



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION

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## Certification

Department of Environmental Protection  
Attn: Jessica Damon, Project Analyst  
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Bangor, ME 04401

AMENDMENT B TO  
SITE LAW CERTIFICATION SLC-4

### Findings of Fact and Determination

The Maine Land Use Planning Commission, through its staff, after reviewing the certification request and supporting documents submitted by Irving Forest Products, Inc. for Amendment B to Site Law Certification SLC-4 and other related materials on file, pursuant to the Commission's Land Use Standards, finds the following facts:

- Person Requesting Certification:* Irving Forest Products, Inc.  
Attn: David Mailloux  
PO Box 389  
Ashland, Maine 04732
- Accepted as Complete for Processing:* July 30, 2015
- Location of Proposal:* Nashville Plt., Aroostook County  
Taxation Lots #12 and #14 on Plan 03
- Current Zoning:* (D-CI) Commercial Industrial Development Subdistrict

### INTRODUCTION

- Title 12, section 685-B(1-A)(B-1) establishes that except for projects that are located in a planned subdistrict that was approved or accepted by the Commission for processing prior to September 1, 2012, a permit from the Commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482. Development of state or regional significance that may substantially affect the environment is reviewed under Title 38, section 489-A-1 and subject to the Site Location of Development Law (Site Law) administered by the Department of

Environmental Protection (DEP or Department). The Commission must certify that development that is part of a Site Law project is an allowed use within the subdistrict or subdistricts in which it is proposed and that the development meets any of the Commission's land use standards that would not be considered by DEP before DEP would issue any permit.

The following Findings, Conclusions and Conditions constitute the Commission's certification that Irving Forest Products, Inc.'s development, as proposed, is an allowed use within the subdistrict in which it would be located and meets the applicable Land Use Standards that would not be considered by DEP as part of any review under the Site Law.

## **ADMINISTRATIVE HISTORY**

6. The Pinkham Mill (the "Mill") was originally built in 1964 to manufacture lumber products. Starting in 1973, the Commission issued a number of Development Permits for improvements and new development at the Mill. The Board and Department of Environmental Protection also issued a number of Orders approving a nearby woodwaste disposal facility, but not the Mill site itself.
7. In 1995, DEP issued Site Law Permit L-18337-26-A-N, after-the-fact, for approximately 110,000 square feet (ground area) of improvements to the Mill site since 1973.
8. Between September 1995 and March of 1999, the Commission authorized 7 additional permits amendments to Development Permit DP 618 for various improvements at the Mill facility.
9. In February of 1999, Amendment O to Development Permit DP 618 was issued to the Irving Forest Products, Inc. authorizing a transfer of ownership for permits associated with the expansion and operation of the sawmill complex (a.k.a. Pinkham Lumber Mill) from Great Northern Paper, Inc.
10. In March of 1999, the Department of Environmental Protection transferred all permits and licenses to Irving Forest Products, Inc.
11. Between March of 1999 and June of 2008, the Commission authorized 9 additional permits amendments to Development Permit DP 618 for various improvements at the Mill facility.
12. In 2009, the Irving Forest Products, Inc. discontinued the sawmill operations at the Mill facility but continue to have offices for land management on their ownership. In June of 2011, Amendment Y to Development Permit DP 618 was issued to the applicant authorizing removal of the existing office building at the east entrance to the facility and replacement of it with a new 16 foot by 73 foot office building.
13. In September of 2013, Site Law Certification SLC-4 was issued to the Irving Forest Products, Inc. authorizing modifications and improvements to the existing saw mill in order to reopen it as a stud mill. The Project included installation of a 9,860 square foot boiler plant and an 8,866 square foot dry kiln structure with an attached 1,000 square foot mechanical building.
14. In November of 2014, Amendment A to Site Law Certification SLC-4 was issued to the Irving Forest Products, Inc. authorizing construction of an 80 foot by 100 foot pole barn with a 3-inch asphalt base in order to relocate its sand/salt storage pile. The proposed Project was to be located within an existing cleared and graveled section of the mill complex and within the Commercial Industrial Development Subdistrict (D-CI), and was to comply with Chapter 574 of the DEP's Rules for "Siting and Operation of Road Salt and Sand-Salt Storage Areas".
15. Prior to issuing SLC-4 and SLC-4-A, the DEP determined that because the facility received a permit under the Site Law (Permit #L-18337-26-A-N), the proposed projects would qualify for an exemption in the law which allows for expansions of up to 30,000 square feet in a calendar year and a total of 60,000 square feet.

