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DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
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PERMIT

DEVELOPMENT PERMIT DP 4953

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Aaron Bell and Carly DelSignore, d/b/a Tide Mill Organics, for Development Permit DP 4953, finds the following facts:

1. Applicants: Aaron Bell and Carly DelSignore
d/b/a Tide Mill Organics
91 Tide Mill Road
Edmunds Township, Maine 04628
2. Date of Completed Application: June 13, 2014
3. Location of Proposal: Edmunds Township, Washington County, Maine
Lot 21 on Plan 02 of Maine Revenue Service's Property Tax Map
4. Zoning: (M-GN) General Management Subdistrict
(P-SL) Shoreland Protection Subdistrict
(P-WL) Wetland Protection Subdistrict
(P-FP) Flood Prone Area Protection Subdistrict (by Virtue of Section 10.23,C,2 of the
Commission's Land Use Districts and Standards (the Standards))
5. Lot Size: 254 acres (leased)
6. Sewage Disposal: Proposed Combined Subsurface Wastewater Disposal System
7. Development: Existing Manure Storage Shelter (75 ft. by 125 ft.)
Existing Walk-in Cooler/Freezer (12 ft. by 20 ft.)
Existing Hoop-House Shelter for Poultry
Proposed Poultry Processing Facility (40 ft. by 60 ft.)

Administrative History and Existing Conditions

8. Tide Mill Organics is a family run farming business that operates on a leased portion of a larger farm enterprise known as Tide Mill Organic Farm that is owned and operated by Tide Mill Farms, Inc. Tide Mill Organics currently produces milk, beef, poultry, vegetables, seedlings and balsam wreaths, and conducts educational tours of the farm. Development of the area leased by Tide Mill Organics includes an existing manure storage shelter and an existing walk-in cooler/freezer and a hoop-house shelter for poultry.

9. Much of the applicants' lot is located within an area of special flood hazard (Zone A) as identified by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM) for Edmunds Township, Washington County, Maine. Under the Commission's rules, Section 10.23,C,2 of the Commission's Land Use Districts and Standards, such areas are regulated according to the provisions of the (P-FP) Flood Prone Area Protection Subdistrict. However, the applicants have submitted a Letter of Map Amendment (LOMA) from FEMA, dated April 17, 2014 (Case No.: 14-01-1185A), in which FEMA approved the removal of 20.52 acres of the property, which encompasses the entire area of existing and currently proposed development, from the Special Flood Hazard Area, thereby removing the property from the Commission's (F-FP) Flood Prone Area Protection Subdistrict and returning it to (M-GN) General Management Subdistrict and (P-SL) Shoreland Protection Subdistrict.

Proposal

10. The applicants propose to construct and operate a small scale poultry processing facility. The proposed structure would consist of a 40 foot by 60 foot building, within which would be holding, kill and processing areas; walk-in cooler; walk-in freezer; packing room; shipping room; utility room; staff break room, staff changing room; two bathrooms; and a loading dock. The proposed facility building would be located approximately 340 feet from the nearest high tide mark, 439 feet from the nearest freshwater waterbody, 234 feet from the road and 234 feet from the nearest property line. The applicants propose to construct a 35 foot by 95 foot parking area adjacent to the building, and a 20 foot wide by 70 foot long access driveway. The entire facility would be located within the (M-GN) General Management Subdistrict by virtue of the LOMA described in paragraph 9 above.
11. The applicants propose to raise and process 20,000 birds per year, year round; with approximately 15,000 birds to be raised on site and 5,000 birds to be raised by the applicants off-site on other farms. Offal from the processing of the birds would be composted on site within the existing manure storage structure using Best Management Practices (BMPs) for the composting of animal carcasses and offal. Residuals from the composting process would be disposed of on the farm property within the (M-GN) General Management Subdistrict and within the 20.52 acre area of the property subject to the LOMA removing it from the Special Flood Hazard Area, and in accordance with the Department of Environmental Protection's Hazardous Waste, Septage and Solid Waste Management Act (38 M.R.S.A. §13). Hours of operation would be 7:00 AM to 8:00 PM seven days per week.
12. The applicants propose to operate under a Department of Agriculture, Conservation & Forestry exemption from the United States Department of Agriculture inspection requirements pursuant to the provisions and limitations specified under 22 M.R.S.A. §2517-C. Those provisions allow the applicants, among other things, to raise, slaughter and process no more than 20,000 birds in a calendar year.

