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GOVERNOR

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

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COMMISSIONER

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EXECUTIVE DIRECTOR

PERMIT

DEVELOPMENT PERMIT DP 4997

The Maine Land Use Planning Commission (the “LUPC” or “Commission”), through its staff, after reviewing the application and supporting documents submitted by Moon Hill Farm LLC (the “Applicant” or “Permittee”) for Development Permit DP 4997, finds the following facts:

1. Applicant: Moon Hill Farm LLC
c/o Timothy A. Beal and Lydia J. Beal, Partners
200 Moon Hill Road
Whiting, Maine 04691
2. Date of Completed Application: April 26, 2016
3. Location of Proposal: Marion Township, Washington County, Maine
Maine Revenue Service Map WA031; Plan 02; Lots 24 and 26
Washington County Registry of Deeds:
Book 1705, Page 292 and Book 3392, Page 107
4. Zoning: General Management Subdistrict (M-GN)
Wetland Protection Subdistrict (P-WL1)
Wetland Protection Subdistrict (P-WL2)
Wetland Protection Subdistrict (P-WL3)
Shoreland Protection Subdistrict (P-SL2)
Flood Prone Area Protection Subdistrict (P-FP)
5. Lot Size: 225[±] Acres (owned)
6. Development: Existing Dwelling Unit #1 (28 ft. by 30 ft. by 18 ft.) with
Existing Addition #1 (20 ft. by 43 ft.) and
Existing Addition #2 (28 ft. by 36 ft.)
Proposed Dwelling Unit #2 (34 ft. by 36 ft.)
Existing Sawmill/Blueberry Processing Building
(the former Storage Building) (50 ft. by 60 ft.)
Existing Storage Building #1 (the former Garage) (16 ft. by 24 ft.)
Existing Storage Building #2 (16 ft. by 16 ft.)
Existing Storage Building #3 (8 ft. by 12 ft.)
Existing Storage Building #4 (6 ft. by 12 ft.)



Existing Blacksmith Tool Building (10 ft. by 10 ft.)
Existing Generator Building (5 ft. by 7 ft.)
Existing Outdoor Wood Boiler
Existing Woodshed
Existing Parking Area/Storage Yard (approx. 150 ft. by 275 ft.)

7. Sewage Disposal: Existing Complete Non-engineered System, Single Family Dwelling
Existing Pit Privy, Single Family Dwelling
Proposed Complete Non-engineered System, Single Family 3 Bed Dwelling
8. Soil Profile/Condition/Design: 3-AIII/C per Maine Subsurface Wastewater Disposal Rules
2-AIII/ per Maine Subsurface Wastewater Disposal Rules
3/C per Maine Subsurface Wastewater Disposal Rules
9. Affected Waterbody: Josh Lake Stream

Administrative History

10. Building Permit BP 7958, issued to Timothy and Lydia Beal on October 30, 1991, authorized the construction of a 24 foot by 20 foot permanent residential dwelling unit (“Dwelling Unit #1”) on a temporary foundation, a residential driveway, and a special infiltrator sewage disposal system with a pit privy.
11. Amendment A to Building Permit BP 7958, issued to Timothy and Lydia Beal on April 22, 1993, authorized modification of Dwelling Unit #1 to a 28 foot by 30 foot dwelling unit on a permanent foundation and installation of a combined wastewater disposal system in addition to the existing pit privy.
12. Amendment B to Building Permit BP 7958, issued to Timothy A. and Lydia J. Beal on October 24, 1996, authorized the construction of a 32 foot by 40 foot Garage and a 24 foot by 60 foot Storage Building.
13. Henceforward, those structure, uses, and lots covered under Building Permit BP 7958, Amendment A to Building Permit BP 7958, and Amendment B to Building Permit BP 7958 are consolidated under this Development Permit DP 4997 and any subsequent amendments.

