



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
P.O. Box 1107  
GREENVILLE, MAINE 04441

AMANDA E. BEAL  
COMMISSIONER  
STACIE R. BEYER  
ACTING EXECUTIVE DIRECTOR

# Memorandum

**To:** LUPC Commissioners  
**CC:** Stacie R. Beyer, Acting Executive Director  
**From:** Debra Kaczowski, Regional Supervisor, Greenville Regional Office  
**Date:** September 7, 2022  
**Re:** Amendment F to Development Permit DP 3639 for Big Lake Development Company, LLC, Big Moose Mountain Ski Resort, Big Moose Twp., Piscataquis County

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## INTRODUCTION

Staff has prepared a draft Development Permit DP 3639-F decision document for your review in the matter of Big Lake Development Company, LLC's proposed redevelopment of the pre-Commission ski resort located at the former Big Squaw Mountain Ski Resort. The subject parcel is approximately 1,204 acres in size and described as Maine Revenue Service Map PI009, Plan 01, Lot 2.2. The parcel is located within a General Development Subdistrict (D-GN) and Mountain Area Protection Subdistrict (P-MA). A location and zoning map is included as Attachment A.

## PROPOSAL SUMMARY

Redevelopment includes a new hotel, base lodge, tap house, event center pavilion, swimming pool, maintenance garage, new ski and surface lifts, and new ziplines. The Applicant also proposes infrastructure improvements, including electric utility lines, replacement snowmaking lines, a mid-mountain pump station, vehicle access and parking, four (4) signs, a potable water system, and sanitary district sewer lines. A revised "Overall Site Plan" Sheet No. C-1.01, dated October 27, 2021 and prepared by James W. Sewall Company (Sewall) is included as Attachment B.

## KEY REVIEW CRITERIA

The Commission's general criteria for approval of permit applications are provided in 12 M.R.S. § 685-B(4) and further codified in Section 10.24 of the Commission's *Land Use Districts and Standards*, 01-672 C.M.R. ch. 10 (Chapter 10) (revised March 29, 2022). The Commission's land use standards are codified in Chapter 10, subchapter III in §§ 10.25 - 10.27. The Applicant must satisfy all applicable land use standards. Additionally, the proposal must otherwise be in conformance with 12 M.R.S. §§ 681 - 689 and the regulations, standards and plans adopted pursuant thereto. Chapter 10, § 10.24(E).



The draft decision document presents the criteria for approval and land use standards, analysis, and findings that are most relevant to the ski resort redevelopment project. Those most relevant criteria include: existing uses and scenic character; title, right or interest, and subdivision and lot creation; public health, safety and general welfare; technical and financial capacity; vehicular circulation, access and parking; natural and historic resources; noise and lighting; soil suitability and erosion and sedimentation control; dimensional requirements; signs; nonconforming uses and structures; and allowed use determination.

**STAFF RECOMMENDATION**

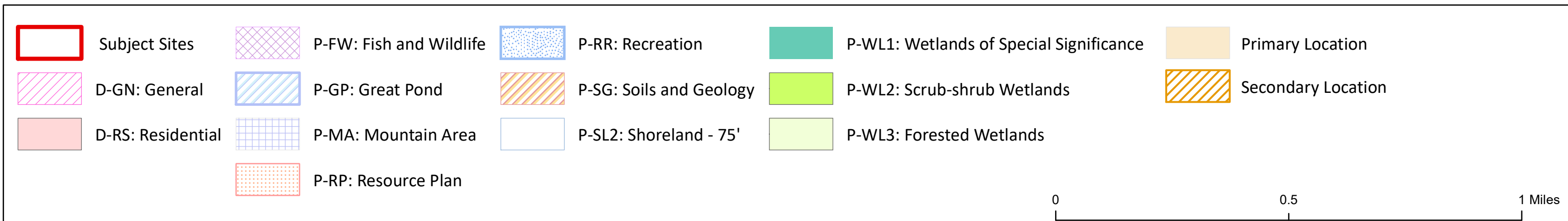
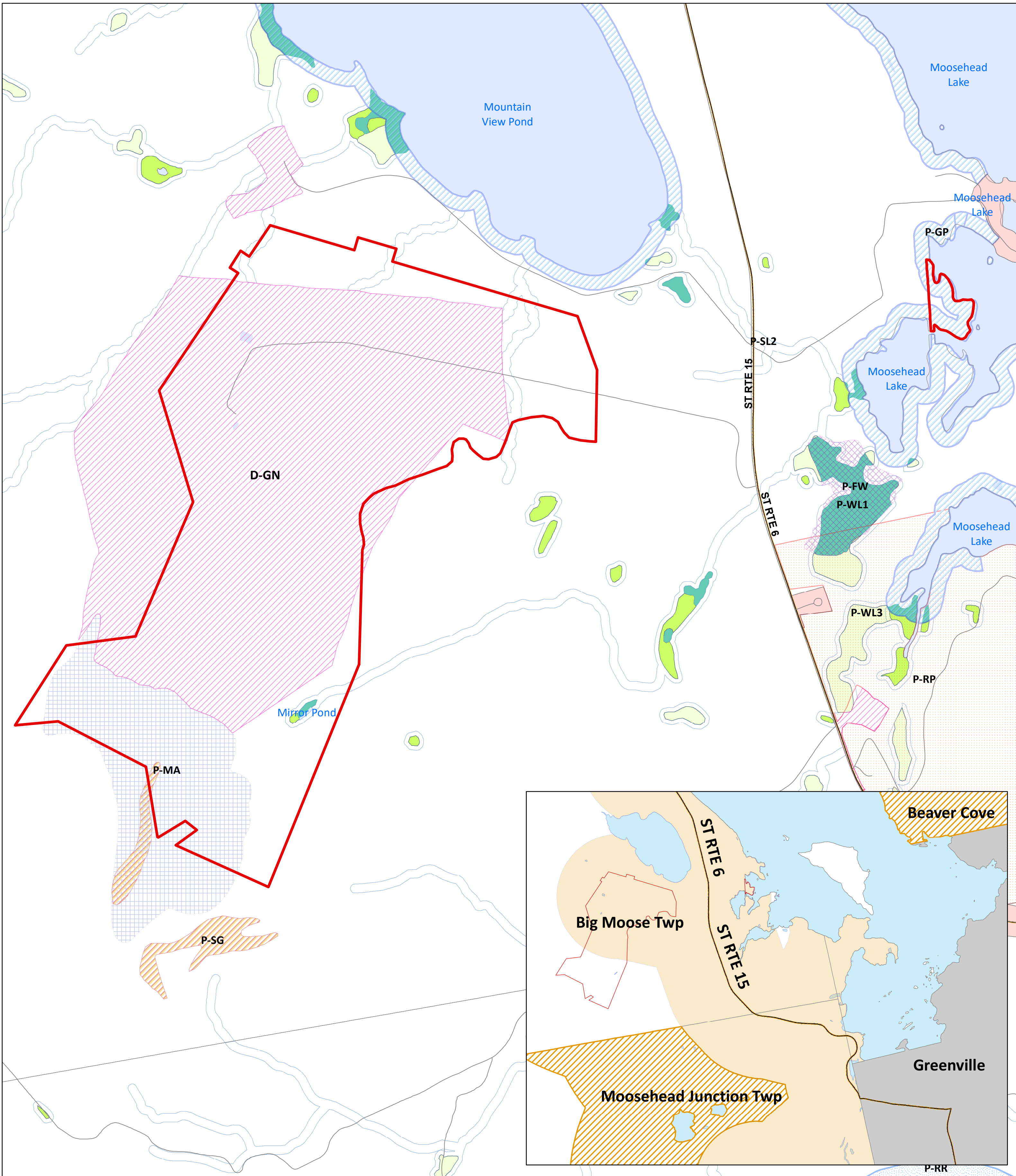
Staff recommends that the Commission approve the amendment request of Big Lake Development Company, LLC as outlined in the draft decision document.

