



PAUL RICHARD LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
MAINE LAND USE PLANNING COMMISSION
133 FYFE ROAD
P.O. BOX 307
WEST FARMINGTON, MAINE
04992-0307

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

AMENDMENT E TO DEVELOPMENT PERMIT DP 4526

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Rangeley Plantation Irrevocable Trust for Amendment E to Development Permit DP 4526, finds the following facts:

1. Applicant: Rangeley Plantation Irrevocable Trust
Attn: Perry Williams
P.O. Box 700
Rangeley, Maine 04970
2. Date of Completed Application: September 4, 2014
3. Location of Proposal: Rangeley Plantation, Franklin County
Part of Lot #5 on Rangeley Plantation Tax Map #6
4. Zoning: (D-GN) General Development Subdistrict
5. Lot Size: 50.7 Acres (owned)
6. Existing Development: Niboban Sporting Camp
Main Lodge w/Attached Decks (23 ft. by 41 ft.)

Cedar Lane Camps

- Camp IX (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
- Camp X (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
- Camp XI (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
- Camp XII (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
w/ Ramp (5.5 ft. by 28 ft.)

NICHOLAS LIVESAY, DIRECTOR

www.maine.gov/acf/lupc
PHONE: (207) 287-2631
FAX: (207) 287-7439
TTY: (888) 577-6690

Lower Way Camps

- Camp I (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
- Camp II (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
- Camp III (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
- Camp IV (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)

Siding Camp (18 ft. by 20 ft.)
w/ Porch (8 ft. by 18 ft.)

Permanent Home w/Attached Garage (36.5ft. by 92 ft.)

Shed (6 ft. by 8 ft.)

Deck (8 ft. by 12 ft.)

7. Affected Waterbodies: Rangeley Lake and Unnamed Stream

The Commission has identified Rangeley Lake as a resource class 1A, management class 4, accessible, developed lake with outstanding fisheries, scenic, physical, and cultural resources, and significant wildlife, shoreline and botanical resources.

Background

8. The subject property was originally developed with a commercial sporting camp in the 1800's. The sporting camp was operated into the 1980's, and then utilized as a private residence and farm until 1996 when the owner at the time passed away. S.C. Noyes and Company (hereinafter "Noyes") acquired the subject lot in August of 1998, with the lot being approximately 59 acres at that time [reference: Book 1781, Page 289, Franklin County Registry of Deeds].

Noyes' acquisition was part of a larger land exchange involving the Maine Bureau of Parks and Lands (hereinafter "BPL"). As part of the land exchange Noyes entered into a 20-year agreement with BPL. The agreement included a prohibition against subdividing the lot or developing it for any purpose other than as a sporting camp, with a 15,000 square foot limit for structures, and a first option for the State of Maine should Noyes decide to transfer the property. BPL's agreement with Noyes was rescinded in October of 2012, per its release filed in the Franklin County Registry of Deeds in Book 3490, Pages 47-50, and the aforementioned restrictions are no longer in effect.

9. Development Permit DP 4526, issued to Noyes in February of 2000, authorized the establishment of a commercial sporting camp complex to be known as "Niboban Camps." Permitted structures for the sporting camp included a main lodge, and thirteen individual cabins to be known as the Cedar Lane Camps (four cabins), the Lower Way Camps (four

cabins), the Ethelwald Camps (four cabins), and the Siding Camp. Condition #11 of Development Permit DP 4526 stipulated that the subject lot not be further divided without the prior review and approval of the Commission and the Maine Bureau of Parks and Lands.