Existing Conditions

14. The Applicant’s 225[±] acre contiguous lots have approximately 4,000 feet of water frontage on Josh Lake Stream and approximately 4,100 feet of road frontage on Moon Hill Road (so called). Currently the lots are developed with: a 28 foot by 30 foot Dwelling Unit #1 on a full foundation with a 20 foot by 43 foot addition on a stone post foundation and a 28 foot by 36 foot addition on a slab foundation; a 50 foot by 60 foot Sawmill/Blueberry Processing Building on a slab foundation (the former Storage Building); a 16 foot by 24 foot Storage Building #1 (the former Garage); a 16 foot by 16 foot Storage Building #2; an 8 foot by 12 foot Storage Building #3; a 6 foot by 12 foot Storage Building #4; a 10 foot by 10 foot Blacksmith Tool Building; an approximately 5 foot by 7 foot Generator Building; an Outdoor Wood Boiler; a Woodshed; and an approximately 150 foot by 275 foot Parking Area/Storage Yard. All

residential primary and accessory structures, and all agricultural management structures, are set outside any P-FP, P-WL2 and P-WL3 subdistricts and are setback at least 75 feet from the normal high water Josh Lake Stream and any associated P-WL1 wetlands of special significance, 50 feet from the traveled portion (edge) of Moon Hill Road, and 15 feet from all other property boundary lines.

15. The 20 foot by 43 foot residential dwelling addition on a stone post foundation, the 28 foot by 36 foot residential dwelling addition on a slab foundation, the change of use of the former Storage Building from a structure used primarily for agricultural management activities to a Sawmill/Blueberry Processing Building, and the change of use of the parking area to a Parking Area/Storage Yard were completed without prior permit approval from the Commission, reference Enforcement Case EC 16-9, resolved with this permit.

Proposal

16. *After-the-fact additions to Dwelling Unit #1.* The Applicant seeks after-the-fact permit approval for the 20 foot by 43 foot residential dwelling addition on a stone post foundation and the 28 foot by 36 foot residential dwelling addition on a slab foundation, as constructed. The additions are located within an M-GN subdistrict, are set outside any P-FP, P-WL2 and P-WL3 subdistricts, and are setback at least 75 feet from the normal high water Josh Lake Stream and any associated P-WL1 wetlands of special significance, 50 feet from the traveled portion (edge) of Moon Hill Road, and 15 feet from all other property boundary lines.
17. *After-the fact Sawmill/Blueberry Processing Building and Parking Area/Storage Yard.* The Applicant also seeks after-the-fact permit approval for the change of use of an agricultural management structure (the former Storage Building) to a Sawmill/Blueberry Processing Building and the change of use of an existing parking area to a Parking Area/Storage Yard. A portion of the Sawmill/Blueberry Processing Building is currently use for processing blueberries which includes foreign material removal, destemming, sorting, sizing and packaging. The remaining portion is used to shelter and operate a “permanently” installed portable sawmill. The sawmill operation includes a log and slab storage yard. The Sawmill/Blueberry Processing Building and Parking Area/Storage Yard are set outside any P-FP, P-WL2 and P-WL3 subdistricts and are setback at least 100 feet from the normal high water Josh Lake Stream and any associated P-WL1 wetlands of special significance, 75 feet from the traveled portion (edge) of Moon Hill Road, and 25 feet from all other property boundary lines.
18. *Construction of Dwelling Unit #2.* Last, the Applicant seeks permit approval to construct a 34 foot by 36 foot single family dwelling unit with a permanent foundation (Dwelling Unit #2) and a subsurface wastewater disposal system. The dwelling unit would be located within an M-GN subdistrict, would be set outside any P-FP, P-WL2 and P-WL3 subdistricts, and would be setback at least 75 feet from the normal high water Josh Lake Stream and any associated P-WL1 wetlands of special significance, 50 feet from the traveled portion (edge) of Moon Hill Road, and 15 feet from all other property boundary lines.