Enclosures: Attachment A: Location Map/Zoning Map  
Attachment B: Overall Site Plan  
Attachment C: DP 3639-F Draft Decision  
Attachment D: Hearing Record Index

## **Attachment A**

### **Location Map/Zoning Map**

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## **Attachment B**

### **Overall Site Plan**

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## **Attachment C**

### **DP 3639-F Draft Decision**

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JUDY C. EAST  
EXECUTIVE DIRECTOR

## PERMIT

### AMENDMENT F TO DEVELOPMENT PERMIT DP 3639

The Maine Land Use Planning Commission (LUPC or Commission), at a meeting held on September 14, 2022, after reviewing the application and supporting documents submitted by Big Lake Development, LLC (Applicant or Permittee) for Amendment F to Development Permit DP 3639 (DP 3639-F), written comments, public hearing testimony and evidence, agency review comments, and other related materials on file, and after completing a site visit, makes the following findings of fact and conclusions:

1. *Applicant:* Big Lake Development, LLC  
Attn: Perry Williams  
PO Box 390  
Spruce Head, Maine 04859
2. *Agent:* James W. Sewall Company  
Attn: Matt Dieterich  
PO Box 433  
Old Town, Maine 04468
3. *Date of Completed Application:* March 23, 2021
4. *Location of Proposal:* Big Moose Twp., Piscataquis County, Maine  
Maine Revenue Service Map PI009, Plan 01, Lots 2.2
5. *Zoning:* General Development Subdistrict (D-GN)  
Mountain Area Protection Subdistrict (P-MA)
6. *Lot Size:* Approximately 1,204 acres
7. *Affected Waterbody:* Mountain View Pond (aka Fitzgerald Pond)  
  
The Commission has identified the Mountain View Pond as a resource class 2, management class 7, relatively accessible, relatively undeveloped lake with significant fisheries resources.
8. *Existing Development:* Ski Resort
9. *Principal Structures:* Existing 4-story Hotel (165 ft. by 55 ft. by 65 ft.), *to be removed*  
*Proposed* 63 Bedroom Hotel (166 ft. by 55 ft. by 65 ft.)



*Proposed Plaza & “Beachfront” Area (24,040 sq. ft.)*  
*Existing Upper Base Lodge (74 ft. by 36 ft. by 25 ft.), to be removed*  
*Proposed Upper Base Lodge (210 ft. by 62 ft. by 42 ft.)*  
*Existing Lower Base Lodge (56 ft. by 24 ft. by 20 ft.), to remain*  
*Proposed Tap House (70 ft. by 60 ft. by 45 ft.)*  
*Proposed Event Center Pavillion (50 ft. by 50 ft. by 16 ft.)*

10. *Ski Lifts & Ziplines:*

*Upper Ski Lift Base*

*Existing Top Terminal (10 ft. by 10 ft. by 8 ft.), to be removed*  
*Existing Bottom Terminal (12 ft. by 12 ft. by 20 ft.), to be removed*  
*Proposed Top Terminal (20 ft. by 48 ft. by 16 ft.)*  
*Proposed Bottom Terminal (22 ft. by 66 ft. by 16 ft.)*

*Existing Top Operator Shack (8 ft. by 6 ft. by 8 ft.), to be removed*  
*Proposed Top Operator Shack (12 ft. by 10 ft. by 12 ft.)*  
*Existing Bottom Operator Shack (8 ft. by 6 ft. by 8 ft.), to be removed*  
*Proposed Bottom Operator Shack (8 ft. by 6 ft. by 8 ft.)*

*Existing Upper Lift Base Tin-Roofed Shed (40 ft. by 25 ft. by 15 ft.)*

*Lower Ski Lift Base*

*Existing Top Terminal (12 ft. by 12 ft. by 20 ft.)*  
*Existing Bottom Terminal (12 ft. by 12 ft. by 20 ft.)*

*Existing Lower Base Maintenance Shed (16 ft. by 10 ft. by 8 ft.)*  
*Existing Lower Base Operator Shack (14 ft. by 12 ft. by 12 ft.)*  
*Existing Lower Base Locker Shed (16 ft. by 13 ft. by 8 ft.)*  
*Existing Lower Base Yurt (20 ft. by 12 ft.)*

*Surface Lift*

*Existing Magic Carpet Lift Operator Shack (8 ft. by 8 ft. by 8 ft.)*

*T-Bar Ski Lift*

*Proposed Top Bullwheel & Foundation (14 ft. by 10 ft. by 20 ft.)*  
*Proposed Bottom Bullwheel & Foundation (16 ft. by 7 ft. by 20 ft.)*  
*Proposed Top Operator Shack (14 ft. by 12 ft. by 12 ft.)*  
*Proposed Base Operator Shack (14 ft. by 12 ft. by 12 ft.)*

*Ziplines*

*Proposed Upper Station Foundation (21 ft. by 21 ft. by 20 ft.)*  
*Proposed Upper Station Platform (20 ft. by 20 ft. by 8 ft.)*  
*Proposed Mid Station Foundation #1 (21 ft. by 21 ft. by 20 ft.)*  
*Proposed Mid Station Platform #1 (20 ft. by 20 ft. by 8 ft.)*  
*Proposed Mid Station Foundation #2 (21 ft. by 21 ft. by 20 ft.)*  
*Proposed Mid Station Platform #2 (20 ft. by 20 ft. by 8 ft.)*  
*Proposed Lower Station Foundation (21 ft. by 21 ft. by 20 ft.)*

*Proposed Lower Station Platform (20 ft. by 20 ft. by 8 ft.)*  
*Proposed Upper Practice Platform (10 ft. by 20 ft.)*  
*Proposed Lower Practice Platform (10 ft. by 20 ft.)*

11. *Accessory Structures:*

*Maintenance Garages*

*Existing Base Maintenance Garage (55 ft. by 40 ft. by 14 ft.), to remain*  
*Proposed Lower Base Maintenance Garage (50 ft. by 40 ft. by 14 ft.)*

*Snowmaking Structures*

*Existing Pumphouse (13 ft. by 8 ft. by 8 ft.), to remain*  
*Proposed Mid-Mountain Pump Station (30 ft. by 70 ft. by 14 ft.)*

*Existing Snowmaking Lines (44,750 linear feet), portions to be  
abandoned & portions to be replaced in-situ*  
*Proposed Burial of Snowmaking Lines (20,300 linear feet)*  
*Proposed Replacement of Above-ground Lines (24,450 linear feet)*

