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GOVERNOR

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

WALTER E. WHITCOMB  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

## PERMIT

AMENDMENT B TO  
DEVELOPMENT PERMIT DP 4735  
BY SPECIAL EXCEPTION

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Abol, L.L.C. for Amendment B to Development Permit DP 4735, finds the following facts:

1. Applicant: Abol, L.L.C.  
P.O. Box 536  
Millinocket, ME 04462
2. Date of Completed Application: February 11, 2015
3. Location of Proposal: T2 R10 WELS, Piscataquis County  
Map PI 019, Lot 1 on Plan 01 (part of)  
Katahdin Timberlands Lease # 4235
4. Zoning: (P-RP) Resource Plan Protection Subdistrict – Lower West Branch Penobscot River
5. Lot Size: 14.0 Acres (leased)
6. Principal Buildings: Existing Campground Store (28 ft. by 33 ft.)  
Existing Café Addition (26 ft. by 58 ft.)  
Existing Café Open-Air Roofed Patio (26 ft. by 18 ft.)  
Existing Caretakers' Dwelling (25ft. by 44 ft.) [ref. Building Permit BP 3506]  
Existing Shower House (16 ft. by 24 ft.) with two decks (4 ft. by 16 ft.)  
Proposed twelve (12) Rental Bunkhouses (16 ft. by 12 ft.)  
Proposed Pavilion (75 ft. by 40 ft.)  
Proposed Bathroom/Shower House  
with attached Food Preparation Facility (40 ft. by 34 ft.)
7. Accessory Structures: Proposed Storage Shed (20 ft. by 20 ft.)
8. Other site features: 42 Existing Campsites for recreational vehicle or tent use.

Background and Findings:

9. The applicant's 14 acre leased lot was historically developed with a campground featuring 42 campsites for recreational vehicle or tent use, a general store, and associated accessory structures that were in existence prior to the inception of the Land Use Planning Commission on September 23, 1971. The 42 campsites are accommodated by a bathroom/shower building that is served by an existing onsite subsurface wastewater disposal system of unknown size and capacity that was installed prior to 1971.
10. Abol Campground is located within a (P-RP) Resource Plan Protection Subdistrict (The Resource Protection Plan for the Lower West Branch of the Penobscot River). The P-RP was adopted in 1981 in conjunction with the donation of conservation easements which extinguished rights to develop the land within 500 feet of the Penobscot River for commercial or residential structures (except those related to hydroelectric power, timber harvesting, mineral extraction, and development of camps and campgrounds on existing lease lots).
11. The P-RP provides standards for those land uses reserved under the easement. The standards are substantially similar to the standards which were applicable in 1981 and lots within the P-RP that were leased prior to the 1981 P-RP approval, and continue to be leased, are governed by the subdistrict that was in place at the time of the 1981 P-RP approval. However, development on those lots is governed by the standards of that subdistrict in effect at the time an application for development is submitted. For Abol Campground, standards currently applicable to the (D-GN) General Development Subdistrict govern land use, subject to any additional requirements or limitations set out in the resource plan.
12. Current D-GN subdistrict use listings allow commercial, industrial, residential, and institutional uses, but the resource protection plan (P-RP) that applies to this site places additional restrictions on the uses allowed at this site. The applicant does not propose any uses that are prohibited under the terms of the resource plan but any further amendment must consider both the D-GN standards and the P-RP requirements and restrictions. For instance residential uses are allowed in the D-GN but the P-RP does not allow the campground to be converted to residential development.
13. On June 7, 1978 Building Permit BP 3506 was issued to Arthur and Linda Belmont authorizing construction of a 36 foot by 26 foot dwelling to serve as a campground caretakers' residence. The dwelling is served by an onsite subsurface wastewater disposal system installed at the time that the dwelling was constructed.
14. On October 27, 2005, Development Permit DP 4735 was issued to Linda Belmont authorizing construction of a 7 foot by 10 foot LP gas dispensing shed and a 10 foot by 16 foot generator shed to serve the existing campground and store. The LP gas dispensing shed was to be set back at least 30 feet from the Golden Road and the generator shed was to be set back 70 feet from the Golden Road.
15. On November 28, 2011 Amendment A to Development Permit DP 4735 was issued to the applicant, authorizing construction of a 26 foot by 58 foot addition to the existing store to be used as a café to serve seated customers. The café addition is set back 31 feet from the Golden Road, approximately 300 feet from the normal high water mark of the Penobscot River, and at least 25 feet from the nearest lease boundary line. Sometime subsequent to the issuance of Amendment A to Development Permit DP 4735, the applicant constructed a 26 foot by 18 foot open-air roofed patio addition to the restaurant without having received prior permit authorization from the Commission. The patio

addition is set back 31 feet from the Golden Road, greater than 300 feet from the normal high water mark of the Penobscot River, and at least 25 feet from the nearest lease boundary line. The café is served by an on-site subsurface wastewater disposal system that was installed at or about the time that the café was constructed.

