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LAND USE PLANNING COMMISSION
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PERMIT

AMENDMENT A TO GREAT POND PERMIT GP 3356 AND WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Planning Commission (LUPC or Commission), after reviewing the application and supporting documents submitted by David T. and Andrea K. Swift (Swifts or Applicants) for Amendment A to Great Pond Permit GP 3356, finds the following facts:

- Applicants.* David T. Swift
Andrea K. Swift
PO Box 835
Princeton, Maine 04668
- Date of Completed Application.* September 23, 2014
- Location of Proposal.* Grand Lake Stream Plantation, Washington County, Maine
Maine Revenue Service Map WAP03; Plan 03; Lot 24-5
Woodland Pulp LLC Boathouse Site Lease #B-05-14
- Zoning.* General Development Subdistrict (D-GN)
Wetland Protection Subdistrict (P-WL)
Flood Prone Protection Subdistrict (P-FP) by virtue of Ch. 10.23,C,2
- Development.* Existing Rock Filled Cribs (six – each approximately 4 ft. by 4 ft.)
Proposed L-Shaped, Reconstructed Permanent Docking Structure (5 ft. by 12 ft.
and 4 ft. by 28 ft.)

ADMINISTRATIVE HISTORY

- The Applicants' leased lot was historically developed with a legally existing pre-Commission L-shaped 5 foot by 12 foot and 5 foot by 28 foot permanent docking structure supported by six, approximately 4 foot by 4 foot cribs filled with rocks, and a 12 foot by 33 foot pre-Commission boathouse. The "wet slip area" inside the combined structures was 8 feet wide by 28 feet long.

7. Great Pond Permit GP 3356 and Water Quality Certification, issued to the Swifts on August 23, 2012, authorized in-kind and in-place normal maintenance and repair of two deteriorated cribs and one boathouse sill, and the addition of top stone to all the cribs to raise the building to its original height.
8. On May 23, 2014, a fire at West Grand Lake in Grand Lake Stream Plantation burned the Swifts' boathouse and associated permanent docking structures to the waterline and cribbing.

SUMMARY OF APPLICABLE CHAPTER 10 STANDARDS

9. *Sections 10.21,C,3,c,(19), 10.23,C,3,c,(15), and 10.23,N,3,c,(11)*. Shoreland alterations, including reconstruction of permanent docking structures, may be allowed within D-GN, P-FP and P-WL subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III
10. *Section 10.27,O*. The requirements significant to the proposed reconstruction of the subject permanent docking structure as set forth in Sub-Chapter III, Section 10.27,O include that the structure must:
 - 1) meet the applicable requirements of the General Criteria for Approval, Section 10.24;
 - 2) meet the applicable requirements of the Criteria for Wetland Alterations, Section 10.25,P;
 - 3) meet the applicable requirements of the Provision of Activities in Flood Prone Areas, Section 10.25,T;
 - 4) be reconstructed to no more than 90 percent of the original size, if the dock had a maximum length that extended more than 50 feet beyond the normal high water mark of West Grand Lake or if the dock's maximum width was greater than 8 feet wide;
 - 5) not take place within significant wildlife habitat, or impact rare plants and natural communities;
 - 6) not take place within 250 feet of essential wildlife habitat unless the applicant has obtained Maine Department of Inland Fisheries and Wildlife approval;
 - 7) be conducted during a period of low water when the flowed lake bottom is exposed; and
 - 8) be constructed using untreated lumber, although pressure-treated wood approved by the U.S. Environmental Protection Agency for dock construction may be used. Chromated copper arsenate (CCA) treated wood must not be used in freshwater environments. Creosote or pentachlorophenol (PCP) treated wood must not be used.
11. *Section 10.24*. To meet the applicable requirements of the General Criteria for Approval, Section 10.24, the Applicants must provide adequate provision for:
 - 1) the projects technical and financial requirements;
 - 2) safe and uncongested loading, parking, circulation of transportation methods; and
 - 3) fitting the proposal into the existing environment to ensure no undue adverse effect on existing uses, scenic character and natural and historic resources.