*Constructed Pond & Pool*

*Existing Constructed Pond (250 ft. by 150 ft.)*  
*Proposed Swimming Pool (30 ft. by 50 ft.)*

*Outdoor Parks*

*Outdoor activity parks of various sizes were removed from the proposal.*

*Tennis/Basketball Courts*

*Existing Tennis Court, to be removed*  
*Existing Basketball Court, to be removed*

*Wastewater Treatment Building*

*Existing Wastewater Treatment Building (20 ft. by 40 ft.), to be removed*

12. *Signs:*

*Existing Southern Entrance Sign (8 ft. wide by 18 ft. tall), to be removed*  
*Proposed Southern Entrance Sign, Illuminated (7 ft. wide by 20 ft. tall)*  
*Proposed Northern Entrance Sign, Illuminated (7 ft. wide by 20 ft. tall)*  
*Proposed Resort Access Road Sign, Illuminated (7 ft. wide by 20 ft. tall)*  
*Proposed Arrival Sign, Illuminated (12 ft. wide by 10 ft. tall)*  
*Proposed Directional Sign, Non-illuminated (5 ft. wide by 4 ft. tall)*

13. *Parking Areas:*

*Existing Lower Base Gravel Parking, to remain*  
*Existing Upper Base Gravel Parking, Lots 1, 2, and 3*  
*Proposed Rehabilitation Parking Lot 1 (670 ft. by 40 ft.)*  
*Proposed Rehabilitation Parking Lot 2 (770 ft. by 40 ft.)*  
*Proposed Rehabilitation Parking Lot 3 (870 ft. by 45 ft.)*  
*Proposed Hotel Parking (40 ft. by 18 ft.)*  
*Proposed Rehabilitation Upper Base Lodge Parking (125 ft. by 20 ft.)*  
*Proposed Rehabilitation Event Center Parking (65 ft. by 90 ft.), with*  
*Proposed Turnaround (30 ft. by 18 ft.)*



*Proposed Outdoor Center Parking (40 ft. by 95 ft.), with  
Proposed Turnaround (18 ft. by 18 ft.)*

14. *Access Roads:*

Ski Resort Access Road. An existing two-lane, paved, access road intersects Route 15 and connects with the lower base area. The Ski Resort Road is a public road and is maintained by Piscataquis County up to the Lower Base Lodge.

Upper Base Access Road. Proposed Upgrade. An existing two-lane gravel road from the Ski Resort Road (beyond the Lower Base Lodge) connects to the upper base area. The Applicant proposes to pave the Upper Base Access Road.

Parking Loop Road. Proposed Realignment & Upgrade. An existing two-lane gravel road connects the intersection of the Ski Resort Road and the Upper Base Access Road with the upper base area and western side of Parking Lots #1, #2 and #3. The Applicant proposes to slightly realign the road and upgrade it to a paved surface.

Proposed Loop Road Extension. A new 18 ft. wide by 2,480 linear ft. section of roadway, aka “Moosehead Loop Drive”, will be constructed to provide access to the new hotel, parking, and upper base lodge and as a secondary means of ingress/egress. The Applicant states the new section of road is needed due to the elevations associated with the base village. The Loop Road extension will also include a new 240 linear ft. hotel loop drive to access the proposed hotel and parking area.

15. *Sewage Disposal:*

Existing Engineered Subsurface Wastewater Disposal System  
*Proposed* Moosehead Sanitary District Sewer Line Connection

16. *Electric Utilities:*

Existing Overhead Electrical Power  
*Proposed* Power Upgrade and Partial Line Burial within Core Resort

17. *Potable Water System:*

*Proposed* Shallow Gravel Wells, with  
*Proposed* 6-inch Water Main and 32,000-gallon cistern  
*Proposed* Water Well Field Pumphouse (12 ft. by 10 ft. by 12 ft.)  
*Proposed* Potable Water Booster Pump Station (30 ft. by 30 ft. by 12 ft.)

## **Background Information and Administrative History**

18. The proposed project site is located in Big Moose Township at the former Big Squaw Mountain Ski Resort. The ski resort is a legally existing, pre-LURC development consisting of a main lodge with a hotel and restaurant with accompanying porch, ski lifts, downhill skiing trails, parking areas, accessory structures, snowmaking equipment, and tennis/basketball courts. All structures are set back at least 75 feet from State Route 6/15 and at least 25 feet from the nearest property boundary line. The hotel has 56 rooms, and the restaurant has a seating capacity of 70. The property sits on the north side of Big Moose Mountain. The site is accessed via a county-maintained road, the Ski Resort Road, that intersects with Route 15.

19. Development Permit DP 999, issued to the Moosehead Resort Corporation in October of 1973, authorized construction of the 2,000 foot long “Seboomook” trail. The trail has been constructed.
20. Development Permit DP 3302, issued to Squaw Mountain at Moosehead in December of 1977, authorized expansion of the Fitzgerald ski trail and installation of a “pony lift” ski lift system. The trail has been expanded and the “pony lift” has been installed.
21. Development Permit DP 3177, issued to Squaw Mountain at Moosehead in March of 1978, authorized an expansion of the sewage treatment facility. The sewage treatment facility has been expanded.
22. Development Permit DP 3426, issued to Squaw Mountain at Moosehead in January of 1980, authorized construction of a 16 foot by 20-foot addition to an existing 16 foot by 20-foot ski patrol office at the top of the main chair lift. The addition has been constructed.
23. Development Permit DP 3639, issued to Squaw Mountain at Moosehead in October of 1984, authorized construction of a 3,000-foot-long triple chair lift along the “Kennebec” ski trail. The outdated T-bar lift, which serviced the lower mountain novice and intermediate ski trails, was to be dismantled.
24. Amendment A to Development Permit DP 3639, issued to Squaw Mountain at Moosehead in September of 1985, authorized construction of the 3,000-foot-long triple chair lift in the same location as the T-bar lift, rather than along the “Kennebec” ski trail as authorized in Development Permit 3639. The lower terminal for the new chair lift was authorized to be 50 feet further down-slope from the existing T-bar terminal.
25. Amendment B to Development Permit DP 3639, issued to Squaw Mountain at Moosehead in October of 1986, authorized installation of a gravel surface over the existing lift line clearing to allow for ground vehicle transport of equipment and supplies to the construction site. Upon completion of the triple chair lift, the travel surface was to be seeded and stabilized with mulch. The triple chair lift authorized in Amendment A to DP 3639 has been installed, the T-bar lift has been dismantled, and the gravel has been seeded and stabilized.
26. Amendment C to Development Permit DP 3639, issued to The Mountain, Inc. in April of 1999, reflected a change in ownership of the property and authorized the following activities: a) replacement and expansion of the snowmaking water intake pipe in Fitzgerald Pond; b) installation of 24,000 linear feet of snowmaking pipes and electrical wire; c) installation of a slab foundation under the pump house near Fitzgerald Pond; d) reconstruction of the existing ski patrol hut; e) construction of a 40 foot by 55 foot snack bar; e) construction of a 65 foot by 100 foot maintenance garage; and f) construction of a 30 foot by 40 foot generator building with a ski patrol/first aid station. Amendment C to Development Permit DP 3639 also granted after-the-fact approval for a two-story addition onto the existing base lodge, resolving an ongoing enforcement action on the property. *See* Enforcement Case EC-98-111. None of the newly proposed development activities authorized under Amendment C to Development Permit DP 3639 were constructed and the permit therefore expired on October 1 , 2004.



