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

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

COMMISSION DECISION
IN THE MATTER OF

Katahdin Forest Products, Co.

Finding of Fact and Decision

ZONING PETITION ZP 755; EC 15-13

The Maine Land Use Planning Commission (the LUPC or Commission), at a meeting of the Commission held August 12, 2015 at Brewer, Maine, after reviewing the petition and supporting documents submitted by Katahdin Forest Products, Co. (the Petitioner or KFP) for Zoning Petition ZP 755, review agency and staff comments, and other related materials on file, pursuant to 12 M.R.S. Sections 681 et seq. and the Commission's rules, finds the following facts:

1. Petitioner: Katahdin Forest Products, Co.
   Attn: Mr. David Gordon
   PO Box 145
   Oakfield, ME 04763

2. Date of Completed Petition: July 13, 2015

3. Property Location: Garfield Plantation, Aroostook County, Maine
   Tax Map 4, Lot 4A for Garfield Plantation
   Aroostook County Northern Registry of Deeds: Book 4671; Pages 202

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: 20 Acres

7. Acres to be Rezoned: 20 Acres

Project Summary:

8. The Petitioner proposes to rezone their entire 20 acres lot in Garfield Plantation from General Management (M-GN) Subdistrict to Commercial Industrial Development (D-CI) Subdistrict to facilitate the expansion of their log storage area for Katahdin Cedar Homes, a mill located on the

adjacent lot in the Town of Ashland. The petitioner is currently using approximately 11.4 acres of the lot for log storage.

Administrative History:

9. The petitioner's lot was originally part of a working farm. In approximately 2001, a previous owner began to pile logs on the lot for processing at their mill on the abutting property in the Town of Ashland without prior approval from the Commission [Reference: Enforcement Case EC 03-129; Resolved].

10. In March of 2004, Development Permit DP 4684 was issued to SWP Maine, Inc. granting after-the-fact approval for a pile down area associated with a sawmill. Condition #5 of DP 4684 limited the pile down area to one acre unless prior permit approval was received from the Commission. The pile down area was to be setback approximately 400 feet from the normal high water mark of the Machias River, 75 feet from American Realty Road and at least 25 feet from property lines, except for the petitioner owned property in Ashland.

11. In March of 2015, the Petitioner self-reported that they were piling logs on approximately 11.4 acres of their 20 acre lot in noncompliance with the terms and conditions of Development Permit DP 4684 [Reference: Enforcement Case EC 15-13; Active].

Project Information:

12. 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.

13. Site Location and Access.

    A. The Facility is at the end of the Garfield Road (Public Road) and beginning of the Realty Road (Privately owned) on the Town of Ashland/Garfield Plantation town line, Aroostook County, Maine. All of the buildings for the mill are in the Town of Ashland. Logs are unloaded and stored in the pile down area on the subject lot in Garfield Plantation.

    B. *Vehicle Access.* The pile down area has direct access off of the Realty Road for trucks to load and unload logs. Parking is available on-site for employees and visitors at the mill in Ashland.

    C. *Utility Access.* The pile down area is not served by any utility lines or sewage disposal systems.

14. Soil Suitability and Mapping.

    A. Soil map unit data obtained from the U.S. Department of Agriculture's Soil Conservation Service's (SCS) Soils Survey for Aroostook, County, Maine identified three soil types at the site (MaB) Machias gravelly loam, 2 to 8 percent slopes, (SgB) Stetson gravelly loam, 2 to 8 percent slopes, and (HoB) Howland gravelly loam, 2 to 8 percent slopes.

B. A Soils Survey was conducted to identify and map soils within the existing roadways, pile down areas, and other areas that may be disturbed for future use. The survey generally agrees with the original soils mapping by SCS, but many of the soil surfaces within or close to the developed areas have been altered to varying degrees. Soils are "moderately well drained" and developed in mixed deposits of sandy and gravelly material to silty clay materials. These soils include Machias gravelly loams, Howland gravelly silt loam, and Eldridge gravelly loamy sands to silt loams. The soils report stated that the existing soils were found to be supporting their current use, but within the traveled ways and log storage areas there was considerable rutting and ponded water. A sound stormwater management plan would address these issues, according to the report. The petitioner has indicated that they plan to implement a stormwater management plan as part of their required licensing with the Maine Department of Environmental Protection.

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 soil types should be generally suitable for a woodyard if the yard is operated and maintained correctly.

