



JANET T. MILLS  
GOVERNOR

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

AMANDA E. BEAL  
COMMISSIONER  
SAMANTHA HORN  
ACTING EXECUTIVE DIRECTOR

July 18, 2019

**SENT VIA E-MAIL ONLY**

James Hebert  
Black Diamond Consultants, Inc.  
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Gardiner, ME 04345  
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**RE: Rising Tide Towers, LLC  
Pending Permit Application DP 5050 – Additional Information Request**

Dear Mr. Hebert:

At the hearing on July 10, 2019, the Commission received testimony from the Parties and members of the public regarding the relevant permitting criteria in the matter of Rising Tide Towers, LLC's pending application for Development Permit DP 5050. In the Second Procedural Order, the Presiding Officer ruled that the record would remain open until August 15, 2019, for the purpose of allowing the submission of additional information.

As outlined during the staff presentation at the hearing, the stated purpose of the D-RS2 subdistrict is to designate residential areas that can accommodate an appropriate range of low-impact commercial and public uses that are compatible with residential uses. This subdistrict seeks to promote residential living and thriving neighborhoods with a limited range of services. Ch. 10 § 10.21(N). Utility facilities compatible with residential uses may be allowed within D-RS2 subdistricts upon issuance of a permit from the Commission. Ch. 10 § 10.21(N)(3)(c)(23).

This is an additional information request from staff to assist the Commission in its review of the pending application.

1. Project Scale and Siting

Please provide additional information demonstrating that the proposed tower would be compatible with the existing neighborhood, focusing on scale of the tower relative to the surrounding uses and overall impact to the neighborhood. Please include a description of the



other types of commercial uses within this D-RS2 subdistrict and how the land use, noise, and character of these other commercial uses compares to the proposed telecommunications tower.

## 2. Scenic Impact

Please provide the following information to supplement the Visual Impact Assessment (VIA) included as a component of the pending permit application.

- a. Appalachian Trail. Provide viewshed analysis from points within 6 miles of the proposed tower location.
- b. Please provide details about locations that were evaluated for this project as part of the requirement: 1) to locate and design structures to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways or shorelines; and 2) to be placed in a location least likely to block or interrupt scenic views as seen from traveled ways, water bodies, or public property. This analysis should include an explanation of what options, if any, were explored to change the target radius of the tower with the requesting carrier.

## 3. Noise

Testimony received at the hearing suggests that the proposed project may generate noise. Please provide anticipated sound pressure levels of the proposed project at the lease boundary lines. The basis for the anticipated noise levels should be discussed. See Chapter 10 § 10.25(F), copy attached.

If you have any questions regarding this additional information request please contact me.

Regards,



Bill Hinkel  
Regional Supervisor  
Land Use Planning Commission

Enc.

cc: DP 5050 Service List

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**F. NOISE AND LIGHTING**


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**1. Noise.**

- a.** The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period and type of land use subdistrict listed below. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

<b>Subdistrict (Category)</b>	<b>7:00 AM to 7:00 PM</b>	<b>7:00 PM to 7:00 AM</b>
D-CI, D-MT, D-RB ( <i>Category 3</i> ), and <b>D-ES</b>	70 dB(A)	65 dB(A)
D-GN, D-GN2, D-RB ( <i>Categories 1 &amp; 2</i> ), D-RF, and D-RD	65 dB(A)	55 dB(A)
D-PD, D-PR	As determined by the Commission.	
All Other Subdistricts	55 dB(A)	45 dB(A)

Table 10.25,F-1. Sound pressure level limits.

- b.** The following activities are exempt from the requirements of Section 10.25,F,1,a:
- (1) Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M.;
  - (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and
  - (3) Sounds emanating from traffic on roadways or other transportation facilities:
- c.** Control of noise for a wind energy development as defined in 35-A M.R.S.A. §3451(11), with a generating capacity greater than 100 kilowatts is not governed by Section 10.25,F, and instead is governed solely by the provisions of 12 M.R.S.A. §685-B(4-B)(A).

**2. Lighting standards for exterior light levels, glare reduction, and energy conservation.**

- a.** All residential, commercial and industrial building exterior lighting fixtures will be full cut-off, except for incandescent lights of less than 160 watts, or any other light less than 60 watts. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part. Figure 10.25,F-1 illustrates a cut-off fixture as defined by the Illuminating Engineering Society of North America (IESNA).

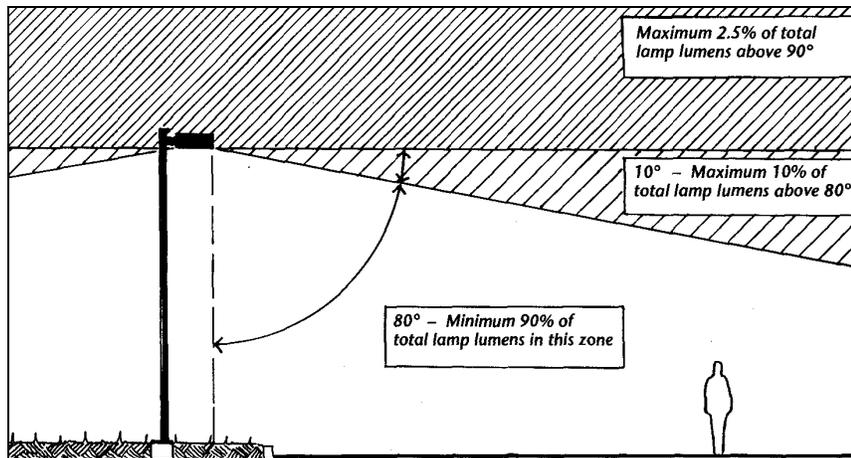


Figure 10.25,F-1. Cut-off fixture as defined by IESNA.

Light fixtures mounted on gasoline station or convenience store canopies shall be recessed so that fixtures are flush with the canopy. Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

- b. All exterior lighting shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light beyond lot lines onto neighboring properties, onto any water bodies with a significant or outstanding scenic resource rating, or onto any roadway so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- c. For commercial, industrial and other non-residential development, all non-essential lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term “non-essential” applies, without limitation, to display, aesthetic and parking lighting.
- d. In addition to the lighting standards in Section 10.25,F,2, lighted signs shall also comply with the standards in Section 10.27,J.
- e. The following activities are exempt from the lighting standards of Section 10.25,F,2,a through d:
  - (1) Roadway and airport lighting, and lighting required by the Federal Aviation Administration for air traffic safety;
  - (2) Temporary fair, event, or civic uses;
  - (3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
  - (4) Lighting that is activated by motion-sensors; and
  - (5) Lighting that was in place on April 1, 2004.