27. Amendment A to Development Permit DP 3177, issued to The Mountain, Inc. in October of 2002, authorized installation of an engineered subsurface wastewater disposal system to serve the existing hotel and restaurant. Use of the existing spray-irrigation wastewater disposal system was to be discontinued upon completion of the proposed engineered system. The engineered subsurface wastewater disposal system was not installed.
28. Amendment D to Development Permit DP 3639, issued to The Mountain, Inc. by special exception in October 2003, authorized the relocation and reconstruction of the ski patrol hut. The hut was never relocated or reconstructed.
29. Amendment E to Development Permit DP 3639, issued to The Mountain, Inc. in May of 2008, authorized an expansion of the ski area by maintaining and widening existing downhill skiing trails and construction of 3 new downhill skiing trails that would connect to the existing Kennebec and Allagash downhill skiing trails. All downhill skiing trails are set back a minimum of 25 feet from all other property boundary lines.
30. For administrative ease, Development Permits DP 0999, DP 3307, DP 3177, and DP 3426, and their applications, have been consolidated into the Development Permit DP 3639 application file. All future applications for development and/or modifications to the existing and proposed development of this facility will be treated as amendments to Development Permit DP 3639.
31. On October 6, 2021, Great Ponds Permit GP 3627, issued to Big Lake Development Company, LLC, authorized the reconstruction of an existing pump house building and water intake pipe located on the shoreline of Mountain View Pond. The approved 36 foot by 15 foot by 16-foot pump house building will be reconstructed within the same footprint and location as the original pump house. The new pump house will be within the (P-GP) Great Ponds Protection Subdistrict and will be set back 45 feet from the normal high-water mark (NHWM) of Mountain View Pond, 1,000 feet from the nearest road, and 15 feet from the nearest property line. The proposed water intake pipe will be 24 inches in diameter and will extend approximately 250 feet from the NHWM of Mountain View Pond out into the waterbody, 45 feet landward, and to a depth of approximately 6-10 feet.

## **Proposal**

32. *Proposal Summary.* The Applicant proposes the redevelopment of the existing ski resort, currently operating under the name Big Squaw Mountain Resort (the Project). The proposed redevelopment includes a new hotel, base lodge, tap house, event center pavilion, swimming pool, installation of new ski and surface lifts, and ziplines. The Applicant also proposes infrastructure improvements, including electric utility lines, replacement snowmaking lines, installation of a mid-mountain pump station, vehicle access and parking, potable water system, and sanitary district sewer lines.

## **Principal Structures**

33. *Hotel & Conference Center.* The Applicant proposes to remove the existing hotel and construct a new 60 room Hotel (166 feet by 55 feet by 65 feet) with a conference center, restaurant, and walkout basement. The hotel will be located within the (D-GN) General Development Subdistrict and will be

set back approximately 120 feet from the Moosehead Loop Drive, 110 feet from an unnamed stream (P-SL2), 105 feet from the nearest wetland, and greater than 1,000 feet from the nearest property boundary line.

34. *Upper Base Lodge.* The Applicant proposes to remove the existing Upper Base Lodge and construct a new Upper Base Lodge (210 feet by 62 feet by 42 feet) with a walkout basement. The Upper Base Lodge will have a restaurant/bar and day lodge/cafeteria on the upper floor. The lower floor will contain skier services (day care, ski school, rentals, tickets, etc.). The Upper Base Lodge will also double as a conference/event center. The Upper Base Lodge will be located within the (D-GN) General Development Subdistrict and will be set back a minimum of 30 feet from the Moosehead Loop Drive, a minimum of 100 feet from an unnamed stream (P-SL2) and nearest wetland, and greater than 1,000 feet from the nearest property boundary line.
35. *Tap House.* The Applicant proposes to construct a Tap House (70 feet by 60 feet by 45 feet) to serve food and drinks, with an inside climbing wall, movie theater, teen center, and rooftop deck. The Tap House will be located within the (D-GN) General Development Subdistrict and will be set back a minimum of 30 feet from the Moosehead Loop Drive, 225 feet from an unnamed stream (P-SL2), and greater than 1,000 feet from the nearest property boundary line.
36. *Event Center Pavilion/Pool/Event Lawn.* The Applicant proposes to construct an Event Center Pavilion (50 feet by 50 feet by 16 feet), inground Swimming Pool (30 feet by 50 feet), and Event Lawn (65 feet by 50 feet). The Event Center, Swimming Pool, and Event Lawn will be located within the (D-GN) General Development Subdistrict and will be set back a minimum of 30 feet from the access drive, greater than 100 feet from an unnamed stream (P-SL2) and nearest wetland, and greater than 950 feet from the nearest property boundary line.
37. *Outdoor Center.* The Applicant requested to remove the proposed Outdoor Center from this application on December 13, 2021.

### Ski Lifts

38. The Applicant proposes to reconstruct the Upper Ski Lift and T-Bar Ski Lift, along with the Top and Bottom Operator Shacks for both lifts.

*Upper Ski Lift.* The Upper Ski Lift's top terminal (20 feet by 48 feet by 16 feet) and bottom terminal (22 feet by 66 feet by 16 feet) will be located greater than 150 feet from the road, greater than 100 feet from any stream or wetland, and greater than 800 feet from the nearest property boundary line. The Top Terminal will be located within the (P-MA) Mountain Protection Subdistrict. The Bottom Terminal will be located within the (D-GN) General Development Subdistrict.

*Upper Ski Lift Operator Shacks.* The Upper Lift Top and Bottom Operator Shacks (12 feet by 10 feet by 12 feet, each) will be located greater 150 feet from the nearest road, greater than 100 feet from any stream or wetland, and greater than 800 feet from the nearest property boundary line. The Top Operator Shack will be located within the (P-MA) Mountain Protection Subdistrict. The Bottom Operator Shack will be located within the (D-GN) General Development Subdistrict.



#### *T-Bar Ski Lift.*

T-Bar Bullwheels and Foundations. The T-Bar top bullwheel and foundation (16 feet by 7 feet by 20 feet) and bottom bullwheel and foundation (14 feet by 10 feet by 20 feet) will be located a minimum of 150 feet from the nearest road and greater than 800 feet from the nearest property line. The top foundation will be located greater than 1,000 feet from any stream or wetland. The bottom foundation will be located a minimum of 100 feet from an unnamed stream and nearest wetland. The top bullwheel and foundation will be located within the (P-MA) Mountain Protection Subdistrict. The bottom bullwheel and foundation will be located within the (D-GN) General Development Subdistrict.

T-Bar Top and Bottom Operator Shacks. The T-Bar Top Operator Shack (12 feet by 10 feet by 12 feet) and Bottom Operator Shack (14 feet by 12 feet by 12 feet) will be located within the (D-GN) General Development Subdistrict and will be located a minimum of 164 feet from the road and greater than 800 feet from the nearest property line. The Top Operator Shack will be set back greater than 100 feet any stream or wetland. The Bottom Operator Shack will be set back a minimum of 100 feet from any stream or wetland.