15. Waterbodies and Wetlands. There were no wetlands or streams identified on the parcel to be rezoned. The parcel is located more than 250 feet from the normal high water mark of the Machias River.

16. Land Division History. 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.

17. Existing Development in the Area. Currently, within one mile by road of the rezoned area, there is a log yard, pellet mill, biomass plant (electric generation), hardwood flooring manufacturing, metal recycling business, convenience store, trucking and excavation company, and land management office, as well as a number of residences on the Garfield Road in Ashland.

18. Anticipated Impacts on Existing Uses and Resources.

A. *Traffic*. The mill receives an average of 5 log trucks per day, after adjusting for the seasonal closure of the mill from December to February. These numbers may increase slightly should the mill be winterized and remain open year-round.

B. *Noise*. The mill currently operates from 7:00 am to 3:30 pm. Noise at the log pile down area is limited to truck and equipment engine noise and the backup alarm from the forklift. The yard is approximately 800 feet from the nearest residential dwelling. Residences in this area are already located closer to the Garfield Road and other industrial facilities in the Town of Ashland.

C. *Economic*. The Petitioner currently has 11 employees at the mill 9 months out of the year. In addition, the activities at the mill directly support other local industries including logging and transportation of logs to and from the mill.

D. *Fisheries and Wildlife*. The Maine Department of Inland Fish and Wildlife reviewed the proposal and stated that there are no records of Essential and Significant Wildlife Habitat or Fisheries

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 mapped inland wading bird and waterfowl habitat associated with the Machias River.

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 existing pile down area is not visible from the Machias River and is similar to other activities in the area, including another log yard across the road.

G. *Impacts to Public and Community Services.* Garfield Plantation has a contract for Police, Ambulance, and Fire Protection services with the Town of Ashland and a contract for Solid waste disposal with the Aroostook Valley Solid Waste Disposal District (AVSWDD). The Petitioner has submitted a letter from the Town of Ashland stating that any expansion by the petitioner into Garfield would be covered by their services; and a letter from AVSWDD stating that their service would not be affected in any way.

19. Consistency with the Comprehensive Land Use Plan.

A. The Petitioner notes that with regard to adjacency, the proposed site is adjacent to an existing Industrial Park in the Town of Ashland, which includes their own cedar log mill, a pellet mill, biomass plant (electric generation), and hardwood flooring manufacturing facility. Ashland was designated as a Service Center by the State Planning Office in 2012. Service Centers describe larger towns that provide a certain level of services to surrounding communities including employment, housing, and shopping (measured through retail sales). Service Centers must have 500 or more jobs that are held by workers from 20 or more other municipalities, as determined by the Maine Department of Labor or by the United States Bureau of the Census.

B. The Petitioner also states that the proposal meets the LUPC Goals and Policies by being located in close proximity to their mill. The proximity of the proposed area to the Ashland village center would minimize commute distances for employees who live in Ashland.

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:

20. 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.

21. The facts are otherwise as represented in Zoning Petition ZP 755 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. Log storage associated with a lumber mill affecting an area more than 5 acres in size 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. Although there are several residences in the area, the log storage would be adjacent to the existing mill in the Ashland Industrial Park and no closer to residences than the mill itself. 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 use.

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 that have not been prospectively zoned 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 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."

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. In this case, the mill and log storage area is within one road mile of other commercial and industrial activities that have a similar scale and intensity. Examples include hardwood flooring manufacturing, a pellet mill and a biomass facility. These nearby commercial and industrial activities are set in an area designated by the Town of Ashland as an Industrial Park, are located on a major truck transportation artery, and have access to public utilities and a local workforce. These factors are relevant in considering the Commission's development policy I,A,2, which is stated above. (*See* also CLUP goal I,B,.)

C. Separate from an adjacency analysis, the proposal is consistent with policy I,A,2,a and goal I,B in that, well-sited economic development activities are encouraged by the Commission.

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, estimated noise production, distance from other uses and resources such as residential dwellings and wildlife habitat, size and design, and proposed stormwater management, suggests that any impacts that the Facility may produce, particularly noise would be within the Commission's standards. Implementation of a sound stormwater management plan would facilitate engineered solutions to any anticipated effects of stormwater runoff that are commonly associated with a log pile-down area. 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 proposed rezoning of the entire 20-acre parcel:

   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.

