



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
106 HOGAN ROAD, SUITE 8  
BANGOR, MAINE 04401

WALTER E. WHITCOMB  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

COMMISSION DECISION  
IN THE MATTER OF

Fulghum Graanul Woodland, LLC

Finding of Fact and Decision

**ZONING PETITION ZP 746**

The Maine Land Use Planning Commission (the LUPC or Commission), at a meeting of the Commission held July 09, 2014 at Brewer, Maine, after reviewing the petition and supporting documents submitted by Fulghum Graanul Woodland, LLC (the Petitioner or Fulghum) for Zoning Petition ZP 746, review agency and staff comments, and other related materials on file, and conducting a site visit, pursuant to 12 M.R.S. Sections 681 et seq. and the Commission's rules, finds the following facts:

1. Petitioner: Fulghum Graanul Woodland, LLC  
Attn: Mr. Mark Seavey  
P.O. Box 727  
Baileyville, Maine 04694
2. Date of Completed Petition: May 30, 2014
3. Property Location: Baring Township, Washington County, Maine  
Maine Revenue Service Map WAP01, Plan 03; Part of Lots 3 and 4  
Lot 3-Washington County Registry of Deeds: Book 3771; Pages 87  
Lot 4-Washington County Registry of Deeds: Book 629; Pages 115
4. Current Zoning at Development Site: (M-GN) General Management Subdistrict
5. Proposed Zoning at Development Site: (D-CI) Commercial Industrial Development Subdistrict
6. Lot Size: 29.2 Acres
7. Acres to be Rezone: 22.6 Acres

### **Project Summary:**

8. The Petitioner proposes to rezone 22.6 acres of a newly created 29.2 acre lot from General Management (M-GN) Subdistrict to Commercial Industrial Development (D-CI) Subdistrict to facilitate the construction and operation of a wood pellet manufacturing facility (the Facility). The Facility would accept over 500,000 tons of chipped wood, and would be expected to manufacture between 200,000 to 250,000 metric tons of finished wood pellets, annually. The Facility would generally include a 75,000 square foot pellet mill, an adjacent 10,000 square foot chip mill, an access roadway, a utility line, parking areas, delivery areas, loading, material storage and handling areas, and other associated appurtenances.

### **Administrative History:**

9. Existing WAP01, Plan 03, Lot 3.

- A. Lot 3 (approximately 26<sup>±</sup> acres) was originally developed with a 50 foot by 60 foot pre-Commission aircraft hangar, a paved apron fronting the aircraft hangar, and a gravel equipment storage yard with two entrances to U.S. Route 1. The hangar was accessed by utilizing the existing paved apron between the hangar and a pre-Commission air strip on abutting Lot 4.
- B. DiCenzo Realty, Inc. purchased the property on August 06, 1969.
- C. Development Permit DP 3840, issued to DiCenzo Realty, Inc. on October 14, 1987, authorized the reconstruction of the aircraft hangar into a 50 foot by 60 foot aircraft storage shed.
- D. Amendment A to Development Permit DP 3840, issued to DiCenzo Realty, Inc. on March 15, 1993, authorized the construction of a 30 foot by 36 foot storage building on a concrete slab foundation and the expansion of an existing gravel equipment storage yard.
- E. Thomas DiCenzo, Inc. purchased the property November 04, 2009, who then conveyed the property to Down East Disposal, LLC on November 04, 2009.
- F. Amendment B to Development Permit DP 3840, issued to Down East Disposal, LLC on February 19, 2010, authorized the change of use of the aircraft hangar to a truck and heavy equipment repair garage.
- G. Bell Enterprises, Inc. purchased the property on August 19, 2011.

10. Existing WAP01, Plan 03, Lot 4.

- A. Lot 4 (approximately 79.6<sup>±</sup> acres) was originally developed with a pre-Commission store and service station which also served as a permanent dwelling, and a pre-Commission air strip.
- B. Bridges Brothers, Inc. purchased Lot 4 on August 25, 1965.

