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GOVERNOR

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

AMENDMENT B TO SUBDIVISION PERMIT SP 3172

The Maine Land Use Planning Commission, through its staff, after reviewing the application and supporting documents submitted by Thunderbolt, LLC for Amendment B to Subdivision Permit SP 3172, finds the following facts:

1. Applicant: Thunderbolt, LLC
c/o Gawain Wood
312 Exeter Road
Hampton Falls, NH 03844
2. Date of Completed Application: July 6, 2015
3. Location of Proposal: Sandy River Plantation, Franklin County
Sandy River Plantation Tax Map 07, Lots #22, #23, #26 - #46
4. Parcel Size: 85.45 Acres (Owned)
5. Zoning: (D-RS3) Residential Recreation Development Subdistrict
(P-SL2) Shoreland Protection Subdistrict
(P-WL3) Wetland Protection Subdistrict (identified by on-site delineation)

Background

6. The subject lot was formerly owned by Robert Maguire. Subdivision Permit SP 3172, issued to Mr. Maguire in June of 1989, authorized the division of Mr. Maguire's original 112.8 acre parcel into 31 residential lots. The approved subdivision is known as the "Beaver Mountain Overlook Subdivision." Access to approved lots #1 - #8 was to be via a discontinued section of State Route #4, access to approved lots #9 - #10 was to be via a shared driveway directly to the current State Route #4, and the remaining lots #11 - #31 were to be accessed by an existing land management road extending off of the current State Route #4.

Both subdivision roads were to be upgraded in accordance with the Commission's road standards in effect at that time, and to be constructed with a 20 foot wide travel surface. The land management road

to be upgraded extends 4700 feet from State Route #4, with a 350-foot portion of the land management road to be relocated to avoid an area of steep slopes. The land management road was to be extended by approximately 2450 feet to create a loop at the terminus of the access road. The permitted subdivision access road from State Route 4 to the loop road was to be named "Red Moose Lane" and would be 4300 feet long, with the loop road to be named "Red Moose Lane Loop," and would be 2850 feet long for an overall length of 7150 feet.

7. The discontinued section of State Route #4 was subsequently upgraded in accordance with the provisions of Subdivision Permit SP 3172. The Commission issued a partial Certificate of Compliance for Subdivision Permit SP 3172 in January of 1990, authorizing the transfer of approved subdivision lots #1 – #8 only. Lots #1 - #8 were subsequently transferred by Mr. Maguire to other parties.
8. Amendment A to Subdivision Permit SP 3172, issued to Mr. Maguire in December of 2004, granted approval to allow completion of the upgraded land management road to the remaining approved subdivision lots. Standard Condition #8 of Amendment A, stipulated that development and construction activities authorized under Amendment A must be completed within 5 years of issuance of that permit, otherwise the permit would lapse and no additional construction activities could occur until and unless a new permit is granted by the Commission.
9. Gawain Wood acquired the remaining approved lots #9 - #31, and rights to upgrade and maintain the land management road to access those lots, in June of 2006. At that time, the land management road had not yet been upgraded.
10. Road Construction Permit RP 3253, issued to Mr. Wood in December of 2009, granted a new permit for the reconstruction of the existing land management road, and also authorized changes in the design and location of the land management road. Specifically, the road was permitted to be reconstructed to have an 18 foot wide travel surface, and the portion of the road originally slated to be relocated was permitted to be reconstructed along its original alignment.
11. Red Moose Lane and an approximately 400-foot portion of the loop road have been reconstructed and completed. The remaining approximately 2450-foot portion of the loop has been cleared, and the right-of-way grubbed and blasted, some fill added in a portion of the loop, but it has not yet been completed.
12. Mr. Wood subsequently transferred ownership approved lots #9 - #31, and rights to upgrade and maintain the land management road to access those lots, to the applicant in May of 2012.

