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

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PERMIT

SUBDIVISION PERMIT SP 4097

The Maine Land Use Planning Commission, through its staff, after reviewing the application and supporting documents submitted by for Subdivision Permit SP 4097, finds the following facts:

1. Applicant: Rangeley Plantation Irrevocable Trust
PO Box 770
Rangeley, ME 04970
2. Date of Completed Application: December 16, 2014
3. Location of Proposal: Rangeley Plantation, Franklin County
Lot #5 on Rangeley Plantation Tax Map 06
4. Parcel Size: 45.0 Acres (Owned)
5. Zoning: (D-GN) General Development Subdistrict
6. Existing Development: Main Lodge w/Attached Decks (23 ft. by 41 ft.) (to be used as a community building)

Cedar Lane Camps (all to be converted to condominium units)

Camp IX (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)

Camp X (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)

Camp XI (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)

Camp XII (24 ft. by 28 ft.)
w/ Enclosed Porch (8 ft. by 24 ft.)
w/ Ramp (5.5 ft. by 28 ft.)

Lower Way Camps (all to be converted to condominium units)

Camp I (24 ft. by 28 ft.)

w/ Enclosed Porch (8 ft. by 24 ft.)

Camp II (24 ft. by 28 ft.)

w/ Enclosed Porch (8 ft. by 24 ft.)

Camp III (24 ft. by 28 ft.)

w/ Enclosed Porch (8 ft. by 24 ft.)

Camp IV (24 ft. by 28 ft.)

w/ Enclosed Porch (8 ft. by 24 ft.)

Siding Camp (18 ft. by 20 ft.)

w/ Porch (8 ft. by 18 ft.) (to be converted to a condominium unit)

Permanent Home w/Attached Garage (36.5ft. by 92 ft.) (to be converted to a condominium unit)

Shed (6 ft. by 8 ft.)

Deck (8 ft. by 12 ft.)

7. Proposed Development: Eighteen Proposed Condominium Units
(Each to be 24 ft. by 36 ft. with an 8 ft. by 24 ft. porch)
8. Sewage Disposal: One Existing Combined System
Three Existing Combined Systems to be Expanded and/or add Aeration Tank
Three New Combined Systems
9. Affected Waterbodies: Rangeley Lake and Unnamed Stream

The Commission has identified Rangeley Lake as a resource class 1A, management class 4, accessible, developed lake with outstanding fisheries, scenic, physical, and cultural resources, and significant wildlife, shoreline and botanical resources.

Background

10. The subject property was originally developed with a commercial sporting camp in the 1800's. The sporting camp was operated into the 1980's, and then utilized as a private residence and farm until 1996 when the owner at the time passed away. S.C. Noyes and Company (hereinafter "Noyes") acquired the subject lot in August of 1998, with the lot being approximately 59 acres at that time.
11. Development Permit DP 4526, issued to Noyes in February of 2000, authorized the establishment of a commercial sporting camp complex to be known as "Niboban Camps." Permitted structures for the sporting camp included a main lodge, and thirteen individual cabins to be known as the Cedar Lane Camps (four cabins), the Lower Way Camps (four cabins), the Ethelwald Camps (four cabins), and the Siding Camp. Condition #11 of Development Permit DP 4526 stipulated that the subject lot not be further divided without the prior review and approval of the Commission and the Maine Bureau of Parks and Lands.
12. Amendments A through C to Development Permit DP 4526 were issued to Noyes from 2001 to 2003 authorizing various changes to the permitted structures and operation of the facility, and the construction of a permanent home at the facility.

13. The sporting camp as constructed includes the permitted main lodge, permanent home with attached garage, the Cedar Lane Camps (four cabins), the Lower Way Camps (four cabins), and the Siding Camp, for a total of nine cabins. The permitted Ethelwald Camps were not constructed. There are four interior access roads: the main road, "Niboban Camp Road," and four secondary roads being "Woody's Way," "Cedar Lane," and "Lower Way."

There are four existing combined sewage disposal systems installed at the project site: three to serve the nine cabins, and a fourth system to serve the home. Water is supplied to the existing structures by three existing drilled wells.

14. In accordance with Condition #11 of Development Permit DP 4526, Amendment D to Development Permit DP 4526, issued to Noyes in September of 2012, authorized the transfer of an approximately 8 acre lot out of the west end of its parcel to the Rangeley Lakes Heritage Trust (hereinafter "RLHT"). Noyes subsequently transferred the lot to RLHT on October 25, 2012, as authorized under Amendment D. The lot retained by Noyes was 50.7 acres in size.
15. In July of 2014, the applicant acquired the remaining 50.7 acre lot with the sporting camp complex retained by Noyes after the transfer of the RLHT lot.
16. Amendment E to Development Permit DP 4526, issued to the applicant in September of 2014, reflected its ownership of the subject property, and authorized the transfer of an approximately 5.7 acre undeveloped portion of its parcel, located on the east side of the original parcel. The lot authorized under Amendment E to Development Permit DP 4526 is currently under contract to be transferred to another party [reference: Building Permit Application BP 15314]. With this pending transfer of the lot authorized under Amendment E, the applicant retains an approximately 45 acre parcel with the existing development described in Findings of Fact #6 and #13 above. The applicant's retained lot has 2070 feet of frontage along Rangeley Lake.

Proposal

17. The applicant seeks approval to convert the existing sporting camp facility to a residential condominium development. The nine existing cabins and existing residence would all be converted to condominium units. The existing lodge would be converted to a community building for use by all the condominium unit owners. The applicant also proposes to construct 18 new condominium units for a total of 28 condominium units. Each condominium unit would be under individual ownership. The land and the remainder of the development at the project site would be owned and maintained in common through a proposed Niboban Camps Condominium Owners' Association. The common elements would include pedestrian paths, water access points, designated undeveloped land (land that would be part of the open space), roads, the community building, sewage disposal systems, utilities, and other infrastructure. The existing and proposed development, and associated infrastructure, are as shown on a preliminary subdivision plan (Exhibit D, sheet 1-3) as revised December 16, 2014 and a Condominium Plat, sheet 1-2, dated December 9, 2014.
18. The applicant proposes to expand two of the four existing sewage disposal systems and add aeration tanks to these systems, install an aeration tank for the third existing system, and install three new systems to accommodate the additional condominium units. No changes are proposed for the existing sewage disposal system for the home to be converted to a condominium unit. Maintenance of the sewage disposal systems would ultimately be the responsibility of the condominium owners' association.