When and if those thresholds are exceeded, a permit amendment would be needed and at that time all development activity at the Mill since issuance of the original Site Law permit would be considered as part of an amendment process. In the interim, the Mill remains subject to compliance with the existing Site Law permit and, therefore, the Site Law. As noted above, the LUPC's certification review consists of evaluating whether the Project is located in a subdistrict in which the proposed use is allowed and whether the Project complies with the Commission's land use standards that are not duplicative of the DEP's standards.

16. In November of 2014, Irving Forest Products, Inc. notified the DEP that their expansion activities in 2013 and 2014 total more (60,215 sq. ft) than the manufacturing facility exemption of 60,000 square feet. Three of the reported 2014 projects had not received prior Certification from the Commission, namely new truck scales (3,000 sq. ft.), a new rail spur (26,400 sq. ft.) and a new chip pad (5,000 sq. ft.).

## PROPOSAL

17. *Project.* Irving Forest Products, Inc. seeks after-the-fact certification for installation of new truck scales and for construction of a rail road spur and chip pad (the "Project"). The truck scales, rail road spur and chip pad are all located within previously cleared and graveled sections of the mill complex and entirely within within the Commercial Industrial Development Subdistrict (D-CI). None of the proposed development will be located in a floodplain or flood prone area, as described in Section 10.23,C,2 of the Commission's Land Use Standards.
18. On July 24, 2015, Irving Forest Products, Inc. submitted a request to the LUPC for certification.
19. *Certification Public Notice.* Public notice of the request for certification was published in the Star Herald Newspaper on July 22, 2015. No comments or requests for a public hearing were received by the public regarding the certification.

## CERTIFICATION OF ALLOWED USE

20. *Statutory Provision.* 12 M.R.S. § 685-B(1-A)(B-1). "Except for projects that are located in a planned subdistrict that was approved or accepted by the Commission for processing prior to September 1, 2012, a permit from the Commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1. A person submitting a development proposal to the Department of Environmental Protection under Title 38, section 489-A-1 shall file a notice of the intent to develop and a map indicating the location of the proposed development with the Commission prior to or concurrently with submission of a development application to the Department of Environmental Protection. The Department of Environmental Protection must receive certification from the Commission that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed and the proposed development meets any land use standard established by the Commission that is not considered in the Department's review under Title 38, section 489-A-1, subsection 1 before issuing a permit. Nothing in this subsection may be construed as prohibiting the Commission from enforcing the land use standards certified to the Department of Environmental Protection under this paragraph."
21. In the subdistrict in which the Project is located, the Commercial Industrial Development (D-CI) Subdistrict, commercial and industrial development is an allowed use. (*See* Chapter 10 of the LUPC's

Land Use Districts and Standards, Sections 10.21,A,3,c(2)). Therefore, the LUPC certifies that the Project is an allowed use in the subdistrict in which it is proposed. Neither special exception approval nor rezoning is required for the Project.

## **CERTIFICATION OF COMPLIANCE WITH THE COMMISSION'S LAND USE STANDARDS**

22. The Commission's Land Use Standards that are relevant to certifying compliance of the proposed Project are evaluated in Findings #23 through #29.

23. *Land Division History.*

- A. *Review Criteria.* 12 M.R.S. § 682(2-A) and § 685-B(1)(B); and §§10.24, F (quoting 12 M.R.S. § 685- B(4)(F)) and 10.25,Q,1 of the Commission's Land Use Standards.
- B. *Land division histories.* Irving Forest Products, Inc. has owned the parcel since 1999. The previous owner, Great Northern Paper, Inc, had owned the parcel since at least 1964. No division of the parcel has occurred in the last 20 years.

24. *Vehicular circulation, access and parking.*

- A. *Review criteria.* §10.24,B (quoting 12 M.R.S. § 685-B(4)(B)) and 10.25,D of the Commission's Land Use Standards.
- B. *Vehicular circulation and access – §§10.25,D,1; and 2,a, b and d.* Irving Forest Products, Inc. has not proposed any new access points. The existing access points off of Route 11 and the current vehicular circulation within the facility would continue to be used.
- C. *Parking - §§ 10.25,D,3,a and e.* Irving Forest Products, Inc. has not proposed any new parking areas for the facility. The existing parking areas within the facility would continue to be used.
- D. *Roadway Design – §§ 10.25,D,4,a, b, e and f.* Irving Forest Products, Inc. has not proposed any new roadways. The existing roadways to and from the mill and within the facility would continue to be used.
- E. *Conclusions.* Irving Forest Products, Inc. has demonstrated that the applicable criteria for vehicle circulation, access, parking, and roadway design in §10.24,B and §§10.25,D,1, 2, 3, and 4 of the Commission's Land Use Standards will be met by the Project.