#### Ziplines

39. *Ziplines.* The Applicant proposes to construct a dual line Zip Rider system with departure and arrival platforms and training areas. Each zipline segment consists of a top and bottom base foundation (21 feet by 21 feet by 20 feet, each) and upper and lower platforms (20 feet by 20 feet by 8 feet, each). The proposed upper and mid zipline foundations will be set back greater than 1,800 feet from the nearest access road, greater than 150 feet from the nearest stream or wetland, and greater than 1,000 feet from the nearest property line. The lower zipline foundation will be set back 220 feet from the access road, 114 feet from an unnamed stream, 104 feet from an unmapped wetland, and 740 feet from the nearest property boundary line. The upper, mid, lower and practice zipline platforms will be set back greater than 200 feet from the access road, a minimum of 100 feet from any stream or wetland, and greater than 750 feet from the nearest property boundary line. The top upper zipline foundation and platform will be located within the (P-MA) Mountain Protection Subdistrict. The mid, lower, and practice zipline foundations and platforms will be located within the (D-GN) General Development Subdistrict.

#### Accessory Structures

40. *Maintenance Structures.* The Applicant proposes to construct a new Lower Base Maintenance Garage (55 feet by 80 feet by 34 feet) on a permanent foundation. The Maintenance Garage will be located within the (D-GN) General Development Subdistrict and setback a minimum of 40 feet from the access road, 100 feet from an unnamed stream and nearest wetland, and 915 feet from the nearest property boundary line.
41. *Snowmaking Structures.*
- A. *Mid-mountain Pump Station & Compressor Building.* The Applicant proposes to construct a new Mid-mountain Pump Station & Compressor Building (30 feet by 70 feet by 14 feet). The Mid-Mountain Pump Station & Compressor Building will be located near the top of the existing triple

chair lift within the (D-GN) General Development Subdistrict. The Pump Station will be approximately 2,973 feet from the nearest road, 2,210 feet from the nearest property boundary line, and greater than 100 feet from any stream or wetland.

B. **Replacement Snowmaking Lines.** The Applicant proposes to replace approximately 44,750 linear feet of existing snowmaking lines. The new lines will be replaced in the same location. The lines that currently run to the intake/pump station located at Mountain View Pond are buried beneath an existing access road. The lines on the mountain are a combination of above and below ground installations. Approximately 20,300 linear feet of snowmaking lines are proposed to be buried in a 20-inch wide by 4-foot-deep trench in the ground. The replacement lines will cross three (3) streams (P-SL2), of which the Applicant proposes to use directional drilling equipment to bore beneath the streams to avoid direct impacts to the streams. No wetland crossings are proposed for the replacement lines. The replacement snowmaking lines will be within the D-GN, M-GN, and P-GP subdistricts.

42. *Constructed Pond.* The Applicant requested to remove the proposed expansion of the existing lagoon from this application on May 25, 2021.<sup>1</sup>

43. *Outdoor Parks.* The Applicant requested to remove the proposed outdoor parks for viewing and/or activities from this application.

### Signs

44. *Signs.* The Applicant proposes to install:

A. Southern Entrance Sign, Illuminated (approximately 7 feet wide by 20 feet tall). The Applicant proposes to replace an existing 8 foot wide by 18-foot tall, non-illuminated sign at the intersection of the Ski Resort Access Road and Route 15 for those arriving from the south with an approximately 7 foot wide by 20 foot tall, illuminated sign. The Southern Entrance Sign will be located 3 feet from the property boundary, 16.5 feet from the edge of pavement of Route 6/15, outside of the road right-of-way, and within the (M-GN) General Management Subdistrict. The sign will primarily be constructed of wood with a granite or self-weathering steel base. The Applicant provided the following statement regarding the sign design:

“While the final size of the sign has not been determined, it will be in scale with the other larger signs that travelers along Route 6 are accustomed to seeing (e.g., the larger of the Wilsons signs at 80 square feet). The lettering will be large enough to be legible at 300+/- feet, following the guidelines noted above. The sign will be landscaped with native plantings to provide a naturalistic, low-maintenance setting. The sign will be lit with LED uplights (possibly solar powered to avoid extending powerlines to the entrance) in such a manner that beams or rays of light will not be directed at any portion of the state highway and will not cause glare or impair the vision of a driver.”<sup>2</sup>

B. Northern Entrance Sign, Illuminated (approx. 7 feet wide by 20 feet tall). The Applicant

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<sup>1</sup> Public Hearing Record Exhibit 5.r, Applicant’s Request to Remove Proposed Constructed Pond

<sup>2</sup> Public Hearing Record Exhibit 5.w, Applicant’s Response to 5/5/2021 LUPC Request3

proposes to install a new 7 foot wide by 20 foot tall, illuminated sign along the northern approach on Route 15 within an existing easement. The Northern Entrance Sign will be located one (1) foot from an easement boundary, 16.5 feet from the edge of the pavement of Route 6/15 and within the (M-GN) General Management Subdistrict.

Both the Southern and Northern Entrance Signs are proposed to be outside of the right-of-way of the Maine Department of Transportation (MDOT).

- C. Resort Access Road Sign, Illuminated (7 feet wide by 20 feet tall). The Applicant proposes to install a new resort sign along the access road. The sign will be located within the (D-GN) General Development Subdistrict and outside of the road right-of-way.
- D. Arrival Sign, Illuminated (12 feet wide by 10 feet tall). The Applicant proposes to install a new arrival sign within the round-about near the proposed Hotel and Base Lodge. The sign will be located within the (D-GN) General Development Subdistrict.
- E. Directional Sign, Non-illuminated (5 feet wide by 4 feet tall). The Applicant proposes to install a way finding sign on the north side of the access road prior to arrival at the previously proposed and withdrawn Outdoor Center. The sign will be located within the (D-GN) General Development Subdistrict and outside the road right-of-way.

45. *Vehicle Access and Parking*. The Upper Base Lodge, Hotel, Tap House, and Event Center/Pavilion are accessed from the Moosehead Loop Drive, which is a private road within the ski resort. Three existing parking areas (Parking Lots 1, 2, and 3) are located near the upper base area. These parking lots will be reconstructed and used as the primary parking for guests at the resort. Within these parking lots there are three (3) existing culverts which provide crossings of the same stream (P-SL2). Existing parking at the existing Hotel and Base Lodge will be repaved to provide service to the proposed Event Center Pavilion and new Base Lodge. Parking near the proposed Base Lodge will consist of 12 parking spaces, 5 of which will be handicapped accessible, and will be located a minimum of 30 feet from the Moosehead Loop Drive, and a minimum of 30 feet from an unnamed stream (P-SL2) and nearest wetland. Parking near the proposed Event Center Pavilion will consist of 19 parking spaces, 2 of which will be handicapped accessible, and will be located greater than 30 feet from the Moosehead Loop Drive, and approximately 45 feet from an unnamed stream (P-SL2) and nearest wetland. Two new handicapped accessible parking spaces will be added near the proposed hotel, located a minimum of 30 feet from the Moosehead Loop Drive, and a minimum of 100 feet from an unnamed stream and nearest wetland. All parking areas will be within the (D-GN) General Development Subdistrict and greater than 25 feet from side and rear property lines.

