



PAUL RICHARD LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

GREAT PONDS PERMIT GP 0087-B WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Planning Commission after reviewing the application and supporting documents submitted by CSS Development, Inc. for Amendment B to Great Ponds Permit GP 0087, finds the following facts:

1. Applicant: CSS Development, Inc.
460 York Street
Caribou, Maine 04736
2. Date of Completed Application: December 23, 2013
3. Location of Proposal: Madawaska Lake Twp., Aroostook County
Tax Map AR020, Plan 02, Part of Lot 22.2
4. Zoning: (D-GN) Great Pond Protection Subdistrict
(P-WL1) Wetland Protection Subdistrict
5. Lot Size: 2.41(owned)
1.19 Acres (51,836 sq. ft.)(State of Maine Lease Pending)
6. Affected Waterbody: Madawaska Lake

The Commission has identified Madawaska Lake as a management class 1B, resource class 5, accessible, developed lake with the following resource ratings: significant fisheries, wildlife and cultural resources, and outstanding botanical resources.

Background

7. The applicant's 2.41 acre lot contains 331.5 feet of shoreline frontage on Madawaska Lake and was originally developed with a pre-Commission general store with second story dwelling unit, several accessory structures, and a trailered boat ramp.
8. In February of 1981, Great Ponds Permit GP 0087 was issued to Stanley Thomas, authorizing improvements to the existing pre-Commission boat ramp. Improvements to the approach included excavation of 140 cubic yards of material above the normal high water mark then the area was to be filled with 60 cubic yards of gravel covered by 7 tons of bituminous concrete. The 65 foot long ramp was to be re-surfaced with 43 pre-cast 10 foot long by 15 inch wide concrete plants. Finally, a 2 foot wide sodded ditch was to be constructed along the west side of the ramp for improved drainage control.

9. By 1994, the concrete planks has deteriorated due to ice damage and the planks below the normal high water mark were removed, leaving only the 20 pre-cast concrete planks above the normal high water mark.
10. In September of 1998, Amendment A to Great Ponds Permit GP 0087 was issued to Stanley Thomas authorizing the placement of an additional fourteen 10 foot long by 15 inches wide pre-case planks, for a total of 34 planks. Approximately 4 planks were to be placed below the normal high water mark. Although the lot was privately owned, the boat ramp has been historically open to the public via an agreement with the Bureau of Parks and Lands.
11. In April of 2009, Development Permit DP 4382-B authorized reconstruction of the general store with a lake-side deck and second story dwelling unit, which was setback 67 feet from the normal high water mark of Madawaska Lake, 11 feet from Lake Shore Drive, and 12 feet from the nearest property boundary line. In addition, DP 4382-B authorized construction of a 60 foot by 120 foot two-section parking lot for use by boaters and future customers/owners of the store and dwelling. The parking area was to be located in a off the existing driveway between Route 161 and Lake Shore Drive. No parking area has been developed at this time.

Proposal

12. The applicant now seeks amendment approval to reconstruct the public trailered boat ramp facility on Madawaska Lake and construct a parking lot across from Lake Shore Drive for the boat launch. The ramp would consist of a 12 foot wide by 40 foot long concrete plank trailered ramp, with a 6 foot wide by 32 foot long American Disability Act (ADA) concrete abutment with boarding float. The proposed ramp would be constructed by placing 12 inches of 4-6 inch crushed stone on the existing grade overlaid with geotextile fabric, topped with 4 inches of 1 5/8 inch crushed stone, another layer of geotextile fabric and pre-formed concrete planks on top. The sides of the ramp would be stabilized with geotextile and riprap. The proposed ramp and approach would not have a slope that exceeds 15 percent. The approach surface would be resurfaced and paved.
13. The main parking lot would be approximately 50 feet by 50 feet in size and surfaced using Turfstone, over a layer of sand and poorly graded 3/4 inch gravel. A separate, paved, 11 foot by 45 foot American Disability Act (ADA) parking space and 6 foot wide ADA-compliant access walkway from the parking space to the ramp is also proposed to be constructed.
14. The main parking lot would accommodate 5 vehicles with trailers and would be set back at least 200 feet from the normal high water mark of the Madawaska Lake, at least 100 feet from the Lake Shore Drive, at least 75 feet from Route 161, and at least 15 feet from the nearest property boundary line. The ADA parking space would be set back at least 150 feet from the normal high water mark of the Madawaska Lake, approximately 30 feet from the Lake Shore Drive, at least 75 feet from Route 161, and at least 15 feet from the nearest property boundary line. The ADA walkway would start adjacent to the ADA parking space, travel along the existing driveway for 30 feet, cross Lake Shore Drive, turn south for approximately 150 feet, then switchback north for approximately 30 more feet and switchback south for approximately 30 feet before reaching the ramp where it would travel adjacent to the ramp for approximately 20 feet. The applicant states that there is no reasonable or feasible location for the ADA parking space at least 50 feet from the road due to the configuration of the lot. Under the American Disability Act, the applicant must provide access to the boat ramp for handicapped and disabled persons. The walkway must be located closer than 100 feet due to the nature of its use.