16. The existing general store, café, and patio addition are set back at least 31 feet from the Golden Road as measured to the edge of pavement, greater than 250 feet from the Penobscot River, and at least 25 feet from the nearest lease boundary line.
17. The principal land use surrounding Abol Campground is commercial forest management, however, the Penobscot River Corridor supports numerous traditional recreational uses, including hunting, fishing, hiking, boating, white water rafting, and camping. The northern terminus of the Appalachian Trail is located to the north and west of Abol campground. Winter recreation typical of the area includes snowmobiling, back-country Nordic skiing, and snowshoe hiking. Abol Campground and the associated store and café have historically accommodated those engaged in these activities by providing lodging, meals, fuel, and sundry supplies. The beach at Abol Bridge has historically been used as a take-out location for whitewater rafters. The proposed rental cabins would augment the service that Abol Campground currently provides to winter-sports enthusiasts by providing suitable winter-season lodging opportunities.
18. The areas proposed for development are buffered from Abol Stream, the West Branch of the Penobscot River, and the Appalachian Trail by existing forest vegetation. Proposed new structures would be located more than 150 feet from the upland edge of water resources and would be buffered from these resources by existing forest vegetation. The proposed development would be located greater than 500 feet from the Appalachian Trail. Except for the footprint area of proposed structures and the associated subsurface wastewater disposal system, the applicant has proposed to maintain existing vegetation to buffer the proposed development from these area features.

Proposal:

19. The applicant proposes to convert nine (9) of the larger existing campsites into twelve (12) 16 foot by 12 foot rental bunkhouses, and to construct a 75 foot by 40 foot roofed pavilion, a 40 foot by 34 foot bathroom/shower house with attached food preparation facility and a 20 foot by 20 foot storage shed. The rental bunkhouses will not contain plumbing and will be constructed on post (non-permanent) foundations. The pavilion, shower/bath house, and storage shed will be constructed on concrete slab (permanent) foundations. All structures will be set back a minimum of 150 feet from the Penobscot River, at least 100 feet from Abol Stream, at least 75 feet from the Golden Road, and at least 25 feet from lease boundary lines. The applicant also seeks after-the-fact permit approval for the 26 foot by 18 foot open-air roofed patio addition that was constructed onto the café. The 7,064 square feet of proposed structure area, when combined with the 4,720 square feet of existing structure area will result in a combined structure footprint area of 11,784 square feet.

Review Criteria:

20. Under the provisions of Section 10.21,C,3,d,1(c) of the Commission's Land Use Districts and Standards, stores, commercial recreational uses, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet are an allowed use with a permit by special exception within a (D-GN) General Development Subdistrict provided that (a) the use can be buffered from those other uses and resources within the 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.

21. Under the provisions of Section 10.26,D,2 of the Commission's Land Use Districts and Standards the minimum setbacks for multi-family dwellings and commercial, industrial, and other non- residential principal and accessory structures, other than those described in Section 10.26,D,1 and 3 and except as provided in Sections 10.26,G and 10.27,Q are:
  - a. 100 feet from the nearest shoreline of a flowing water draining less than 50 square miles, a body of standing water less than 10 acres in size, or a tidal water, and from the upland edge of wetlands designated as P-WL1 subdistricts;
  - b. 150 feet from the nearest shoreline of a flowing water draining 50 square miles or more and a body of standing water 10 acres or greater in size;
  - c. 75 feet from the traveled portion of the nearest roadway except as provided for in Section 10.26,D,2,d below;
  - d. 20 feet from the traveled portion of all roadways on coastal islands; and
  - e. 25 feet from the side and rear property lines.
22. 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 this 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.

Review Comments:

23. The Maine Department of Inland Fisheries and Wildlife (MDIFW) has reviewed the proposal and had the following comments and recommendations:

Bunkhouses: The proposed bunkhouses are located within a 250 Inland Waterfowl and Wading Bird Habitat (IWWH) wetland buffer. However, the proposed structure setbacks are adequate and development will occur where there is current development. In addition, it is MDIFW's understanding that the bunkhouses will be clustered to the degree possible and existing vegetation will be maintained to the degree possible.

Pavilion/Septic/Storage Shed: All of the structures occur within the 250 foot IWWH wetland buffer. The proposed location for these structures is as far back as can occur and in an area largely already cleared of vegetation. The existing/remaining vegetation should be maintained to the degree possible and only that vegetation that needs to be removed for the activities should be removed. In particular, the existing vegetation between the wetland edge and the proposed location of the pavilion and shed should be maintained.

Timing: The project will require significant equipment and construction. MDIFW's IWWH Guidelines state no activities to occur during the nesting season within the 250 foot wetland buffer

occurring from April 15 to July 31 annually. For this project, MDIFW recommends no or limited activities to occur from April 15 to July 15.

The applicant has agreed to the above recommendations of MDIFW.