Commission Review Criteria

19. New or expanded structures accessory to any legally existing principal structures and uses, provided that the total square footage of the footprint of all new or expanded accessory

structures built on a lot within a two (2) year period is not more than 750 square feet and all other requirements and standards of Section 10.27,P are met, shall be allowed without a permit from the Commission within an M-GN subdistrict, subject to the applicable requirements set forth in Sub-Chapter III. (§ 10.22,A,3,b,(1) of the Commission's *Land Use Districts and Standards* (Standards or *Ch.*)

20. Agricultural management activities, including cranberry cultivation, the construction, alteration or maintenance of farm or livestock ponds which are not fed or drained by a flowing water, and the operation of machinery and the erection of buildings including buildings to store equipment and materials for maintaining roads and other structures used primarily for agricultural management activities, shall be allowed without a permit from the Commission within an M-GN subdistrict, subject to the applicable requirements set forth in Sub-Chapter III. (*Ch. 10.22,A,3,b,(2)*)
21. Residential, single family dwellings may be allowed within an M-GN subdistrict 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,(14)*)
22. Sawmills less than 5 acres may be allowed within an M-GN subdistrict 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,(16)*)
23. The facts are otherwise as represented in the applications for Building Permit BP 7958 and subsequent amendments and supporting documents, the application for Development Permit DP 3578 and supporting documents, and Enforcement Case EC 19-9 and supporting documents.

Based upon the above FINDINGS, the staff CONCLUDES that:

1. Storage Buildings #2 through #4, the Generator Building, the Blacksmith Tool Building, the Outdoor Wood Boiler and the Woodshed were constructed in compliance with § 10.22,A,3,b,(1) and § 10.27,P of the Commission's Standards.
2. Storage Building #1 (the former Garage) and the Sawmill/Blueberry Processing Building (the former Storage Building) were expanded in compliance with § 10.22,A,3,b,(2) of the Commission's Standards.
3. Processing of Moon Hill Farm LLC grown blueberries (foreign material removal, destemming, sorting, sizing and packaging) is in compliance with § 10.22,A,3,b,(2) of the Commission's Standards.
4. The after-the-fact Dwelling Unit #1 additions and the proposed Dwelling Unit #2 meet § 10.22,A,3,c,(14) and the applicable requirements set forth in Sub-Chapter III of the Commission's Standards.
5. As long as the Applicant complies with the CONDITIONS below, the sawmill operations will comply with §10.22,A,3,c,(16) and the applicable requirements set forth in Sub-Chapter III of the Commission's Standards.

6. If carried out in compliance with the CONDITIONS below, the proposal will meet the Criteria for Approval, § 685-B(4) of the Commission's Statutes, 12 M.R.S.

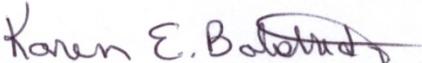
Therefore, the staff APPROVES the request of Moon Hill Farm LLC with the following CONDITIONS:

1. The enclosed permit certificate must be posted in a visible location at the Dwelling Unit #2 building site immediately after receipt and during development of the site and construction of the structures and activities approved by this permit.
2. Dwelling Unit #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 Dwelling Unit #2 must be located within an M-GN subdistrict, must be located outside any P-FP, P-WL2 and P-WL3 subdistricts, and must be set back a minimum of 75 feet from the normal high water Josh Lake Stream and any associated P-WL1 wetlands of special significance, 50 feet from the traveled portion (edge) of Moon Hill Road, and 15 feet from all other property boundary lines.
4. Once construction is complete on Dwelling Unit #2, 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.
5. The sawmill shall be operated in compliance with the *Noise Standards* of Section 10.25,F,1 of the Commission's *Land Use Districts and Standards*, version December 07, 2015, a copy of which is attached. Between 7:00 AM and 7:00 PM, the maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by the sawmill shall be 55 dB(A). Between 7:00 PM and 7:00 AM, the maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by the sawmill shall be 45 dB(A). Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.
6. All existing and proposed lighting shall be in compliance with the *Lighting Standards* of Section 10.25,F,2 of the Commission's *Land Use Districts and Standards*, version December 07, 2015, a copy of which is attached.
7. The Permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies.
8. All sawmill wood waste and other waste materials shall be disposed of properly in accordance with federal, state and local regulations.
9. Expansion of the Parking Area/Storage Yard shall require prior review by Commission staff and if required by the Commission's Rules and Regulations prior permit approval from the Commission.

