



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
P.O. Box 307
WEST FARMINGTON, MAINE 04992

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

DEVELOPMENT PERMIT DP 5003

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Peter S. Lee for Development Permit DP 5003, finds the following facts:

1. Applicant: Peter S. Lee
671 Lafayette Street
Yarmouth, ME 04096
2. Date of Completed Application: July 1, 2016
3. Location of Proposal: Freeman Twp., Franklin County
Lot #37 on Plan 01, Map FR025
4. Zoning: (M-GN) General Management Subdistrict
(D-GN) General Development Subdistrict
5. Lot Size: 91 Acres (owned)
6. Principal Building: Proposed Maintenance Building (25 ft. by 30 ft.)
7. Accessory Structures: Proposed Driveway (20 ft. by 300 ft.)
Proposed Parking Area (60 ft. by 100 ft.)

Background

8. The applicant's lot along Freeman Ridge Road is adjacent to the Kingfield town line to the north and to the New Portland town line to the east. There is an old stone foundation and a land management road located on the property. The lot is otherwise undeveloped. The lot is predominantly wooded, except for an existing cleared area around the old foundation.
9. At its meeting on June 10, 2016, the Commission approved Zoning Petition ZP 761 to rezone a 1.42 acre portion of the applicant's property to a (D-GN) General Development

Subdistrict for the purposes of developing a recreational mountain bike facility available to the public for a fee. The rezoned area is located primarily in the existing cleared area and extends to Freeman Ridge Road.

Proposal & Site Conditions

10. The applicant seeks approval to construct the first phase of his proposed recreational mountain bike facility. The first phase of development would include conversion of the first approximately 300 feet of the existing land management road extending from Freeman Ridge Road to a driveway, construction of a 60 foot by 100 foot parking area, and construction of a 25 foot by 30 foot maintenance building. The purpose of the first phase of development is to provide better access to the property for the applicant, and to provide facilities to store tools, materials and supplies for trail and facility construction. The facility would not be made available to the public during the first phase of development. No plumbing facilities are currently proposed and no wastewater would be generated by this first phase of development.

The proposed maintenance building would be constructed on a slab foundation. The proposed maintenance building and parking area would be set back approximately 300 feet from the nearest property boundary line and approximately 300 feet from Freeman Ridge Road. The portion of the land management road to be converted to a driveway would be located at least 25 feet from the nearest property boundary line.

11. A stone lined ditch, with staked hay bale check dams, would be installed upslope along the proposed driveway. A cross drainage culvert would be installed across the driveway just downslope of the entrance to the parking area with the cross drainage culvert discharging to a level spreader. Silt fencing would be installed downslope of the proposed parking area prior to construction activities. After construction is completed, areas of disturbed soils outside of the foot print of the proposed building, driveway, parking area and stone-lined ditch and level spreader would be permanently stabilized by reseeding and mulching.

Approximately 10,000 square feet of additional area would be cleared for the proposed development, and approximately 13,000 square feet of area would be filled and/or graded.

12. Soils at the site have been identified on the Natural Resources Conservation Service's soil survey as Adams Loamy sand, 0 to 8 percent slopes; Adams- Croghan Association, strongly sloping; and Colonel-Peru Association, 3 to 15 percent slopes, very stony. The proposed maintenance building, driveway and parking area would all be located on the Adams- Croghan Association soils. Adams- Croghan association soils have been rated as very high potential for road construction and medium potential for development under the Natural Resources Conservation Service's soils potential ratings. The Maine State Soil Scientist visited the site in November of 2015 and found that the soils in the project area are generally suitable for the proposed use.
13. The applicant estimates the total cost to construct the proposed first phase of development at approximately \$27,000. He has submitted documentation from financial institutions indicating that he has access to funds in excess of this amount. The applicant states that

the two contractors to be hired for the site work are reputable local companies, each with many years of experience in construction.