24. The Maine Department of Conservation, Natural Areas Program has reviewed the proposal and stated that there are no rare botanical features that will be disturbed by this project.
25. The Maine Historic Preservation Commission has reviewed the proposal and stated that there will be no historic properties affected by this project.
26. The Maine Department of Health and Human Services, Division of Environmental Health has reviewed the proposal and states the following:
  - a. The proposed subsurface wastewater disposal system design that will serve the proposed bathroom/shower house and food preparation facility is in accordance with the State of Maine Subsurface Wastewater Disposal Rules and the agency recommends approval with the installation of an external grease interceptor.
  - b. Abol Bridge Campground and Store operates under an existing DHHS license as an Eating Place/Campground.
  - c. The proposed subsurface wastewater disposal system is at least 300 feet from the public water supply well.
  - d. A replacement system design for the existing subsurface wastewater disposal system that serves the existing bathroom/shower building should be developed in spring or early summer when on-site soils evaluation methods may be employed.
27. The Department of Agriculture, Conservation, and Forestry's Hydrogeologist has reviewed the proposal and has deferred to the Department of Health and Human Services, Division of Environmental Health, with the additional comment that in the process of examining the construction of the undocumented disposal field, it would be prudent to pay particular attention to piping materials and their condition, condition and materials of the septic tank and associated baffles. If the tank is constructed of steel, it is strongly recommended that it be replaced with an appropriately sized concrete tank.
28. The facts are otherwise as represented in the application for Amendment B to Development permit DP 4735 and other supporting documents.

Based upon the above Findings, the staff concludes that:

1. The open-air roofed patio café addition would not be in compliance with Section 10.26, D, 2 of the Commission's Land Use Districts and Standards in that the addition would be less than 75 feet from the Golden Road.
2. The open-air roofed patio café addition would be in compliance with Section 10.11,B,1 of the Commission's Land Use Districts and Standards in that the proposed addition would not adversely

affect surrounding uses and resources and would not increase the extent of nonconformance of the existing store.

3. The proposal would meet the special exception criteria of Section 10.21,C,3,d. in that “the use can be buffered from those other uses within the subdistrict with which it is incompatible” in that the use is consistent with and compatible with historical recreational uses of the area, and adequate buffering will be provided by existing forest vegetation.
4. If carried out in compliance with the conditions below, the proposed development will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A

**Therefore, the staff approves the amendment request of Abol, L.L.C. with the following conditions:**

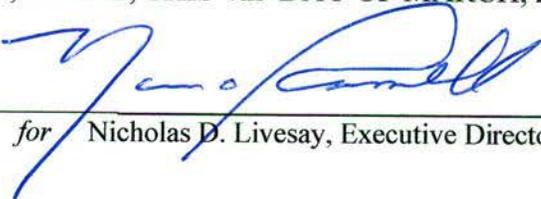
1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
2. The authorized café open-air roofed patio addition must be set back a minimum of 31 feet from the Golden Road as measured to the edge of the paved road surface, and a minimum of 25 feet from other lease boundary lines.
3. The twelve (12) rental bunkhouses, pavilion, and bathroom/shower house with food preparation facility must be set back a minimum of 150 feet from the Penobscot River, 75 feet from Abol Stream and associated wetlands, 75 feet from the Golden Road, and 25 feet from other lease boundary lines.
4. **At least two weeks prior to commencing the permitted activities, the permittee must contact Commission staff and arrange a pre-construction site visit in order to review the applicable standards and required conditions of the permit. The permittee, the excavating contractor, and the building contractor shall be in attendance at the pre-construction site visit.**
5. **No construction activities located within the 250 foot Inland Waterfowl and Wading Bird Habitat buffer of the Penobscot River, Abol Stream, and associated wetlands shall occur during the timeframe between April 15 to July 31.**
6. The proposed subsurface wastewater disposal system shall be installed in the location and according to the design prepared by the permittee’s Licensed Site Evaluator, Robert G. Vile, Jr., dated January 28, 2015. Upon installation of the subsurface wastewater disposal system, the permittee shall submit to the Commission a Certificate of Inspection demonstrating that the installation was inspected by the Local Plumbing Inspector and found to be installed in accordance with the submitted design.
7. The permittee shall obtain the service of a Licensed Site Evaluator to determine the type, estimated capacity, and condition of the existing subsurface wastewater disposal system currently serving the existing bathroom/shower house and, by no later than July 1, 2015, shall submit to the Commission a replacement system design for a subsurface wastewater disposal system to serve the existing bathroom/shower house in the event that the existing system shall malfunction.

8. Prior to beginning construction or alteration of any proposed structures, the permittee shall submit to the Commission, evidence of written authorization from the Lessor to construct or alter those structures.
9. 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.
10. 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.
11. 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.
12. 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 Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT EAST MILLINOCKET, MAINE, THIS 4th DAY OF MARCH, 2015.

By:



for Nicholas D. Livesay, Executive Director