
 - D. minimum setbacks for those structures constructed solely for the housing of guests (*Ch. 10.26,D,1*):
 - (1) 100 feet from a body of standing water 10 acres or greater in size;
 - (2) 75 feet from the nearest shoreline of a flowing water draining less than 50 square miles and wetlands designated as P-WL1 subdistricts;
 - (3) 50 feet from the traveled portion of the nearest roadway; and
 - (4) 15 feet from other property boundary lines.
 - E. minimum setbacks for structures and parking areas (*other than those structures constructed solely for the housing of guests*) (*Ch. 10.26,D,2*):
 - (1) 150 feet from a body of standing water 10 acres or greater in size;
 - (2) 100 feet from the nearest shoreline of a flowing water draining less than 50 square miles and wetlands designated as P-WL1 subdistricts;
 - (3) 75 feet from the traveled portion of the nearest roadway; and
 - (4) 25 feet from other property boundary lines.
 - F. a maximum lot coverage of 30% (*Ch. 10.26,E,1*);
 - G. a maximum height restriction for all structures within 100 feet of the normal high water mark of Tea Pond of 25 feet (*Ch. 10.11,C,1,b*); and
 - H. a maximum height restriction for all structure between 100 feet and 500 feet of the normal high water mark of Tea Pond of 30 feet (*Ch. 10.26,F,2*).
23. Under the provisions of *Ch. 10.27,Q,7* of the Commission's Standards, recreational lodging facilities may include not more than two water-dependent structures per waterbody, including but not limited to: swimmer sign-out boards, boat racks, and a shed building for the storage of personal floatation devices, paddles, anchors, and other water-related equipment. Such buildings and structures shall:
- A. Contain not more than 100 square feet of floor area per structure;
 - B. Not be constructed on a permanent foundation;
 - C. Not be habitable or inhabited;
 - D. Be located not less than 25 feet from the normal high water mark of any waterbody or watercourse;
 - E. Be used only for the purposes of this section; and
 - F. Be screened by vegetation or topography from the waterbody.

SUMMARY OF PROPOSAL INFORMATION

24. *Site Description and Structures.* The subject property is approximately 42.25[±] acres and involves multiple subdistricts including: General Development (D-GN), General Management (M-GN), Great Pond Protection (P-GP), Wetland Protection (P-WL) and Shoreland Protection (P-SL). The lands surrounding the property are actively administered as forest management lands. The property has approximately 1,181 feet of water frontage following the shoreline of Tea Pond and is bisected by an unnamed minor flowing water and a 60 foot right-of-way/easement (a.k.a. Tea Pond Road). The lot is developed as described above in Finding of Facts #6 and the Administrative History (Finding of Facts #8 through #19). Of the legally existing structures currently on the lot: Cabin #7 is located in the P-GP subdistrict; Cabin #7 Outhouse, Cabin #7 Woodshed, Cabin #8, Cabin #9, Cabin #9 Outhouse, Cabin #9 Woodshed, the Electrical Utility Junction Shed, Woodshed #4 and the Solar

System Garage are located in the M-GN subdistrict. All other structures and uses are located in the D-GN subdistrict.

25. *Proposal.* The Applicant now proposes to:

- A. Construct an 8 foot by 10 foot Boat Storage Shed #2 on a temporary foundation for storage of water related boating, fishing and swimming equipment. The structure would be set back 32 feet from the normal high water mark of Tea Pond and at least 100 feet from the normal high water mark of the unnamed minor flowing water, and be screened by shoreline vegetation and topography. The structure would be located within the D-GN subdistrict;
- B. Construct a 12 foot by 20 foot Woodshed #5. The structure would be set back at least 200 feet from the normal high water mark of Tea Pond, at least 100 feet from the normal high water mark of the unnamed minor flowing water and any P-WL1 wetland associated with the minor flowing water, 180 feet from the traveled portion (edge) of Tea Pond Road, and at least 25 feet from other property boundary lines. The structure would be located within the D-GN subdistrict;
- C. Add a use to the permitted Owners' Dwelling/Office making it an Owners' Dwelling/Office/Lodge. The structure is located within the D-GN subdistrict;
- D. Construct and expand the Owners' Dwelling/Office/Lodge to include a 36 foot by 26 foot first floor section, a 38 foot by 54 foot first floor section, a 12 foot by 26 foot first floor covered lake-side porch section, a 10 foot by 32 foot first floor covered lake-side porch section, and a 18 foot by 58 foot second floor section (total floor area of the entire, irregularly shaped Owners' Dwelling/Office/Lodge would be 4,673 square feet). The Owners' Dwelling/Office/Lodge would be set back at least 150 feet from the normal high water mark of Tea Pond, 100 feet from the normal high water mark of the unnamed minor flowing water, 100 feet from any P-WL1 wetland associated with the minor flowing water, 75 feet from the traveled portion (edge) of Tea Pond Road, and 25 feet from other property boundary lines;
- E. Confirm the use of Cabin #5, sometimes called the caretaker's cabin, as a rental cabin (see Finding of Fact #13, Amendment C to Development Permit DP 4066);
- F. Change the use of the current Lodge/Dining/Kitchen to a rental Cabin (Cabin #10) and level the structure to get it off the ground to reduce rot, no permanent foundation would be added and the change in the structure height would be de minimis; and
- G. Install a 500-1000 gallon fuel tank (Fuel Storage Tank #1) and one dispenser to provide sale of off road fuel to guests and the public. The fuel tank would be screened from the waterbody by vegetation. The fuel tank would be set back not only to meet the Commission's setback requirements of 150 feet from the normal high water mark of Tea Pond, 100 feet from the normal high water mark of the unnamed minor flowing water, 100 feet from any P-WL1 wetland associated with the minor flowing water, 75 feet from the traveled portion (edge) of Tea Pond Road, and 25 feet from other property boundary lines, but also would meet any other setbacks requirements and comply with all applicable construction requirements, licenses, permits, authorizations and monitoring requirements of all other federal, state and local agencies.

26. *Recreational Lodging Facility Factors.* The Applicant submitted Supplement S-6, which provides information relevant to the categorization of the recreational lodging facility. In that supplement, the Applicant indicated:

A. Existing and Proposed Development in the D-GN subdistrict:

- (1) *On-site recreation activities, features, and/or services.* The Applicant runs a commercial sporting camp which currently provides activities such as horseshoes, fishing, kayaking, boating and services such as overnight accommodations and boat rentals. The Applicant proposes to expand on-site activities and services to further provide snowmobile and atv rentals, restaurant dining and fuel sales.
- (2) *Utilities.* Utilities are present onsite.
- (3) *Floor area of principal buildings.*
 - a) The floor area of all principal buildings in the D-GN subdistrict is 9,119 square feet.
 - b) The floor area of all principal building in all subdistricts (D-GN, M-GN and P-GP) is 11,066 square feet.
- (4) *Clearing footprint within 250 feet of waterbodies.* 29,400 square feet.
- (5) *Retail Space.* 30 square feet; available to guest and to the public.
- (6) *Dining amenities.* Available to guests and to the public.
- (7) *Fuel sales.* Available to guests and to the public; one fuel dispensing devise would be available.
- (8) *Recreation activities, features, and/or services.* Available to guests and to the public.
- (9) *Overnight occupancy.*
 - a) The overnight occupancy of all structures in the D-GN subdistrict is fifty-one (51) persons.
 - b) The overnight occupancy of all structures in all subdistricts (D-GN, M-GN and P-GP) is sixty-seven (67) persons.

B. Existing and Proposed Development in the M-GN subdistrict:

- (1) *Utilities.* Utilities are present onsite.
- (2) *Floor area of principal buildings.* The floor area of all principal buildings in this subdistrict is 1,167 square feet.
- (3) *Dining amenities.* Available to guests.
- (4) *Overnight occupancy.* Eight (8) persons.

C. Existing and Proposed Development in the P-GP subdistrict:

- (1) *Utilities.* Utilities are present onsite.
- (2) *Floor area of principal buildings.* The floor area of all principal buildings in this subdistrict is 780 square feet.
- (3) *Dining amenities.* Available to guests.
- (4) *Overnight occupancy.* Eight (8) persons.

