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GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
45 RADAR ROAD
ASHLAND, MAINE 04732-3600

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

COMMISSION DECISION
IN THE MATTER OF

Michael Beaulieu

Findings of Fact and Decision

AMENDMENT A TO
ZONING PETITION ZP 674

The Maine Land Use Planning Commission, at a meeting of the Commission held June 8, 2016, at Brewer, Maine, after reviewing the application and supporting documents submitted by Michael Beaulieu for Amendment A to Zoning Petition ZP 674, public comments, agency review and staff comments and other related materials on file, pursuant to 12 M.R.S.A. Section 681 et seq. and the Commission's Standards and Rules, finds the following facts:

1. Petitioner: Michael Beaulieu
2127 St. John Road
Saint John Plt., Maine 04743
2. Date of Completed Petition: May 9, 2016
3. Location of Proposal: St John Plantation, Aroostook County
Lots #20, #21, #22, and #23 on Map 16 in St John Plt.
4. Present Zoning: (D-RS) Residential Development Subdistrict
5. Proposed Zoning: (D-RB) Rural Business Development Subdistrict
6. Lot Size: Total Lot size: 3.5 acres
Area Proposed to be Rezoned: 2.2 acres

Administrative History:

7. The subject parcel was originally zoned D-RS by the Commission in the 1970s based on the existing uses in the area. The parcel was originally developed in 1977 with a 14 foot by 70 foot mobile home and a combined sewage disposal system [Reference: Building Permit BP 4036]. In 1992, the mobile home was replaced with a 28 foot by 62 foot modular home. [Reference: Amendment A to Building Permit BP 4036]. In October of 1997, Amendment B to Building Permit BP 4036 granted after-the-fact approval of an existing 12 foot by 20 foot storage shed and approved the proposed construction of a 30 foot by 60 foot residential garage.
8. In March of 2000, Amendment C to Building Permit BP 4036 allowed the petitioner to store and maintain their personally owned commercial logging trucks in the existing garage. In September of 2002, Amendment D to Building Permit BP 4036 permitted construction of a 40 foot by 60 foot addition to the existing garage.
9. Also in or around 2002, the following activities occurred without prior permit approval from the Commission [Reference: Enforcement Case EC 02-164]:
 - (a). A deck addition was constructed onto the home;
 - (b). The previously permitted residential garage was converted into a commercial inspection station and truck repair shop;
 - (c). Two above-ground fuel tanks, each 1,000 gallons in size, had been installed in violation of state and federal fuel storage regulations and;
 - (d). More than one acre of land had been altered and without the required delineation of wetlands.
10. In June of 2003, Zoning Petition ZP 674 authorized 3.0 acres of the 3.5 acre parcel to be rezoned from (D-RS) Residential Development Subdistrict to (D-CI) Commercial Industrial Development Subdistrict for a truck repair garage and commercial inspection station. The existing home with deck and shed were to remain in the (D-RS) Residential Development Subdistrict. Development Permit DP 4642 was subsequently issued authorizing the after-the-fact use of the garage as a truck repair garage and commercial inspection station.
11. In May of 2011, the truck repair garage and commercial inspection station was destroyed by fire and in June of 2011, Amendment A to Development Permit DP 4642 authorized reconstruction of a 40 foot by 80 foot garage with an attached 20 foot by 80 foot shed to allow the business to re-open. The authorized garage with attached shed has not been constructed.
12. In September of 2011, Staff found that Michael Beaulieu had moved his commercial inspection station and truck repair shop to a new location on Lot 3 on Map 13 in St. John Plt. At the time, this property was zoned (M-GN) General Management Subdistrict, which does not allow commercial repair and inspection garages.
13. In December of 2012, Commission staff initiated the rezoning of 2.86 acres of Lot 3 on Map 13 in St. John Plt. from a (M-GN) General Management Subdistrict to a (D-CI) Commercial Industrial Development Subdistrict for operation of the commercial

inspection station and truck repair shop [Reference: Zoning Petition ZP 740]. Since the business had been relocated, ZP 740 also rezoned the subject parcel from a D-CI Commercial Industrial Development Subdistrict back to a (D-RS) Residential Development Subdistrict. The Commission found that the D-RS was more appropriate for the protection and management of existing uses and resources within the affected area. As part of the petition for ZP 740, staff received a letter from Michael Beaulieu and his late wife indicating that they did not object to converting the subdistrict from D-CI back to D-RS as they now intend to operate the truck repair business and inspection station at the new location on Lot 3, Map 13.