25. *Lighting.*

- A. *Review criteria.* §10.25,F,2 of the Commission's Land Use Standards.
- B. *Permanent lighting.* Irving Forest Products, Inc. stated that all proposed exterior lights will meet the requirements of §10.25, F, 2 or be motion sensor activated.
- C. *Conclusion.* The Project as proposed will meet the provisions of §10.25,F,2 of the Commission's Land Use Standards for lighting. Motion sensor activated lighting is exempt from the requirements of §10.25,F,2.

26. *Minimum dimensional requirements - §§ 10.26,A-F of the Commission's Land Use Standards.*

A. *Minimum lot size.*

- (1) *Review criteria.* §10.26, A. §10.26,A,2 specifies that the minimum lot size for commercial or industrial development involving one or more buildings is 40,000 square feet.
- (2) *Project.* The parcel containing the Project is approximately 180 acres in size.
- (3) *Conclusion.* As proposed, the Project will meet the standard for minimum lot size in §10.26,A,2 of the Commission's Land Use Standards.

B. *Minimum shoreline frontage.*

- (1) *Review criteria.* §10.26, B. §§10.26,B,1,b and 2,b specify that the minimum shoreline frontage for a commercial or industrial development is 200 feet for parcels bordering a minor flowing water or standing body of water less than 10 acres in size; and the frontage for a parcel located on a waterbody greater than 10 acres in size or a major flowing water is 300 feet.
- (2) *Project.* The parcel contains approximately 4,500 feet of frontage on Skerry Brook, a minor flowing water.
- (3) *Conclusion.* As proposed, the Project will meet the requirements for minimum shoreline frontage in §§10.26,B,1,b and 2,b of the Commission's Land Use Standards.

C. *Minimum road frontage.*

- (1) *Review criteria.* §10.26, C. §10.26,C,1,b specifies that the minimum road frontage for commercial or industrial development is 200 feet for any road used for public access.
- (2) *Project.* The parcel contains approximately 3,000 feet of frontage on the Pinkham Road.
- (3) *Conclusion.* As proposed, the Project will meet the standard for road frontage in §10.26,C,1,b of the Commission's Land Use Standards.

D. *Minimum setbacks.*

- (1) *Review criteria.* §§10.26,D,2 and 3; and §10.26,G,5. §10.26,D,2 specifies that the minimum setback for commercial or industrial development is 150 feet from waterbodies greater than 10 acres in size; 100 feet from minor flowing waters, P-WL1 wetlands and waterbodies less than 10 acres in size; 75 feet from roads used by the public for access; and 25 feet from side and rear property boundary lines.
- (2) *Project.* All proposed development is proposed to be located in excess of the minimum setback requirements.
- (3) *Conclusion.* As proposed, the Project will meet the standards for setbacks in §10.26, D,2.

E. *Maximum lot coverage.*

- (1) *Review criteria.* §10.26, E,4. §10.26,E,4 specifies that the maximum lot coverage for lots in a D-CI subdistrict that are not within 250 feet of a major flowing water or a body of standing water 10 acres or greater in size, the maximum lot coverage shall be 50% for all uses involving one or more buildings.
- (2) *Project.* The parcel is not within 250 feet of a major flowing water or body of standing water 10 acres or greater in size. The maximum lot coverage will be less than 50%.
- (3) *Conclusion.* As proposed, the Project complies with the maximum lot coverage requirements in §10.26, E,4 of the Commission's Land Use Standards.

F. *Maximum structure height.*

- (1) *Review criteria.* §10.26,F. §§10.26,F,1,b and 3 specify that the maximum height for a structure

located further than 500 feet from a waterbody greater than 10 acres in size is 100 feet; except that the maximum structure height may be exceeded for structures with no floor area such as chimneys, towers, ventilators, spires, and free-standing towers and turbines with the Commission's approval.

- (2) *Project.* All proposed Project structures will be located more than 500 feet from a great pond. None of the proposed Project structures will exceed the maximum height of 100 feet.
- (3) *Conclusion.* As proposed, the Project complies with the maximum height

27. *Vegetation clearing.*

- A. *Review criteria.* §10.27,B. §§10.27,B,1 and 2 of the Commission's Standards are applicable to this Project.
- B. *Project.* No clearing of Vegetation is proposed as part of the Project.