12. *Section 10.25,P.* To meet the applicable requirements of the Criteria for Wetland Alterations, Section 10.25,P, the Applicants must complete a Tier 3 review showing that the proposal:
- 4) does not cause a loss in wetland area, functions and values if there is a practicable alternative that would be less damaging to the environment;
 - 5) limits the amount of wetland to be altered to the minimum amount necessary to complete the project;
 - 6) complies with the applicable water quality standards; and
 - 7) has no unreasonable impact on existing uses, soil movement, habitat, natural surface and subsurface water flow, flooding, sand supply, and outstanding river segments.
13. *Section 10.25,T.* To meet the applicable requirements of the Provision of Activities in Flood Prone Areas, Section 10.25,T, the permanent docking structure must be:
- 1) be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2) use construction materials that are resistant to flood damage;
 - 3) use construction methods and practices that will minimize flood damage; and
 - 4) use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

SUMMARY OF PROPOSAL INFORMATION

14. The Applicants propose to reconstruct, in-kind and in-place, one crib and one sill which were destroyed by the fire and the subsequent clean-up; to conduct normal maintenance and repair on the remaining five cribs; and to reconstruct the L-shaped permanent docking structure.
15. Reconstruction of the permanent docking structure would be at 90 % of the docks original size. The original size included a 5 foot by 12 foot portion along the shoreline and a 5 foot by 28 foot section out into the waterbody (200 square feet). The reconstructed dock would have a 5 foot by 12 foot portion along the shoreline and a 4 foot by 28 foot section out into the waterbody (172 square feet). The dock would be located in the same location as the previous dock and would extend no further into the waterbody or be wider than the original structure.
16. The Applicants propose to reconstruct the dock using flood resistant materials and connect the dock to the rock filled cribs to prevent flotation. The Applicants do not propose to connect electricity or any other service facilities to the docking structure.
17. The six – approximately 4 foot by 4 foot cribs would by themselves impact approximately 96 square feet below the normal high water mark of West Grand Lake in a P-WL1 Wetland of Special Significance; the L-shaped 5 foot by 12 foot and 4 foot by 28 foot permanent docking structure by itself would impact, by shading, 172 square feet below the normal high water mark of West Grand Lake in a P-WL1 Wetland of Special Significance. Since the dock would be set on all but two of the cribs it is expected that the impact below the normal high water mark of West Grand Lake in a P-WL1 Wetland of Special Significance would be approximately 236 square feet.

18. The Applicants lease an approximately 420 square foot parcel from Woodland Pulp LLC. The burned structures, including the boathouse, had been on the lot since prior to the 1920's without having a negative effect on the surrounding uses or soil or water resources. Further, there are no alternative locations on the small lot.
19. Woodland Pulp LLC, the lessor, provided a letter of support for the reconstruction of the structures destroyed by fire.
20. The Maine Department of Inland Fisheries and Wildlife reviewed the proposal and states that the proposal will not take place within significant wildlife habitat or within 250 feet of essential wildlife habitat. They further state that they do not have any inland fisheries concerns or construction timing issues specifically related to American eels.
21. The Maine Natural Areas Program reviewed the proposal and searched the Natural Areas Program's Biological and Conservation Data System files for rare or unique botanical features in the vicinity of the proposed site and indicated that according to their current information there are no rare botanical features that would be disturbed within the project site.
22. The U.S. Army Corps of Engineers issued Corps Permit Number NAE-2014-2282 on November 10, 2014, authorizing repair to the existing cribbing and reconstruction of a structure in the previous footprint.
23. The facts are otherwise as represented in the application for Great Pond Permit and Water Quality Certification GP 3356, supporting documents, and subsequent amendments.

ANALYSIS AND CONCLUSIONS

Based upon the above Findings and the following analysis, the Commission Concludes:

1. *Section 10.24.* The proposal meets the requirement of Section 10.24 in that reconstruction of circa 1920's cribs and permanent docking structure is not expected to have an undue adverse effect on existing uses, scenic character and natural and historic resources when the prior structures had no undue adverse effect on existing uses, scenic character and natural and historic resources.
2. *Section 10.25,P.* Due to the size of the lot, the lot's water location, the location of existing remaining cribs, and the nature of the proposed structures, the Applicants do not have an alternative location to reconstruct. Prior to the fire, the permanent dock, cribs and boathouse had been on the lot and in regular use without having an unreasonable impact on uses, natural habitat and soil and water movement; the reconstructed structures are not expected to have an unreasonable impact on these factors either. Therefore, the proposal complies with Section 10.25,P of the Commission's Standards in that the proposal has no practicable alternative that is less damaging to the environment, has been limited to the minimum amount of disturbance and size which would allow the completion of the project and the reconstruction of the structures, and the proposal is not expected to alter water quality standards or have an unreasonable impact on use and resources.

