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

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

PERMIT

GREAT PONDS PERMIT GP 3412

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by The Bethel Commodore Corporation for Great Ponds Permit GP 3412, finds the following facts:

1. Applicant: The Bethel Commodore Corporation
c/o Allen Connors
PO Box 49
21 Broad Street
Bethel, ME 04217
2. Date of Completed Application: March 12, 2015
3. Location of Proposal: Albany Township, Oxford County
Taxation Lot #13 on Maine Revenue Services' Plan 09
4. Zoning: (P-GP) Great Pond Protection Subdistrict
(P-WL) Wetland Protection Subdistrict
5. Affected Water Body: Songo Pond

The Commission has identified Songo Pond as a management class 5, resource class 2, accessible, developed lake with the following resource ratings: significant fisheries resources, significant cultural, and significant botanic.

Background

6. The applicant's 42,400 square foot lot with 600 feet of frontage along Songo Pond was originally developed in 1913 with a 55 foot by 26 foot lake house cabin with a 26 foot by 22 foot deck and a combined sewage disposal system installed in 1915. Approximately 30 years ago, the original combined sewage disposal system was replaced with a new combined sewage disposal system. A 30 foot by 5 foot storage shed, and 24 foot by 9 foot storage shed were constructed in 1940. The lake house cabin is set back 9 feet from the normal high water mark of Songo Pond, while the deck extends to within 2 feet of the normal high water mark of the lake and is elevated approximately 9 feet above the average water level of the lake.

Development on the lot also includes a parking area, shoreland access area and sandy beach, which is used by customers of the Bethel Inn. This area has several large white pine trees established, but is otherwise devoid of topsoil and ground cover vegetation and is actively eroding towards Songo Pond. The area slopes gradually from the road towards the lake to a sharp drop in elevation at the landward

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side of the sandy beach. Surface water runoff from the road and parking area is actively eroding the exposed soil in the shoreline access area and beach area. The shoreline on both sides of the beach area also show signs of erosion of existing vegetation and soil.

7. In May of 1994, Advisory Ruling AR 94-110 was issued to The Bethel Inn for the reconstruction of an existing deck with roof at the property.
8. In June of 1994 Advisory Ruling AR 94-130 was issued to The Bethel Inn and Country Club regarding a proposed reconstruction of the deck with roof.
9. In August of 1994, Advisory Ruling AR 94-163 was issued to Richard Quinlan regarding a proposed relocation and reconstruction of a stairway and deck on the property.
10. In October of 1994, Development Permit DP 4270 was issued to The Bethel Inn and Country Club, granting permit approval authorizing normal maintenance and repair of the deck. Portions of the deck had deteriorated and could no longer safely support the applicant's guests. Supporting timbers beneath the deck, set back 2 feet from the normal high water mark of Songo Pond, would not be replaced, while supporting iron posts beneath the deck would be replaced with new wooden posts.
10. In April of 1995 Building Permit BP 8947 was issued to Richard Quinlan, a neighboring property owner, granting permit approval to relocate a previously existing pre-Commission stairway and deck to an area on the Bethel Inn's land that is isolated from the area of proposed activity so as not to attract those not having the right to use the structures for lake access.

Proposal

11. The applicant proposes to redirect surface water runoff and eliminate the erosion from the existing parking area to the beach area and lake by adding approximately 25 cubic yards of crushed rock and sloping the ground away from Songo Pond to direct surface water runoff towards a well vegetated buffer. The applicant proposes to install a 60 foot long retaining wall, ranging from approximately 4 inches to 1 foot in height, to stabilize the downhill edge of the fill. After stabilizing the parking area, the applicant proposes to add approximately 20 yards of loam to be seeded with grass to two areas below the retaining wall, and to install concrete pavers leading from the parking area to the existing stairway that leads down over the steep embankment to the beach area. The applicant proposes to place rip rap along the downward slope of the steep embankment around the bases of the existing mature pine trees within 25 feet of the shoreline of Songo Pond. The applicant also proposes to stabilize the eroding shoreline by installing approximately 46 feet of rip rap to the shoreline on both sides of the beach area, and to replace approximately 15 cubic yards of sand to the eroded beach area above the normal high water mark. The shoreline rip rap would consist of one to two foot diameter rock over filter fabric and gravel fill, keyed into the shoreline at or just below the normal high water mark of Songo Pond. No work is proposed below the normal high water mark of Songo Pond except for the anchoring of the first row of rock rip rap at the shoreline. The proposal would alter a maximum of 92 square feet of (P-WL1) Wetland Protection Subdistrict.

Review Criteria

12. Under the provisions of Section 10.23 E. 3. c. (14) of the Commission's Land Use Districts and Standards, shoreland alterations are a use allowable with a permit in a (P-GP) Great Ponds Protection Subdistrict.