The existing two-lane gravel Upper Base Access Road is proposed to be upgraded to a paved surface. The existing two-lane gravel Parking Loop Road is proposed to be slightly realigned and upgraded to a paved surface. The proposed Loop Road Extension, aka "Moosehead Loop Drive", will consist of a new 18 foot wide by 2,400 linear foot section of roadway, including a new 240 linear foot hotel loop drive. The Loop Road Extension will include a new water crossing using an approximately 30 foot by 30 foot bridge with abutments located landward at least 1.2 times the width of the channel. The new Loop Road Extension will be located approximately 55 feet from a



second unnamed stream (P-SL2) at its nearest point. The proposed hotel loop drive will be located approximately 75 feet from an unnamed stream (P-SL2) and nearest wetland.

Two new bridges to span an unnamed stream (P-SL2) and wetlands are proposed between the new Base Lodge and Event Center/Pavilion. The first bridge (approx. 40 feet by 40 feet) will replace a failing culvert along the access drive to the Event Center/Pavilion. The second is a proposed ski bridge (approx. 40 feet by 45 feet) where an existing culvert and dam structure is proposed to be removed near the existing hotel. The bridge abutments will be located landward at least 1.2 times the width of the channel.

46. *Utilities.* Overhead electric power lines currently serve the ski resort and existing Snowmaking Pump Station. The Applicant proposes to upgrade the electrical lines to the ski resort to provide necessary power for the redevelopment, snowmaking, and lift operation requirements. The Applicant removed burial of the lines from the Project. The Applicant submitted a revised Base Utility plan Sheet C-6.01, revised October 27, 2021, showing the current proposal for electric power lines.

The Applicant further proposes to install a new sanitary sewer line and upgrade existing sewer line pumpstations to connect the Project to the Moosehead Sanitary District in Greenville for disposal of wastewater generated by the Project as shown on Sanitary Plan Sheets C-7.01 through C-7.09 and Lift Station Plan Sheet C-1, dated March 22, 2021.

47. *Stormwater Management.* The Project includes approximately 2.71 acres of impervious area. It lies within the watershed of Mountain View Pond. The Applicant submitted a stormwater management plan based on the basic, general, and flooding standards contained in the Maine Department of Environmental Protection (MDEP) Rules, Chapter 500. The proposed stormwater management system consists of underdrained soil filters (2), roadside buffers (3), level spreader buffers (4), and a buffer with no level spreader (1).

- (1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan (Exhibit 24 of the application). This plan and plan sheets containing erosion control details were reviewed by the MDEP, Bureau of Land Resources (BLR).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

- (2) Inspection and Maintenance: The Applicant submitted a maintenance plan that addresses both short and long-term maintenance requirements. This plan was reviewed by BLR. The Applicant will be responsible for the maintenance of all proposed stormwater management structures, including, but limited to, swales, culverts and level spreaders.
- (3) Phosphorus Control: The Applicant submitted a Phosphorus Control Plan (Exhibit 30 of the application). This plan and plan sheets containing phosphorus management plan details were reviewed by, and revised in response to, comments from BLR. Revised

phosphorus calculations, dated April 27, 2021, were submitted on April 28, 2021 for the roadside buffers, buffers adjacent to small impervious areas, buffers with level lip spreaders, and quality calculations for the linear portions of the project.

Phosphorus treatment will be achieved by using forested and meadow road buffers. Road surface runoff will be treated by sheet-flow roadside buffers or by buffers with stone bermed level spreaders. A catch basin system will be used in the upper base village area to collect runoff and outlet to one of the two underdrain soil filters.

The Applicant proposes to protect the stormwater buffers through recorded deed restrictions. Sample deed restrictions and conservation easements for the meadow and forested buffers were submitted as part of Exhibit 30 of the application.

After a final review, BLR commented that the proposed stormwater management design, Plan Sheets C-1.01-1.03, C-2.01-2.06, C-5.01, and D-1.01-D-1.03, revised and dated April 28, 2021, meets the Chapter 500 Basic and General Standards. The stormwater management plan requires the design engineer to oversee the installation of the stormwater best management practices. In addition, BLR requested the Applicant send them a project update at least once per year and as-built plans within 30 days after completion of construction.

48. *Notice of Filing:* Notice of Filing of the development application was properly made on March 24, 2021, to appropriate parties and the public as required under *Rules of Practice* 01-672 C.M.R. ch. 4 (Chapter 4), revised November 01, 2021.
49. *Public Comment and Public Hearing:* On January 6 and 7, 2022, one interested party and the Moosehead Region Futures Committee, respectively, submitted requests for a public hearing on the application for Amendment F to Development Permit DP 3636.

On February 9, 2022, at its regular business meeting, the Commission voted to hold a public hearing on the pending application for Amendment F to Development Permit DP 3636, once the Applicant had submitted all the outstanding information needed to complete the application review.

On May 5, 2022, a Notice of Public Hearing and Opportunity to Intervene was properly made to appropriate parties and the public as required under *Rules of Practice* 01-672 C.M.R. ch. 4 (Chapter 4), revised November 01, 2021.

On May 10, 2022, the Moosehead Region Futures Committee submitted a Petition to Intervene in the public hearing scheduled in the matter of Big Lake Development LLC's application for Amendment F to Development Permit 3639.

On May 31, 2022, the First Procedural Order was issued by Commissioner Everett Worcester, Chair and Presiding Officer, which granted limited intervenor status to the Moosehead Region Futures Committee (Limited Intervenor) and provided a general schedule for a Commission site visit and for the hearing in this matter, both to be held on June 7, 2022. The Presiding Officer established that the hearing record would remain open until June 17, 2022, at 5:00 P.M. to allow the filing of written

statements with the Commission, and until June 24, 2022, at 5:00 P.M. to file statements in rebuttal of those filed by the June 17th deadline.

On June 7, 2022, the Commission held a hearing in the matter of Big Lake Development Company, LLC's pending application for Amendment F to Development Permit DP 3639. Pursuant to the Commission's Remote Participation Policy, the hearing was held as a hybrid hearing, both in-person in Greenville, Maine, and remotely via the TEAMS video conferencing application. Approximately 79 people attended in-person at the hearing.

On June 15, 2022, a Second Procedural Order was issued pursuant to the Maine Administrative Procedure Act, 5 M.R.S. § 9062(3) and the Commission's Rules for the Conduct of Public Hearings, 01-672 C.M.R. ch. 5, 5.10(C) and 5.02(D)(2)(c) (Chapter 5), in which the Presiding Officer revised the close of the hearing record from June 24, 2022, at 5:00 P.M. to July 29, 2022, at 5:00 P.M. The Second Procedural Order revised the deadline for the Applicant to submit additional information until 5:00 P.M. on July 8, 2022, provided that interested persons could file comments in response to additional information supplied by the Applicant until July 22, 2022, at 5:00 P.M., and granted the Applicant until July 29, 2022, at 5:00 P.M. for statements in rebuttal to comments filed by the July 22nd deadline.