27. *Special Exception Criteria.* To satisfy the special exception criteria, the Applicant stated that adding snowmobile and atv rentals, restaurant dining and fuel sales would not be incompatible to the current uses in the area such as timber harvesting or the nearest leased lot with camp which is about 1 mile from the facility; timber harvesting and camp recreating would continue. In addition, by its nature,

the expansion and addition of uses would not be incompatible with the local ATV and snowmobile trails. Further, the Applicant stated that there is sufficient infrastructure to accommodate any additional vehicle, foot, ATV, and snowmobile traffic. The existing road is in good condition and is over 15 feet wide. The local transfer station, emergency care facility, hospital, and volunteer fire department would continue to serve the sporting camp as previously served. The facility also has a fire pump at the base of the pond.

28. The facts are otherwise as represented in Development Permit application DP 4066, subsequent amendments, and supporting documents, and Enforcement Case EC 15-09 and supporting documents.

ANALYSIS AND CONCLUSIONS

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

1. The proposed addition of a use and expansion of the Dwelling/Office/Lodge, the proposed change of use of the Lodge/Dining/Kitchen to rental Cabin #10, and the proposed construction of Woodshed #5, Boat Storage Shed #2, and Fuel Storage Tank #1 will meet the applicable requirements of the Commission's Standards.
2. The facility meets the definition of a Recreational Lodging Facility under Section 10.02, 168 of the Commission's Standards because the site and facility will:
 - A. be used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes;
 - B. primarily cater to recreational users who engage in recreation activities that are primarily natural resource-based;
 - C. include or be similar to commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses that exhibit characteristics of a unified approach, method or effect such as unified ownership, management or supervision, or common financing; and
 - D. be served by an on-site attendant while guests are present.
3. When elements of a recreational lodging facility are located within multiple subdistricts, at least one of the subdistricts (the primary subdistrict) must allow the level of recreational lodging facility proposed as a whole. Each other subdistrict (the secondary subdistrict(s)) may contain, singularly, only those elements of the facility that are allowed within that subdistrict.
 - A. Based on all the existing and proposed activities and structures, and Section 10.27, Q, 1, Table A and B, the factors that determine this facility's level as a whole are located within the D-GN subdistrict. Utilizing all the combined total factors, the Commission concludes that this facility as a whole constitutes a Level D – Expanded Access Recreational Lodging Facility within a Geographic Allowance Area. Level D – Expanded Access Recreational Lodging Facilities are a use allowed by special exception within the D-GN subdistrict within a Geographic Allowance Area.

- B. Further, Cabin #7 Outhouse, Cabin #7 Woodshed, Cabin #8, Cabin #9, Cabin #9 Outhouse, Cabin #9 Woodshed, the Electrical Utility Junction Shed, Woodshed #4 and the Solar System Garage are located within the M-GN subdistrict. Utilizing only those factors that determine a facility's level which are within the M-GN subdistrict, the Commission concludes that singularly the uses associated with these activities and structures will meet a Level B - Recreational Lodging Facility. Level B - Recreational Lodging Facilities are a use allowed within the M-GN subdistrict.
- C. Lastly, Cabin #7 is located within a P-GP subdistrict. Utilizing only those factors that determine a facility's level which are within the P-GP subdistrict, the Commission concludes that singularly the uses and activities associated with Cabin #7 will meet a Level B - Recreational Lodging Facility. Level B - Recreational Lodging Facilities are a use allowed by special exception within the P-GP subdistrict.

In conclusion, based on the above, the Commission determines that at least one subdistrict, the D-GN subdistrict, allows for the level of recreational lodging facility proposed in its entirety (Level D –Expanded Access inside a geographic allowance area) and that those components of the facility which are located within the M-GN and P-GP subdistrict singularly meet the components of a Level B facility.

- 4. The lands surrounding the recreational lodging facility are actively administered as forest management lands; the nearest residence (camp) is over 1 mile from the site. The size of the parcel has historically buffered the facility from both forest operations and the camp and has allowed the facility to operate without interfering with management of the forest lands or the enjoyment of the camp. Additionally, Tea Pond Road bisects the facility's 42.25[±] acre property, however, the facility has been in active operation since before 1971 and the access has been shown to be sufficient to accommodate the traffic and activity generated by the facility; it is expected that the road, and other infrastructure components such as medical and fire, will accommodate any increase traffic and use generated from the expansion proposal.

