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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 C 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 C 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: June 24, 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 (12) Rental Bunkhouses (16 ft. by 12 ft.) (see DP 4735-B)
Proposed Pavilion (75 ft. by 40 ft.) (see DP 4735-B)
Proposed Bathroom/Shower House (see DP 4735-B)
with attached Food Preparation Facility (40 ft. by 34 ft.) (see DP 4735-B)
7. Accessory Structures: Proposed storage shed (10 ft. by 40 ft.)
Proposed Storage Shed (20 ft. by 20 ft.) (see DP 4735-B)
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. On March 4, 2015 Amendment B to Development Permit DP 4735 was issued to the applicant, authorizing the conversion of 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 were to not contain plumbing and were to be constructed on post (non-permanent) foundations. The pavilion, shower/bath house, and storage shed were to be constructed on concrete slab (permanent) foundations. All structures were to 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. Amendment B to Development permit DP 4735 also granted 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 was to result in a combined structure footprint area of 11,784 square feet.
18. 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
19. 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:

20. The applicant now proposes to remove an existing 4 foot by 40 foot accessory shed and construct a 10 foot by 40 foot replacement shed. The existing shed is a pre-Commission nonconforming structure located 62 feet from the Golden Road. The replacement shed would be set back 62 feet from the Golden Road. The applicant also proposes to construct twelve (12) 6 foot by 12 foot front porches

attached to each of the 12 foot by 16 foot bunkhouses authorized by Amendment B to Development permit DP 4735, to enclose the existing 18 foot by 26 foot outdoor patio with screen, and to reconfigure the doorway entrance to the restaurant. The reconfigured doorway entrance would not cause a decrease in the setback to the traveled portion of the Golden Road, or in any way cause the existing restaurant structure to become more nonconforming to applicable dimensional requirements. The area of the proposed shed and bunkhouse porches (1,264 square feet), when combined with the total combined structure footprint area of 11,784 square feet authorized by Amendment B to Development Permit DP 4735 will result in a total structure footprint area of 13,048 square feet.

Review Criteria:

21. 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.
22. 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.
23. 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.
24. Under provisions of Section 10.11, C, 2, a of the Commission's Land Use Districts and Standards, a legally existing, nonconforming structure may be reconstructed or replaced with a permit, provided that the permit application is completed and filed within two years of the date of damage, destruction or removal; the structure was in regular active use within a two year period immediately preceding the

damage, destruction, or removal; and if the reconstruction or replacement involves expansion, the structure meets the requirements of Section 10.11,C,1.

a. **Meeting Setbacks to the Maximum Extent Possible.** Reconstruction or replacement must comply with current minimum setback requirements to the maximum possible extent. In determining whether the proposed reconstruction or replacement meets the setback to the maximum possible extent, the Commission may consider the following factors:

- size of lot,
- slope of the land,
- potential for soil erosion and phosphorus export to a water body,
- location of other legally existing structures on the property at the time of the damage, destruction or removal,
- location of the septic system and other on-site soils suitable for septic systems at the time of the damage, destruction or removal,
- type and amount of vegetation to be removed to accomplish the relocation, and
- physical condition and type of existing foundation, if any.

Review Comments:

25. For the purposes of this application, the Commission relies on the various state agency comments provided for Amendment B to Development Permit DP 4735, issued on March 4, 2015, as nothing in the current proposal would be affected by any terms or conditions required as a result of those agency comments.
26. 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 proposed reconstructed accessory shed 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 proposed reconstructed accessory shed 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 proposed reconstructed accessory shed would be in compliance with Section 10.11, C, 2, a of the Commission's Land Use Districts and Standards in that due to the slope of the land, the location of other legally existing structures, and the type and amount of vegetation that would need to be removed in order to accomplish a relocation of the structure, the proposed location of the reconstructed accessory shed meets the current minimum roadway setback to the maximum extent possible.

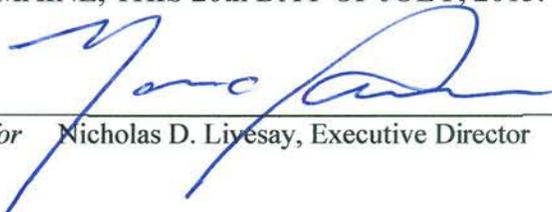
4. The proposal would meet the special exception criteria of Section 10.21,C,3,d. in that “the use can be buffered from those other uses within the subdistrict with which it is incompatible” in that the use is consistent with and compatible with historical recreational uses of the area, and adequate buffering will be provided by existing forest vegetation.
5. 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. The Standard Conditions for Development Permits (ver. 04/04), a copy of which is attached.
2. 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.
3. The authorized reconstructed 10 foot by 40 foot accessory shed must be set back a minimum of 62 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.
4. The twelve (12) 6 foot by 12 foot porches to be attached to the twelve (12) previously authorized rental bunkhouses 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.
5. All conditions of Amendment B to Development Permit DP 4735 shall remain in effect.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the 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 20th 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