Proposal

13. The applicant seeks approval to reflect its ownership of the subject property, and for a new permit to complete the construction of the loop road at the end of Red Moose Lane. The loop road would be located along its originally permitted alignment as shown on plans by RP Titcomb Associates, dated August 29, 1988, sheets #6 - #9. Finished grade along the loop road would range from 0.5 percent to 7.5 percent. The loop road would have a 50 foot wide right-of-way and an 18 foot wide travel width.
14. The applicant has submitted an erosion and sedimentation control plan for the loop road by Main-Land Development Consultants, Inc., dated July 2, 2015, along with an erosion and sedimentation control site plan (Drawing No. C2.0) by Professional Engineer Richard Dunton dated July 3, 2015. The plan includes provisions for drainage control such as the installation of cross-drain culverts, ditch turnouts, and installation of a culvert of at the wetland crossing discussed under Finding of Fact #16 below.

Drainage control structures have been designed and spaced in accordance with the Commission's standards discussed under Finding of Fact #22 below.

Site Conditions

15. An on-site soil survey of the permitted subdivision, including the current project site, was submitted with the application for Subdivision Permit SP 3172, discussed under Finding of Fact #6 above. Soils identified within the footprint of the proposed loop road include Chesuncook, 8-15 percent slopes, Elliottsville-Monson, 0 to 15 percent slopes; and Chesuncook-Telos 0 to 8 percent slopes. These soils have a medium development potential rating for roads under the Natural Resources Conservation Service's soil potential ratings for low density development.

The applicant states that the Chesuncook soil is a deep moderately well-drained soil with a subsoil layer that is somewhat restrictive. This soil type is well suited for road construction. The applicant further states that the Elliottsville and Monson soils are well drained, but their major limitations for road construction are their limited depth to bedrock. This limitation has been addressed by blasting. The Telos soil is a deep somewhat poorly drained soil with a very high seasonal water table. Limitations of this soil due to the high water table would be addressed by the installation of drainage control structures as discussed under Finding of Fact #14 above.

16. Wetlands have been delineated at the project site by Certified Soil Scientist Kenneth G. Stratton. Mr. Stratton identified two small forested wetlands areas in the project area, one of which would not be impacted by the proposed road. The other forested wetland extend across the proposed road right-of-way, and the proposed road construction would impact 2,365 square feet of this wetland.

The applicant states that given that the location of the subdivision lots has already been established and approved pursuant to Subdivision Permit SP 3172, there is no reasonable alternative location for the proposed road for its intended purpose to access the approved lots.

Review Criteria

17. Under the provisions of Section 10.25,G of the Commission's Land Use Districts and Standards, soil types for subdivisions shall be determined by a site-specific soil survey. Determination of soil suitability shall be based on the Natural Resources Conservation Service's soils potential ratings for low density development. Soils with a low or very low development potential rating shall not be developed unless the Commission determines that adequate corrective measures will be used to overcome those limitations that resulted in a low or very low rating.
18. Section 10.25,M,3 of the Commission's Land Use Districts and Standards requires an erosion and sedimentation control plan for projects that would disturb more than one acre of land. This section specifies the requirements for an erosion and sedimentation control plan.
19. Under the provisions of Section 10.25,P,2,a(1)(a) of the Commission's Land Use Districts and Standards, an on-site wetland delineation is required for projects that will alter 1 acre or more of overall land area.
20. Under the provisions of Section 10.23,N,3,b(3) of the Commission's Land Use Districts and Standards, alterations of less than 4,300 square feet of P-WL2 and P-WL3 wetlands are an allowed use, not subject to the tier review standards of Section 10.25,P of the Commission's Standards.

21. Section 10.25,D of the Commission's Land Use Districts and Standards specifies standards for vehicular circulation, access and parking. Under the provisions of Section 10.25,D,4,a, "Class 1 Roadways" area generally appropriate for residential subdivisions with more than 15 lots. The specifications for a Class 1 roadway under Section 10.25,D,4,e include a minimum required roadway surface width of 18 feet, or 14 feet with turnouts every 500 feet on average; a minimum of 18 inch depth of base material (coarse gravel); a minimum of 3 inches depth of wearing surface (fine gravel); and a maximum sustained grade of 10 percent.
22. Section 10.27,D of the Commission's Land Use Districts and Standards specifies standards for construction of roads and water crossings, including specifications for road drainage control structures.