3. *Section 10.25,T.* Although the Commission's *Land Use Guidance Map* for Grand Lake Stream Plantation identifies the Applicants' lot as being within D-GN and P-WL subdistricts, according to the Federal Emergency Management Agency's Flood Insurance Rate Map for Grand Lake Stream Plantation, Washington County, Maine, the Applicants' lot is located entirely within an area of special flood hazard (Zone A) and as such the lot is additionally regulated as a P-FP subdistrict.

The Applicants have stated that the proposal would be constructed of flood resistant materials with practices which would minimize flood damage. Further the structure would be anchored to 4 cribs which are rock filled and which would prevent flotation, collapse and lateral movement of the structure. The proposal will comply with all the applicable provisions of Section 10.25,T.

4. *Section 10.27,O.* The width of the destroyed dock exceeded the current 8 foot maximum width requirement; therefore, the reconstructed dock is required to be no greater than 180 square feet (90 percent of the size of the original permanent docking structure). The Applicants propose to reconstruct the dock to 172 square feet. The Applicants further propose to complete the reconstruction at a period of low water utilizing only approved treated or untreated lumber. The proposed reconstruction would not take place within significant wildlife habitat, or impact rare plants and natural communities nor would it take place within 250 feet of essential wildlife habitat. Lastly, the proposal would meet the requirement of Section 10.24, Section 10.25,P and Section 10.25,T, therefore, the proposal meets the applicable requirements of Section 10.27,O.
5. 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.

Therefore, the staff approves the amendment request of David T. and Andrea K. Swift with the following Conditions:

1. The project must be completed in accordance with the *Standard Conditions of Approval for All Shoreland Alteration Permits*, version 04/04, a copy of which is attached.
2. The enclosed permit certificate must be posted in a visible location on your property immediate after receipt and during development of the site and construction of the structures and activities approve by this permit.
3. Prior to starting construction, the permittees must submit to the Commission, written permission from Woodland Pulp LLC, or assigned, to complete the proposal as outlined and described in this permit.
4. The approved permanent docking structure and cribs must be constructed in-kind and in-place of the damaged structures. In no instance shall the docking structure or cribs extend further into West Grand Lake than previously existed.
5. No width or length expansion of the existing cribs or docking structure shall be allowed. Construction shall be completed when the lake water level is low.
6. The boathouse shall not be reconstructed.

7. The permitted structures must be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
8. The permittees must use construction materials that are resistant to flood damage, use construction methods and practices that will minimize flood damage, and if applicable, use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
9. Once construction is complete, the permittees shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittees shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

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 permittees comply 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 12TH DAY OF DECEMBER, 2014.

By: Karen E. Balaban
for Nicholas D. Livesay, Executive 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 SHORELAND ALTERATION PERMITS

1. The permit certificate must be posted in a visible location on your property during performance of the activities 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, permits required under the Natural Resources Protection Act administered by the Maine Department of Environmental Protection.
5. 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.
6. All areas of exposed mineral soil above the normal high water line or wetland boundary shall be promptly seeded and mulched so as to avoid soil erosion and lake sedimentation. Rocks and trees which are holding the shoreline and preventing erosion shall not be removed.
7. Unless otherwise specified in this permit, all work must be conducted at periods of low water when the water level is lower than the work area.
8. Unless otherwise specified in this permit, no mechanical equipment, machinery or vehicles shall be operated below the normal high water line or wetland boundary.
9. If pressure treated wood is to be used, such wood must be allowed to cure, away from the waterbody or wetland, for a minimum of three weeks prior to installation.
10. Once the activity is completed, 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