- C. Development Permit DP 3470, issued to Bridges Brothers, Inc. on May 06, 1981, authorized the construction of a 64 foot by 120 foot agricultural storage building.
  - D. Amendment A to Development Permit DP 3470, issued to Bridges Brothers, Inc. on November 18, 1991, authorized the construction of a 65 foot by 90 foot agricultural storage building, a 40 foot by 60 foot shop building and a subsurface wastewater disposal system to serve the existing dwelling and the proposed shop building.
  - E. Amendment B to Development Permit DP 3470, issued to Bridges Brothers, Inc. on July 14, 1998, authorized the construction of a 60 foot by 78 foot loading dock.
  - F. Amendment C to Development Permit DP 3470, issued to Bridges Brothers, Inc. on November 06, 2003, authorized the construction of a 40 foot by 40 foot storage building.
  - G. Amendment D to Development Permit DP 3470, issued to Bridges Brothers, Inc. on July 12, 2005 authorized the conversion of the existing store and service station, which also served as a permanent dwelling, into a storage building, and approval to construct a 32 foot by 74 foot single family residential dwelling, a 40 foot by 40 foot garage and to install a subsurface wastewater disposal system for the new dwelling.
  - H. Bridges Brothers, Inc. transferred a 4.4 acre portion of Lot 4 to Cole G. and Candy A. Bridges on October 20, 2005.
11. 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. No comments or requests for a public hearing were received by the public regarding the petition.

**Project Information:**

12. Proposed New Facility Lot. The proposed new Facility lot would be a portion of Lot 3 and Lot 4. Lot 3 would be transferred in its entirety (26<sup>±</sup> acres) to Fulghum Graanul Woodlands, LLC. The Petitioner holds an valid option to purchase Lot 3. Then a portion of Lot 4 would be traded to Fulghum Graanul Woodlands, LLC in exchange for a portion of Lot 3. The Petitioner holds an agreement to trade a portion of Lot 3 for a purchased portion of Lot 4. Consequently, the Facility lot would contain a portion of both Lots 3 and 4. The portion of Lot 3 that the Petitioner would convey to the abutting landowner of Lot 4 is approximately 12<sup>±</sup> acres and includes all previously existing development permitted under Development Permit DP 3840, except the storage shed permitted under Amendment A to Development Permit DP 3840. (*See Finding of Fact #9*). The portion of Lot 4 that the Petitioner would acquire from the abutting landowner is approximately 12<sup>±</sup> acres and is undeveloped. The current landowner of Lot 3 would not retain any acreage.

The proposed new lot would be irregularly shaped. The larger portion of the lot, or southern portion, is proposed to be rezoned from M-GN Subdistrict to D-CI Subdistrict. The rezoned area would contain 22.6 acres and would be approximately 700 feet wide by 1,450 feet long.

The smaller portion of the lot, or northern portion, which would contain a Level C, Class 1 or 2 Roadway, is not proposed to be rezoned. This portion would be approximately 100 feet wide by 2,694 feet long and would extend from U.S. Route 1 to approximately 300 feet south of Barn Meadow Brook. The access roadway would be located within the M-GN Subdistrict, the Shoreland Protection (P-SL) Subdistrict, and the Wetland Protection (P-WL) Subdistrict. A Level C road project is an allowed use, by permit, in the M-GN and P-SL Subdistricts; a Level C road project is an allowed use, by special exception, in a P-WL Subdistrict.

13. Current Conditions on the Proposed New Facility Lot. The portion of the lot that would consist of the access road is currently developed with a 30 foot by 36 foot storage building on a slab foundation permitted under Amendment A to Development Permit DP 3840. (*See Finding of Fact #9,D*). This structure would be removed from the lot. The area proposed for rezoning has recently been timber harvested and is largely bare of significant vegetation. However, the site was mostly wooded with a mixed growth of scrub shrubs and tree species of varying ages which included a dense growth of balsam fir, intermixed with red maple, gray birch, spruce and white pine. The soil surface was covered with a thick moss growth with very little other ground cover. The topography of the overall lot is nearly level to gently rolling with small knolls; the elevation varies from about 98 feet to 74 feet.

14. Site Location and Access.

A. The Facility would be located south of U.S. Route 1 in the northeastern portion of Baring Plantation, Washington County, Maine. The main development area of the Facility would be bounded on the north by U.S. Route 1 and lands now owned by Bell Enterprises, Inc., which contains a truck and heavy equipment repair garage, to the east by the “Moosehorn National Wildlife Refuge,” to the south by woodlands and an abutting Eastern Maine Electric Cooperative power line, and to the west by an airfield and runway that is no longer used for aviation.