9. Amendment A to Development Permit DP 4526 was issued to Noyes in August of 2001 and corrected in September of 2001. Amendment A authorized modifications to the dimensions of the Cedar Lane Camps, and the Main Lodge, the Lower Way Cabins. Amendment A also authorized the management of a wetland at the site under the provisions of a vegetative management plan, changes in storm water management systems and the relocation of several culverts.
10. Amendment B to Development Permit DP 4526, issued to Noyes in November of 2001, authorized a change in dimensions of the permitted porch on Siding Camp, the installation of a modified combined sewage disposal system to serve Siding Camp, and the installation of a frost wall foundation beneath Siding Camp.
11. Amendment C to Development Permit DP 4526, issued to Noyes in May of 2003, authorized the construction of a permanent home with bedroom addition, deck, porch and attached garage, and a driveway from South Shore Road to access the home.
12. In accordance with Condition #11 of Development Permit DP 4526, Amendment D to Development Permit DP 4526, issued to Noyes in September of 2012, authorized the transfer of an approximately 8 acre lot out of the west end of its parcel to the Rangeley Lakes Heritage Trust (hereinafter "RLHT").

RLHT is a nonprofit, tax-exempt conservation organization qualifying under the United States Internal Revenue Code, Section 501(c)(3). At the time Amendment D was issued, the Commission made no finding as to whether the proposed RLHT lot qualified for any exemptions from being considered a "lot" for subdivision purposes under the Commission's statutes or rules. Condition #2 of Amendment D stipulates that the subject lot retained by Noyes not be further divided without the prior review and approval of the Commission.

13. Noyes transferred the authorized approximately 8 acre lot to RLHT on October 25, 2012, as authorized under Amendment D. The lot retained by Noyes was 50.7 acres in size. The deed for the transfer from Noyes to RLHT, recorded in the Franklin County Registry of Deeds in Book 3490, Page 51, contains the following restriction:

The above-described Premises [the approximately 8 acre lot] are conveyed so that Grantee [RLHT], or its successors or assigns, may own and manage the Premises for its non-profit charitable purposes including, without limitation, the operation of environmental education programs and recreational activities and allowing non-motorized low-impact public recreation activities on the Premises such as walking, cross-country skiing and nature observations. The Premises are conveyed SUBJECT TO the restrictions that further subdivision of the property herein conveyed is prohibited and that the property herein conveyed may not be used for (a) single or multi-family residential housing; or (b) any commercial or industrial purposes, except to the extent the activities described in the first

sentence of this paragraph may be commercial. These conditions are for the benefit of the owner, or owners, of the remaining land described in the deed from the Maine Conference Association of Seventh Day Adventists to S.C. Noyes & Company recorded in the Franklin County Registry of Deeds in Book 1781, Page 289.

14. The sporting camp as constructed includes the permitted main lodge, permanent home with attached garage, the Cedar Lane Camps (four cabins), the Lower Way Camps (four cabins), and the Siding Camp, for a total of nine cabins. The permitted Ethelwald Camps have not been constructed.
15. In July of 2014, the applicant acquired the 50.7 acre lot with the sporting camp complex retained by Noyes after the transfer of the RLHT lot.

Proposal

16. The applicant now seeks amendment approval to reflect its ownership of the subject property, and for the proposed transfer of an approximately 5.7 acre undeveloped portion of its parcel. The lot proposed for transfer is located on the east side of the applicant's parcel, as shown on a plan titled: "Niboban Camps Out Parcel." The proposed lot would have 191 feet of frontage along South Shore Road, and 430 feet of frontage along Rangeley Lake.
17. After the proposed transfer the applicant would retain and own an approximately 45acre parcel with the existing development listed in Finding #6 above. The applicant has discussed with Commission staff its interest in converting the existing sporting camp complex to a condominium and subdividing the 45 acre parcel. The applicant states in its application materials for the proposed sale of the approximately 5.7 acre lot that it "understands that any future development on the remaining Niboban Camp property [the remaining 45 acres] must comply with the requirements of the LUPC regulations including the cluster development provisions [sic] for 'net developable shorefront' and the development of no more than 50% of the 'net developable shorefront' area."

Land Division History

18. The parent parcel for the subject lot was a 453 acre parcel acquired by the Maine Conference Association of Seventh-Day Adventists in December of 1971 [reference: Book 441, Page 14]. The parent parcel was divided into three parcels in August of 1998 [reference Plan #33404 in the Franklin County Registry of Deeds]: the subject lot being approximately 57 acres at that time and conveyed to Noyes [reference: Book 1781 Page 289]; approximately 21 acres conveyed to L. Jean Noyes [reference: Book 1781 Page 292], and approximately 371 acres to the State of Maine [reference: Book 1781, Page 283]. The transfer of the lot to the State of Maine was exempt from being considered a lot for subdivision purposes under the statutes and rules in effect at that time regarding transfers of lots to governmental entities for conservation and public recreation purposes.