13. Under the provisions of Section 10.23, E, 3, c, (7) of the Commission’s Land Use Districts and Standards, filling and grading, which is not in conformance with the standards of Section 10.27,F may be allowed within P-GP subdistricts upon issuance of a permit from the Commission.
14. Under the provisions of Section 10.23,N,3,c,(11) of the Commission’s Land Use Districts and Standards, shoreland alterations are a use allowable with a permit in a (P-WL) Wetland Protection Subdistrict.
15. Under the provisions of Section 10.26,D,2, of the Commission’s Land Use Districts and Standards, the minimum setback for non-residential principal and accessory structures is 150 feet from a body of standing water 10 acres or greater in size (such as Songo Pond) and 75 feet from the nearest roadway.
16. Under the provisions of Section 10.26,G,5 of the Commission’s Land Use Districts and Standards, an exception may be made to the shoreline, road, and/or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use.
17. Under the provisions of Section 10.27,F of the Commission’s Land Use Districts and Standards, filling and grading 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.
18. Under the provisions of 10.27,F,5 of the Commission’s Land Use Districts and Standards, where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

19. Under 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 2 review if the Commission determines, at the applicant’s request, that the activity will have no 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 the character of the area around the alteration site, elevation differences and hydrologic connection to surface water or other protected natural resources.

20. Under provisions of Section 10.25,P,2 of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must 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. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project; must comply with applicable water quality standards; and use erosion control measures to prevent sedimentation of surface waters. Each Tier 2 application must provide an analysis of alternatives in order to demonstrate that a practicable alternative does not exist. Projects requiring a Tier 2 review must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.
21. Under the provisions of Section I,C,1,a of the Commission's Compensation Guidelines, neither a functional assessment or compensation is required if the wetland alteration would be less than 500 square feet total and is likely to have only a minimal effect on freshwater wetland functions and values.

Review Comments

22. The U.S. Army Corps of Engineers has reviewed this proposal and states that the project is eligible for a Corps General Permit (Category 1) provided riprap and sand placement work on the beach is done between July 15 and October 1. Water levels in Songo Pond are still high in May and will likely remain high for an extended period due to this year's heavy snow pack. The Corps permit will be conditioned accordingly.
23. The Department of Inland Fisheries and Wildlife has reviewed this proposal and has requested a start date of no earlier than June 1, 2015, and that no sand be placed below the normal high water mark of Songo Pond.
24. The Maine Natural Areas Program has reviewed the location of the project and found no rare botanical features that will be disturbed within the project site.
25. The Maine Submerged Lands Program has reviewed the project and made no recommendations.
26. The State Soil Scientist has reviewed the application and visited the site, and has no objections to the proposed project. He recommends that the parking lot work be done before the other work begins since runoff from the road and parking lot caused much of the erosion problems. For the parking lot, either the retaining wall should be installed before any grading work is done or a runoff water diversion should be used to prevent runoff from going over the banking and down toward the beach and lake. The area to be loamed and seeded should be mulched as soon as it is seeded to prevent soil movement to the lake. He recommends that an erosion control blanket be used to temporarily stabilize the loamed and grassed areas until the vegetation is established. He further recommends that a staked silt fence anchored with stone and not trenched, or a floating silt boom, should be installed below the proposed shoreline rip rap work area to prevent siltation to Songo Pond. He recommends doing the shoreline riprap work during a period of low water on the lake.
27. The facts are otherwise as represented in Great Ponds Permit Application GP 3412 and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The applicant's proposal to fill and grade the parking area to slope away from Songo Pond complies with the provisions of Section 10.23, E, 3, c, (7) and Section 10.27,F of the Commission's Land Use Districts and Standards, in that the proposed filling and grading within 100 feet of Songo Pond will be

conducted in a manner which produces no undue adverse impact upon the resources and uses in the area, and which will prevent further erosion and sedimentation from the road and parking area to Songo Pond.

2. The applicant's proposal to install a retaining wall at the lakeside of the proposed filled and graded area, and to install concrete pavers between the retaining wall and the existing stairway to the beach area complies with the provisions of Section 10.26,G,5 of the Commission's Land Use Districts and Standards, in that the structures must be located near to the shoreline, road, or property line due to the nature of their use to stabilize the downhill side of the filled and graded area and to prevent further erosion and sedimentation from the road, parking area and access way to Songo Pond.
3. The applicant's proposal to install rip rap at the steep embankment within 25 feet of the shoreline of Songo Pond complies with the provisions of Section 10.23 E. 3. c. (14) of the Commission's Land Use Districts and Standards. The embankment where the rip rap is to be installed is currently vegetated only with mature pine trees and is too steep to establish vegetation to stabilize.
4. The applicant's proposal to install rip rap at the shoreline of Songo Pond complies with the provisions of Section 10.25, P, 1, c, (3), of the Commission's Land Use Districts and Standards and meets the requirements for reduction from a Tier 3 review to a Tier 2 review. Specifically, the activity will have no adverse impact on the freshwater wetlands or other protected natural resources present, and will prevent further erosion of the shoreline of Songo Pond in this area.
5. The applicant's proposal to install rip rap at the shoreline of Songo Pond complies with the provisions of Section 10.25,P,2 of the Commission's Land Use Districts and Standards. Specifically, the applicant has limited the amount of wetland to be altered to the minimum amount necessary to complete the project; the project would comply with applicable water quality standards; and would use appropriate erosion control measures to prevent sedimentation of surface waters. The applicant has demonstrated that a practicable alternative to the proposed project does not exist.
6. The applicant's proposal to install rip rap at the shoreline of Songo Pond is in accordance with the provisions of Section I,C,1,a of the Commission's Compensation Guidelines in that the maximum alteration of wetland area would be less than 500 square feet and the project is likely to have only a minimal effect on the freshwater wetland functions and values. Therefore, neither a functional assessment or compensation are required.
7. 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 application of The Bethel Commodore Corporation for the installation of riprap, beach sand, a retaining wall, and filling/ grading with the following conditions:

1. The Standard Conditions for Shoreland Alterations (ver. 4/91), a copy of which is attached.
Notwithstanding Condition #3 of the Standard Conditions for Shoreland Alterations, activities authorized by this permit must be begun within two years of the date of issuance and completed within five years from the date of issuance of this permit.
2. Riprap must be installed in accordance with the Standards for Installation of Riprap (ver. 4/91), a copy of which is attached.
3. Notwithstanding Condition #5 of the Standards for the Installation of Riprap, rocks may be placed below the normal high water mark of Songo Pond only to the extent needed to key in the rocks and create stable riprap.

4. All work along the shoreline must be done when the lake water level is low. Work along the shoreline area, specifically the shoreline riprap and replenishing the beach sand, must only be conducted between July 15th and October 1st as per the comments of the US Army Corps of Engineers.
5. The approved retaining wall must be installed, and the fill and grade activities proposed for the parking area must be completed and stabilized prior to beginning the other projects approved in this permit.
6. Staked hay bales or silt fencing anchored with rock must be placed between the work area and the water prior to undertaking construction activities or, if the water level is such that work must be conducted in the water to install the shoreline riprap then staked silt fencing anchored with rock or staked hay bales or a silt boom must be installed, to prevent sedimentation to the lake. Once implemented or put in place, erosion control devices and measures must be maintained to ensure proper functioning. Should any erosion or sedimentation occur during construction, the permittee shall cease construction and contact the Commission immediately, notifying it of the problem and describing all proposed corrective measures.
7. No motorized equipment may be operated below the normal high water mark of Songo Pond.
8. Rocks used for the riprap must not be taken from the water body or the existing shoreline of Songo Pond. Filter fabric must be installed under the rocks in order to prevent fine particles from washing into the lake.
9. All areas of exposed mineral soil above the normal high water mark of Songo Pond disturbed by the authorized activity must be promptly seeded and mulched to avoid soil erosion and lake sedimentation.
10. Upon completion of the project within the terms of this permit, any debris or excavated materials remaining must be removed from the lot and all solid waste and other debris disposed of in a proper manner, in compliance with all applicable state and federal solid waste laws and rules.
11. Should any erosion or sedimentation occur during construction, the permittees shall contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.
12. The permittee shall secure and comply with all applicable licenses, permits, authorizations and requirements of all federal, state and local agencies, including but not limited to the U.S. Army Corps of Engineers.

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 WEST FARMINGTON, MAINE THIS 16th DAY OF MARCH, 2015

By: 

For Nicholas Livesay, Director



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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



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**STANDARDS FOR THE
INSTALLATION OF RIPRAP**

Riprap shall be installed in accordance with the following standards:

1. Riprap shall be placed in such a manner as to form a slope not steeper than 2 feet horizontal for every 1 foot vertical. Flatter slopes are more stable, and, therefore, slopes of 3:1 or 4:1 are preferable.
2. Riprap shall be irregularly shaped rocks (not round rocks) of 10 inches to 12 inches in diameter (about the size of a basketball), and shall be placed in a manner that the rocks fit together and interlock. Riprap should consist of more than one layer of rocks to be stable.
3. Riprap shall be placed on top of and embedded into coarse gravel, or a sediment barrier such as filter fabric, if the original soils are clay, light sand, or other highly erodible soils.
4. Riprap shall be secured into the toe of the slope of the embankment, meaning the first layer should start approximately 6 inches below the original grade at the base of the embankment. As indicated in 5 below, this does not mean that you may encroach into the water body or wetland.
5. Riprap placed at the normal high water line shall begin at the existing shoreline and shall not extend toward the water body or wetland. The top of the shoreline shall be cut back as necessary to obtain the required 2:1 or flatter slope.
6. Rocks used for riprap shall not be obtained from the bottom of the water body or wetland, the immediate shoreline area or from areas where their removal will cause soil erosion into the water body or wetland.
7. Surface water drainage shall be diverted around the area being riprapped.
8. The riprap may not be covered with gravel, clay, loam, or any other materials.