STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE
04732

PAUL RICHARD LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

AMENDMENT C TO
DEVELOPMENT PERMIT DP 4490
RECREATIONAL LODGING FACILITY

The staff of the Maine Land Use Planning Commission (the Commission), after reviewing the application and supporting documents submitted by Jason Bouchard Family Trust for Amendment C to Development Permit DP 4490, finds the following facts:

1. Applicant: Jason Bouchard Family Trust, Jill Bouchard, Trustee
   Attn: Jason Bouchard
   PO Box 27
   Ashland, ME 04732

2. Date of Completed Application: February 2, 2015

3. Location of Proposal: Township 9 Range 8 WELS, Aroostook County
   Taxation Map AR042, Plan 01, Lot 1.2

4. Zoning: (P-GP) Great Pond Protection Subdistrict
   (M-GN) General Management Subdistrict

5. Lot Size: 86.4 Acres (Owned)

6. Principal Buildings: Existing Dining Hall (21 ft. by 40 ft.)
   Existing Library (23 ft. by 33 ft.)
   Existing Breezeway Between Dining Hall & Library (14 ft. by 20 ft.)
   Existing Bath House (14 ft. by 15 ft.)
   Existing Sleep Camp #1 (20 ft. by 20 ft.)
   Existing Sleep Camp #2 (20 ft. by 20 ft.)
   Existing Sleep Camp #3 (16 ft. by 17 ft.)
   Existing Sleep Camp #4 (11 ft. by 11 ft.)
   Existing Sleep Camp #5 (24 ft. by 26 ft.)
   w/ Existing L-Shaped Porch (8 ft. by 24 ft. & 6 ft. by 38 ft.)
   Proposed Sleep Camp #6 w/ Porch (24 ft. by 36 ft.)

7. Accessory Structures: Existing Boat House (21 ft. by 41 ft.)
   Existing Tool Shed (15 ft. by 17 ft.)
   Existing Wood Shed (11 ft. by 12 ft.)
   Existing Wood Shed (11 ft. by 12 ft.)
   Existing Storage Shed (24 ft. by 24 ft.)
   Existing Root Cellar (12 ft. by 12 ft.)
   Existing Walkway (7 ft. by 102 ft.)

NICHOLAS D. LIVESAY, EXECUTIVE DIRECTOR

PHONE: (207) 435-7963
FAX: (207) 435-7184
TTY: (207) 577-6690

8. Sewage Disposal: Existing Combined System for Bathhouse and Dining Hall with Greywater feeds from Sleep Camps #1, #2, and # 3
Existing Combined System for Sleep Cabins #5 and #6 (Updated HHE-200)
2 Pit Privies

9. Affected Waterbody: Chandler Lake

The Commission has identified Chandler Lake as a Resource Class 1B, management class 7, relatively accessible, relatively undeveloped lake with outstanding scenic resources, and significant fisheries and shore character resources.

Background

10. The applicant operates a pre-Land Use Planning Commission sporting camp complex at Chandler Lake. The complex originally included five sleep camps, a dining hall, a library, a wooden walkway connecting the dining hall, library and one sleep camp, a bath house, a boat house, three wood sheds, a tool shed, a root cellar and a horse hovel. The dining hall, sleep camps, library and walkway are set back at approximately 55 feet from Chandler Lake. The boat house is set back 20 feet from Chandler Lake. In 1976, one of the sleep camps was damaged by lightning and later removed from the lot. The complex was used as a commercial sporting camp from the 1920's to the 1960's. The complex was then used for private, noncommercial, seasonal use only. The original developed portion of the sporting camp complex is within (P-GP) Great Pond Protection Subdistrict.

11. In March of 1999, Development Permit DP 4490 by Special Exception authorized operation of the complex as a commercial sporting camp for up to 12 people per night and two employees and included installation of a replacement combined sewage disposal system designed to support 12 guests and 2 employees. A Certificate of Inspection for the sewage disposal system was issued by the Local Plumbing inspector in October of 2000. At this time, Jason and Jill Bouchard had a lease agreement for 2 acres of land and were 3/256th owners in common and undivided of most of T 9 R 8 WELS.