Review Criteria

14. Under provisions of Section 10.21,C,3,c(15) of the Commission's Land Use Districts and Standards, public or private recreation facilities including, but not limited to, parks, playgrounds, and golf courses, are an allowed use in a (D-GN) General Development Subdistrict upon issuance of a permit by the Commission.
15. Under provisions of Section 10.26,D,2 of the Commission's Land Use Districts and Standards the minimum required setbacks for commercial structures are 75 feet from roads and 25 feet from property boundary lines.
16. Section 10.25 of the Commission's Land Use Districts and Standards specifies review standards for structures and uses within the Commission's jurisdiction that require permit approval from the Commission. Section 10.25 includes the following development standards:
 - a. *Section 10.25,C - Technical and Financial Capacity:* Requires that all applicants proposing subdivisions, commercial, industrial and other non-residential development demonstrate that they have sufficient technical and financial capacity to develop their proposals.
 - b. *Section 10.25,D – Vehicular Circulation, Access and Parking:* Requires that adequate provision be made for vehicular access to and within the project site so as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians. This section requires that sufficient parking is to be provided to meet the needs of the proposed development, and specifies treatment of runoff water from parking areas and roads.
 - c. *Section 10.25,G - Soil Suitability:* Requires that a site specific soil survey be conducted for all commercial development. Section 10.25,G,1,b requires that a Class A high intensity soil survey be submitted for areas of proposed soil disturbance within new commercial development. Under the provisions of Section 10.25,G,1,e(4), the Commission may waive one or more of the requirements for a Class A high intensity soil survey where if the Commission determines that the high intensity soil survey is considered by the Commission unnecessary for its review.

Section 10.25,G also specifies that the determination of soil suitability be based upon the Natural Resources Conservation Service's soils potential ratings for low density development. Soils with a low or very low development potential rating are not to be developed unless the Commission determines that adequate corrective measures will be used to overcome soil limitations.

- d. *Section 10.25,M*- Specifies standards for erosion and sedimentation control including minimization of soil disturbance, avoidance of sensitive areas and steep slopes, treatment of runoff water so that sediment is not transported off-site, avoidance or minimization of soils when they are frozen or saturated, and utilization of Best Management Practices (BMPs) for erosion and sedimentation control measures.
17. The facts are otherwise as represented in Development Permit Application DP 5003 and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed first phase of development for the mountain bike recreation facility is allowed within the (D-GN) General Development Subdistrict under the provisions of Section 10.21,C,3,c(15) of the Commission's Land Use Districts and Standards.
2. The proposed maintenance building, driveway and parking area comply with the applicable minimum required setbacks for commercial structures under provisions of Section 10.26,D,2 of the Commission's Land Use Districts and Standards.
3. The proposal complies with the applicable review standards of Section 10.25 of the Commission's Land Use Districts and Standards as follows:
 - a. The applicant has demonstrated that he has adequate financial and technical capacity to complete the proposed first phase of development, as discussed under Finding of Fact #13 above.
 - b. Adequate provision has been made for vehicular access to the site and for parking for the currently proposed first phase of development.
 - c. The Commission may waive the requirement for an on-site soils survey for the proposed first phase of development under the provisions of Section 10.25,G,1,e(4) of the Commission's standards based upon the Maine State Soil Scientist's observations on-site and given the minimal level of development currently proposed.

Furthermore, the Natural Resources Conservation Service's soil survey has identified the areas currently proposed for development as Adams- Croghan association soils which have been rated as very high potential for road construction and medium potential for development under the Natural Resources Conservation Service's soils potential ratings. Therefore, no corrective measures are needed to overcome soils limitations for the currently proposed development.
 - d. The applicant's proposed erosion and sedimentation control measures comply with the provisions of Section 10.25,M of the Commission's standards.
4. 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 Peter S. Lee with the following conditions:

1. The Standard Conditions for Development Permits (ver. 4/04), a copy of which is attached.
2. The Commission's Standards for Vegetation Clearing, Section 10.27,B, a copy of which is attached.
3. At least one week prior to commencing the permitted activities, the permittee or the designated agent must contact the Commission staff and notify them of the estimated date construction work will start. Notice may be provided in writing, in person, by email, or by calling. If you leave or send a message, please include your full name, telephone number, permit number, and the date the work will start.
4. The permitted maintenance building and parking area must be set back a minimum of 75 feet from Freeman Ridge Road and 25 feet from other property boundary lines.
5. The driveway and parking area must be constructed so that (a) they will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) they 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.
6. The permittee shall implement its erosion and sedimentation control measures as proposed in his application. Soil disturbance must not occur when the ground is frozen or saturated.
7. Clearing and construction activities, except those necessary to establish erosion and sedimentation control devices, shall not begin until such devices have been properly installed as proposed by the permittee. 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 been established 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.
8. All imported fill material must be free of hazardous or toxic materials and must not contain debris, trash, or rubbish.
9. Should any significant erosion or sedimentation occur, the permittee shall contact the Land Use Planning Commission immediately, notifying the Commission of the problem and describing all proposed corrective measures.
10. 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.