The Facility would be set between Woodland (Baileyville) and Calais. The Woodland Pulp Mill and associated wood yard and chipping operation would be located approximately 6 miles to the northwest, and the international bridge and Calais would be located approximately 4 miles to the northeast. The Port of Eastport would be located 29 miles from the Facility. Multiple roads converge in the area, including U.S. Route 1, State Route 9, and State Route 191.

B. *Vehicle Access.* Direct access to the Facility would be by a private 24-foot by 2,694-foot Level C, Class 1 or 2 Roadway constructed from U.S. Route 1 to the main development site. Parking would be available on-site for employees and visitors.

C. *Utility Access.* The Facility would be connected to Eastern Maine Electric Cooperative by a 60 foot by approximately 575 foot right-of-way located at the southern end of the new Facility lot.

15. Soil Suitability and Mapping.

A. Soil map unit data obtained from the U.S. Department of Agriculture’s Natural Resource Conservation Service’s Soils Survey Geographical database for Washington, County, Maine

identified three soil types at the site (LbB) Lamoine-Buxton complex, 0 to 8 percent slopes, (LmB) Lamoine-Scantic complex, 0 to 5 percent slopes, and (Sa) Scantic silt loam.

- B. A Class A-High Intensity Soils Survey was conducted to identify and map soils within the proposed building envelope, and all roadways, parking areas, loading areas, and stockpile areas. The survey indicated that the main portion of the development site would be located in the Lamoine-Buxton and Lamoine silt soils series. Other soil types mapped on the lot included Abram, Biddeford, Buxton, Lyman, Scantic, Udorthents and Waumbek soil series. Soils are “somewhat poorly drained” to “moderately well drained.” Soil limitations include depth to bedrock and restrictive layers, low permeability and slow infiltration rates, shrinking and swelling, and subject to frost actions. All soils were found to be suitable for development as long as appropriate engineering practices are utilized to design and construct the foundation, drainage systems and structural components.
- C. The Maine Department of Environmental Protection’s, Division of Environmental Assessment completed an initial review of the soils as they relate to the zoning petition and stated that the stony till soils in the area of the proposed Facility are consistent with soils that would show bearing capacities and other characteristics suitable for the proposed use or which could be made suitable with correct application of standard engineering practices.

16. Wastewater Disposal. The Facility would be served by on-site water (drilled well) and a subsurface wastewater disposal system. The “Soil Survey and Site Evaluation Report” submitted with the petition documented that there are soils suitable for the installation of an appropriately sized subsurface wastewater disposal system, to serve the proposed Facility, on the property.

17. Streams and Wetlands.

- A. Four streams were identified in the development’s vicinity during on-site review; all four streams are zoned P-SL2 subdistricts. Two streams would be impacted by the development. Of those streams, Barn Meadow Brook is the only perennial stream; this stream would be crossed by the Facility’s access road. The other three streams are intermittent; two are discontinuous segments between wetlands. The third intermittent stream is located approximately half way between U.S. Route 1 and Barn Meadow Brook and would be crossed by the Facility’s access road. There are no streams located in the main development site and proposed rezoning area. The petitioner is not requesting rezoning of any lands within 100 feet of any streams.
- B. There were wetlands delineated within 25 feet of Barn Meadow Brook. By definition, these wetlands are considered (P-WL1) Wetlands of Special Significance. The petitioner is not requesting rezoning of any lands within 100 feet of any (P-WL1) Wetlands of Special Significance.

There were no (P-WL1) Wetlands of Special Significance delineated at the main development site. There were (P-WL2) and (P-WL3) wetlands delineated within the proposed rezoning area; impacts to, and avoidance of, those wetlands would be reviewed as part of the Department of Environmental Protection’s (the DEP) Site Law permitting process.

## 18. Land Division History.

- A. The Petitioner submitted an outlined 20-year land division history and indicated that no non-exempt divisions have occurred on either parcel in the past 20 years.

19. Existing Development in the Area. The property to the east and south of the proposed Facility was purchased by the United States in 1937 for the Moosehorn National Wildlife Refuge. Properties directly north of the site and across U.S. Route 1 include residential, light commercial and undeveloped lots. There is a history of permits for commercial activities in the area; however, some of those businesses are no longer in operation. Currently, within one mile by road<sup>1</sup> of the rezoned area, there is a glass and garage door sales and manufacturing business, blueberry packing facilities, a truck and heavy equipment repair garage, a disused airstrip, and a gift shop, as well as a number of residences both on U.S. Route 1 and in neighborhoods set off from the highway.