19. The applicant also proposes to replace one of its existing drilled wells, keep the other two existing drilled wells and install two new drilled wells to supply the proposed condominium development. The applicant states that the flow rates for the two existing wells are 20 gallons per minute (gpm) and 50 gpm. It further states that the total maximum water usage for the proposed condominium development would be 6900 gallons per day (gpd) or 4.8 gpm. The applicant has submitted water quality testing data for the existing drilled wells indicating that the water supply is within the accepted limits for drinking water for nitrates, nitrites and coliform bacteria.
20. Access to the proposed residential subdivision would be via the existing South Shore Road, a public State maintained road, and existing private interior access roads known as Niboban Camp Road, Lower Way, Woody's Way, and Cedar Lane. The existing interior access roads range in widths of 15 to 25 feet. The applicant proposes to widen the travel surfaces of the interior roads as needed to attain the minimum travel surface widths as required by the Commission's standards discussed under Finding of Fact #45 below. The applicant also proposes to construct parking areas for some of the proposed new condominium units. For other new units parking is proposed to be provided in the driveway serving the unit. Maintenance of the roads, and community parking areas would ultimately be the responsibility of the condominium owners' association. Maintenance of driveways and parking areas for condominium units would be the responsibility of the individual unit owner(s) served by the driveway/parking area.
21. The proposed condominium units would be set back at least 25 feet from interior access roads. The three existing parking areas, serving the lodge, units #1 and #2, and units #3 and #4, front directly on Niboban Camp Road or a spur of this road, or Lower Way. The parking areas vary in size and accommodate 18 foot long parking spaces located 31, 8, and 0 feet, respectively, from the edge of the internal access road on which the parking area fronts. The average setback of the parking spaces within the parking areas is 13 feet from the internal road on which the parking area directly fronts. Additionally, Cedar Lane ends with an area used for parking. Similar to the existing parking areas, the proposed parking areas would front directly on an internal access road and accommodate parking spaces within these areas set back at least 13 feet from the abutting, interior access road. All proposed cabins and parking areas would be setback more than 15 feet from property boundary lines, at least 100 feet from the normal high water mark of Rangeley Lake, and at least 75 feet from the normal high water mark of the stream.
22. The applicant proposes to utilize four existing pedestrian paths to the shoreline, an existing pedestrian path along the shoreline and four existing access points at the shoreline of the lake to provide common lake access for all the unit owners.
23. The proposed construction for new development would not impact any wetlands at the project site, as delineated on the project site by Certified Soil Scientist Mark Hampton, and shown on the applicant's subdivision plan referenced under Finding of Fact #17 above.
24. The designated open space, including (a) delineated wetlands, (b) all areas within 100 feet of the normal high water mark of Rangeley Lake, and (c) undeveloped land within the "net developable shorefront: and "net developable land," would be owned and maintained by the proposed condominium association as discussed under Finding of Fact #58 below.
25. Solid waste would be disposed of via a private contractor as is currently done for the Niboban Camps Sporting Camp. The applicant submitted a letter from its contractor, Archie's Inc. confirming its ability to continue providing solid waste disposal for the proposed condominium development.

Site Conditions

26. An on-site Class B intensity soil survey of the project site, by Certified Soil Scientist Mark Hampton, dated August 27, 1999 was submitted as part of the application for the original Development Permit DP 4526 for the sporting camp complex, discussed under Finding of Fact #11 above. This survey was re-submitted as part of the current application. The survey identified the following soil types within the project area: Chesuncook, Telos and Monarda. No development is proposed on areas of Monarda soils. The areas of Chesuncook and Telos soils have 8 to 15 percent slopes.

Chesuncook and Telos soils with 8 to 15 percent slopes have a medium or high development potential rating for roads and dwellings under the Natural Resources Conservation Service's soil potential ratings.

On-site soils investigations submitted as part of the application indicate that there are sufficient areas of suitable soils on the subject lot for expansion of the existing sewage disposal systems, and installation of new sewage disposal systems, as discussed under Finding of Fact #18 above.

27. Wetlands were delineated at the project site by Mr. Hampton and are shown on the applicant's subdivision plan discussed under Finding of Fact #17 above.
28. Areas where the existing development is located, and the proposed development would be located, is largely cleared, and has historically been cleared since before 2001.

Review Criteria

Statutory Criteria

29. Under the provisions of Title 12, section 685-B(4) of the Commission's Statutes, the Commission shall approve no application unless:
- A. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, including minimum lot size laws, site location of development laws, and natural resource protection laws, and those standards and regulations adopted with respect thereto;
 - B. Adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods;
 - C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal;
 - D. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on site; and
 - E. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto.

Zoning

30. Rangeley Plantation is a prospectively zoned area included in the Prospective Zoning Plan for the Rangeley Lakes Region, adopted by the Commission on November 1, 2000, and effective January 1, 2001.
31. Under the provisions of Section 10.21,C,3,c(21) of the Commission's Land Use Districts and Standards, residential subdivisions are an allowed use within the (D-GN) General Development Subdistrict upon issuance of a permit from the Commission, provided that the subdivision is for uses permitted in the subdistrict.
32. Under the provisions of Section 10.21,C,3,c(17) of the Commission's Land Use Districts and Standards, residential dwellings are an allowed use within the (D-GN) General Development Subdistrict upon issuance of a permit from the Commission.

Subdivision, Cluster Development and Open Space

33. Under the provisions of Section 10.02(197) of the Commission's Land Use Districts and Standards, the term "subdivision" includes the division, placement or construction of a structure or structures on a tract or parcel of land resulting in 3 or more dwelling units within a 5-year period.
34. Under the provisions of Section 10.02(26) of the Commission's Land Use Districts and Standards, "cluster development" is defined as: "A compact form of development that results in buildings being located in a group such that a significant amount of open space is preserved."
35. Section 10.25, Q,3 of the Commission's Land Use Districts and Standards specifies standards for the layout and design of subdivisions. These standards include:
 - A. Subdivisions shall be designed to harmoniously fit into the natural environment and shall cause no undue adverse impact on existing surrounding uses. When determining "harmonious fit," the Commission shall consider the existing character of the surrounding area, potential for conflict with surrounding uses, proposed driveway and roadway locations, and proposed lot sizes, among other factors.
 - B. Subdivisions shall be designed to avoid the linear placement of lots and driveways along roadways or shorelines. To the extent practicable, subdivision lots shall be placed so as to create a distinct community center or expand an existing neighborhood, as long as the expansion is no further than 1,320 feet from the center of the existing neighborhood. Where such development is not practicable, lots shall be configured in such a manner so that groups of lots are separated by at least 500 feet of undeveloped land and the lots within a group do not extend more than 1,320 feet along any roadway or shoreline.
 - C. To the extent practicable, subdivisions shall be designed to reduce the number of driveway access points onto roadways through the utilization of shared driveways and interior roads. Notwithstanding Section 10.26,C, the Commission may reduce the minimum road frontage for individual lots within subdivisions with shared driveways by up to 50 percent, as long as the Commission finds that reducing road frontage will not adversely affect resources or existing uses or that reducing road frontage will prevent the loss of important natural features.

D. Building envelopes shall be marked and identified on the subdivision plat for each proposed lot in accordance with the following requirements:

- (1) Building envelopes shall identify all areas within each subdivision lot where structural development may occur;
- (2) Building envelopes shall be arranged to conform with the minimum water body, road and property line setback and maximum lot coverage requirements, as provided in Section 10.26; and
- (3) Where practicable, building envelopes shall be arranged so as to avoid the placement of structures and driveways along ridge lines, on agricultural land, wetlands, slopes greater than 15%, or any other important topographic and natural features.

36. Section 10.25,R of the Commission's Land Use Districts and Standards specifies standards for cluster development. Under the provisions of Section 10.25,R,1, the cluster development standards under this Section must be met for all subdivisions located within 250 feet of the normal high water mark of a Management Class 4 or 5 lake. Under the provisions of Section 10.25,R,2:

A. Cluster subdivisions shall provide for a reasonable balance between development and conservation. Specifically, cluster subdivisions shall reserve no more than 50% of net developable land for development and, within shorefront subdivisions, shall reserve no more than 50% of net developable shore frontage for development.

(1) For the purposes of this section, "net developable land" is the area of a parcel which, as determined by the Commission, is suitable for development. The area shall be calculated by subtracting the following from the total acreage of the parcel:

- (a) Portions of the parcel subject to rights-of-way and easements for vehicular traffic; and
- (b) Unbuildable land which includes, without limitation, land that has a low or very low soil potential rating, in accordance with Section 10.25,G, or contains sensitive areas such as slopes exceeding 15%, water bodies or wetlands.

(2) For the purposes of this section, "net developable shorefront" is land that:

- (a) Meets the minimum water body setback requirements of Section 10.26,D;
- (b) Does not have a low or very low soil potential rating, in accordance with Section 10.25,G; and
- (c) Contains land area at least 40,000 contiguous square feet in size that is not comprised of sensitive areas such as slopes exceeding 15%, water bodies or wetlands.