Review Agency Comments

23. The Maine Department of Inland Fisheries and Wildlife (MDIFW) comments that it anticipates minimal impacts to wildlife from the proposal.
24. Sandy River Plantation states that it has no comments regarding the proposal.
25. The U.S. Army Corps of Engineers states that the project qualifies for a Category 1 permit from the Corps. The Corps also states that no further action is required until and unless the applicant or future owner(s) of the subject property propose any additional wetland fill or other work subject to the Corps' jurisdiction.
26. The facts are otherwise as represented in Road Permit Application RP 3253, Subdivision Permit Application SP 3172, Amendment Requests A and B, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. Based upon the soil survey completed for Subdivision Permit Application SP 3172 and additional information provided by the applicant, as discussed under Finding of Fact #15 above, soils at the site are suitable for the proposed road construction in accordance with Section 10.25,G of the Commission's Land Use Districts and Standards. The applicant's proposed measures to address shallow soil depth by blasting, and high water table by its drainage control plan are sufficient to overcome soil limitations at the site.
2. The applicant's proposed erosion and sedimentation control plan described under Finding of Fact #14 above complies with Section 10.25,M,3 of the Commission's Land Use Districts and Standards regarding erosion and sedimentation control.
3. The level of wetland impact by the proposal is an allowed use under the provisions of Section 10.23,N,3,b(3) of the Commission's Land Use Districts and Standards, and is not subject to the tier review standards of Section 10.25,P of the Commission's standards.
4. Adequate provision has been made for vehicular access and traffic circulation in that the proposed loop road is designed in accordance with the standards under Section 10.25,D of the Commission's Land Use Districts and Standards.

5. The proposed road would comply with the road construction standards under Section 10.27,D of the Commission's Land Use Districts and Standards.
6. 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 Commission, through its staff, approves the amendment request Thunderbolt, LLC subject to the following conditions:

1. The Standard Conditions (ver. 4/04), a copy of which is attached.
2. The permittee shall implement its erosion and sedimentation measures in accordance with its erosion and sedimentation control plan dated July 2, 2015, and as shown on its erosion control sheet (Drawing No. C2.0) dated July 3, 2015.
3. The section of the loop road permitted by this amendment must be constructed in accordance with the plans referenced under Finding of Fact #13. Once the construction areas are permanently stabilized, any temporary erosion and sedimentation control structures must be removed. The subdivision road must be maintained so that it will not erode.
4. All areas of exposed mineral soil on slopes steeper than 2 horizontal to 1 vertical shall be stabilized with rock riprap. With the exception of the road travel surface, all areas of exposed mineral soil within 75 feet of the river and on slopes flatter than 2 horizontal to 1 vertical shall be seeded and mulched. All soil stabilization measures shall be completed during or immediately following construction to minimize the potential of soil erosion and brook siltation.
5. If water control measures beyond those specified herein prove to be necessary in order to reasonably avoid accelerated erosion or sedimentation of surface waters, such additional measures must be employed.
6. All operations must be stopped where the continuation of such operations will cause or contribute to the occurrence of accelerated erosion or the sedimentation of surface waters, whether such occurrence is precipitated by wet weather, the failure of water control measures, or other factors. Adequate steps must immediately be taken to stop any accelerated erosion or sedimentation of surface waters and to correct the situation which led to such occurrence.
7. Prior to the sale or lease of approved subdivision Lots #9 - #31, the permittee must:
 - A. Record and cross- reference in the Franklin County Registry of Deeds this approved Amendment B to Subdivision Permit SP 3172 including the Conditions of Approval. Upon such recording of the permit amendment, the permittee must promptly submit to the Commission the book and page numbers for the permit amendment, and the date of such recording.
 - B. Obtain Certificates of Compliance from the Commission for Subdivision Permit SP 3172 and Amendment A for Lots #9 - #10.
 - C. Obtain Certificates of Compliance from the Commission for Road Construction Permit RP 3253, Subdivision Permit SP 3172, and Amendments A and B to Subdivision Permit SP 3172 for Lots #11 - #31.