## 20. Anticipated Impacts on Existing Uses and Resources.

- A. *Traffic.* The Facility expects to receive 40 to 50 softwood chip trucks per day, and expects to generate 25 truckloads of pellets per day which will be sent to the Port of Eastport. Trucks arriving would utilize U.S. Route 1 to access the Facility and trucks leaving the Facility would utilize U.S. Route 1 and then State Route 190 to Eastport.

An entrance permit from Maine Department of Transportation is anticipated; the standards governing an entrance permit, such as line of sight, grades, and turning radii have been incorporated into the design of the access road.

- B. *Noise.* Noise would be reviewed as part of the DEP's Site Law permitting process. According to the Petitioner, Maine DEP sound pressure level requirements are 55 dBA during the daytime hours of 7:00 a.m. to 7:00 p.m. and 45 dBA during nighttime hours of 7:00 p.m. to 7:00 a.m. measured from 500 feet from a dwelling or property line, whichever is closer. The Facility site is over 2,000 feet from the nearest residential dwelling and the closest piece of mill equipment is approximately 170 feet from the property line. Calculated sound levels attenuation at 170 feet from the property line is approximately 39 dBA.

Equipment that would make measurable noise would be enclosed. The appropriate buildings would be insulated and designed to limit sound to 84 dBA at 20 feet distance outside the building. The equipment creating the highest sound pressure levels would be the hammer mill and chipping mill (if it is built). The Facility would be set back at least 2,000 feet from U.S. Route 1 and residences. Sound pressure dissipation over distance is expected to reduce the sound pressure levels to 30 dBA or less.

The mill grounds would be surrounded by a forested buffer of approximately 100 feet which will also help absorb sound. Additionally, noise impacts to surrounding properties would be mitigated by the facilities setback distance from the road. Truck traffic noise at 100 feet +/- off U.S. Route 1 is estimated to be louder than noise from the mill.

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<sup>1</sup> In this case, the distance is measured from the edge of the proposed rezoned area, out the proposed new road, and along U.S. Route 1.

C. *Economic.* The Petitioner anticipates that significant positive job impacts will occur as a result of the construction of the Facility. Two hundred and seven (207) direct, indirect and induced jobs are anticipated. Jobs which will include logging, chipping, transportation of wood fiber and pellets to and from the Facility and the Facility manufacturing jobs. Further, the Petitioner would be creating a higher value demand for softwood chips which would potentially benefit landowners with higher soft wood prices, and the pulp mill with a potential complimentary effect of lower hardwood prices.

D. *Wildlife.*

- 1) The Maine Department of Inland Fish and Wildlife reviewed the proposal and stated that there are no records of Significant Wildlife Habitat or Essential Habitat at the development location. Further there are no records of Rare, Threatened or Endangered Species that would be affected. The site limits would be located greater than 250 feet from Inland Fisheries and Wildlife's high value inland wading bird and waterfowl habitat (#050279) associated with the Moosehorn National Wildlife Refuge.
- 2) The U.S. Fish and Wildlife Service reviewed the proposal and stated that there were no listed Endangered Species Act species found within the vicinity of the development. The Service indicated that one natural resource of concern (a freshwater emergent wetland-(PEM1Eh)) is near the development area.

E. *Historic and Unusual Natural Areas.*

- 1) The Maine Historic Preservation Commission reviewed the proposal and commented that based on the information submitted, the Commission has concluded that there will be no historic properties affected by the proposed undertaking, as defined by Section 106 of the National Historic Preservation Act. Consequently, pursuant to 36 CFR 800.4(d)(1), no further Section 106 consultation is required unless additional resources are discovered during project implementation pursuant to 36 CFR 800.13.
- 2) The Maine Natural Areas Program reviewed the proposal and searched the Natural Areas Program's Biological and Conservation Data System files for rare or unique botanical features in the vicinity of the proposed site and indicates that according to their current information there are no rare botanical features that would be disturbed within the project site.