12. In 2002, the Bouchards partitioned their interest in T 9 R 8 WELS and retained 86.4 acres of land which contains the sporting camp complex and the portion of the access road located in T 9 R 8 WELS.

13. In August of 2004, Amendment A to Development Permit DP 4490 by Special Exception was issued to Jason and Jill Bouchard authorizing removal of a 1.5 foot by 102 foot section of the existing 8.5 foot by 102 foot walkway and an 11 foot by 12 foot wood shed; and construction of a 14 foot by 20 foot enclosed breezeway between the dining hall and the library buildings to be set back 75 feet from the normal high water mark of Chandler Lake. Amendment A also authorized construction of a 24 foot by 26 foot sleep camp (Sleep Camp #5) with an 8 foot by 24 foot and 6 foot by 38 foot L-shaped porch, construction of a 12 foot by 12 foot wood shed and installation of a combined sewage disposal system to serve the proposed camp and a future sleep camp (potential Sleep Camp #6). Sleep Camp #5 with porch was to be set back at least 100 feet from the normal high water mark of Chandler Lake. The new wood shed was to be set back at least 150 feet from the normal high water mark of Chandler Lake. The total footprint of all structures within 100 feet of the lake was decreased by 5 square foot in compliance with the Commission's rules for non-conforming structures.

14. In October of 2006, Amendment B to Development Permit DP 4490 by Special Exception authorized reconstruction of the 12 foot by 12 foot root cellar, the 7 foot by 102 foot walkway and an 11 foot by 12 foot wood shed in place in kind and construction of a 24 foot by 36 foot sleep camp with porch (Sleep Camp #6) and a 24 foot by 24 foot storage shed. The root cellar, walkway, and wood shed were to be set back 37 feet, 40 feet, and 60 feet from the normal high water mark of Chandler Lake, respectively. The sleep camp was to be set back 110 feet from the normal high water mark of Chandler Lake and would be used solely for the housing of guests of the sporting camp facility. The storage shed was to be set back approximately 500 feet from the normal high water mark of Chandler Lake in the (M-GN) General Management Subdistrict. The sleep camp was to be served by the combined sewage disposal system designed in 2004 to serve both Sleep Camps #5 and #6.

15. All previously approved structures have been constructed with the exception of the 12 foot by 12 foot wood shed, permitted under Amendment A, and Sleep Cabin #6, permitted under Amendment B. The 12 foot by 12 foot wood shed is no longer proposed. The total gross floor area of principal buildings is currently is 4,116 feet. The combined sewage disposal system designed in 2004 to serve both Sleep Camps #5 and #6 was installed without permit authorization from the Local Plumbing Inspector.

Proposal

16. The applicant now seeks amendment approval to construct the previously authorized 24 foot by 36 foot sleep camp (Sleep Camp #6) to be setback more than 100 feet from the normal high water mark of Chandler Lake, more than 50 feet from the access road, and more than 15 feet from the nearest property boundary line. The applicant states that the new sleep camp would be located in the existing cleared area. Approximately 2 live trees would need to be removed and very minimal ground disturbance would occur in order to construct the new camp with porch on a non-permanent foundation. The applicant does not propose to increase the facility's total overnight occupancy of 28, but instead will be shifting accommodations from other structures. The sleep camp would be served by the combined sewage disposal system originally designed in 2004 and revised by the Site Evaluator in January of 2015 in order to be properly permitted by the Local Plumbing Inspector. The total gross floor area of principal buildings at completion of the project will be 4,980 feet.

