



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
106 HOGAN ROAD, SUITE 8
BANGOR, MAINE 04401

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

DEVELOPMENT PERMIT DP 4962

The staff of the Maine Land Use Planning Commission (LUPC or Commission), after reviewing the application and supporting documents submitted by Jean T. Nichols-Wood (Wood or Applicant) for Development Permit DP 4962, finds the following facts:

1. Applicant: Jean T. Nichols (a.k.a. Jean T. Nichols-Wood)
PO Box 927
Sabattus, Maine 04280
2. Date of Completed Application: December 11, 2014
3. Location of Proposal: Kingsbury Plantation, County of Piscataquis, State of Maine
Maine Revenue Service Map PIP02, Plan 02, Lot 8.2
Piscataquis County Registry of Deeds: Book 1787, Page 219
4. Zoning: General Management Subdistrict (M-GN) by Virtue of Zoning Petition ZP 748
5. Lot Size: 2.01[±] acres (87,500 square feet) - Owned
6. Development: Recreational Lodging Facility, Level B
 - A. Principal Buildings: Existing Main Camp (32 ft. by 26 ft.)
Existing Housekeeping Cabin (24 ft. by 24 ft.)
 - B. Accessory Structures: Existing Utility Shed #1 (14 ft. by 10 ft.)
Existing Bait Storage Shed #2 (20 ft. by 24 ft.) - To be Removed
Proposed Bait Storage Shed #2 (28 ft. by 14 ft.)
Existing Driveway (16 ft. by 170 ft.)
Existing Parking Area (30 ft. by 55 ft.)
7. Sewage Disposal: Existing Complete Non-engineered System
8. Soil Profile/Condition/Design: 1/C/1 per Maine Subsurface Wastewater Disposal Rules
9. Affected Waterbody: None

PROPOSAL SUMMARY

10. The Applicant requests after-the-fact permit approval for a Level B, Recreational Lodging Facility and permit approval to reconstruct the existing 20 foot by 24 foot bait storage shed #2 into a new 28 foot by 14 foot bait storage shed #2.

SUMMARY OF ADMINISTRATIVE HISTORY

11. In May of 2014, an anonymous complaint was filed with the Commission which alleged that a sporting camp (a.k.a. J&S Guide Service) was being operated on Lot 8.2 without the appropriate permits from the Commission. Staff contacted the person running the guide service in late May to discuss the potential violations (reference, Enforcement Case EC-14-64, resolved with this permit).
12. At a meeting of the Commission held September 10, 2014 at Rangeley, Maine, the Commission approved Commission-initiated Zoning Petition ZP 748 authorizing, among other subdistrict changes, the rezoning of the 2 acre Lot 8.2 from Residential Development Subdistrict (D-RS) to M-GN Subdistrict. The change in subdistrict designation became effective on September 25, 2014.

SUMMARY OF KEY STANDARDS

13. Under the provisions of Section 10.02, 168 of the Commission's *Land Use Districts and Standards* (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 B Facilities have low impacts on existing resources within the development site and surrounding areas. Level B facilities are specifically designated by Section 10.27,Q,1 of the Commission's Standards.

14. Level B recreational lodging facilities may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III (*Ch. 10.22,A,3,c,(13),(b)*).
15. The applicable Level B recreational lodging facilities factors, for this proposal in this location, include the following (*Ch. 10.27,Q,1,Table A*):
 - (1) On-site recreation activities, features, and/or services as defined in Ch. 10.02,167 that produce low noise, odor and are mostly screened;
 - (2) public utilities and/or indoor plumbing;
 - (3) up to 8,000 square feet of principal buildings;
 - (4) up to 100 square feet of retail or not more than 5% of the floor area of the principal buildings, whichever is larger;
 - (5) dining amenities, fuel sales, and recreation activities, features and /or services as defined in Ch. 10.02,167, which are available to only guests; and
 - (6) overnight occupancy for up to 100 persons.
16. The dimensional requirements applicable to this commercial use which involves one or more buildings include: a minimum lot size of 40,000 square feet, a minimum road frontage of 200 feet, and minimum structure setbacks of 50 feet from the traveled portion (edge) of Campbell Road and 15 feet from side and rear property boundary lines for all parking areas and all those structures within the recreational lodging facility constructed solely for the housing of guest, and 75 feet from the traveled portion (edge) of Campbell Road and 25 feet from side and rear property boundary lines for all other structures within the recreational lodging facility (*Ch.10.26*).

SUMMARY OF PROPOSAL INFORMATION

17. Site Description. The Applicant owns a 250 foot by 350 foot parcel of land in the M-GN subdistrict. The 2 acre parcel has 250 feet of road frontage on Campbell Road and is developed with a 32 foot by 26 foot main camp, a 24 foot by 24 foot housekeeping cabin, a 14 foot by 10 foot utility shed, a 20 foot by 24 foot bait storage shed, a 16 foot by 170 foot driveway, and a 30 foot by 55 foot parking area. All structures and the parking area are set back at least 75 feet from the traveled portion (edge) of Campbell Road and 25 feet from other property boundary lines.
18. Recreational Lodging Facility Factors. The applicant submitted Supplement S-6, which provides information relevant to the categorization of recreational lodging facilities. In that supplement, the applicant indicates:
 - (1) *On-site recreation activities, features, and/or services*. The Applicant runs a fishing, hunting/trapping and recreational guide service in which all guiding is completed off-facility. A small fire pit, considered a low noise, odor and mostly screened activity is available for guest use.
 - (2) *Utilities*. All structures are served by public utilities. The camp and housekeeping cabin have indoor plumbing.
 - (3) *Floor area of principal buildings*. The floor area of all principal buildings is 1,408 square feet.
 - (4) *Clearing footprint within 250 feet of water bodies*. Not applicable.
 - (5) *Retail*. None.