F. *Harmonious Fit and Scenic Impacts.* The proposed development would take measures to fit with the existing surrounding uses. The Facility would be set back over 2,000 feet from U.S. Route 1 and the nearest residential development, would maintain a wooded buffer, would select dark colors for the metal sided buildings and would utilize cut-off site lighting.

G. *Impacts to Public and Community Services.* The Petitioner submitted service provider letters of support and indicating capacity to serve from the Baring Plantation's Board of Selectmen, the Washington County Sheriff's Office, the Penobscot Energy Recovery Company, the Eastport Port Authority, and Eastern Maine Electric Cooperative.

H. *Other.* No additives or chemicals would be used in the manufacturing process.

21. Consistency with the Comprehensive Land Use Plan.

- A. The Petitioner notes that with regard to adjacency, the proposed site is adjacent to an existing D-CI subdistrict which contains a no-longer-used airstrip. The Petitioner also discusses the presence of a number of businesses in the area, as well as the function of U.S. Route 1 as a transportation corridor, handling significant truck traffic between Baileyville and Calais, which serve as commercial hubs.
- B. The Petitioner also states that the proposal meets the LUPC Goals and Policies by being located far enough from residences that the operations will not be a disruption. The proposed business will provide jobs for local residents, and there is significant workforce close by. Further, the product is value added utilizing forest resources and skills that are readily available in the vicinity.
- C. Generally, the Petitioner notes in various sections of the application materials that there will not be significant impacts on natural resources in the area.

**Commission Review Criteria:**

22. According to 12 M.R.S. § 685-A(8-A) of the Commission's statutes, and Section 10.08,A of the Commission's Land Use Districts and Standards (the 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 [Chapter 206-A]; 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. The facts are otherwise as represented in Zoning Petition ZP 746 and supporting documents.

**Based upon the above Findings and the following analysis, the Commission Concludes:**

- 1. Consistency with the Standards for District Boundaries. 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,A,1 of the Commission's Standards establishes the purpose of the D-CI subdistrict is to allow for commercial, industrial and other development that is not compatible with residential uses. Designation of commercial, industrial and other similar areas of intensive development as D-CI subdistricts will ensure that other land values and community standards are

not adversely affected, and will provide for the location and continued functioning of important commercial and industrial facilities.

- B. The proposed Facility would be an area of 2 or more acres devoted to intensive, commercial and/or industrial buildings, structures and uses and would be an allowed use, with a permit, in the D-CI subdistrict under Section 10.21,A,3,c,(2) of the Commission's Standards. The intent of the D-CI subdistrict is to concentrate intensive commercial and industrial development into areas away from incompatible residential uses. One residence is located approximately 2,000 feet west of the Facility. The bulk of residential development is located across U.S. Route 1, or westerly along both sides of U.S. Route 1. Further, the proposed rezoning is of a size that would accommodate the proposed Facility and be in conformance with the Commission's lot coverage standard. Therefore, for the purposes of rezoning, the proposed subdistrict is consistent with the standard for district boundaries in effect at the time and is of a size that would accommodate the proposed Facility.
2. Consistency with the Comprehensive Land Use Plan. 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.
- A. Chapter 1, Section 1.2,I,A of the Commission's 2010 *Comprehensive Land Use Plan* (the CLUP) states it is the Commission's goal to guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources. Further, it is the Commission's policy in communities or areas without prospective development zones to encourage orderly growth within and proximate to existing, compatibly developed areas (the so-called adjacency principle) – i.e., existing development of similar type, use, occupancy, scale and intensity to that being proposed. As stated under this particular policy, "the Commission has generally interpreted it to mean that most rezoning for development should be no more than a mile by road from existing compatible development. In addition, the following CLUP goals and policies are particularly relevant.
- 1) Policy I,A,2,a states: "Identify areas which are the most appropriate for growth when considering: (1) proximity and connectivity by public road to economic centers, organized towns and well established patterns of settlement; (2) compatibility of natural resources with development; (3) demonstrated demand for and public benefit from development; and (4) availability of public infrastructure, facilities and services.
  - 2) Goal I,B,4 states: "Encourage economic development that is connected to local economies, utilizes 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."
  - 3) Policy II,E,1 states: "Support indigenous, renewable energy resources as part of state and national efforts to promote energy independence, diversity and long-term sustainability."
  - 4) Policy II,L,3 states: "Ensure that development avoids alteration of wetland areas. If avoidance is not feasible, ensure that development minimizes alteration. If loss of wetland

functions is unavoidable, require actions to restore, reduce or gradually eliminate lost or degraded wetland functions. If necessary, require compensation for lost or degraded wetland functions through protection of wetlands of equal or greater value.”