B. Cluster subdivisions shall be designed to protect developable land as open space through (1) clusters of dwellings on commonly-owned land; (2) creation of individual lots with reduced lot size, reduced road frontage or, within shorefront subdivisions, reduced shore frontage as permitted under these rules; or (3) a decrease in the number of individual lots that meet dimensional requirements.

C. Open space within cluster subdivisions shall be preserved and maintained in accordance with Section 10.25,S.

D. The Commission may reduce lot size, road frontage, or shore frontage for individual dwellings or lots in a cluster development, provided that, in the aggregate, dimensional requirements are met within the development.

E. Notwithstanding Section 10.25,R,2,d, the Commission may waive the provision that dimensional requirements for individual dwellings or lots in a cluster development be met, in the aggregate, where the following conditions are satisfied:

- (1) Dimensional requirements, in the aggregate, are not waived by more than 50%;
- (2) Site conditions are suitable for more concentrated development on some portions of a site and such concentrated development will not adversely affect resources; and
- (3) The specific benefits afforded by the cluster approach will prevent the loss of or enhance the conservation of important natural features.

F. No individual lot or dwelling unit for which road frontage has been reduced shall have direct vehicular access onto an existing roadway, unless the individual lot or dwelling unit uses a shared driveway.

37. Section 10.25,S of the Commission's Land Use Districts and Standards specifies standards for preservation and management of land area designated as open space, including the following provisions:

A. *Preservation and Maintenance of Open Space.* Open space may be owned, preserved and maintained as required by this section, by any of the following mechanisms or combinations thereof, listed in order of preference, upon approval by the Commission:

1. Conveyance of open space to a qualified holder, as defined under Section 10.25,S,2.
2. Dedication of development rights of open space to a qualified holder, as defined under Section 10.25,S,2 with ownership and maintenance remaining with the property owner or a lot owners association.
3. Common ownership of open space by a lot owners association which prevents future structural development and subsequent subdivision of open space and assumes full responsibility for its maintenance.
4. Any other mechanism that fully provides for the permanent protection or conservation of open space and that is acceptable to the Commission.

B. *Qualified Holders.* The following entities are qualified to own, preserve and maintain open space:

- 1) "A governmental body empowered to hold an interest in real property under the laws of this State or the United States; or
- 2) A nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property." 33 M.R.S. § 476(2).

C. Open space may be usable for low-intensity non-commercial recreation or for purposes intended to conserve land and preserve important natural features of the site. Uses within the open space

may be limited or controlled by the Commission at the time of approval, as necessary, to protect natural resources and adjacent land uses. Specifically, open space lots are subject to subdivision and other permit conditions prohibiting residential, commercial, industrial or other structures and uses.

- D. If any or all of the open space is to be reserved for common ownership by the residents of the subdivision, the bylaws of the proposed lot owners association shall specify responsibilities and methods for maintaining the open space and shall prohibit all residential, commercial, industrial or other structures and uses.
- E. Open space shall be dedicated as a separate lot of record with no further subdivision or conversion of use of that lot allowed. Such lot shall be shown on the subdivision plat with a notation thereof to indicate that no further subdivision or conversion of use is allowed.

Conversion of recreational lodging facilities

38. Under the provisions of Section 10.27,Q,6 , of the Commission's Land Use Districts and Standards, Pursuant to 12 M.R.S. § 685-B(1)(A), recreational lodging facilities may not be converted to another use without a permit issued by the Commission. Conversion may be permitted, provided the proposed use is allowed within the subdistrict and complies with all the applicable regulations. When the conversion is to a residential use, the following shall apply:

- A. The structures will comply with the provisions of Sections 10.11,B, C and D; and
- B. Any water dependent structures for recreational lodging facilities must be removed or relocated to a location conforming with the provisions of Section 10.26,D; and
- C. The lots and structures must comply with all applicable rules, including subdivision standards in Section 10.25,Q and Section 10.25,R.
- D. However, notwithstanding Section 10.27,Q,6,c, if the subdivision of the facility into individual lots would not meet the necessary subdivision design standards of Section 10.25,Q or Section 10.25,R, or the minimum lot standards, the Commission may permit the conversion of use provided that:
 - (1) the principal structures may be sold individually but shall be limited by deed restrictions to existing square footage of floor area or footprint;
 - (2) the lot must be commonly owned as a condominium lot;
 - (3) the conversion and related division shall meet the subdivision design standards to the greatest extent practicable; and
 - (4) in no case shall less than three principal structures be located on a commonly owned lot.

Dimensional Requirements

- 39. Under the provisions of Section 10.26, A, 1, of the Commission's Land Use Districts and Standards, the minimum lot size for residential uses is 40,000 square feet per dwelling unit where the dwelling is to be served by an on-site subsurface wastewater disposal system. Under the provisions of Sections 10.26,B and C, the minimum frontage requirements per dwelling unit on Rangeley Lake, streams and roads are 200 feet, 150 feet and 100 feet, respectively.
- 40. Under the provisions of Section 10.26,D,1 of the Commission's Land Use Districts and Standards, the minimum required setbacks for single family dwellings and associated parking areas are 100 feet from

the normal high water mark of Rangeley Lake, 75 feet from the normal high water mark of streams and the upland edge of P-WL1 wetlands, 50 feet from the traveled portion of roadways (public and private) and 15 feet from property boundary lines.

41. Section 10.26,D,5 of the Commission's Land Use Districts and Standards allows for flexible setbacks in prospectively zoned areas under certain circumstances. Under Section 10.26,D,5,a, building setback distances from roads for residential development in a (D-GN) General Development Subdistrict may be less than specified in Section 10.26,D,1 in order to meet prevailing setbacks on adjacent properties. The prevailing setback is the average setback of those principal and accessory structures on lots within 500 feet on either side of the subject parcel. These reduced setbacks will be granted where the existing character of an area will be maintained and provided that the reduction will not adversely impact public safety. The setbacks for parking areas are similar to those for residential structures. Section 10.26,D,1.
42. Under the provisions of Section 10.26,F,4 of the Commission's Land Use Districts and Standards, the maximum allowed height of structures within a (D-GN) General Development Subdistrict within a prospectively zoned area is 30 feet in areas within 500 feet of a Great Pond such as Rangeley Lake, and 35 feet in areas beyond 500 feet from the normal high water mark of a Great Pond.

Vegetative buffering

43. Section 10.27,B of the Commission's Land Use Districts and Standards specifies standards for clearing of vegetation for development, including a requirement to maintain vegetated buffers within 100 feet of Great Ponds such as Rangeley Lake.
44. Section 10.25,B of the Commission's Land Use Districts and Standards specifies review standards for development within prospectively zoned areas such as Rangeley Plantation. Section 10.25,B,2 specifies vegetative buffering standards including the following minimum required vegetative buffers within a (D-GN) General Development Subdistrict: 25 feet wide along roadways (public and private) and 15 feet wide along property boundary lines. Section 10.25,B,2,a requires that buffers be established for new development where existing wooded buffers do not exist. Under the provisions of Section 10.25,B,2,c, exceptions to the buffering requirements are allowed under certain circumstances, including when there is existing development where extensive clearing already exists at the time of adoption of prospective zoning in January 1, 2001.

Vehicular circulation & parking

45. 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 15 or more lots, and "Class 2 Roadways" area generally appropriate for residential subdivisions with less than 15 lots. The specifications for a Class 1 roadway under Section 10.25,D,4,e include a minimum required travel surface width of 18 feet, or 14 feet with turnouts every 500 feet on average; and a maximum sustained grade of 10%. Under the provisions of Section 10.25,D,4,e, the specifications for a Class 2 roadway include a minimum required roadway surface width of 14 feet, or 8 feet with turnouts every 500 feet on average; and a maximum sustained grade of 15%.