17. The applicant submitted supplement S-6, which provides information relevant to the categorization of recreational lodging facilities. In that supplement, the applicant indicates that most recreation activities, features and services will be partially screened by trees, except that water and boating activities such as swimming, canoeing, kayaking, sailing and motor boat fishing plus airplane rides will take place on the lake. All activities are for overnight guests only. Other activities include horseshoes, volleyball, snowshoeing, skeet trap and sporting clay shooting, archery, blacksmithing, small firearms range shooting, and rental of motorized and non-motorized equipment. The applicant indicates that the noisiest activities on the property will be the 8 horsepower 4-stroke boat motors that will make minimal noise, gun fire as part of the skeet and trap shooting that will make intermittent noise, and that airplane rides will also create noise.

18. The applicant indicates in Supplement S-6 that there is approximately 55,800 sq. ft. of clearing within 250 feet of the water; 100 sq. ft. of retail space; and a maximum overnight occupancy of 28 persons. Dining, retail, fuel sales and recreation activities are only available to overnight guests.

Review Criteria

19. Under the provisions of Section 10.02, 33 of the Commission's Land Use Districts and Standards, a "Commercial Sporting Camp" is a "building or group of buildings devoted primarily to the offering of lodging facilities for a fee to persons primarily in pursuit of primitive recreation or snowmobiling." 12 M.R.S. § 682(14). In addition, for the purposes of the application of the Commission's rules, the term "commercial sporting camp" shall be construed according to the following: A facility which functions primarily as a destination for the above activities rather than as a transient development unit or as a base of operations for activities in another location, such as whitewater rafting. A sporting camp is usually located in a remote location and typically consists of, but does not have to include, all of the following: a number of cabins for the housing of guests, including but not limited to housekeeping cabins; a main lodge for serving of meals and socializing for the guests; outbuildings for housing of the owners, guides, and other workers; workshop, woodsheds, laundry, equipment storage, and other utility buildings as needed. Outpost cabins are not a part of commercial sporting camp facilities. Guests of outpost cabins may use the services of the commercial sporting camp whether or not the commercial sporting camp is permitted for expanded access (Section 10.27,Q,1). A resident, on-site attendant must be available on a full-time basis to meet the needs of guests.

20. Under the provisions of Section 10.02, 168 of the Commission's Land Use Districts and Standards, "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 D Facilities have moderate to high impacts on existing resources within the development site and surrounding areas. Level D Facilities are specifically designated by Section 10.27,Q,1.

21. Under provisions of 10.27,Q,1,Tables A and B, of the Commission's Land Use Districts and Standards, Recreational Lodging Facilities Level D Facilities may contain the following:
    - On-site recreation activities, features, and/or services that produce some noise and odor and are partially screened (as defined in Section 10.02,167);
    - Public utilities and indoor plumbing;
    - Up to 20,000 sq. ft. of principal buildings;
    - Up to 60,000 sq. ft. of clearing within 250 of certain waters;

- Up to 500 sq. ft. of retail or not more than 5% of floor area of principal buildings, whichever is larger;
- Dining; fuel sales; and recreation activities, features, and services which are available to guests; and
- Overnight occupancy for up to 250 persons.

22. Under provisions of Section 10.23,E,3,f of the Commission's Land Use Districts and Standards, Recreational Lodging Facilities - Level D are prohibited uses in a (P-GP) Great Ponds Protection Subdistrict. Prior to 2013, this facility was considered a "Commercial Sporting Camp", which was allowed in the (P-GP) Great Ponds Protection Subdistrict by Special Exception. Following the Commission's establishment of the Recreational Lodging Facility categorization system and associated rulemaking, the facility is now a legally existing nonconforming use.

23. Under provisions of Section 10.11,D,1 of the Commission's Land Use Districts and Standards, the extension, enlargement or expansion of nonconforming uses requires a permit.

24. Under provisions of Section 10.11,B,1 of the Commission's Land Use Districts and Standards, permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S.A. Section 685-B(4) and demonstrate that the project will not adversely affect surrounding uses and resources and that there is no increase in the extent of nonconformance, except in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a waterbody setback.