14. In March of 2016, Amendment E to Building Permit BP 4036 was issued to the petitioner, authorizing construction of a 30 foot by 30 foot residential garage attached to the existing dwelling. In April of 2016, Amendment F to Building Permit BP 4036 was issued to the petitioner authorizing construction of a 40 foot by 80 foot detached garage for personal storage and maintenance of the petitioners owned vehicles. The garage was to be constructed on the existing slab foundation remaining from the prior garage. As part of his application, the petitioner had submitted a signed and notarized Letter of Intent of Use, certifying that he understands that the garage and property cannot be used for commercial purposes and that construction of the garage does not guarantee that the property will be rezoned or that commercial use of it will be allowed in the future.

Project Information:

15. Proposed Zoning. The petitioner seeks to rezone 2.2 acres (Lots 22 and 23 on Map 16) of his 3.5 acre parcel from (D-RS) Residential Development Subdistrict to (D-RB) Rural Business Development Subdistrict to allow for relocation of a commercial trucking business, truck repair business and inspection station from another parcel in Saint John Plt. The petitioner's business would include operation of 4 commercial logging trucks, a natural resource based business. The D-RB Subdistrict prohibits residential dwellings, therefore, the portion of the lot that is developed with the dwelling would remain in the D-RS Subdistrict.
16. D-RB Subdistrict. On May 9, 2016, Chapter 10 of the Commission's rules, Land Use Districts and Standards, were amended to establish a (D-RB) Rural Business Development Subdistrict that can be used by businesses and property owners to accommodate business development in 30 towns, townships and plantations across Aroostook County. The changes are a product of the LUPC's Community Guided Planning and Zoning (CGPZ) initiative, which joins with local partners to help regions identify their land use needs and plan for the region's future.

Based on rural business category criteria in Section 10.27,R,1 of the Commission's Rules, the proposed business would be classified as a Category 3 - Rural Business. Specifically, the facility would be a manufacturing, construction, service or similar type business less than 20,000 square feet in gross floor area with traffic would not significantly exceed that commonly associated with Category 3 types of businesses. Other standards for Category 3 rural businesses include exterior effects, hours of operation, and hazardous waste. These factors will be addressed in the development permitting process phase.

17. Site Location and Access. The subject parcel is located between Route 161 and an old railroad bed and is currently developed with a residential dwelling unit. Access to the site is directly off of Route 161. St. John Plantation is one of the townships, plantations and towns eligible for rezoning to the D-RB Subdistrict for all three categories of rural businesses listed in Section 10.21,I,2,b,(1) of the Commission's Rules. In addition, the petitioner's lot is fully located less than 1/2 mile from a public road, making it eligible for development with a Category 3 - Rural Business upon issuance of a permit and subject to the Special Exception criteria under Section 10.21,I,3,d,(2)(a)(i) of the Commission's Rules.
18. Surrounding Uses and Resources. The subject parcel is currently located on the east end of a (D-RS) Residential Development Subdistrict extending approximately 3,626 feet along the north side of the Route 161. To the east of the subject parcel is an undeveloped, forested lot located within a (M-GN) General Management Subdistrict; and to the north of the subject parcel there is an undeveloped floodplain and wetland area. There is another (D-RS) Residential Development Subdistrict, which is developed with single family residences, located across the road from the subject parcel.
19. Impact to Services. The Fort Kent Fire Department and the Aroostook County Sheriff's Office would continue to provide the necessary fire and police protection to the area. Albi's Sanitation of St Francis would pick trash up weekly from the business. Any waste oil would go to T & T Road Company and C.L. Roy, both of which have an oil-fired furnace that can accept waste oil for burning. The petitioner has submitted a letter of support for the rezoning of the parcel from the three Assessors for St. John Plantation.

The rezoning to (D-RB) Rural Business Development Subdistrict for the purpose of operating a commercial trucking, truck repair business and truck inspection station would have no undue adverse impact on existing services. Since the business has been in operation for nearly 15 years in this area, additional services and resources in the area are not required.