Phosphorus and Erosion & Sedimentation Control Plans

46. Section 10.25,L of the Commission's Land Use Districts and Standards requires that for proposed subdivisions within the direct watershed of a Great Pond such as Rangeley Lake provisions be made to

limit the export of phosphorus from the site following completion of the subdivision so that the project will not exceed the allowable per-acre phosphorus allocation for the water body, determined by the Commission according to "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development" (Maine Department of Environmental Protection, 2008).

47. 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.

Development within Shoreland Areas

48. Under the provisions of Section 10.25,A of Commission's Land Use Districts and Standards, The standards set forth below must be met for all subdivisions and commercial, industrial, and other nonresidential structures and uses proposed on land adjacent to lakes. In applying the standards set forth below, the Commission shall consider all relevant information available including the Maine Wildlands Lake Assessment Findings, and relevant provisions of the Comprehensive Land Use Plan.
- 1) Natural and cultural resource values. The proposal will not adversely affect natural and cultural resource values identified as significant or outstanding in the Wildland Lakes Assessment (see Finding of Fact #9 above).
 - 2) Water quality. The proposal will not, alone or in conjunction with other development, have an undue adverse impact on water quality;
 - 3) Traditional uses. The proposal will not have an undue adverse impact on traditional uses, including without limitation, non-intensive public recreation, sporting camp operations, timber harvesting, and agriculture;
 - 4) Regional diversity. The proposal will not substantially alter the diversity of lake-related uses afforded within the region in which the activity is proposed;
 - 5) Natural character. Adequate provision has been made to maintain the natural character of shoreland;
 - 6) Lake management goals. The proposal is consistent with the management intent of the affected lake's classification; and
 - 7) Landowner equity. Where future development on a lake may be limited for water quality or other reasons, proposed development on each landownership does not exceed its proportionate share of total allowable development.

Site Visit

49. Commission staff visited the project site on November 7, 2014 with the Maine State Soil Scientist and the applicant's representative. The Maine State Soil Scientist's subsequent comments are discussed under Finding of Fact #54 below.

Review Agency Comments

50. The Maine Department of Inland Fisheries and Wildlife (MDIFW) comments that Rangeley Lake has a premier landlocked salmon fishery, and the lake also has American eel, a State Species of Special Concern. The MDIFW recommends that Best Management Practices be implemented to avoid erosion and sedimentation of the lake. The MDIFW also recommends that adequate vegetated riparian buffers should be maintained to protect lake water quality, and vegetation removal in the shoreland zone should not exceed the Commission's standards. The MDIFW states that it anticipates minimal effects to wildlife from the proposal.

51. The Maine Natural Areas Program states that it has no records of any rare or exemplary botanical features within the project area.
52. The Maine Historic Preservation Commission comments that, based on information provided by the applicant, no historic properties, as defined by Section 106 of the National Historic Preservation Act, would be affected by the proposal.
53. The Maine Department of Environmental Protection has reviewed the applicant's Phosphorus Management Plan revised December 9, 2014 and Phosphorus Plan Sheet Sheet 1-1, revised December 9, 2014 (Exhibit N of the application), and Details Sheet 3-3 revised December 9, 2014 (Exhibit D of the application) as discussed under Finding of Fact #62 below. The Department recommends approval of the proposal provided that the applicant complies with its phosphorus management plan. The Department further states that it is critical that the level spreaders be maintained properly. The Department also notes that there would be a remaining allocation of approximately 0.8 pounds of phosphorus per year for this site after the proposed development, and states that it is important that any future development proposals at the site not exceed the remaining allocation.
54. The Maine State Soil Scientist states that he has no objections to the proposed condominium development and that soils and site conditions at the project site are generally suitable for the proposed use. He recommends that stone drip edges be installed around the proposed new condominium units to receive roof runoff without causing erosion.
55. The Maine Department of Health and Human Services, Division of Environmental Health, comments that the proposed expansion of existing sewage disposal systems, and the installation of new sewage disposal systems to serve the proposed condominium development is adequate and complies with the Department's Subsurface Wastewater Disposal Rules.

Applicant's response to review criteria and comments

56. The applicant provided the following information in response to the Commission's statutory criteria for approval under the provisions of 12 M.R.S. § 685-B(4):
 - A. Regarding its technical and financial capacity to complete the project and comply with applicable laws and statutes, the applicant provided a budget for the project that estimates the total project cost at \$2,450,000. The applicant has submitted a letter of commitment from a financial institution agreeing, with conditions, to loan the applicant the full amount of the project cost. Furthermore, the applicant has hired Professional Engineer James Kiser to complete the application and assist the applicant during the permitting process. Mr. Kiser has submitted his resume and company profile documenting his extensive experience in development project design and management. The applicant also submitted a letter from one of its representatives, Perry Williams, stating that Mr. Williams has experience in planning, design, financing, construction, marketing and sales of over 160 housing units in Maine and New Hampshire.
 - B. Regarding provisions for traffic circulation and parking, the applicant has submitted a copy of its entrance permit from the Maine Department of Transportation authorizing the proposed change in use of its existing entrance onto South Shore Road. The applicant also proposes to provide two parking spaces for each proposed condominium unit. Lastly, the applicant states that the existing main interior access road, Niboban Camp Road, is subject to the Class 1 roadway standards under the provisions of Section 10.25,D of the Commission's Land Use Districts and Standards, and

existing interior secondary roads, Lower Way, Cedar Lane and Woody's Way are subject to the Class 2 roadway standards. The applicant states that existing interior access roads generally meet the applicable roadway standards, and those portions of existing roadways that do not meet the travel width standards of Section 10.26 will be widened as needed to attain those standards.

- C. In regards to fitting the proposal harmoniously into the existing natural environment and assuring that there will be no undue adverse effect on existing uses and resources, the applicant states that it anticipates the project would have minimal impact on scenic resources since existing vegetative buffers along the property's boundary lines and shoreline would minimize scenic impacts. The applicant further states that the proposal has been reviewed by the Maine Historic Preservation Commission, and that agency states that no historic resources would be impacted provided that no additional soil disturbance occurs within 50 meters of the shoreline. The applicant is not proposing any development in this area. Furthermore, the Maine Natural Areas Program and the Maine Department of Inland Fisheries & Wildlife also reviewed the proposal and state that the project is not located within any designated S1 or S2 (critically imperiled or imperiled) natural communities or near any significant wildlife habitat. The applicant also states that the proposed redevelopment of the sporting camp complex to residential use would maintain the existing character of the project site. Furthermore, the proposed conversion to residential use would be compatible with the existing use of the area surrounding the project site, being also primarily residential in nature.
- D. In regards to soil erosion and the suitability of soils at the site, the applicant has submitted an erosion and sedimentation control plan, Exhibit D, Sheet 3-3, revised December 9, 2014, for the proposed condominium development and associated new construction. The plan addresses measures to be employed before and during construction, and site stabilization after construction is completed. The plan also includes provisions for inspection and maintenance of erosion and sedimentation controls. The applicant states that it anticipates constructing 3-5 condominium units at a time, along with the sewage disposal system to serve those units, and thus it anticipates having no more than an acre of land area disturbed at any given time. Since the area of soil disturbance at any given time would be limited, it proposes that monitoring and inspections of erosion control measures be done by the applicant or its contractor, rather than by a professional engineer or certified contractor as specified under Section 10.25,M,4,a.
- E. In addition to the items above, the applicant addressed other standards and regulations of the Commission as discussed in Findings of Fact #57 to #65 below.