10. New construction of structures, expansion of structures, or changes of uses to structures shall require prior review by Commission staff and if required by the Commission's Rules and Regulations prior permit approval from the Commission.
11. 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.
12. Nothing in this permit shall be construed to release the Permittee from any liability or responsibility arising from any violation, including Enforcement Case EC 16-9, or to be considered a waiver of the authority of the Commission or the state to fully pursue or prosecute such violations.
13. 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.
14. All CONDITIONS of Building Permit BP 7958, Amendment A, and Amendment B shall remain in effect except as altered by this permit.

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 BANGOR, MAINE, THIS 27TH DAY OF APRIL, 2016.

By: 

for Nicholas D. Livesay, Executive Director

F. NOISE AND LIGHTING

1. Noise.

- a. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use subdistrict listed below. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

| Subdistrict | 7:00 AM to 7:00 PM | 7:00 PM to 7:00 AM |
|------------------------|----------------------------------|---------------------------|
| D-CI, D-MT, and D-ES | 70 dB(A) | 65 dB(A) |
| D-GN, and D-GN2 | 65 dB(A) | 55 dB(A) |
| D-PD | As determined by the Commission. | |
| All Other Subdistricts | 55 dB(A) | 45 dB(A) |

Table 10.25,F-1. Sound pressure level limits.

- b. The following activities are exempt from the requirements of Section 10.25,F,1,a:
- (1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
 - (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and
 - (3) Sounds emanating from traffic on roadways or other transportation facilities:
- c. Control of noise for a wind energy development as defined in Title 35-A, Section 3451, subsection 11, with a generating capacity greater than 100 kilowatts is not governed by this section and instead is governed solely by the provisions of 12 M.R.S.A. §685-B(4-B)(A).

2. Lighting standards for exterior light levels, glare reduction, and energy conservation.

- a. All residential, commercial and industrial building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).