    In the event that the nonconforming use qualifies as a "recreational lodging facility", Commission policies further address the standards of Section 10.11,B,1. Any legally existing, conforming use that, due to the Recreational Lodging rule changes, becomes a nonconforming use may expand one time provided: i) the change or expansion does not create conditions that otherwise would change the category of the facility; ii) structures within the facility may not be reconstructed unless and until the facility becomes a conforming use; and iii) may not result in new services. Further, in coordination with the property owners, the Commission is committed to undertaking staff initiated zoning petitions, until August 5, 2015, to make appropriate the zoning designation for the recreational lodging facility.

25. Under provisions of Section 10.26,D,1&2 of the Commission's Land Use Districts and Standards, all those structures within the recreational lodging facility constructed solely for the housing of guests must be set back a minimum of 100 feet from the normal high water mark of a body of standing water 10 acres or greater in size, at least 50 feet from the traveled portion of all roadways and at least 15 feet from side and rear property lines. All other structures within the recreational lodging facility must be set back a minimum of 150 feet from the normal high water mark of a body of standing water 10 acres or greater in size, at least 75 feet from the traveled portion of all roadways and at least 25 feet from side and rear property lines.

26. Under provisions of Section 10.26,F,2 of the Commission's Land Use Districts and Standards, structures within 500 feet of the normal high water mark of a body of standing water 10 acres or greater shall be no higher than 30 feet.

27. The facts are otherwise as represented in the application for Amendment I to Development Permit DP 3453, and supporting documents.

Analysis and Discussion

28. The total gross floor area of principle buildings, as estimated by the applicant, will exceed 750 square feet but be less than 8,000 square feet after completion of the proposed construction, and the amount of retail space would not exceed 100 square feet. In addition to the rental of small engine motorboats, the facility maintains a shooting range for small firearms, including skeet and trap shooting. The applicant also offers scenic airplane rides to overnight guests and activities are only partially screened. This combination of on-site recreational activities and services generate some noise and are only partially screened, classifying the facility as a Level D Recreational Lodging Facility.

29. A Level D Recreational Lodging Facility is prohibited in the P-GP subdistrict (Section 10.23, E, 3, f). Prior to August 5, 2013, this facility was considered a "Commercial Sporting Camp", which was allowed in the (P-GP) Great Ponds Protection Subdistrict by Special Exception. Following the Commission's establishment of the Recreational Lodging Facility categorization system and associated rulemaking, the facility is now a nonconforming use. At this point, the applicant's proposal does not create conditions that otherwise would change the category of the facility and does not result in any new services or increase the total occupancy. There would be an increase in the total footprint of principal buildings. Any future expansions and reconstruction of structures within the facility would only be allowed once the facility has been made conforming. To make appropriate the zoning designation for a Level D Recreational Lodging Facility, the Commission will, with the Applicant's permission, undertake a staff-initiated rezoning within 2 years of the rule change, provided the area meets the criteria for redistricting and other applicable rules and regulations.

30. The facility proposes to offer services consistent with past practice. A facility classified as a Level D Recreational Lodging Facility may offer recreational activities, dining amenities and fuel sales to guests. The applicant's facility has a single gasoline fuel pump capable of serving a single vehicle at a time that it plans to continue to use mainly for the facility's equipment and, as needed, for overnight guests. In addition, a 500 gallon tank and associated single pump used to store and dispense aviation fuel is located at the facility. This tank is used exclusively to fuel the plane owned and operated by the facility. Both pumps were in place and in private use at the facility prior to August 5, 2013. The facility plans to continue its historic practices and does not intend to offer fuel to the public. These practices are consistent with the activities allowed at a Level D Facility.

31. A facility classified as a Level D Recreational Lodging Facility may have an overnight occupancy of up to 250 people. The applicant's facility presently accommodates 28 overnight guests and does not propose an increase of its overnight occupancy. The structural footprint of this facility will restrict occupancy to levels similar to current operations. As a result, the Commission has not evaluated the potential impact of a considerable increase in overnight occupancy.