Agency Review Comments

13. The application was reviewed by the Maine Natural Areas Program, which indicated that; based on a search of its Biological and Conservation Data System, no rare botanical features would be disturbed within the project site.
14. The application was reviewed by the Subsurface Wastewater Unit of the Division of Environmental Health, Department of Health and Human Services, which indicated that the proposed subsurface wastewater disposal system proposed by the applicants complies with the Subsurface Wastewater Disposal Rules.

15. The application was reviewed by the Department of Inland Fisheries and Wildlife (DIFW), which indicated that the proposed project is located within a Conservation Easement Area and that the provisions of the easement have been met with regard to setbacks and allowed development. DIFW further commented that there were no inland fisheries concerns with the project.

Commission Review Criteria

16. In accordance with Section 10.22,A,3,c (27) of the Commission's Land Use Districts and Standards; Other structures, uses, or services which the Commission determines are consistent with the purposes of this Subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect, and are of similar type, scale and intensity as other allowed uses, are allowed with a permit within the (M-GN) General Management Subdistrict.
17. According to Section 10.23,C,2 of the Commission's Standards, the Flood Prone Protection (P-FP) Subdistrict is described as: areas located within the 100-year frequency floodplain, also known as areas of special flood hazard, as identified by the Commission after consideration of relevant data including, without limitation, areas determined to be flood prone by state or federal agencies, including the Flood Insurance Studies and accompanying Flood Insurance Rate Maps, Flood Boundary and Floodway Maps or Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency, historical data, and the National Cooperative Soil Survey.

The areas identified by FEMA as areas of special flood hazard (Zones A, AE, A1-30, VE) on Flood Insurance Rate Maps, Flood Boundary and Floodway Maps or Flood Hazard Boundary Maps for townships, plantations, or towns qualify as flood prone areas appropriate for protection within this subdistrict. The Commission adopts the FEMA maps as listed in Appendix E, and a note on the Official Land Use Guidance Map shall refer to maps so adopted. In any case where the boundaries of the P-FP Subdistrict on the Commission map differ from the boundaries of the FEMA zones, the FEMA boundaries shall apply. The FEMA zones shall be regulated according to the provisions of the P-FP Subdistrict.

Analysis

18. The proposed poultry processing facility does not qualify as one of the specific uses allowed under Section 10.22,A,3,a through d of the Commission's Land Use Districts and Standards. However, it may be allowed under the category of allowed uses with a permit as specified under Section 10.22,A,3,c,(27): "*Other structures, uses or services which the Commission determines are consistent with the purpose of this Subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources they protect, and are of similar type, scale and intensity as other allowed uses.*" This provision is intended to accommodate uses that have not been specifically considered by the Commission previously.
19. The purpose of the General Management Subdistrict is to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development. The proposal includes facilities for the slaughtering of poultry raised at the on-site farm and at other local farms. Agricultural management activities are defined, and generally include those activities related to the raising of crops and livestock; the definition does not include activities related to the processing of livestock. The processing of livestock can be a key component in conveying agricultural products to market.

In order to apply the "other structures and uses" use listing, the Commission must consider the scale, type, and intensity of the proposal as compared to other allowed uses within the M-GN Subdistrict. In this regard, the following use listings are most pertinent:

- (8) Maple sugar processing operations [commonly including structures containing as much as 10,000 square feet of gross floor area]
 - (10) Mineral extraction operations – less than 5 acres in size, and structures essential to the extraction activity having a total gross floor area of no more than 2,000 square feet;
 - (12) Portable mineral processing equipment;
 - (16) Sawmills and chipping mills on sites of less than 5 acres; and
 - (18) Solid waste disposal facilities affecting an area less than 2 acres in size
20. The proposed use creates the potential for impacts, such as traffic and solid waste disposal, and as facility scale increases so does the potential for these impacts. Given that this facility will be processing only its own poultry, will be composting the offal waste products and disposing of the composted residual on site, this proposal appropriately addresses these impacts.

As illustrated by the other uses allowed within the M-GN Subdistrict (see Finding 19 above), the size of the land area affected and floor area of structures are important in considering scale, type and intensity of use. The proposed structure and uses are closely related to agricultural management activities and are of a similar scale, type, and intensity to other uses that are allowed within the M-GN Subdistrict.