19. Since the conveyance of the original approximately 57 acre parcel to Noyes in 1998, the only other lot transferred out of the Noyes parcel was the RLHT lot described under Finding of Fact #13 above.

Review Criteria

20. Under the provisions of 12 M.R.S. § 682(2-A) of the Commission Statutes and Chapter 10.02(197) of the Commission's Rules, "subdivision" means a division of an existing parcel of land into 3 or more parcels or lots within any 5-year period, whether this division is accomplished by platting of the land for immediate or future sale, by sale of the land or by leasing, except as provided in section 12 M.R.S. § 682-B of the Commission's Statutes. The term "subdivision" also includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period.
21. Under the provisions of 12 M.R.S. § 682-B(3) of the Commission Statutes and Section 10.25,Q,1,g(5) of the Commission's Rules, a lot or parcel transferred to a nonprofit, tax-exempt nature conservation organization qualifying under the United States Internal Revenue Code, Section 501(c)(3) is not considered a subdivision lot if the following conditions are met:
 - A. For a period of at least 20 years following the transfer, the lot or parcel must be limited by deed restriction or conservation easement for the protection of wildlife habitat or ecologically sensitive areas or for public outdoor recreation; and
 - B. The lot or parcel is not further divided or transferred except to another qualifying nonprofit, tax-exempt nature conservation organization or governmental entity.
22. The facts are otherwise as represented in Development Permit Application DP 4526, Amendment Requests A through E, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed transfer of the 5.7 acre lot as described under Finding of Fact #16 above, would not create a subdivision as defined under the Commission's statutes and rules. Specifically, the proposed transfer would create only the second non-exempt lot for subdivision purposes within a five-year period: the proposed 5.7 acre lot and the 50.0 acre lot to be retained by the applicant. The RLHT lot that was transferred in October of 2012 does not count as a lot for conservation purposes under the provisions of 12 M.R.S. § 682-B(3) of the Commission Statutes and Section 10.25,Q,1,g(5) of the Commission's Rules.
2. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.


Therefore, the staff approves the amendment request of Rangeley Plantation Irrevocable Trust with the following conditions:

1. The Standard Conditions (ver. 04/04), a copy of which is attached.
2. The permittee's retained lot may not be further divided without the prior review and written approval of the Commission. In addition, certain restrictions, including but not limited to subdivision, setback and minimum lot size requirements, may limit or prohibit future redivisions and/or development of the retained lot and/or the lot authorized for transfer. The permittee is hereby advised that the authorized conveyance of the 5.7 acre lot may impact the development potential of the portion of its parcel to be retained.
3. Any future conversion of the existing commercial sporting camp complex within 250 feet of the normal high water mark of Rangeley Lake to a residential use must comply with the cluster development standards in Section 10.25,R.
4. No determination has been made by the Commission as to the suitability of the authorized 5.7 acre lot for building or development purposes. Development of this lot is subject to the applicable requirements of the Commission.
5. The deed conveying the permitted 5.7 acre lot must incorporate the following restriction:

"The lot shall not be further divided without the written approval of the Maine Land Use Planning Commission."
6. Upon final execution of the deed transferring title of the authorized 5.7 acre lot, including the restriction listed under Condition #3 above, the permittee shall submit a copy of such deed for Commission records.
7. All conditions of Development Permit DP 4526 and subsequent amendments, as previously amended, shall remain in effect.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. 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 AUGUSTA, MAINE, THIS 4TH DAY OF SEPTEMBER, 2014.

By: 

Nicholas D. Livesay, Director



STATE OF MAINE
DEPARTMENT OF CONSERVATION
MAINE LAND USE REGULATION 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 Regulation Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Regulation 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 Regulation 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 Regulation 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.