On July 13, 2022, at its regular business meeting and in accordance with the Commission's Rules for the Conduct of Public Hearings, 01-672 C.M.R. ch. 5, 5.10(C), the Commission voted to reopen the public hearing. The hearing was limited to receiving testimony from the Applicant and the Limited Intervenor. Testimony presented was limited to the topic of financial capacity. On July 20, 2022, pursuant to the Maine Administrative Procedure Act, 5 M.R.S. § 9062(3) and the Commission's Rules for the Conduct of Public Hearings, 01-672 C.M.R. ch. 5, 5.10(C) and 5.02(D)(2)(c), the Presiding Officer issued a Third Procedural Order revising the close of the hearing record from July 29, 2022, at 5:00 P.M., to August 27, 2022, at 5:00 P.M. The hearing record remained open until August 20, 2022, at 5:00 P.M. to allow the Applicant and Limited Intervenor and members of the public to file written statements on the topic of financial capacity and evidence presented at the reopened hearing with the Commission, and until August 27, 2021, at 5:00 P.M. to file statements in rebuttal of those filed by the August 20th deadline.

On August 10, 2022, the Commission held a reopened hearing limited to the topic of financial capacity. The meeting was conducted as a hybrid meeting both remotely and in-person at Brewer Maine. The record in this matter closed on August 27, 2022.

## **CRITERIA FOR APPROVAL AND LAND USE STANDARDS, ANALYSIS, AND FINDINGS**

The Commission has established thirty-two zoning subdistricts, grouped into three categories: development, management, and protection, to protect important resources and prevent conflicts between incompatible uses. For each subdistrict, the Commission has designated uses that are allowed without a permit, uses that are allowed without a permit subject to standards, uses that are allowed with a permit, and uses that are allowed with a permit by special exception. The Commission's subdistricts are codified in *Land Use Districts and Standards* 01-672 C.M.R. ch. 10 (Chapter 10), revised March 29, 2022. The Commission's general criteria for approval of permit applications are provided in 12 M.R.S. § 685-B(4)



and further codified in Chapter 10, § 10.24(A). The Commission's land use standards are codified in Chapter 10, subchapter III in §§ 10.25 - 10.27, and are grouped into three categories: development standards, dimensional requirements, and activity-specific standards. The Applicant must satisfy all applicable land use standards. The Commission's terminology and their applicable definitions are codified in *Definitions*, 01-672 C.M.R. ch. 2 (Chapter 2), effective November 01, 2021. Additionally, the proposal must otherwise be in conformance with 12 M.R.S. §§ 681 - 689 and the regulations, standards and plans adopted pursuant thereto. 12 M.R.S. § 685-B(4)(E) and Chapter 10, § 10.24(A)(1)(E).

The following summary of approval criteria and land use standards, analyses, and findings are most relevant to the proposed Project.

#### **50. Right, Title and Interest, and Subdivision and Lot Creation:**

##### **A. Criteria and standards:**

- (1) The applicant must demonstrate evidence of sufficient right, title, or interest in all of the property that is proposed for development or use. 12 M.R.S. § 685-B(2)(D) and Chapter 10, § 10.24(A)(1).
- (2) The Commission may not approve an application unless, in the case of an application for a structure upon any lot in a subdivision, that subdivision has received the approval of the Commission. 12 M.R.S. § 685-B(4)(F) and Chapter 10, § 10.24(A)(1)(F). In considering the land use standards, the Commission evaluates, among other items, whether the proposal to place a structure upon any lot is in a subdivision and whether any divisions of land comply with the Commission's laws and rules governing subdivisions. Chapter 10, § 10.25(Q).

B. Analysis: The Applicant submitted a Purchase and Sale Agreement between OFLC, Inc. and Moosehead Mountain Resort, Inc., as seller, and Big Lake Development, LLC, as buyer, as well as a number of amendments to that agreement. The most recent Purchase and Sale Agreement expires September 30, 2022. The Applicant also submitted a 20-year land division history indicating that no non-exempt divisions have occurred on the parent parcel in Big Moose Township in the past 20 years.

C. Findings: Based upon the record and the above analysis, the Commission finds that the Applicant has demonstrated legally enforceable right, title, or interest to all the property proposed for development in accordance with Chapter 10, § 10.24(A)(1), and structures will not be located on a lot in an unpermitted subdivision in accordance with Commission's laws and rules governing subdivisions including Chapter 10, §§ 10.24(A)(1)(F) and 10.25(Q).

#### **51. Technical Capacity:**

##### **A. Criteria and standards:**

- (1) The Commission may not approve an application unless adequate technical and financial provisions have been made for complying with the requirements of the State's air and water

pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, Title 12, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 489-E, and the natural resource protection laws, Title 38, sections 480-A to 480-Z. 12 M.R.S. § 685-B(4)(A) and Chapter 10, § 10.24(A)(1)(A).

- (2) The applicant must retain qualified consultants, contractors, and staff to design and construct proposed improvements, structures, and facilities in accordance with approved plans. In determining the applicant's technical ability, the Commission must consider the size and scope of the proposed development, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations or previous approvals granted to the applicant. Chapter 10, § 10.25(C)(1).

B. Analysis:

- (1) In reviewing the Applicant's technical ability, the Commission considered the size and scope of the Project. At the reopened public hearing, Perry Williams, Managing Partner of Big Lake Development, LLC, testified to his past experience with ski resort development. In addition, the Applicant has retained James W. Sewall Company (Sewall), a consulting firm, for site design, engineering and permitting of the development, and PC Construction for construction of the Project. The Applicant provided resume information for key persons involved with the Project and lists of projects successfully constructed.

- C. Findings: Based upon the record and the above analysis, the Commission finds that the Project meets the requirements of 12 M.R.S. § 685-B(4)(A); Chapter 10 § 10.24(A)(1)(A); and Chapter 10, § 10.25(C)(1). The Applicant has hired qualified consultants and contractors to design and construct the Project.

## 52. Financial Capacity

A. Criteria and Standards

- (1) The Commission may not approve an application, unless 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, and those standards and regulations adopted with respect thereto... 12 M.R.S. § 685-B(4)(A) and Chapter 10, § 10.24(A)(1)(A).
- (2) The Commission's Chapter 10 Rules interpret and provide further clarification regarding this statutory criterion in Section 10.25,C. That section states:

The applicant shall have adequate financial resources to construct the proposed improvements, structures, and facilities and meet the criteria of all state and federal laws and the standards of these rules. In determining the applicant's financial capacity, the Commission shall consider the cost of the proposed subdivision or development, the amount and strength of commitment by the financing entity, and, when appropriate, evidence of sufficient resources available

directly from the applicant to finance the subdivision or development. 01-672 C.M.R. ch. 10, 10.25,C,2.

- (3) The statute also mandates that the Commission “permit the applicant and other parties to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources.” Title 12 § 685(B)(4). When considering whether an application meets the statutory criteria, “the commission may impose such reasonable terms and conditions as the commission may consider appropriate.” 12 M.R.S. § 685(B)(4).