11. This permit does not authorize the facility to be available for public use. The permittee shall obtain additional permit approval from the Commission prior to opening the facility to the public and/or expanding development at the site. At the time of application to the Commission for public use and/or expansion of the facility, the permittee shall submit all information necessary to demonstrate compliance with applicable Commission requirements including, but not limited to, adequate provisions for waste water disposal and parking.
12. 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.

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 WEST FARMINGTON, MAINE, THIS 20TH DAY OF JULY, 2016.

By: 
for Nicholas Livesay, 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

B. VEGETATION CLEARING

Vegetation clearing activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
 - a. 50 feet of the right-of-way or similar boundary of any public roadway,
 - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any coastal wetland or flowing water draining less than 50 square miles, and
 - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a "well-distributed stand of trees" adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a "well-distributed stand of trees" shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

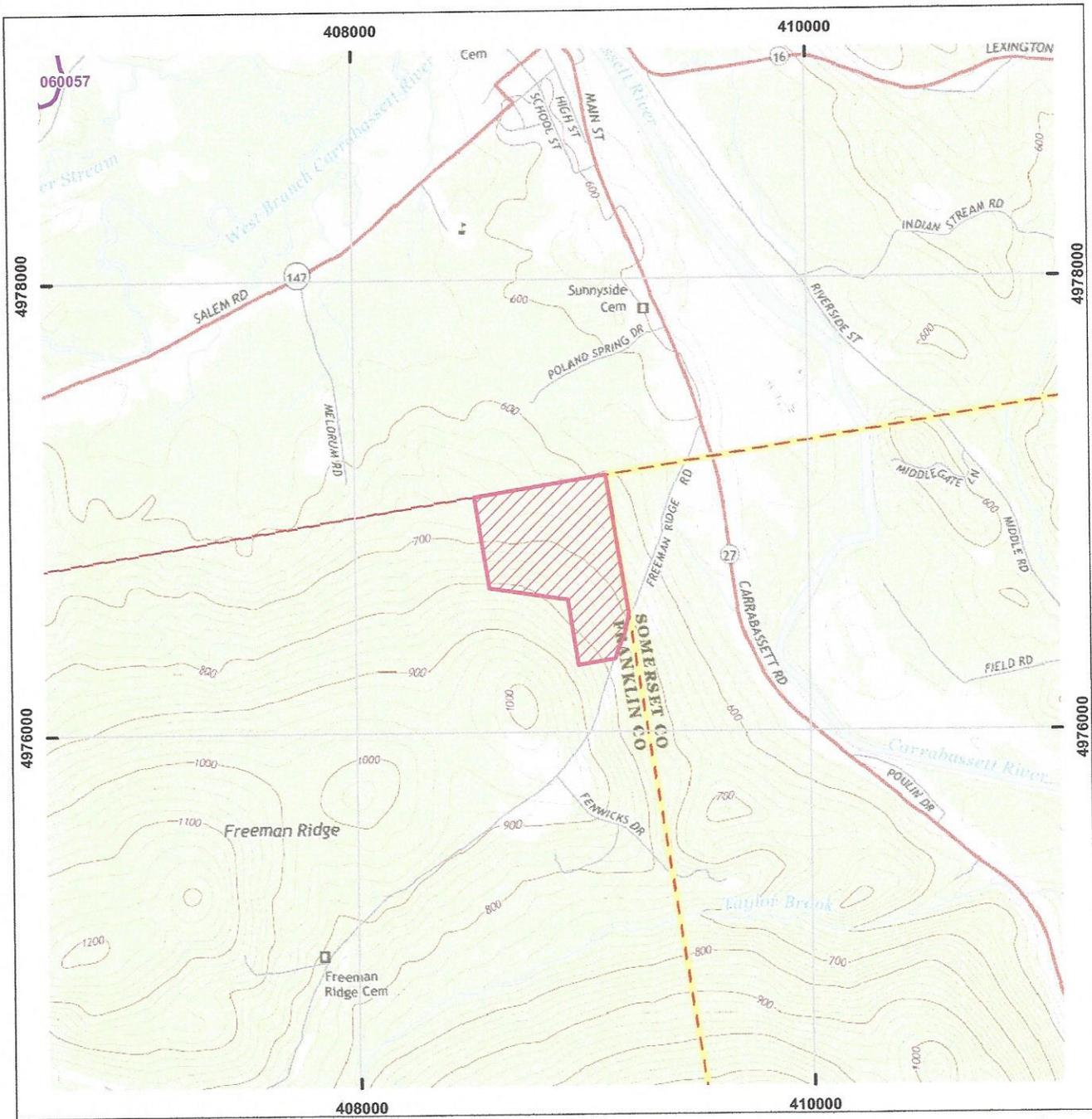
- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
 - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
 - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
 4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.
 5. When revegetation is required: (i) in response to violations of the vegetation standards set forth in Section 10.27,B,1 through 4; (ii) to address the removal of non-native invasive species of vegetation; (iii) as a mechanism to allow for development by permit that exceeds the vegetation standards of Section 10.27,B or the cleared opening standards of Section 10.27,Q,1,Table A,(4), including removal of vegetation in conjunction with a shoreline stabilization project; or (iv) as part of a mitigation plan for clearing associated with a recreational lodging facility, the revegetation must comply with the following requirements.