- B. The adjacency principle, which states that rezoned areas should generally be within one road mile of existing similar, compatible development, is an important consideration. While there is a well-developed understanding of how to apply this principle in most instances, proposals of an industrial nature are often highly variable from one project to another, and the Commission’s assessment of what constitutes similar compatible development must take into account a number of factors. In this case, the proposed manufacturing facility is within one road mile of other commercial and industrial activities that, taken individually, have a lesser scale and intensity. Examples include blueberry packing, glass manufacturing and sales, and truck and heavy equipment repair. However, those nearby commercial and industrial activities are set in an area with substantial permitting history for commercial activity, a major truck transportation artery, access to public utilities, a local workforce, and proximity to other industrial facilities and commercial centers. These factors are relevant in considering the Commission’s development policy I,A,2, which is stated above. (*See* also CLUP goal I,B,4.)

In addition, because of the development history of the area, the vicinity has the appearance of a commercial and industrial area. Although not directly relevant for an adjacency analysis, it is also important to note that there is an existing D-CI zone on abutting property could be further developed, subject to permitting requirements.

In this context, the commercial and industrial uses within one road mile (this distance includes the length of the proposed access road to the edge of the rezoned area) form the basis for adjacency because, despite not individually being a direct match for the type and intensity of a pellet mill, they are indicators of a commercial and industrial area, and in the aggregate constitute existing development of similar type, use, occupancy, scale and intensity to that being proposed. It is necessary to apply this type of analysis because the variability and small number of industrial facilities in the jurisdiction limits the ability to make direct comparisons.

- C. Separate from an adjacency analysis, the proposal is consistent with policy I,A,2,a and goal I,B,4 in that, well-sited economic development activities are encouraged by the Commission.
- D. The establishment of a mill to produce energy-related products from indigenous, renewable resources is consistent with the Commission’s energy policies, particularly Policy II,E,1.
- E. Because it appears that any natural resource impacts, particularly wetland impacts, can be effectively dealt with at the permitting stage, in part by relying on state wetland impact laws and regulations, the proposed rezoning is consistent with those related goals and policies such as Policy II,L,3.
3. Consistency with Chapter 206-A. 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.

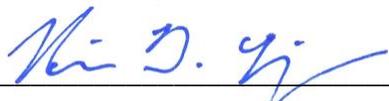
- A. Section 685-A(1) establishes the Commission zoning authority: “The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that shall fall into land use districts and designate each area in one of the following major district classifications: protection, management and development.” Section 685-C(1) required the Commission to develop the CLUP and establishes: “The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.” 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 the Facility, the adjacency principle, 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.
4. Impacts on Existing Uses and Resources. 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. An overview of the Facility’s estimated traffic impacts, proposed noise production and corresponding sound mitigation efforts, distance from other uses and resources such as residential dwellings and wildlife habitat, size and design, and proposed wetland disturbance and corresponding avoidance, minimization and erosion control measures, suggests that any impacts that the Facility may produce, particularly noise, stream or wetland impacts, would effectively be mitigated during the “Site Law” permitting process. Additionally, the Commission recognizes that if the property is rezoned as proposed a different commercial or industrial use could be located at the site in the future. The proposed facility is representative of a more intensive industrial use and a proposed use the Commission finds is compatible with the existing uses and resources. Therefore, the Commission concludes that the proposed rezoning would have no undue adverse impact on uses or resources.
5. Final Conclusions. In summary, and for reasons explained above, the Commission concludes that the propose rezoning of 22.6 acres of the Facility’s property:
- 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; and

D. Will not have an undue adverse impact on existing uses or resources.

**Therefore, the Commission approves the petition of Fulghum Graanul Woodland, LLC to rezone 22.6 acres from (M-GN) General Management Subdistrict to (D-CI) Commercial Industrial Development Subdistrict.**

In accordance with 5 M.R.S. § 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 9<sup>TH</sup> DAY OF JULY, 2014.

By:   
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Nicholas D. Livesay, Executive Director

This change in Subdistrict designation is effective on July 24, 2014.