20. Notice of Filing. Notice of the proposed zoning petition was properly made to appropriate parties and the public as required under Chapter 4 of the Commission's rules. Two comments from the public were received. No requests for a public hearing were received.
21. Public Comments. The Commission received two public comments: one anonymous and one from Norman L'Italien of 2126 St. John Road, St. John Plt., Maine. The author of the anonymous letter states "I don't want a commercial in my neighbor H[h]ood". The letter further states that the slab from the original garage was removed and the new slab is bigger than the old one. Mr. L'Italien resides in the home directly across the road from the subject parcel and is opposed to the proposed zoning change. His written comments make reference to the petitioner's past D-CI zoning and the impact it had on the neighborhood including: noise from logging trucks, starting up and leaving the property and then other trucks stopping in for repairs or supplies at all hours of the day and night; noise from power tools and hammers, mud in the road; dust; and oil or diesel leaks. He also comments that he did not think the lot was large enough to accommodate the owners four logging trucks, 2 loaders, pickups, and other clients coming in for inspections.

Commission Review Criteria:

22. Under 12 M.R.S. § 685-A(8-A) of the Commission’s statutes and Section 10.08 of the Commission’s Land Use Districts and Standards, a land use district boundary may not be adopted or amended unless there is substantial evidence that:
 - A. The proposed land use district is consistent with the standards for district boundaries in effect at the time; the Comprehensive Land Use Plan; and the purpose, intent and provisions of this chapter; and
 - B. The proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

23. A proposed rezoning must be consistent with the Comprehensive Land Use Plan. 12 M.R.S. § 685- A(8-A)(A). The Commission’s 2010 Comprehensive Land Use Plan (the CLUP) includes policies that encourage economic development that is connected to local economies, utilize services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction’s principal values:
 - A. Encourage forest, recreation and other resource-based industries and enterprises which further the jurisdiction’s tradition of multiple use without diminishing its principal values.
 - B. Encourage economic development in those areas identified as the most appropriate for future growth.
 - C. Provide for expansion needs of intensive developments where such expansion will not have an undue adverse impact on the resources of the area.
 - D. Allow new or emerging technologies, but limit the scale or application of these technologies where necessary to allow time for the Commission to evaluate the technology and its impacts.
 - E. Continuously review permitting procedures to identify means to expedite the permitting process while accomplishing the agency’s purposes.

(CLUP Section 1.2, I, B, p. 7.)

24. The purpose of the D-RB subdistrict is “to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors.” Under the provision of Section 10.21,I, 3, d (2)(a)(i) of the Commission’s Land Use Districts and Standards, Category 3 – Rural Businesses within one half mile of a public road in St. John Plt. are allowed uses with a permit by special exception in a (D-RB) Residential Development Subdistrict, subject to the applicable requirements set forth in Sub-Chapter III of the Commission’s rules, provided the applicant shows by substantial evidence, that (a) the use can be buffered from those other uses within the subdistrict with which it is incompatible; (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan; (c) that there is sufficient infrastructure to accommodate the additional traffic and activity generated by the facility; and (d) that surrounding resources and uses that may be sensitive

to such increased traffic and activity are adequately protected. Title 12, section 681 states that among the purposes of the Commission is “to encourage appropriate residential, recreational, and commercial and industrial land uses.”

25. The facts are otherwise as represented in Amendment Request A to Zoning Petition ZP 674, Application for ZP 674, Application for 740, and supporting documents.

Based on the above Findings and following analysis, the Commission concludes that:

Consistency with the Standards for District Boundaries

1. According to 12 M.R.S. § 685-A(8-A)(A) of the Commission’s statute, a proposed rezoning must be consistent with the Standards for district boundaries in effect at the time.
 - A. Section 10.21,I,1 of the Commission’s Standards establishes the purpose of the D-RB Subdistrict is to encourage an appropriate range of business development in rural areas, and locate development in or at the edge of existing development and in concentrated areas along appropriate portions of major transportation corridors. (See, Finding #24).
 - B. The proposed Category 3 – Rural Business would be located within the 2.2 acre area proposed for rezoning to D-RB and would be a relocation of an existing business within St. John Plantation.

This location has been designated as “eligible” for a Category 3 – Rural Business in that St. John Plantation is one of the townships, plantations, and towns listed under 10.21,I,2,b(1) of the Commission’s rules as being eligible for rezoning to D-RB and the area to be rezoned is located within ½ mile of a public roadway.

The location of the proposed facility would not unreasonably interfere with existing uses and resources. The property does not include any mapped wetlands and is not adjacent to any waterbodies. The lands surrounding the property include undeveloped land and residential uses, including the petitioner’s own dwelling.