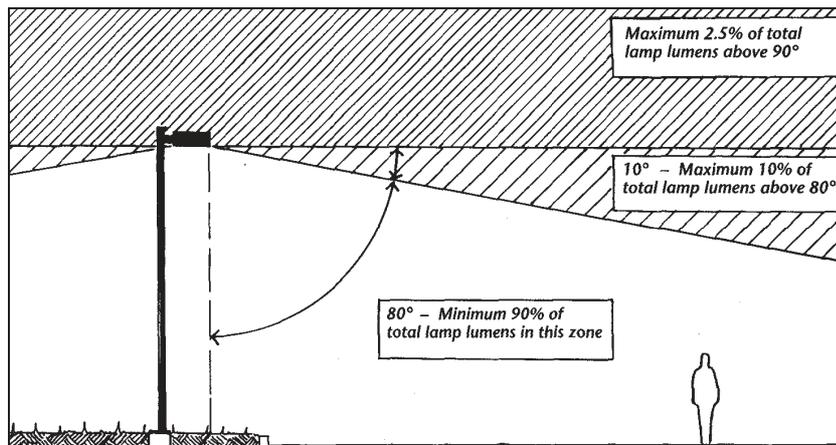
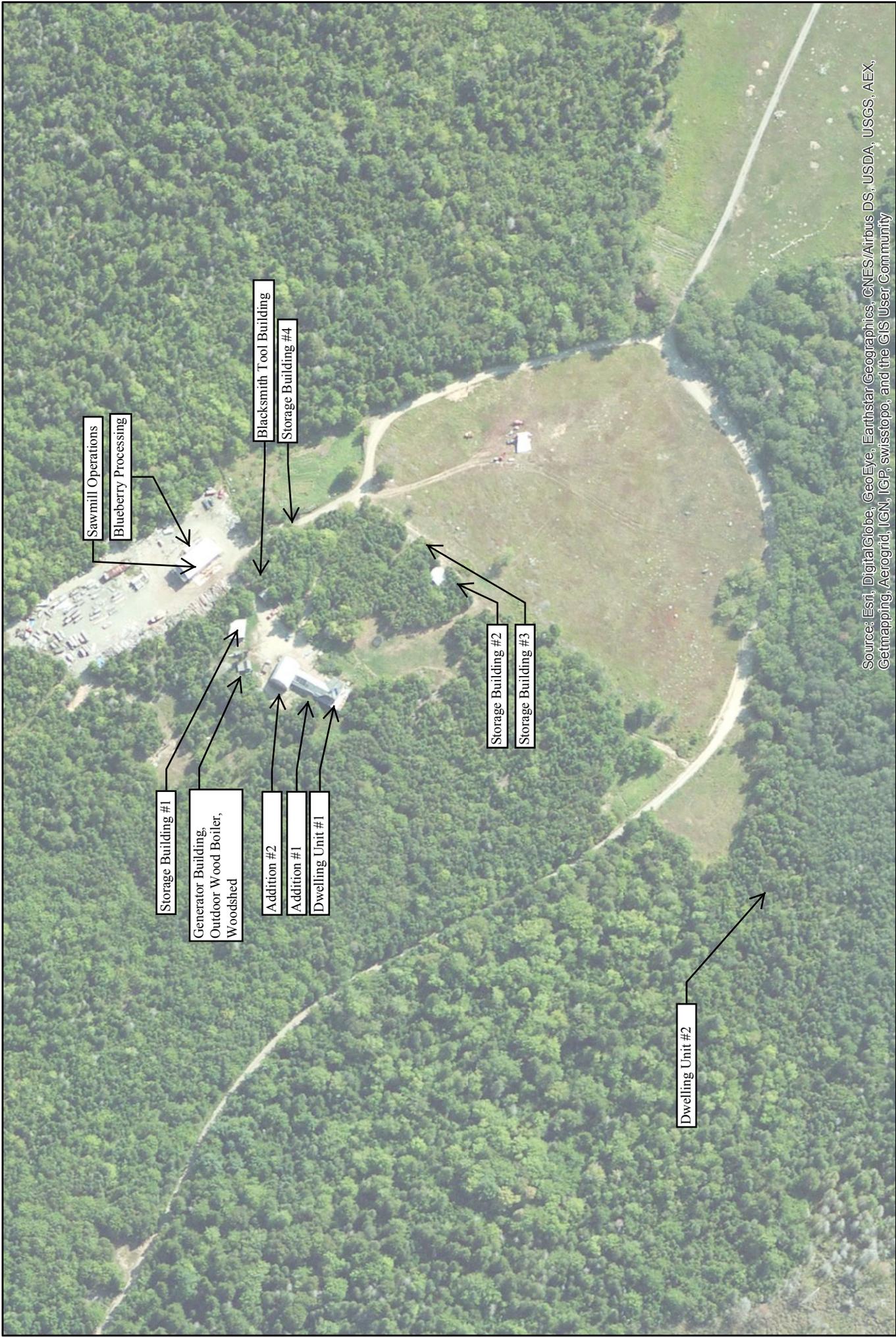


Figure 10.25,F-1. Cut-off fixture as defined by IESNA.

Light fixtures mounted on gasoline station or convenience store canopies shall be recessed so that fixtures are flush with the canopy. Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

- b. All exterior lighting shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, onto any water bodies with a significant or outstanding scenic resource rating, or onto any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- c. For commercial, industrial and other non-residential development, all non-essential lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic and parking lighting.
- d. In addition to the lighting standards in Section 10.25,F,2, lighted signs shall also comply with the standards in Section 10.27,J.
- e. The following activities are exempt from the lighting standards of Section 10.25,F,2,a through d:
 - (1) Roadway and airport lighting, and lighting required by the Federal Aviation Administration for air traffic safety;
 - (2) Temporary fair, event, or civic uses;
 - (3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
 - (4) Lighting that is activated by motion-sensors; and
 - (5) Lighting that was in place on April 1, 2004.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Marion Township - Washington County



1 inch = 0.04 miles