Subdivision Design & Layout, Cluster Development and Open Space

57. The applicant states that the proposed condominium development meets the subdivision design criteria of Section 10.25,Q,3 of the Commission's Land Use Districts and Standards as follows:

- A. The proposed residential condominium development would fit harmoniously into the natural environment, and not adversely affect surrounding uses and resources as described under Finding of Fact #56.C above.
- B. The applicant states that the proposed cluster development, by locating proposed new units along existing interior roads and proximate to the existing development avoids a linear pattern of development. The applicant states that the existing lake access points and lodge/community building would serve as community centers.
- C. The proposed residential condominium development would minimize the number of new

driveway entrances onto the existing interior roads, and shared driveways or parking areas would be utilized for half of the new proposed units. No new interior access roads, or entrances onto South Shore Road, would be constructed. Thus the entire development is a shared access development in regards to South Shore Road, the public road providing access to the project site.

- D. Building envelopes have not been designated on the proposed subdivision plan given that the land is to remain under common ownership with only the condominium units to be under individual ownership. New individual lots are not proposed. The proposed subdivision plan specifies the locations of the existing and proposed condominium units, proposed and expanded sewage disposal systems, and wells so as to conform to applicable regulations and standards.

58. The applicant states that the proposed condominium development constitutes a cluster development as defined by the Commission under Section 10.02(26) of the Commission's Land Use Districts and Standards, and meeting the requirements of Section 10.25,R of the Commission's Standards. Based on its proposed subdivision plan, updated December 16, 2014, the applicant estimates that approximately 21.93 acres of its approximately 45 acre lot is developable land, as defined by the Commission under Section 10.25,R,2,a. Of the developable land, 3.7 acres is located within the shoreland zone, between 100 and 250 feet from the normal high water mark of Rangeley Lake; this land is the "net developable shorefront." 18.23 acres is back land, located more than 250 feet from the normal high water mark of Rangeley Lake; this land is the "net developable land" pursuant to 10.25,R,2,a. The remainder of the lot is not considered developable, in that it is located within the 100 foot minimum required setback from the lake and/or within wetlands.

The applicant proposes to develop a total of 1.77 acres within the net developable shorefront and 8.08 acres within the net developable land (i.e., the developable back land) with buildings, roads, parking areas, driveways, sewage disposal systems, utilities and other infrastructure. Accordingly, 1.93 acres of land within the net developable shorefront and 10.15 acres within the net developable land (the back land) would remain as undeveloped land and be maintained as open space. Therefore, within both areas less than 50 percent would be developed, in accordance with Section 10.25,R,2,a. In order to ensure that more than 50 percent of the net developable land and net developable shorefront are not developed, the applicant proposes to ensure that certain areas currently mowed and maintained as part of the developed area are managed as undeveloped land as part of the proposed subdivision and no longer mowed as lawn. (See Exhibit E of the proposed condominium declaration.)

59. The applicant states that the land area within the project site that is not to be developed, would be protected in accordance with the open space provisions of Section 10.25,S of the Commission's Land Use Districts and Standards. Specifically, the applicant proposes to transfer ownership of the open space land, including the undeveloped land within the net developable shorefront and net developable land, delineated wetlands, and areas within 100 feet of the normal high water mark of Rangeley Lake, along with the other common elements, to the proposed Niboban Camps Condominium Association. (See the proposed condominium declaration submitted as Exhibit S of its application.) Exhibit E of the proposed condominium declaration specifies the restrictions to be imposed on the undeveloped land to be reserved as open space including a prohibition against buildings and other structures except signs, utility poles or fences; and specifications for maintaining vegetated buffers in accordance with the MDEP's standards for phosphorus control.

Dimensional Requirements

60. The applicant seeks a reduction in the general road setback for the proposed parking areas under the provisions of Section 10.26,D,5 of the Commission's Land Use Districts and Standards. Parking area setbacks are treated the same as single-family residential dwelling setbacks. Section 10.26,D,1. The applicant states there are three existing parking areas, one each for the lodge, units #1 and #2, and units #3 and #4. The applicant's preliminary subdivision plan (dated Nov. 20, 2014 and updated Dec. 15, 2014) shows these parking areas directly front on Niboban Camp Road, a spur of this road, and Lower Way and that they are not set back from the existing internal road system. The plan also shows Cedar Lane ending with an area used for parking. Not including the road ending in an area used for parking, the applicant provided calculations showing that the prevailing setback of the parking spaces within the existing parking areas at the site is 13 feet, being the average setback of the spaces within the three existing parking areas. All new proposed parking areas similarly would front on an existing, internal access road and contain spaces set back at least 13 feet from the abutting interior road. This design is supported by the applicant based upon its depiction of the existing parking areas, calculation of the prevailing setback of the parking spaces within these areas, treating parking area setbacks similarly to their companion dwellings, and the provisions of Section 10.26,D,5,a. The applicant states that the requested reduction to the road setback for parking areas would maintain the existing character of the site, and would not impact public safety.
61. The applicant seeks a reduction in the minimum required setback of 50 feet for the proposed condominium units pursuant to the waiver provision under Section 10.25,R,2,E Commission's Land Use Districts and Standards of the Commission's Standards that provides for waiver of dimensional requirements up to 50 percent. Specifically, the applicant states that the proposed reduction in road setback is appropriate because the areas proposed for the new condominium units is suitable for more concentrated development since they are within and adjacent to the historically developed areas of the subject parcel, and concentrating the proposed new development within and adjacent to existing developed areas would protect wetland areas, preserve existing wooded areas, and allow the undeveloped area to remain undeveloped.

Vehicular circulation & parking

62. The applicant states that the existing interior roads comply with Section 10.25,D of the Commission's Land Use Districts and Standards regarding vehicular circulation, access and parking, as discussed under Finding of Fact #56.B above.

Phosphorus and Erosion & Sedimentation Control Plans

63. The applicant has submitted a Phosphorus Management Plan, dated September 9, 2014 and revised December 9, 2014 (Exhibit N of the application) for the proposed condominium development to address Section 10.25,L of the Commission's Land Use Districts and Standards. In its plan, the applicant calculated its phosphorus allocation based on 42.1 acres of land area (45 acre lot size minus 2 acres of pre-1980 developed impervious area minus 0.9 acres of NWI wetlands) and a per acre phosphorus allocation of 0.08 pound of phosphorus per acre per year, for a total allocation of 3.368 pounds of phosphorus per year for the project site. The applicant states that the currently proposed new development at the site would create an additional 1.0 acre of impervious area in addition to 7.2 acres of existing post-1980 impervious developed area for a total of 8.2 acres of impervious area. The applicant calculates the phosphorus export from the existing and proposed development, without treatment, would be 3.513 pounds of phosphorus per year at the project site. The applicant proposes to utilize wooded and meadow buffers as mitigating measures, with level spreaders to be used to direct

stormwater runoff as sheet flow to the buffers. The Details Sheet 3-3 as revised December 9, 2014 (Exhibit D of the application) shows details for the stone level spreaders. The applicant calculates that these mitigating measures would reduce the projected phosphorus export for the development site to 2.637 pounds of phosphorus per year, which would be below phosphorus allocation for the project site. The applicant has incorporated maintenance of the level spreaders into its proposed condominium declaration (Exhibit S of the application), with a revision dated December 9, 2014, to ensure that the level spreaders are maintained properly.