- a. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional (examples include: arborist, forester, landscape architect, U.S.D.A. Natural Resources Conservation Service), that describes revegetation activities and maintenance. The plan must include a scaled site plan depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- b. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed. When part of a mitigation plan, revegetation must occur along the same segment of shoreline, road, or other resource affected by proposed uses or development, and at a density and configuration comparable to other naturally occurring forests on the site or in the vicinity.
- c. Revegetation activities must meet the following requirements for trees and saplings:
 - (1) All trees and saplings removed must be replaced with native noninvasive species;
 - (2) Replacement vegetation must at a minimum consist of saplings;
 - (3) If more than three trees or saplings are planted, then at least three different species shall be used;
 - (4) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (6) A survival rate of at least 80% of planted trees or saplings is required for a minimum five years period from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five year period.
- d. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three feet in height:
 - (1) All woody vegetation and vegetation under three feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three feet in height as applicable;
 - (2) Woody vegetation and vegetation under three feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (3) If more than three woody vegetation plants are to be planted, then at least three different species shall be planted;
 - (4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and

- (5) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years from the time of planting. Replanting of trees or saplings that did not survive does not trigger a new five year period.
- e. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (1) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within Section 10.27,B for a minimum of five years from the time of planting.
- f. The applicant may propose, and the Commission may approve or require, variations from the standards in Section 10.27,B,5,c through e if necessary to achieve effective buffering. The Commission may exempt an individual, whether an applicant or violator, from the requirement that the revegetation plan be prepared by a qualified professional in accordance with Section 10.27,B,5,a, when the proposed revegetation is routine and would not affect a particularly sensitive resource.

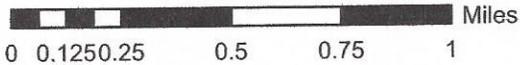


Environmental Review of Fish and Wildlife Observations and Priority Habitats

Project Name: Freeman Township, LUPC petition for rezoning (Version 1)



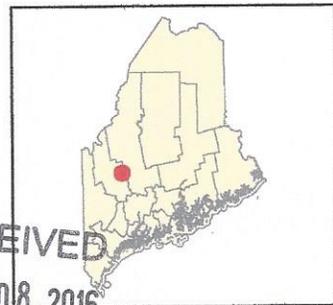
Maine Department of
Inland Fisheries and Wildlife



Projection: UTM, NAD83, Zone 19N

Date: 10/30/2015

ProjectPoints	Deer Winter Area	Roseate Tern
ProjectLines	LURC p-fw	Piping Plover/Least Tern
ProjectPolys	Cooperative DWAs	Aquatic ETSc (2.5 mi review)
ProjectSearchAreas	Seabird Nesting Islands	Rare Mussels (5 mi review)
	Shorebird Areas	Maine Heritage Fish Waters
	Inland Waterfowl/Wading Bird	Arctic Charr Habitat
	Shoreland Zoning_lwwh	E. Brook Trout Joint Venture Subwatershed Classification
	Tidal Waterfowl/Wading Bird	Redfin Pickerel/Swamp Darter Habitats (buffer100ft)
	Significant Vernal Pools	Special Concern-occupied habitats(100ft buffer)
	Environmental Review Polygons	Wild Lake Trout Habitats