- C. The size and boundaries of the proposed D-RB subdistrict are consistent with the standard for D-RB district boundaries because the proposed D-RB subdistrict includes all buildings, paved or other compacted surfaces, and areas directly related to, and necessary for, the conduct of those activities associated with the uses and buildings. The existing dwelling would remain within a D-RS subdistrict.

Therefore, for the purposes of rezoning, the proposed D-RB subdistrict is consistent with the standard for district boundaries in effect at the time and is of a size that would accommodate the proposed Rural Business.

Consistency with the Comprehensive Land Use Plan

2. According to 12 M.R.S. § 685-A(8-A)(A) of the Commission’s statute, a proposed rezoning must be consistent with the comprehensive land use plan. The Commission’s 2010

Comprehensive Land Use Plan pertaining to the encouragement of “economic development that is connected to local economies, utilize services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction’s principal values”, and strive to “encourage forest, recreation and other resource-based industries,” “encourage economic development in those areas identified as the most appropriate for future growth,” “provide for expansion needs of intensive developments where such expansion will not have an undue adverse impact on the resources of the area,” “allow new or emerging technologies”, “continuously review permitting procedures to identify means to expedite the permitting process while accomplishing the agency’s purposes.”

- A. The proposed rezoning is intended to accommodate relocation of a Category 3 – Rural Business that provides a service in the local community, including to existing natural resource-based uses. The development would utilize existing services and would be located along a major public transportation route.

Consistency with Chapter 206-A

- 3. According to 12 M.R.S. § 685-A(8-A)(A) of the Commission’s statute, a land use district boundary may not be adopted or amended unless the proposed land use district is consistent with the purpose, intent and provisions of Chapter 206.
 - A. Title 12 Section 685-A(1) establishes the Commission zoning authority: “The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that shall fall into land use districts and designate each area in one of the following major district classifications: protection, management and development.” Section 681 states the Legislature “finds that it is desirable to extend principles of sound planning, zoning and development to the unorganized and deorganized townships of the State” to, among other things, “encourage appropriate residential, recreational, commercial and industrial land uses.”
 - B. The Commission evaluated the petition with respect to consistency with Chapter 206-A and principles of sound planning, zoning, and development. Having considered the location of proposed business and its eligibility for rezoning to a D-RB, the surrounding uses and resources, the type and intensity of the development the rezoning is intended to foster, the review of agency comments, and the record as a whole, the Commission concludes approval of the petition would be an act of sound land use planning. Therefore, the Commission concludes the proposed rezoning is consistent with the purpose, intent and provisions of Chapter 206-A, which cumulatively are designed to promote sound planning.

Impacts on Existing Uses and Resources

- 4. According to 12 M.R.S. § 685-A(8-A)(B) of the Commission’s statute, the proposed land use district can have no undue adverse impact on existing uses or resources.

- A. The location of the business would not unreasonably interfere with existing uses or other recreation opportunities. Although the lot is located in a residential area and the Commission has received a public comment citing concerns about noise, dust, and hazardous materials such as engine oil, the Commission has established development standards for businesses and issues such as traffic, noise, hazardous materials and dust will be addressed in the development permitting phase.
- B. The proposed rezoning would not have an undue adverse impact on existing resources. The area to be rezoned was previously developed, is not adjacent to any waterbodies and would not include any mapped wetland areas. With regard to existing natural resources, no rare botanical resources would be disturbed within the project site and there are no significant wildlife or wildlife habitats identified on the site. Therefore, the Commission concludes rezoning to D-RB would not have an undue adverse impact on existing resources.

Final Conclusions

- 5. In summary, and for reasons explained above, the Commission concludes that the proposed rezoning of 2.2 acres to D-RB for the proposed Category 3 – Rural Business:
 - A. Is consistent with the standards for district boundaries in effect at the time;
 - B. Is consistent with the Commission’s 2010 Comprehensive Land Use Plan;
 - C. Is consistent with the purpose, intent and provision of Title 12, Chapter 206-A;
 - D. Will not have an undue adverse impact on existing uses or resources;

Therefore, the Commission approves the petition of the Michael Beaulieu to rezone 2.2 acres in Saint John Plantation from (D-RS) Residential Development Subdistrict to (D-RB) Rural Business Development Development Subdistrict as per the attached maps.

Pursuant to 5 M.R.S.A. section 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.

DONE AND DATED AT BREWER, MAINE THIS 8th DAY OF JUNE 2016.

By: 

Nicholas D. Livesay, Executive Director

This change in subdistrict designation is effective on June 23, 2016.