Based on the above, the Commission concludes that the facility is buffered from those other uses within the subdistrict with which it may be incompatible; that the facility has sufficient infrastructure to accommodate the proposed traffic and activity which will be generated by the expanded facility; and that that the surrounding sensitive resources and uses are adequately protected. Therefore, the existing and proposed structures and uses meet the special exception criteria.

- 5. Because the Applicant is not proposing to develop the facility to the full extent of a Level D – Expanded Access Recreational Lodging Facility, the Commission has not evaluated the potential impacts of an increase in use beyond what currently exists on the lot and what is proposed herein. Based on its evaluation, and provided the Applicant complies with Condition #3, the Commission concludes that the existing and proposed development and the existing use of the facility meets all applicable criteria.
- 6. If carried out in compliance with the Conditions below, the proposal and activities will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.

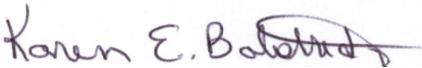
Therefore, the staff APPROVES the amendment request of Tea Pond Lodge & Cabins LLC as proposed with the following CONDITIONS:

1. The *Standard Conditions of Approval for all Development Permits*, version 04/2004, a copy of which is attached.
2. Erosion control best management practices shall be implemented in accordance with the *Erosion and Sediment Control Standards* of Section 10.25,M of the Commission's Standards, a copy of which is attached.
3. Notwithstanding the overnight occupancy limit outlined under Finding of Facts #26,A,(9),b) and stated in *Ch. 10.27,Q,1, Table A and B* of the Commission's Standards, because of the occupancy expansion limitations of the existing and proposed rental cabins and lodge, and the existing and proposed septic systems, the overnight occupancy limit of this facility shall be no more than 70 persons until such time as the property owner requests an increase and supplies supporting information that such a change will meet the criteria for the subdistrict designation in effect at the time. The Commission incorporates this condition not because it finds that an overnight occupancy of greater than 70 would not satisfy the Commission's Standards, but rather because the Commission has not considered the potential impact of overnight occupancy greater than 70.
4. The Owners' Dwelling/Office/Lodge (including the lake-side porch) and Woodshed #5 must be set back at least 150 feet from Tea Pond, 100 feet from the normal high water mark of the unnamed minor flowing water, 100 feet from any P-WL1 wetland associated with the minor flowing water, 75 feet from the traveled portion (edge) of Tea Pond Road, and 25 feet from other property boundary lines.
5. The water dependent Boat Storage Shed #2 must be 8 foot by 10 foot in size, must not be habitable or inhabited, must only be used for water dependent storage, and must be set back at least 25 feet from the normal high water mark of Tea Pond and the unnamed minor flowing water, and must be screened by shoreline vegetation.
6. All exterior lighting must meet the *Lighting Standards* of Section 10.25,F,2, of the Commission's Standards, a copy of which is attached.
7. All exterior lighting, including, but not limited to, security lighting, walkway lighting, porch lighting, doorway lighting, and sign lighting, shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or any roadway, so as to impair driver vision or to create nuisance conditions.
8. The permittees shall secure and comply with all other applicable licenses, permits, authorizations and monitoring requirements of all federal, state and local agencies including, but not limited to, the Maine Department of Health and Human Service's Division of Environmental Health's, Subsurface Wastewater Unit and Health Inspection Program, the Maine Department of Environmental Protection, and the Fire Marshal's Office.