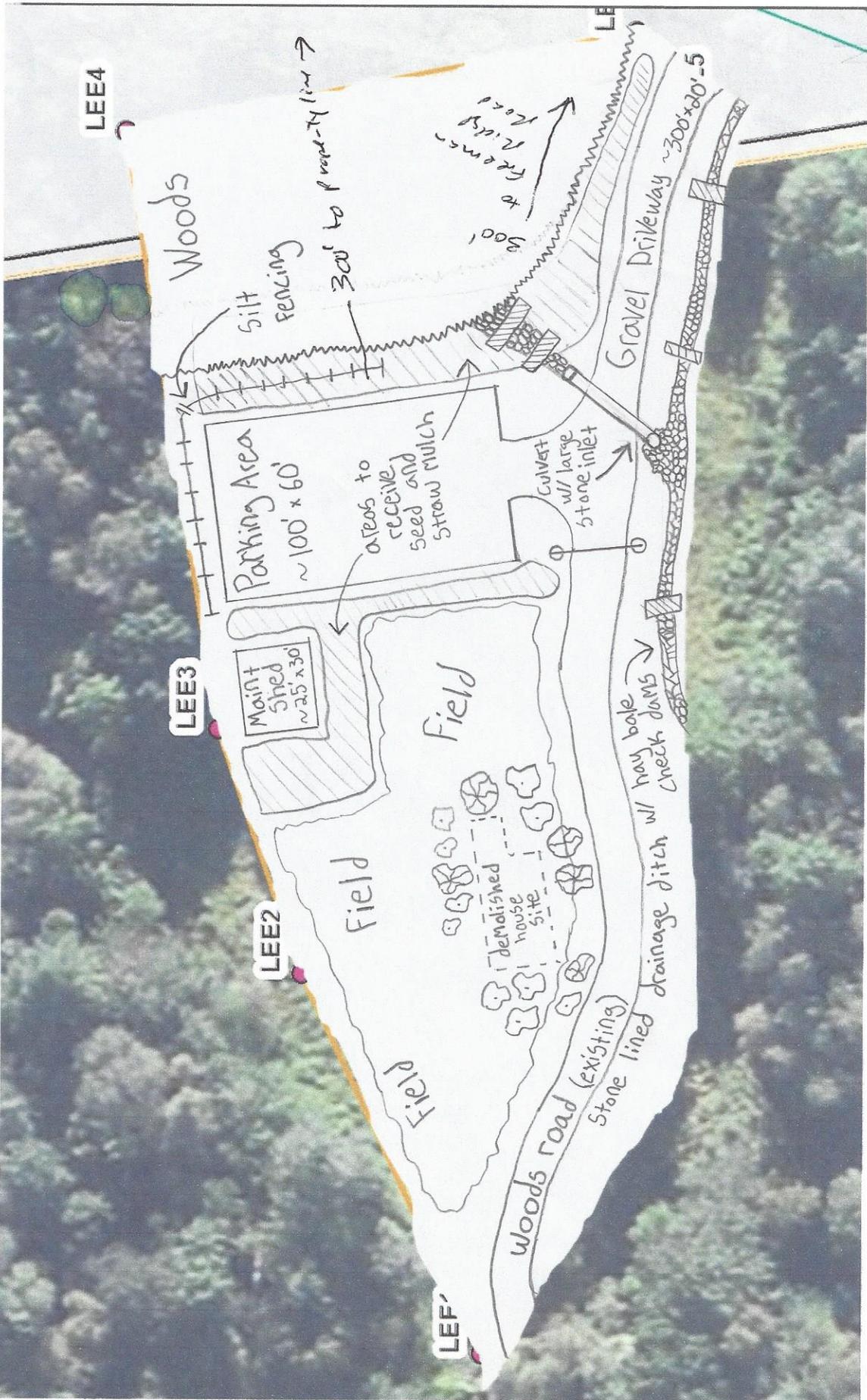
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LUPC - RANGELEY

Proposed Site Development Plan w/ erosion, sedimentation, and drainage control measures

Area to be stripped, filled, and graded: 12,000 s.f.
 Vegetation to be cleared: 10,000 s.f.
 Area to be reseeded and mulched: 3,000 s.f.

Lee Exhibit D



1 inch = 50 Feet

Proposed Mountain Bike Facility
 Freeman Twp Franklin County

DP 5003