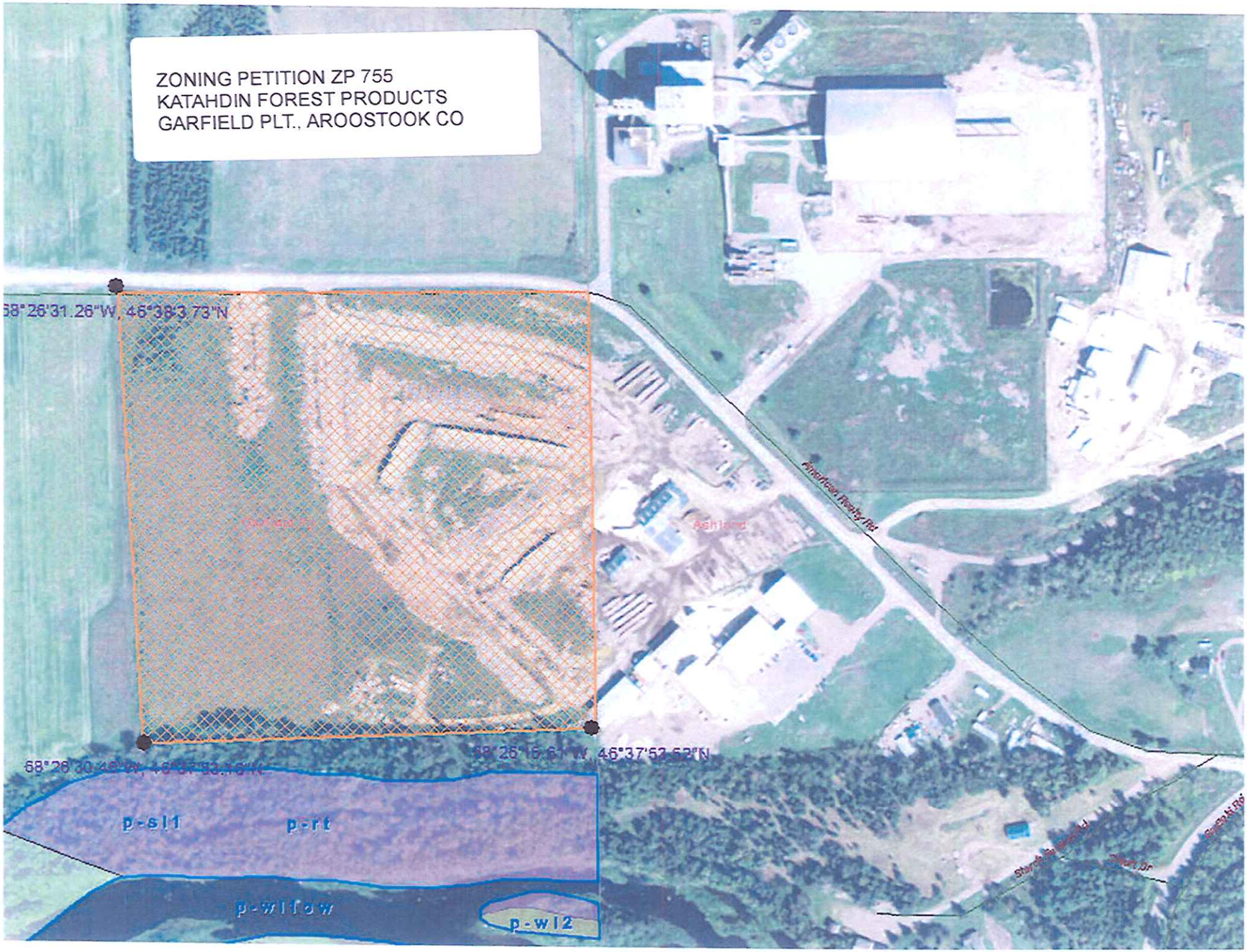
Therefore, the Commission approves the petition of Katahdin Forest Products Co. to rezone 20 acres from (M-GN) General Management Subdistrict to (D-CI) Commercial Industrial Development Subdistrict.

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 12TH DAY OF AUGUST, 2015.

By: _____
Nicholas D. Livesay, Executive Director

This change in Subdistrict designation is effective on August 27, 2015.


ZONING PETITION ZP 755
KATAHDIN FOREST PRODUCTS
GARFIELD PLT., AROOSTOOK CO
68°26'31.26"W, 46°38'3.73"N
68°26'15.61"W, 46°37'52.52"N
p-sl1
p-rt
p-wl1ow
p-wl2