32. Lake classification is an important consideration in evaluating where expanded access facilities are appropriate under the Commission's standards, particularly whether a lake is rated as remote, inaccessible, or undeveloped. As stated in Finding #10, the facility is located on a management class 7, relatively accessible, relatively undeveloped lake, which while high value for certain characteristics (fisheries, scenic, shoreline), does not have any known high-value resources that are incompatible

with sporting camp operations. The facility historically has and presently is operated in a manner compatible with the lake and without known problems.

Based upon the above Findings, the Commission, through its staff, concludes:

1. The facility, including the proposed construction, meets the definition of a Recreational Lodging Facility under Section 10.02 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) be served by an on-site attendant while guests are present; and

   d) 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.

2. In accordance with Section 10.27,Q,1, Table A of the Commission's Standards, the facility constitutes a Level D Recreational Lodging Facility. Specifically, the construction of the guest cabin meets all applicable standards for construction and expansion and is consistent with Table A. While the existing clearing is stated to be approximately 55,800 square feet, facilities in existence prior to July 1, 2013 may be categorized without regard to footprint of clearing. The stated floor area for all principal buildings upon completion is approximately 4,980 square feet, which is less than the maximum 20,000 square feet allowed for a Level D Facility. The limited retail sales would total less than the 5 % of the floor area of principal buildings allowed. The recreational activities offered would be horseshoes, firearms range, rental of non-motorized equipment, rental of motorized equipment, and airplane rides for guests. The total overnight occupancy would be less than the 250 maximum allowed in a Level D Facility.

3. The proposal will meet criteria of Section 10.11,B,1 of the Commission's Land Use Districts and Standards in that the facility has successfully operated in and is compatible with the area. The lake, although high-value, has a rating that indicates that use by a commercial sporting camp is appropriate. In addition, only de minimus vegetative clearing and soil disturbance are proposed, and no additional activities or services are proposed at the facility.

   This expansion does not create conditions that otherwise would change the category of the facility and does not result in new services. Further, the applicant is assisting with the staff initiated rezoning to make appropriate the zoning designation of this recreational lodging facility, to again make the facility a conforming use.

   Because the applicant is not proposing to expand guest fuel sales beyond a single gasoline pump or significantly increase the overnight occupancy, the Commission has not evaluated the potential impacts from a substantial increase in overnight occupancy. However, the size of the structures will effectively limit occupancy. Therefore, the Commission concludes that the proposed construction of

a sleep cabin and continued use of the facility would not adversely affect surrounding uses and resources and would not increase the extent of nonconformance.

4. Based on the facts as presented and Chapter 10 Sections 10.11 and 10.26 of the Commission's Land Use Districts and Standards the current facility and proposal meets dimensional requirements.

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.A.

Therefore, the Commission, through its staff, approves the application of Jason E. Bouchard Family Trust with the following conditions:

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

2. All those structures within the Recreational Lodging Facility constructed solely for the housing of guests must be set back a minimum of 100 feet from the normal high water mark (NHWM) of Chandler Lake, at least 50 feet from all roads and at least 15 feet from other property boundary lines. All other structures within the Recreational Lodging Facility, must be set back a minimum of 150 feet from the normal high water mark of Chandler Lake, at least 75 feet from all roads and at least 25 feet from other property boundary lines.

3. The proposed guest cabin shall not exceed 30 feet in height.

4. Retail space shall not exceed 5% of floor area of principal buildings.

5. Construction debris must not be disposed of in a wetland. All construction debris must be removed from the site upon completion of reconstruction activities.

6. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices 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 effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.

7. Construction with heavy equipment shall occur during the time of year when roads and soils are reasonably stable and not saturated or frozen.

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

9. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.

10. Exterior finishes of all structures shall be non-reflective and natural colors to blend with the natural surroundings and minimize any adverse visual impacts. The permittee may plant native vegetation to help visually screen the facility from the adjacent water body and surrounding lands.

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

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 permittee complies 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 ASHLAND, MAINE, THIS 11TH DAY OF FEBRUARY, 2015.

for Billie J. MacLean

Nicholas D. Livesay, Executive Director