64. The applicant has submitted an erosion and sedimentation control plan to address the requirements of Section 10.25,M,3 of the Commission's Land Use Districts and Standards. The plan is by James R. Kiser, Professional Engineer, as revised December 9, 2014, 2014, and labelled Sheet 3-3 as part of Exhibit D of the application. The plan calls for the installation of silt fence, silt sox or hay bales downslope of work areas prior to construction, erosion control measures for stockpiled materials, stabilization measures for road ditches, methods for temporary and permanent soil stabilization, and protocols for inspections of erosion and sedimentation control measures and keeping records of inspections. The applicant states that the proposed condominium development would be constructed in phases of three to five units at a time along with the sewage disposal system designated to serve the units. It anticipates that no more than one acre of disturbed soils would be created at any given time.
65. The applicant states that the proposal meets the Commission's standards for development within the shoreland areas of lakes under the provisions of Section 10.25,A of Commission's Land Use Districts and Standards. Specifically, the applicant states that the proposal would not adversely affect the significant natural, cultural or scenic resource values identified for Rangeley Lake, as discussed under Finding of Fact #56.C above. Furthermore, erosion and sedimentation and phosphorus control measures would be implemented to protect the water quality of Rangeley Lake. Lastly, the proposed condominium development constitutes a cluster development as required for a Management Class 4 lake, such as Rangeley Lake.
66. The facts are otherwise as represented in Subdivision Permit Application SP 4097 and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The applicant has demonstrated adequate technical and financial capacity to complete the proposal in compliance with the state's air and water pollution control laws and other applicable environmental laws. Specifically, the applicant has retained qualified professionals to design and implement the proposal, and the applicant's representative has extensive experience developing similar types of projects. The applicant's letter of commitment from a financial institution agreeing to loan the total amount of the project cost as estimated in its budget demonstrates sufficient financial capacity to construct and maintain the proposed condominium development in accordance with applicable laws and standards.
2. Adequate provision has been made for vehicular access and traffic circulation in that the existing interior access roads largely comply with the Commission's standards for Class 1 and 2 roadways under Section 10.25,D of the Commission's standards, and would fully comply once some limited sections of the existing roadways are widened to attain the applicable roadway classification. In addition, the applicant has provided for sufficient parking for each proposed unit, and the proposed community building, and has obtained an entrance permit from the Maine Department of Transportation for the proposed change in use.

3. The proposal would fit harmoniously into the existing natural environment and would have no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area. Specifically, the proposal would have minimal scenic impacts since all proposed development would be of a similar scale and character as the existing development and would be located within and proximate to existing developed resources. Furthermore, existing vegetative buffers along the property's boundary lines and shoreline would minimize scenic impacts. Comments by the Maine Historic Preservation Commission and Maine Natural Areas Program indicate that the proposal would not have any adverse effects on historic resources or significant natural communities. In addition, the proposal would not have an undue adverse impact on Rangeley Lake provided that phosphorus mitigation measures and erosion and sedimentation controls are implemented as proposed by the applicant. Lastly, the proposed use of the facility for residential development is compatible with the existing residential use of the surrounding area.
4. The proposed residential subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water, provided that the applicant implements its erosion and sedimentation control plan as proposed. Furthermore, the applicant has demonstrated that the soils within the project site are suitable for the proposed use and include sufficient areas of suitable soils accommodate the sewage disposal systems needed to serve the development.
5. The proposed residential subdivision otherwise conforms with the Commission's relevant regulations and standards, as follows:
 - A. The proposed conversion of the Niboban Sporting Camp to a residential condominium development may be allowed under the provisions of Section 10.27,Q,6 of the Commission's Land Use Districts and Standards in that:
 - 1) The proposed residential condominium unit development is an allowed use within the (D-GN) General Development Subdistrict upon issuance of a permit, and all existing structures will comply with the provisions of Sections 10.11,B,C, and D. Notably, no expansion or physical modification of the existing structures is proposed.
 - 2) There are no water dependent structures located on the subject property.
 - 3) The existing development proposed for conversion complies with the subdivision standards in Section 10.25,Q and Section 10.25,R. Notably, the eight shorefront cabins are clustered into two groups and in aggregate satisfy the minimum shore frontage requirement of 200 feet per dwelling and minimum lot size requirement of 40,000 square feet without need for the reductions available for qualifying cluster developments. Section 10.25,R,2,c and d. Additionally, provided the applicant complies with Condition #5 no more than 50 percent of the net developable shorefront will be developed. Section 10.25,R,2,a.
 - B. The proposed residential condominium development is consistent with the Commission's standards for subdivision layout and design under Section 10.26,Q,3 of the Commission's Land Use Districts and Standards. Specifically, the proposal would fit harmoniously into the natural environment and not adversely affect surrounding uses and resources as described under Conclusion #3 above. Furthermore, the proposed development, by incorporating new units within and proximate to existing development, avoids a linear pattern of development. In addition, the existing lodge to be converted to a community building would serve as a community center for the entire condominium development, and is located within 1,320 feet of all existing and proposed condominium units.
 - C. The proposal constitutes a cluster development as defined by the Commission, and is consistent with the Commission's standards regarding cluster development under Section 10.25,R of the

Commission's Land Use Districts and Standards, in that the applicant has demonstrated that the proposal would develop less than 50 percent of the net developable shorefront and net developable land at the project site as shown in its calculations described under Finding of Fact #58. Furthermore, the land designated to remain undeveloped would be owned and maintained by the proposed condominium owners' association, in accordance with the Commission's standards for the protection of open space under Section 10.25,S.

- D. The vegetative buffering requirements of Section 10.25,B,2,a of the Commission's Land Use Districts and Standards may be waived under Section 10.25,B,2,c(2) in that the project site was developed prior to the effective date of the Rangeley Plan in January of 2001 within an existing cleared area that also pre-dates the effective date of the Rangeley Plan.
 - E. The minimum road setback for the proposed parking areas may be reduced so that the areas directly front on an internal access road, as proposed by the applicant under the provisions of Section 10.26,D,5,a in that the applicant has demonstrated that this is the prevailing setback for the parking areas in the existing developed area, provided 18 foot deep parking spaces within these areas are at least 13 feet from the abutting internal road. Reducing the road setback for the proposed parking areas would maintain the existing character of the site, and would not impact public safety since the roads where the setback would be reduced are all private interior access roads with little or no possibility of ever becoming more heavily used public through roads.
 - F. The minimum road setback for the proposed new condominium units may be reduced to 25 feet under the provisions of Section 10.25,R,2,E of the Commission's Standards, being 50 percent of the of the 50 foot road setback required under the provisions of Section 10.26 of the Commission's Standards. The reduction in the road setback is consistent with the Commission's standards for cluster development since it would allow for more concentrated development within and adjacent to existing developed areas at the site, and therefore also protecting wetlands and existing wooded areas, and maintaining the existing undeveloped area within the shoreland zone of Rangeley Lake.
 - G. The proposal is consistent with the Commission's standards regarding open space under Section 10.25,S of the Commission's Land Use Districts and Standards in that the land not to be developed would be transferred to the proposed Niboban Camps Condominium Association and subject to appropriate restrictions regarding future development, provided that the condominium declaration is modified to exclude utility poles as allowed structures in the land designated not to be developed and included as open space. Furthermore, the proposed condominium association is a qualified holder of the proposed open space land under the provisions of Section 10.25,S,1,c.
 - H. The proposal meets the Commission's standards for development within the shoreland areas of lakes under the provisions of Section 10.25,A of Commission's Land Use Districts and Standards. Specifically, the proposal would not adversely affect the significant natural and cultural resource values identified for Rangeley Lake, as discussed under Conclusion #1 above; the water quality of Rangeley Lake would be adequately protected by the applicant's proposed erosion and sedimentation and phosphorus control measures; impacts to scenic and natural character would be minimal as discussed under Conclusion #1 above; and the proposal meets the criteria for a cluster development as required for a Management Class 4 lake, such as Rangeley Lake.
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 application of Rangeley Plantation Irrevocable Trust subject to the following conditions:

1. The Standard Conditions (ver. 4/04), a copy of which is attached.
2. Deeds conveying approved condominium units must incorporate the language of the sample deed as submitted by the permittee as Exhibit R of its application and received November 3, 2014, a copy of which is attached as Appendix A.
3. The permittee must submit, for Commission review and approval, a final condominium declaration, including restrictions for the open space specified under Condition #5 below, language providing for maintenance of the level spreaders consistent with the permittee's revision to the declaration dated December 9, 2014, and a copy of this subdivision permit as an exhibit in the declaration. The final condominium declaration must also include a corrected numbering of exhibits, consistent with the declaration's list of exhibits on page 29 of the draft declaration.
4. The permittee must submit for Commission review, approval, and signature, a final plat for this subdivision that meets the Commission's specifications for subdivision plats and is acceptable for recording in the Registry of Deeds. The final plat must accurately show all existing and proposed condominium units and other structures, roads, utilities, driveways, parking areas, other infrastructure, pedestrian paths, common shorefront access points, required phosphorus buffers and mitigation measures, delineated wetlands, streams and the open space. General Note #9 of the final plat must be corrected to show the acreage of the "Total Cluster Development" as 21.93 acres.
5. The open space area, including (a) delineated wetlands, (b) all areas within 100 feet of the normal high water mark of Rangeley Lake, and (c) undeveloped land within the "net developable shorefront" and "net developable land," shall be designated on the final plat required under Condition #4 above. The open space area is subject to the provisions of Appendix B to this permit, and the following requirements:
 - A. It may not be further divided and a note regarding this restriction must be added to the final subdivision plan.
 - B. Residential, commercial or industrial uses or structures are not allowed. This restriction applies to utilities and utility poles and the draft condominium declaration must be modified to prohibit utilities and utility poles in the open space.
 - C. Non-wooded areas and wooded areas within the open space area must be maintained in accordance with the vegetation management standards attached as Appendix B to this permit. Non-wooded open space areas must not be mowed than 2 times per year. Wooded open space areas must not be cleared but vegetation may be managed in accordance with the standards in Appendix B.
 - D. The boundary between non-wooded areas within the open space area and the developed area must be clearly demarcated on the ground using permanent markers by July 1, 2015.
6. The permitted new condominium units shall not exceed 35 feet in height as measured from the mean original grade (prior to construction) adjacent to the condominium unit at the downhill side, to the highest point of the condominium unit, excluding chimneys, antennas and other structures having no floor area.


7. The permittee shall implement its erosion and sedimentation measures in accordance with its approved erosion and sedimentation control plan (Exhibit D of the application, Sheet 3-3, revised December 9, 2014). Records of inspections must be made available to Commission staff upon request. The maximum amount of disturbed soils allowed at any given time is 1 acre unless prior written permission is granted by the Commission to exceed this amount. Inspections of erosion and sedimentation control measures may be done by the applicant, or its designated representative or contractor, provided that the area of disturbed soils at any given time does not exceed 1 acre. The Commission reserves the right to require third party inspections of erosion and sedimentation measures should the permittee seek approval to disturb more than one acre of soils at a given time.
8. The travel surface of Niboban Camp Road from South Shore Road to the shared driveway for permitted condominium units #19 and #20 shall be widened as needed to attain the minimum required travel surface of 18 feet for a Class 1 roadway. The remainder of Niboban Camp Road, and all of Woody's Way, Cedar Lane and Lower Way shall be widened as needed to attain the minimum required travel surface of 14 feet for a Class 2 roadway. All necessary road widening shall be done by July 1, 2015. The permittee shall notify Commission staff when it has completed the necessary road widening so that a site inspection may be arranged.
9. All required structures for the permittee's approved phosphorus management plan, as shown on its phosphorus plan sheet 1-1 revised December 9, 2014, must be installed by July 1, 2015. The permittee shall notify Commission staff when it has completed the required phosphorus control structures so that a site inspection may be arranged.
10. All permitted condominium units, interior roads, driveways, parking areas, wells and sewage disposal systems must be constructed in the locations as shown on the subdivision plat as approved and signed by the Commission Director pursuant to Condition #4. All interior roads, driveways and parking areas must be constructed and maintained so that (a) they will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) they will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland or roadway.
11. Two weeks prior to commencing construction of permitted new condominium units and before the foundation is poured, the permittee must contact Commission staff and arrange a pre-construction site visit in order to confirm that the building site is in the permitted location and otherwise in compliance with permit conditions.
12. Prior to the sale or lease of any condominium unit the permittee must:
 - A. Record and cross- reference in the Franklin County Registry of Deeds this approved Subdivision Permit SP 4097 including Conditions of Approval, the final subdivision plat signed by the Director of the Commission, and the approved Declaration of Restrictive Covenants for the condominium units; and the Declaration of Open Space Restrictions for the land to remain undeveloped. Upon such recording of the permit, plat, and declarations, the permittee must promptly submit to the Commission a copy of the recorded plat; the book, page, and file numbers for the permit, plat and declarations; and the date of such recordings.
 - B. Obtain a Certificate of Compliance for this Subdivision Permit SP 4097 from the Commission for the unit(s) to be sold or leased. In order to obtain a Certificate of Compliance:

- 1) The final subdivision plat and condominium declaration must be approved by the Commission, the final plat must be signed by the Commission Director, and both approved documents must be filed at the Franklin County Registry of Deeds in compliance with Conditions #3, #4 and #5 above.
- 2) All condominium units must be built as authorized under this permit and as shown on the approved subdivision plat; the associated sewage disposal system and water supply must be installed and connected to the unit; and the associated parking areas constructed in accordance with the terms of this permit.
- 3) Interior roads must be widened and the phosphorus control measures installed in accordance with Conditions #8 and #9 above, prior to issuance of Certificates of Compliance for permitted new condominium units #10 - #27; and
- 4) All other applicable permit conditions have been met.

11. All conditions of Development Permit DP 4526 and subsequent amendments are superseded by the conditions of this permit.

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 16TH DAY OF DECEMBER, 2014.

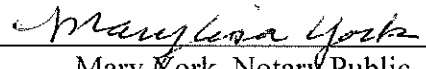
By: 
 Nicholas D. Livesay, Executive Director

STATE OF MAINE
County of Kennebec, ss,

Date: 12/16/14

Personally appeared the above named Nicholas D. Livesay, in his capacity as Executive Director of the Land Use Planning Commission, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of the Land Use Planning Commission.

Before me,


 Mary York, Notary Public
 My Commission expires: _____

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



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 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

NIBOBAN CAMPS, A MAINE CONDOMINIUM

RECEIVED
NOV 03 2014

CONDOMINIUM WARRANTY DEED

LUPC - RANGELEY

KNOW ALL PERSONS BY THESE PRESENTS, that, that **Scott P. Lalumiere, in his capacity as Trustee of the RANGELEY PLANTATION IRREVOCABLE TRUST**, a Maine non-grantor trust (hereinafter "Grantor"), in consideration of One Dollar (\$1.00) and other valuable consideration paid to it by _____ of the Town of _____, County of _____ and State of _____, whose mailing address is _____, [as joint tenants] (hereinafter collectively the "Grantee"), the receipt whereof he, in his said capacity, does acknowledge, does hereby **GIVE, GRANT, BARGAIN, SELL and CONVEY** unto the said Grantee, [his] [her][their][its] heirs and assigns forever, the following described real property:

Unit No. _____ (hereinafter referred to as the "Unit") of Niboban Camps, A Maine Condominium (hereinafter "Condominium") situated at Rangeley Plantation, County of Franklin and State of Maine, and more particularly described in the Declaration of Niboban Camps, A Maine Condominium, as recorded in the Franklin County Registry of Deeds on _____ in Book _____, Page _____ (hereinafter "Declaration"), and in the Plats and Plans incorporated into the Declaration and recorded in the Registry of Deeds on _____ in Plan Book _____, Pages _____ - _____ (hereinafter "Plats and Plans") by virtue of the recording of which Declaration, Plats and Plans the Grantor, as Declarant, created the Condominium pursuant to the Maine Condominium Act, Title 33 of the Maine Revised Statutes of 1964, as amended, Chapter 31, Section 1601-101 *et seq.*, as amended (hereinafter "Act");