If the facility is operated as proposed and in conformance with 22 M.R.S.A § 2517-C, the facility will be similar in scale, type and intensity as other uses that are allowed within the M-GN Subdistrict.

The proposal is consistent with the purpose of the General Management Subdistrict. However, a poultry processing facility that processes more birds, generates more traffic, and/or solid waste than is currently proposed likely would not be consistent with this Subdistrict or this site. Future expansion of the proposed operation may require rezoning or relocation to a more suitable site.

21. The Comprehensive Land Use Plan articulates that the ‘economic value of the jurisdiction derived from working forests and farmlands’ is one of the principal values of the jurisdiction. Among others, the Plan includes the following goals and policies:

Goal: Conserve and protect working farms, encourage the development of new farming enterprises, and conserve agricultural soil resources.

Policies:

1. Encourage agriculture in appropriate areas.
 5. Encourage the economic viability of agriculture by allowing diversification of farming enterprises where the new uses do not detract from the principal values of the jurisdiction.
22. Small scale, on-site uses, such as creameries and/or the proposed poultry processing facility, may contribute to the economic viability of agricultural operations in the jurisdiction. However, at larger scales, these secondary uses may: i) present increased risks of impacts and incompatibility with the Subdistrict and uses; and/or ii) may serve a regional need or purpose. As a result, in some cases, these uses may be most appropriate in certain Development Subdistricts.

This proposal is consistent with the Comprehensive Land Use Plan which places considerable emphasis on agricultural activities.

Based upon the above Findings, the staff Concludes that:

1. The applicants have demonstrated, by virtue of the LOMA issued by FEMA that the area of the property proposed for development is not located within a Special Flood Hazard Area and not within a (P-FP) Flood Prone Area Subdistrict, but rather is located within a (M-GN) General Management Subdistrict.
2. The applicants' proposal complies with the requirements of Section 10.22,A,3,c (27) of the Commission's Land Use Districts and Standards, in that it is comparable to other uses allowed in the Subdistrict and is consistent with the Commission's Comprehensive Land Use Plan, provided that the processing operation remains small scale (i.e. raising and processing no more than 20,000 birds annually). The operation of the facility should be limited to that which qualifies under 22 M.R.S. § 2517-C to ensure that it remains comparable in scale with the other uses allowed in the Subdistrict. Should the applicants wish to operate the facility in excess of the limits of 22 M.R.S. § 2517-C, a permit from the Commission would be required and a rezoning or relocation may be necessary.
3. 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 staff approves the amendment request of Aaron Bell and Carly DelSignore, d/b/a Tide Mill Organics, with the following Conditions:

1. The Standard Conditions of Approval for All Development Permits (Version 04/04)
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. 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.
4. The permittees shall secure and comply with all other applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, the Maine Department of Agriculture, Conservation and Forestry, and the Maine Department of Environmental Protection.
5. The permittees shall be allowed to slaughter and process up to 20,000 birds annually in accordance with the rules and requirements of 22 M.R.S. § 2517-C.
6. The composting of offal and other organic waste products of the poultry processing facility must comply with the Best Management Practices as described in the Maine Department of Agriculture, Conservation & Forestry's "*Best Management Practices for Animal Carcass Composting*" (October, 2011).

7. Disposal of the residuals of the composting process must be disposed of on the property within the (M-GN) General Management Subdistrict and within the 20.52 acre area of the property subject to the LOMA removing it from the Special Flood Hazard Area, and in accordance with the Department of Environmental Protection's Hazardous Waste, Septage and Solid Waste Management Act (38 M.R.S.A. §13).
8. The approved structure must be constructed in the location proposed and be no higher than 30 feet, measured as vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.
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. The driveway must be located and constructed so that (a) it will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) it will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland or roadway.
11. Provision shall be made for vehicular access to and within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways within the project area. Development shall be located and designed so that the roadways and intersections in the vicinity of the development will be able to safely and efficiently handle the traffic attributable to the development in its fully operational stage.
12. Once construction is complete, the permittee(s) 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.
13. 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.

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 AUGUSTA, MAINE, THIS 23rd DAY OF JUNE, 2014.



By: _____
for Nicholas D. Livesay, Executive Director