- 8. All conditions of Subdivision Permit SP 3172 and Amendment A to Subdivision Permit SP 3172 shall remain in effect except Conditions #1 of Subdivision Permit SP 3172 and Amendment A which are superseded by Condition #1 of this amendment; and Condition #6 of Amendment A which is superseded by Condition #8 of this amendment. All conditions of Road Construction Permit RP 3253 remain in effect except Condition #6 of Road Construction Permit RP 3253 which is superseded by Standard Condition #8 of this amendment.

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 AUGUSTA, MAINE, THIS 26TH DAY OF JANUARY, 2016.

By: Sara L. Brusila
 Sara L. Brusila, Regional Representative
 for Nicholas D. Livesay, Executive Director

STATE OF MAINE
 County of Kennebec, ss,

Date: 1/26/16

Personally appeared the above named Sara L. Brusila, in her capacity as Regional Representative with the Land Use Planning Commission, and acknowledged the foregoing to be her free act and deed in her said capacity and the free act and deed of the Land Use Planning Commission.

Before me,

Marylisa York
 Mary York, Notary Public
 My Commission expires: _____

MARYLISA YORK
 Notary Public • State of Maine
 My Commission Expires September 11, 2018



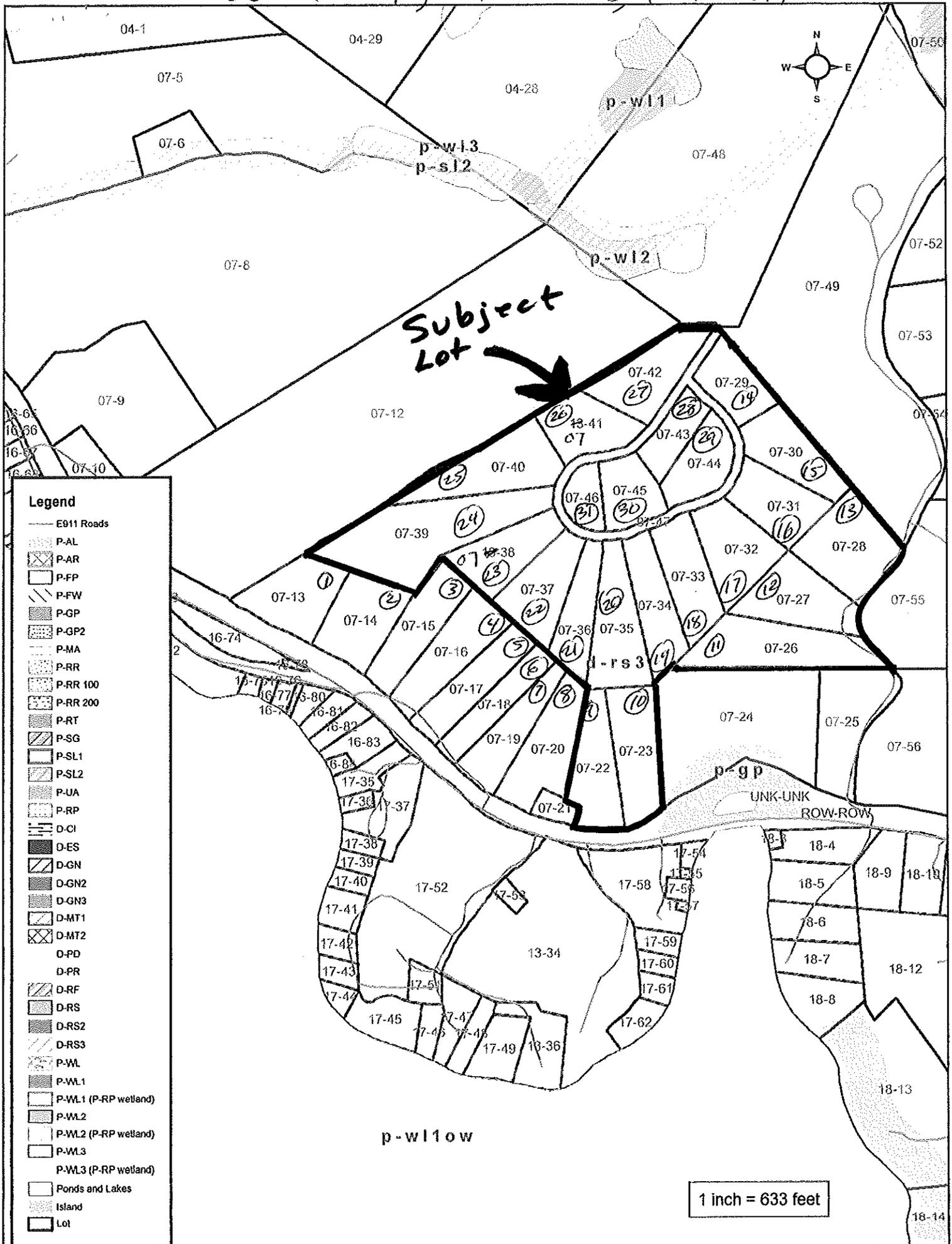
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STANDARD CONDITIONS OF APPROVAL FOR SUBDIVISION PERMITS