- (6) *Dining amenities.* On-site kitchens in the main camp and the housekeeping cabin for guest use only.
- (7) *Fuel sales.* None.
- (8) *Overnight occupancy.* Up to ten (10) guests occupancy.

19. Reconstruction of Bait Storage Shed #2. The Applicant proposes to reconstruct the 20 foot by 24 foot bait storage shed#2 into a new 28 foot by 14 foot bait storage shed #2. The new shed would be set back at least 75 feet from the traveled portion (edge) of Campbell Road and 25 feet from side and rear property boundary lines. The old storage shed would be removed from the lot.
20. The facts are otherwise as represented in Development Permit application DP 4962 and supporting documents.

Based upon the above Findings, and subject to the Conditions listed below, the Commission Concludes that:

1. The facility, including the proposed construction and change of use, 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, Tables A and B, of the Commission's Standards, the facility, constitutes a Level B Recreational Lodging Facility. Specifically, the reconstruction of the existing 20 foot by 24 foot bait storage shed #2 into a new 28 foot by 14 foot bait storage shed #2 meets all applicable standards for construction and expansion and is consistent with Tables A and B. The stated floor area for all principal buildings upon completion is approximately 1,408 square feet, which is less than the maximum 8,000 square feet allowed for a Level B Facility. The recreational activities offered would be off-site guide services and an on-site fire pit available for guest use. On-site kitchens in main camp and housekeeping cabin are for guest use only. The total overnight occupancy would be less than the 100 maximum allowed in a Level B Facility.
3. Because the applicant is not proposing to develop the facility to the full extent of a Level B Recreational Lodging Facility, the Commission has not evaluated the potential impacts of an increase in overnight occupancy beyond 10. Based on its evaluation and provided the applicant complies with Condition #3, the Commission concludes that the proposed development and use of the facility meet all applicable criteria. As the applicant proposes to operate the facility it will comply with Condition #3.

4. The proposed reconstruction of the bait storage shed #2 will meet the applicable dimensional requirements.
5. All proposed activities will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.

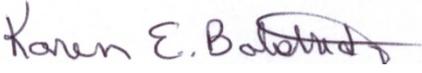
Therefore, the staff Approves the request of Jean T. Nichols-Wood with the following Conditions:

1. The enclosed permit certificate must be posted in a visible location on your property immediately after receipt and during development of the site and construction of the structures and activities approved by this permit.
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. Notwithstanding the overnight occupancy limit outlined under Finding of Fact #15,(6) and stated in section 10.27,Q,1, Table 1 of the Standards, the overnight occupancy limit of this facility shall be no more than 10 persons until such time as the applicant requests an increase and supplies supporting information that such a change will meet the criteria for the subdistrict designation in effect at the time. The Commission incorporates this condition not because it finds that an overnight occupancy of greater than 10 would not satisfy the Commission's Standards, but rather because the Commission has not considered the potential impact of overnight occupancy greater than 10.
4. All parking areas and all those structures within the recreational lodging facility constructed solely for the housing of guests must be set back a minimum of 50 feet from the traveled portion (edge) of Campbell Road and at least 15 feet from side and rear property boundary lines. All other structures within the recreational lodging facility must be set back a minimum of 75 feet from the traveled portion (edge) of Campbell Road and at least 25 feet from side and rear property boundary lines.
5. Retail space shall not exceed 100 square feet or not more than 5% of the floor area of the principal buildings, whichever is larger.
6. 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.
7. Upon completion of the authorized Proposed Bait Storage Shed #2 within the terms of this permit, the Existing Bait Storage Shed #2 must be removed from the lot and all solid waste and other debris disposed of in a proper manner, in compliance with applicable state and federal solid waste laws and rules.

8. The permittee shall secure and comply with all other applicable licenses, permits, authorizations and monitoring requirements of all federal, state and local agencies including, but not limited to, the Maine Department of Health and Human Service's Division of Environmental Health's, Subsurface Wastewater Unit and Health Inspection Program.
9. Should the monitored wastewater use exceed the subsurface wastewater design flow, the permittee shall expand the system to be in compliance with the State of Maine Subsurface Wastewater Disposal Rules.
10. 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.
11. Nothing in this permit shall be construed to release the permittee from any liability or responsibility arising from any violation, including Enforcement Case EC14-64, or to be considered a waiver of the authority of the Commission or the state to fully pursue or prosecute such violations.

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 BANGOR, MAINE, THIS 26TH DAY OF JANUARY, 2015.

By: 
_____ *for* Nicholas D. Livesay, Executive Director