15. The applicant has submitted an erosion and sedimentation control plan. Details of this plan include: silt fence installed at the edge of any downgradient disturbed areas, and adjacent to any drainage channels; temporary check dams, and a 24 inch culvert installed under the ADA walkway. An outlet plunge pool and level spreader would be installed at the outlet of the culvert pipe in order to manage stormwater. In water work would be done during a permit of low water. All disturbed areas other than the parking lot, access way, paved areas, and concrete ramp would be loamed, seeded, and mulched including areas used in the past for parking near the ramp. The lot coverage would be less than 30% due to the use of the Turfstone.
16. The applicant proposes to alter approximately 1,200 square feet of P-WL1 Wetland alteration in order to install the ramp and riprap and prevent future ice damage.
17. The plans for the proposed boat ramp were developed in conjunction with the Maine Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands, Boating Division staff. Use of the boat ramp would be open to the general public and the intent of the proposal is to better serve the general public's access to Madawaska Lake. A lease for the facility on a 1.19 acre portion of the applicant's lot with 125 feet of shorefrontage is in the process of being granted to the State of Maine.

Review Criteria

18. Under provisions of Section 10.26,D,1 of the Commission's Land Use Districts and Standards the minimum setback for parking areas for trailered ramps is 100 feet from waterbodies such as Madawaska Lake, 50 feet from roads such as Lake Shore Drive, 75 feet from roads such as Route 161 and 15 feet from property boundary lines.
19. Under provisions of Section 10.26,B,1 of the Commission's Land Use Districts and Standards the minimum shoreline frontage is 200 feet per dwelling unit and 300 feet for commercial, industrial, and other non-residential uses involving one or more buildings.
20. Under provisions of Section 10.27,L,5,n and 10.26,B,6 Commission's Land Use Districts and Standards, the shoreline frontage requirement for public boat launches may be waived to no less than 200 feet provided the applicant demonstrates there will be no undue impact to existing uses in the project area.
21. 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
22. Under provisions of Section 10.26,G,10 of the Commission's Land Use Districts and Standards, notwithstanding the provisions of Section 10.11, structures necessary for disabled persons to gain access may be located less than the standard setback distance from the shoreline, road and property line to the minimum extent necessary when the following criteria are met:
 - A. A person with a disability as defined in 5 M.R.S.A §4553 resides in or regularly uses the dwelling or facility;

- B. The encroachment into the standard setback distance or exceeding of the allowable size applies only to the installation of equipment or construction of structures necessary for access to or egress from the dwelling or facility by the person with the disability;
 - C. The access structure is necessary to create an accessible route;
 - D. The access structure cannot reasonably or feasibly be created without exceeding the allowable size or encroachment into the standard setback distance; and
 - E. The design of the access structure minimizes the need for exceeding the allowable size or encroachment into the standard setback distance.
23. Under the provisions of Section 10.25,P,1,c(3) of the Commission's Land Use Districts and Standards, Tier 3 reviews are for projects altering any area of P-WL1 wetlands. Alterations of P-WL1 wetlands may be eligible for Tier 1 or Tier 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.
24. Under the provisions of Section 10.25,P,2,a(2) of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must: (a) not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment; (b) limit the amount of wetland to be altered to the minimum amount necessary to complete the project; (c) comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters; and (d) must use erosion control measures to prevent sedimentation of surface waters.
25. Under provisions of Section 10.25,P,2,e(2) of the Commission's Land Use Districts and Standards, the Commission may waive the requirement for a functional assessment, compensation, or both. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

Review Comments

26. The Army Corps of Engineers has reviewed this proposal and states that the project qualifies as a Category 1 non-reporting project and no further action is necessary.
27. The Department of Inland Fisheries of Wildlife has reviewed this proposal and has no concerns or objections.
28. The facts are otherwise as represented in Development Permit application GP 0087, subsequent amendment requests and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The existing lot would not be in compliance with Sections 10.27,L,5,n and 10.26,B of the Commission's Land Use Districts and Standards in that the does not contain the minimum shoreline frontage required for a commercial use, a dwelling unit and a boat launch facility, all of which have been in existence since prior to the Commission's inception in 1971. The existing 331.5 feet of shoreline frontage will be divided proportionately keeping 125 feet of shoreline frontage with the boat launch facility and 206.5 feet of shoreline frontage with the store and residence.