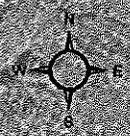
1. This permit is dependent upon and limited to the proposal as set forth in the application, plan and supporting documents, except as modified by the Commission in granting this permit. Any variation therefrom is subject to the prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.
2. 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 regulations of the Maine Department of Environmental Protection and the Maine Department of Health and Human Services.
3. The permittee shall promptly submit all information requested by the Commission to demonstrate compliance with the terms and conditions of approval.
4. In the event the permittee should sell or lease this subdivision in its entirety, the buyer or lessee shall be provided a copy of the approved subdivision 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 their name to reflect any changes they propose from the original application and permit approval.
5. The permittee may not advertise 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.
6. The scenic character and healthful condition of the area of the project covered by this permit must be maintained. The area must be kept free of litter, trash, junk cars, and any other materials that may constitute a hazardous or nuisance condition.
7. Before leasing, selling or entering into a contract for sale of any lot in the subdivision herein permitted, the permittee must provide a copy of this permit to the potential buyer or lessee and must indicate all of the conditions of approval. The permittee must also inform the potential buyer or lessee that no structure may be constructed or installed without first obtaining permit approval from the Maine Land Use Planning Commission. Failure to give such notice is a violation of this approval and the Commission may initiate appropriate enforcement action.
8. Development and limited construction activities permitted in this permit must be substantially started within two years of date of issue and substantially completed within five years from date of issuance of this permit. If such activities are not begun 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.
9. This subdivision permit authorizes **development and specified limited construction only**. No lots or other interests in the subdivision herein permitted shall be transferred until a **CERTIFICATE OF COMPLIANCE**, stating that the requirements and conditions of approval have been met, has been issued to the permittee. Once development and specified construction are complete, the permittee must notify the Commission so that the premises may be inspected and a **CERTIFICATE OF COMPLIANCE** issues.

Administrative Policy Revised 4/04

Location Map, SP 3172-B Thunderbolt, LLC



Ⓢ Beaver Mountain Overlook Subdivision Lot # (SP 3172) Plan #2250



Blue Portion is Existing
Red Moose Lane, RP 3253

Red Portion is 2450' Section of Red Moose Lane Loop Road
Still to be Completed, SP 3172-B

Legend

-  Unorganized
-  Organized
-  County Lines
-  World Imagery
-  Low Resolution 15m Imagery
-  High Resolution 60cm Imagery
-  High Resolution 30cm Imagery
-  Ponds and Lakes
-  Island
-  Lot

1 inch = 668 feet