28. *Signs.*

- A. *Review criteria.* §10.27.J. §10.27.J specifies the standards for placement and sizing of signs used by the Project.
- B. *Project.* Irving Forest Products, Inc. has not proposed any new signs as part of the Project.

29. *General Criteria for Approval – 12 M.R.S. § 685-B(4) (incorporated in § 10.24 of the Commission's Land Use Standards).* In evaluating the Project, the Commission considers and applies its land use standards not considered by the DEP.

- A. *Loading, parking and circulation – 12 M.R.S. § 685-B(4)(B) and Land Use Standard §10.24, B* specify that adequate provision must be made for transportation, including loading, parking and circulation of traffic in, on and from the site.
  - (1) *Conclusion.* As proposed, and as discussed and concluded in Finding #24 above, the Project will meet the standard loading, parking and circulation in 12 M.R.S. § 685-B(4)(B) and § 10.24, B of the Commission's Land Use Standards.
- B. *Conformance with statute, regulations, standards and plans – 12 M.R.S. § 685-B(4)(E) and Land Use Standard §10.24, E* specify that the Project must be in conformance with 12 M.R.S., Chapter 206-A and the regulations, standards and plans adopted thereto. Applicable statutory criteria for approval are discussed in this Finding #29. Additionally, the Commission has more generally reviewed Title 12, Chapter 206-A and no Project components or features are out of conformance with any applicable statutory standards; for example, no spaghetti-lots are proposed. *See, e.g.,* 12 M.R.S. § 682-A (prohibiting the creation of spaghetti-lots). As explained more fully in findings and conclusions above, the Commission has reviewed the Project under applicable regulations and standards, specifically the Commission's Land Use Standards contained in Chapter 10 of its rules, and, as articulated in the findings and conclusions above, the Project conforms with these regulations and standards. Finally, in conducting its certification review and reviewing and applying the applicable statutory provisions in Chapter 206-A and the applicable regulations and standards, the Commission interpreted and applied the statutory provisions, regulations and standards in light of the CLUP. *See* 12 M.R.S. § 685-C(1) ("The [C]ommission must use the [CLUP] as a guide in . . . generally fulfilling the purposes of this chapter.")
  - (1) *Conclusion.* As proposed, the Project satisfies the conformity requirement in 12 M.R.S. § 685-

B(4)(E) and § 10.24, E of the Commission's Land Use Standards.

C. *Placement of structures on lots in a subdivision – 12 M.R.S. § 685-B(4)(F) and Land Use Standard §10.24, F* specify that placement of a structure on a lot in a subdivision only may be allowed after the subdivision has been approved by the Commission.

(1) *Conclusion.* As proposed, and as discussed and concluded in Finding #23 above, the Project will not involve development within a subdivision.

## FINAL CONCLUSION

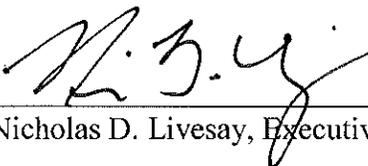
Therefore, the Commission, through its staff, CERTIFIES to the Department of Environmental Protection that the project, as proposed by Irving Forest Products, Inc., is an allowed use within the Subdistrict in which it is proposed and complies with the relevant provisions of the Commission's Land Use Standards not considered by the Department in its Site Law Review, subject to the findings of fact and conclusions contained herein, and the following conditions.

## CONDITIONS

1. *Lighting.* All Project permanent exterior lighting must meet the standards of §§10.25,F,2,a, b and c of the Commission's Land Use Standards.
2. *Setbacks.* All Project structures, both temporary and permanent, must be located in accordance with §10.26 of the Commission's Land Use Standards.
3. *Height.* The maximum height of all Project structures shall not exceed 100 feet as provided in § 10.26,F of the Commission's Land Use Standards.

This approval of a request for certification is limited to the Project as proposed, based on the above stated conditions, and remains valid only if Irving Forest Products, Inc. complies with these conditions. Any modifications to the Project, beyond de minimus changes that do not alter the nature of the Project or modify any findings upon which this certification is based, or future development activity at the Mill will require a new or amended certification. Within 30 days of this certification determination, a person aggrieved by this certification may appeal to the full Commission, requesting review of this certification determination.

DONE AND DATED AT AUGUSTA, MAINE THIS 10<sup>TH</sup> DAY OF SEPTEMBER, 2015.

By:   
Nicholas D. Livesay, Executive Director