2. The proposal would be in compliance with Section 10.11,B,1 of the Commission's Land Use Districts and Standards in that the proposed reconstruction of the existing boat launch on a 1.19 acre lease lot with 125 feet of shoreline frontage would not adversely affect surrounding uses and resources and would not increase in the extent of nonconformance. The number of existing uses is not increased and the facility would be improved, preventing erosion and sedimentation of the waterbody.
3. The proposed main parking area would be in compliance with Section 10.26, D, 1 of the Commission's Land Use Districts and Standards in that the main parking area would be greater than 100 feet from Madawaska Lake, 50 feet from Lake Shore Drive, 75 feet from Route 161, and 15 feet from the property lines.
4. The proposed ADA parking space would not be in compliance with Section 10.26,D,1 of the Commission's Land Use Districts and Standards in that the parking space would be less than 50 feet from Lake Shore Drive.
5. The ADA parking space located within 50 feet of Lake Shore Drive would qualify for an exemption under the provisions of Section 10.26,G,10 of the Commission's Land Use Districts and Standards to located less than the standard setback distance from the road in that:
 - A. It is a public facility which must be available for persons with a disability as defined in 5 M.R.S.A §4553 to regularly use;
 - B. The encroachment into the standard setback distance applies only to the construction of structures necessary for access to or egress from the facility by persons with a disability;
 - C. The parking space is necessary to create an accessible route;
 - D. The parking space cannot reasonably be created without encroaching into the standard setback distance due to the steep topography of the lot and locating of existing wetlands; and
 - E. The design of the parking space minimizes the need for encroaching into the standard setback distance from the shoreline and the amount of disturbance within 100 feet of the waterbody.
6. In accordance with the provisions of Section 10.25,P,1,c(3) of the Commission's Land Use Districts and Standards, review of the proposal may be reduced from Tier 3 to Tier 2 wetland review. Specifically, the impact to the P-WL1 wetland would be limited to that which is needed to install and stabilize the boat ramp and erosion control measures would be implemented. No additional adverse impact to the lake, fisheries or wildlife habitat, or other wetland functions and values has been identified.
7. The proposal would meet the provisions of Section 10.25,P,2,a(2) of the Commission's Land Use Districts and Standards. Specifically, there is no practical alternative for installing the ramp that would reduce the amount of wetland alteration. Additionally, the impact to the P-WL1 would be limited to that which is needed to install and stabilize the boat ramp. The project would be completed during low water, which would prevent sedimentation and minimize water quality impacts, and erosion control measures would be implemented.
8. Under provisions of Section 10.25,P,2,e(2) of the Commission's Land Use Districts and Standards, the Commission waives the requirement for a functional assessment and compensation for this project. Although the project involves alteration of more than 500 square feet of (P-WL1) Wetland, the Maine Department of Inland Fisheries and Wildlife has determined that fisheries habitat would not be negatively impacted.
9. 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 CSS Development with the following conditions:

1. The Standard Conditions for Shoreland Alterations (ver. 4/91), a copy of which is attached.
2. Riprap must be installed in accordance with the Standards for Installation of Riprap (ver. 4/91), a copy of which is attached, except that riprap may be keyed in at the base of the slope and along the sides of the ramp below the normal high water mark.
3. The facility must be installed in accordance with The Standards for Trailered Ramps, Hand Carry Launches, and Water-Access Ways, (Chapter 10, Section 10.27,L), a copy of which is attached, except that the lease lot for the boat launch facility may contain 125 feet of shoreline frontage on Madawaska Lake instead of 200 feet.
4. The permitted main parking area must be set back a minimum of 100 feet from the normal high water mark of Madawaska Lake, 50 feet from Lake Shore Drive, 75 feet from Route 161 and 15 feet from other property boundary lines.
5. The permitted ADA parking area must be set back a minimum of 100 feet from the normal high water mark of Madawaska Lake, 30 feet from Lake Shore Drive, 75 feet from Route 161 and 15 feet from other property boundary lines.
6. 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.
7. Prior to any ground disturbance, the permittee shall (1) contact the Commission with the starting day for construction, and (2) confirm that the contractor has a copy of the approved permit and plans on site.
8. Uncured concrete must not be placed directly into the water. Concrete must be pre-cast and cured at least three weeks before placing in the water, or where necessary, must be placed in forms and cured at least one week before the forms are removed. No washing of tools, forms, etc. may occur in or adjacent to the waterbody or wetland.
9. **Upon completion of the lease document with the State of Maine, an executed copy must be submitted to the Commission.**
10. Bolts, screws, rods, pads and other metallic fixtures to be placed below the normal high water mark must be of rustproof metals.
11. Except for the parking areas, turn-a-round and access road, walkway, and ramp, all areas of disturbed mineral soil in the work area above the normal high water mark of Madawaska Lake must be immediately seeded and mulched to avoid soil erosion and sedimentation. In areas where revegetation is not initially successful, additional measures to control erosion and sedimentation must be undertaken as often as necessary to be effective.

12. All areas of mineral soil disturbed after September 15 must be seeded with winter rye or dormant seeded and mulched, or heavily mulched, and the mulch must be tacked in place to over-winter. In the spring the area must be reseeded until a 95% catch of grass has become established.
13. Should any erosion or sedimentation occur during construction, the permittee shall contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.
14. Wheeled or tracked equipment must not be driven in the water.
15. Erosion, sedimentation, and stormwater must be controlled according to the submitted plans.

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 ASHLAND, MAINE, THIS 30TH DAY OF DECEMBER 2013

By: Billie J. MacLean
for Nicholas Livesay, Executive Director