TOGETHER WITH an undivided interest in the Common Elements of the Condominium, the liability for Common Expenses of the Condominium, and votes in the Association of Unit owners of the Condominium allocated to the Unit pursuant to the Declaration;

TOGETHER WITH the rights to use the Limited Common Elements allocated to the Unit as described, specified, and allocated pursuant to the Declaration allocated on the Plats and Plans to Unit No. _____ for the exclusive use by the Grantee, [his] [her][their][its] heirs and assigns;

TOGETHER WITH an easement in common with the owners of other units to use the Common Elements of the Condominium for purposes of ingress and egress in

accordance with the Declaration and the exclusive rights and easement for the use, occupancy and enjoyment of the Unit;

TOGETHER WITH an easement in common with all other Unit owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving the Unit and located in any of the other Units;

TOGETHER WITH an easement, to the extent necessary, for structural and subjacent support over the Common Elements;

TOGETHER WITH all other rights, easements, rights of way, interests, Allocated Interests, privileges and appurtenances as more particularly described, located, defined, allocated, or referred to in the Declaration, the Plat and Plans, and the Bylaws described in the Declaration, all of which are incorporated herein by reference thereto;

SUBJECT TO the matters affecting title described in the Declaration and the Plats and Plans, including that certain [Limited Joinder] and [Mortgage and Security Agreement], [Consent] from [Name of Lender] dated _____ and recorded in said Registry in Book _____, Page _____, and the terms, conditions, covenants, agreements, easements and provisions of the Declaration and Bylaws as the same may be amended from time to time, which terms, conditions, covenants, agreements, easements and provisions, together with any amendments thereto, shall constitute covenants running with the land and shall bind the Grantee and any person having at any time any interest or estate in the Unit, as though such provision were recited and stipulated at length herein;

SUBJECT TO an easement in common with the owners of other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving the other units and located in the Unit;

SUBJECT TO current real estate taxes assessed against the Unit which the Grantee assumes and agrees to pay;

SUBJECT ALSO TO all Development Rights and Declarant Control reserved by the Grantor, as Declarant, in the Declaration, and also subject to all other rights reserved to the Grantor, as Declarant, in the Declaration to include those rights and restrictions respecting Open Space Buffer Zones and Related Rights;

AND, by the recording of or by acceptance of this deed the Grantee does accept and agree for the Grantee, and the heirs and assigns of the Grantee, to be bound by and subject to all of the provisions, terms, conditions, covenants, agreements, easements and

provisions of the Act, the Declaration, the Bylaws and the Plats and Plans, as the same may be amended from time to time.

TO HAVE AND TO HOLD, the aforegranted and bargained premises with all privileges and appurtenances thereof to the said Grantee, [his] [her][their][its] heirs and assigns, to them and their use and behoove forever.

AND, the Grantor does covenant with the Grantee, their heirs and assigns, that the Grantor is lawfully seized in fee of the premises; that they are free of all encumbrances, except as aforesaid; that it has good right to sell and convey the same to said Grantee to hold as aforesaid; and that it and its successors and assigns will **WARRANT AND DEFEND** the same to the said Grantee, their heirs and assigns forever, against the lawful claims and demands of all persons, except as aforesaid.

IN WITNESS WHEREOF, the Grantor has duly executed this Warranty Deed as of the ____ day of _____, 20__.

WITNESS:

**RANGELEY PLANTATION
IRREVOCABLE TRUST**

By: _____
Scott P. Lalumiere, Trustee

STATE OF MAINE
Cumberland, ss.

_____, 20

Personally appeared the above named Scott P. Lalumiere, Trustee of the Rangeley Plantation Irrevocable Trust and acknowledged the foregoing instrument to be his free act and deed in his said capacity the free act and deed of said Rangeley Plantation Irrevocable Trust.

Before me,

Notary Public / Attorney-at-Law

SUBDIVISION PERMIT SP 4097
RANGELEY PLANTATION IRREVOCABLE TRUST

APPENDIX B

Unless the Association or any successors or assigns, obtains the prior written approval of the Maine Land Use Planning Commission, the area reserved as Open Space – including (a) delineated wetlands, (b) all areas within 100 feet of the normal high water mark of Rangeley Lake, and (c) undeveloped land within the “net developable shoreline” and “net developable land” –must remain undeveloped in perpetuity. To maintain the ability of the Open Space to assist in filtering and absorbing stormwater, and to maintain compliance with the Maine Land Use Planning Commission permit associated with the Property’s development, the use of the Open Space is hereinafter limited as follows:

General restrictions within the Open Space are as follows:

- a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Open Space nor may the topography or the natural mineral soil of the Open Space be altered or manipulated in any way;
- b. No building or other temporary or permanent structure may be constructed, placed or permitted to remain in the Open Space, except for a sign or fence;
- c. Motorized vehicles shall not be used in the Open Space unless an established snow cover exists that will prevent disturbance of the soil cover or for the implementation of permitted uses.

Non-Wooded areas within the Open Space are limited to the following:

- a. A dense cover of grassy vegetation must be maintained over the Open Space, except that shrubs, trees and other woody vegetation may also be planted or allowed to grow.
- b. The Open Space may not be maintained as a lawn or used as a pasture. Mowing of the area is restricted to twice a year.

Wooded areas within the Open Space are limited to the following:

- a. There shall be not purposefully created cleared opening and an even distribution of trees shall be maintained.

Evenly Distributed Stand of Trees is defined as maintaining a score of 12 in any 25' x 25' square area. Points are assigned based on tree diameter at 4 1/2' above ground level as follows:

<u>Diameter</u>	<u>Points</u>
2" to 4"	1
4" to 12"	2
>12"	4

- b. Activity within the Open Space shall be conducted so as to prevent disturbance of the forest floor, leaf litter and vegetation less than 4' in height. If disturbance results in the exposure of mineral soil the disturbed area shall be covered, stabilized and/or revegetated within 48 hours to avoid soil erosion.
- c. Removal of vegetation less than 4' in height is limited to what is necessary to provide a 6' winding path through the Open Space. The path must remain stable without erosion.
- d. Pruning of live branches is permitted to a height of 12' above the ground level provided the top 2/3's of the tree's canopy is maintained. Dead branches may be removed.
- e. Dead and diseased trees may be removed. If a cleared area is created no further vegetation removal is permitted.
- f. Commercial wood harvesting may be undertaken provided a harvesting plan, prepared by a licensed forester, complies with the even distribution of trees and any applicable standards specified under item g. The plan must be approved by Maine Land Use Planning Commission.
- g. Wooded areas within the Open Space within 100 feet of the normal high water mark of Rangeley Lake, 75 feet of the normal high water mark of streams and/or the right-of-way of South Shore Drive are limited to the following additional standards:
 - 1) No more than 40 percent of the total basal area of trees 4.0 inches or more in diameter, measured at 4 1/2 feet above ground level, may be removed in any ten (10) year period.

- 2) If removal of dead and diseased trees in accordance with Item e results in a cleared opening greater than 250 square feet as measured from the outer limits of the tree crown such cleared opening shall be replanted with native tree species.

Any activity on or use of the Open Space inconsistent with the purpose of these restrictions is prohibited. Any future alterations or changes in use of the Open Space must receive prior approval in writing from the Maine Land Use Planning Commission. The Maine Land Use Planning Commission may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability or if adequate and appropriate alternative means of stormwater control and treatment are provided.