9. The complete non-engineered subsurface wastewater disposal system shall be installed according to the subsurface wastewater disposal system application, dated July 20, 2015 and signed by State of Maine Site Evaluator #157.
10. The fuel tank must be set back not only to meet the Commission's setback requirements of 150 feet from the normal high water mark of Tea Pond, 100 feet from the normal high water mark of the unnamed minor flowing water, 100 feet from any P-WL1 wetland associated with the minor flowing water, 75 feet from the traveled portion (edge) of Tea Pond Road, and 25 feet from other property boundary lines, **but also must meet any other setbacks requirements and comply with all applicable construction and containment requirements, licenses, permits, authorizations and monitoring requirements of all other federal, state and local agencies.**
11. Notwithstanding the public fuel sales limit stated in *Ch. 10.27, Q, 1, Tables A and B* of the Commission's Standards, the facility shall be limited to one fuel pump serving one vehicle at a time until such time as the Applicant requests an increase and supplies supporting information that such a change will meet the criteria for the subdistrict designation in effect at the time. The Commission incorporates this condition not because it finds that operation of an additional pump for public fuel sales would not satisfy the Commission's Standards, but rather because the Commission has not considered the potential impact operation of a second pump to support expanded public sales.
12. 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.
13. The 8 foot by 32 foot Woodshed #1, the 5 foot by 25 foot Woodshed #2, the 16 foot by 40 foot Woodshed #3, the 8 foot by 10 foot Generator Shed #1, the 6 foot by 8 foot Boat Storage Shed #1, and the Canoe Rack #1 must be removed from the lot and all solid waste and other debris disposed of in a proper manner, in compliance with applicable state and federal solid waste laws and rules.
14. Nothing in this permit shall be construed to release the permittees from any liability or responsibility arising from any violation, including Enforcement Case EC 15-09, or to be considered a waiver of the authority of the Commission or the state to fully pursue or prosecute such violations.

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 24TH DAY OF JULY, 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

M. EROSION AND SEDIMENTATION CONTROL

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.

F. NOISE AND LIGHTING

1. Noise.

- a. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use subdistrict listed below. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

Subdistrict	7:00 AM to 7:00 PM	7:00 PM to 7:00 AM
D-CI, D-MT, and D-ES	70 dB(A)	65 dB(A)
D-GN, and D-GN2	65 dB(A)	55 dB(A)
D-PD	As determined by the Commission.	
All Other Subdistricts	55 dB(A)	45 dB(A)

Table 10.25,F-1. Sound pressure level limits.

- b. The following activities are exempt from the requirements of Section 10.25,F,1,a:
- (1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
 - (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and
 - (3) Sounds emanating from traffic on roadways or other transportation facilities;
- c. Control of noise for a wind energy development as defined in Title 35-A, Section 3451, subsection 11, with a generating capacity greater than 100 kilowatts is not governed by this section and instead is governed solely by the provisions of 12 M.R.S.A. §685-B(4-B)(A).

2. Lighting standards for exterior light levels, glare reduction, and energy conservation.

- a. All residential, commercial and industrial building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).

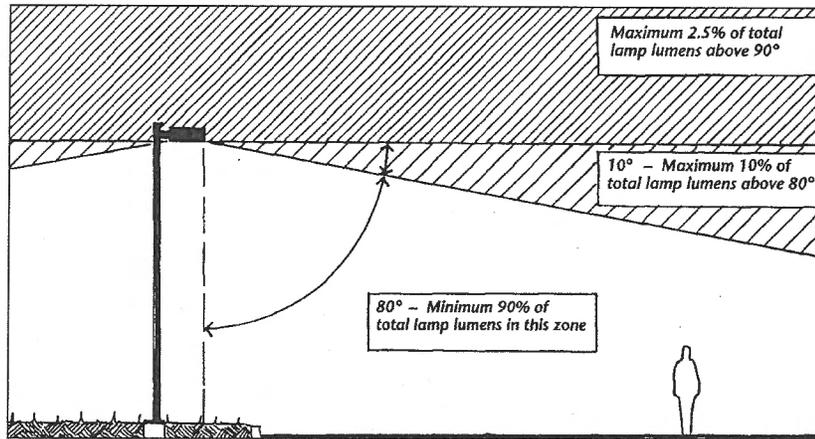


Figure 10.25,F-1. Cut-off fixture as defined by IESNA.

Light fixtures mounted on gasoline station or convenience store canopies shall be recessed so that fixtures are flush with the canopy. Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

- b. All exterior lighting shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, onto any water bodies with a significant or outstanding scenic resource rating, or onto any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- c. For commercial, industrial and other non-residential development, all non-essential lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic and parking lighting.
- d. In addition to the lighting standards in Section 10.25,F,2, lighted signs shall also comply with the standards in Section 10.27,J.
- e. The following activities are exempt from the lighting standards of Section 10.25,F,2,a through d:
 - (1) Roadway and airport lighting, and lighting required by the Federal Aviation Administration for air traffic safety;
 - (2) Temporary fair, event, or civic uses;
 - (3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
 - (4) Lighting that is activated by motion-sensors; and
 - (5) Lighting that was in place on April 1, 2004.