#### B. Applicant’s Testimony and Evidence

- (1) Exhibit 4 of the Applicant’s permit application provided a cost estimate, updated in March of 2022, of \$126.3 million. According to the Applicant, the estimate includes erosion control, stormwater treatment structures, and utility installation in addition to site work, building construction, and construction of the new roads and parking lots. During the Commission’s review of the Project, the Moosehead Sanitary District determined that an additional \$3 million would be needed to upgrade existing pump stations to handle anticipated wastewater flows from the Project.
- (2) The Applicant provided a plan for financing and constructing the proposed improvements, structures, and facilities in a manner that would meet the criteria and standards of applicable environmental laws and rules. In testifying before the Commission during the reopened public hearing, the Applicant stated that funding the construction of a ski resort is a complex multi-staged endeavor that cannot be accomplished by securing a standard bank loan. In addition, the Applicant stated in pre-filed testimony provided for the reopened hearing, dated July 25, 2022, that: “[t]he funding process requires discretionary permits to be issued prior to a final commitment and closing.” Exhibit 8.p, p. 2. Details for the proposed funding structure are outlined in the Applicant’s pre-filed testimony. Exhibit 8.p.
- (3) The Applicant identified Provident Resources Group (PRG), a national non-profit organization that specializes in asset development, and Barclays Capital Inc., the investment-banking arm of Barclays Bank PLC (Barclays), as the primary entities responsible for securing financing for the Project. Under the proposed funding structure submitted by the Applicant, Provident Group- Moosehead Lake L3C, (Provident or Owner), a 501(c)(3) organization and Maine low-profit limited liability company formed by PRG, will be the owner of the development. The Owner will issue tax-exempt and taxable Environmental, Social, and Governance (ESG) certified revenue bonds through the Finance Authority of Maine (FAME), a quasi-independent state agency tasked with assisting business development in Maine, in an aggregate principal amount not to exceed \$135 million, the proceeds of which will be used to finance the costs of acquiring the site and designing, constructing, and equipping the Project. Exhibit 8.p, p. 3. The Owner will acquire fee title to the land and then develop, own, and operate the Project under a Cooperative Agreement with Piscataquis County for the duration of the repayment of the bonds. Once the bonds are paid in full, the Project may 1) be transferred to the County, 2) continue to be owned, operated, and maintained by Provident, or 3) be sold a different entity. The Applicant states that, “[t]he County is supportive of the Project because of the economic development benefits it will



generate for the County, which is also why 75% of the Bonds can be issued as tax-exempt bonds.” *Ibid.* According to the Applicant in oral testimony at the reopened public hearing, PRG has used the proposed funding structure for over 30 years, including for projects totaling \$4.5 billion.

- (4) The Applicant proposes to fund the project with the proceeds of senior bonds (public offering), junior bonds (public offering), and economic growth bonds (private placement). Barclays is proposed to be the bond underwriter. According to Barclays, they are a publicly traded United Kingdom domiciled bank founded in England in 1690. Exhibit 8.1, p. 6. Barclays also states they are a global financial institution, “which is rated A1/A/A+ by Moody’s Investors Service, S&P Global and Fitch Ratings, respectively, with a balance sheet of \$1.5 trillion.” Exhibit 8.1, p. 236. The estimated rate and budget covenants, bond structure, capitalized interest, and amortization and final maturity figures are included in the Applicant’s Pre-filed Testimony. Exhibit 8.p, p. 4.
- (5) According to the Summary of Proposed Financing Opportunity dated February 24, 2021, the bonds will be secured by net revenues of the Project and various real-estate revenues, pledged assets, and mortgages on the Project properties, as well as a debt service reserve fund, operating reserve fund, and supplemental reserve fund. Exhibit 8.1, p. 7. Net revenues of the project are anticipated to be generated by a variety of sources (skiing, zipline adventures, astro tourism, events, etc.). Real estate-related revenues include the sale of residential lots, tax increment revenues returned to the Owner as the assessed valuation on the residential real estate increases, and annual assessments on residential lots. The Applicant testified during the reopened hearing that the bond market, through Barclays, requires a full analysis of all the costs, including master planning, a feasibility study, and market studies. The Applicant explained that, when bonds are sold, everything included in the proposal must be funded at once using a guaranteed max pricing estimate, because the funding structure does not allow the Owner to go back for more funding. According to the Applicant, before underwriting the bonds, Barclays will determine if the 30-year plan meets their required debt coverage ratio of 2.0.
- (6) In support of its financial plan and the adequacy of its financial resources, the Applicant provided four letters from Barclays, a draft Project Development Agreement between the Applicant and Provident, and a draft Indenture of Trust provided by FAME. In addition, pursuant to 01-672 C.M.R. ch. 10 § 5.07,B and 5 M.R.S. § 9058, the Commission takes official notice of minutes from the FAME meeting of April 15, 2021 at which FAME addressed a bond resolution for Provident, and from a meeting of the Piscataquis County Commissioners dated April 20, 2021 at which the County Commissioners considered the “Big Moose Resort Tax Increment Financing,” and includes these meeting minutes in the record.
- (7) In a letter dated March 17, 2021, Barclays states that “Barclays continues to believe that the financing envisioned is reasonable for this undertaking ... Barclays has dedicated a team of five banking professionals in New York, San Francisco and Seattle to this Project.” Exhibit 8.1, p. 6. Barclays further represented, in a letter dated November 9, 2021, that it was “pleased to submit this letter to express our confidence in Provident Group- Moosehead Lake

L3C's ... ability to access private market, tax-exempt financing in an amount not to exceed \$135 million ... in order to finance the Moosehead Lake Mountain Resort and Marina Project..." Exhibit 8.1, p. 236. The letter further states that, "Barclays believes that there is a market for both financing structures being contemplated and that it will be feasible to execute the Proposed Financing, subject to the successful implementation of structuring terms that are consistent with investors' expectations for transactions of this nature." *Ibid*. Attached to the November 9, 2021, letter is a prior letter from Barclays dated November 16, 2020, which confirms an agreement among and between Barclays, Big Lake Development, Provident and a to-be-determined sponsor signed by Barclays' Managing Director, Provident's Chairman and CEO, and Big Lake's Managing Partner. Exhibit 8.1. pp. 238-244.

- (8) In a letter dated July 6, 2022, Barclays indicates its continued involvement in the Project and states, regarding the needed upgrades for the wastewater connection to the sanitary district, "Barclays is looking to provide a complete package that includes complete costs for infrastructure for the project." Exhibit 8.1, p. 252. At its April 15, 2021, meeting, FAME approved Provident's bond resolution for the Project, stated that "[t]he project would significantly contribute to the economic development of the area." Exhibit 8.1, p. 303. The Piscataquis County Commissioners voted on April 20, 2021, to pass the Piscataquis County and Big Moose Resort Tax Increment Financing (TIF) District as amended. Exhibit 8.1, pp. 312-313. TIF is a method of financing that authorizes municipalities and other government entities to use expected gains in future property tax revenues resulting from new development to subsidize infrastructure improvements. 30-A M.R.S. §§ 5221-5244.

### C. Limited Intervenor's Testimony and Evidence

- (1) The Moosehead Region Futures Committee (Limited Intervenor) raised questions and concerns about the Applicant's financial capacity. The Limited Intervenor stated in its pre-filed testimony dated June 6, 2022, that, "[t]he public record in this proceeding contains no evidence of Barclays' commitment to underwrite the bonds financing construction of the proposed development, to the best of [the Limited Intervenor's] knowledge. To the contrary, all three documents in the record under Barclays' letterhead state explicitly that Barclays has not made a commitment." Exhibit 8.d, p. 2. The Limited Intervenor argues that the Commission should "find 'the strength of commitment by the financing entity' is not sufficient to conclude that the Applicant has shown 'adequate financial resources to construct the proposed' development." Exhibit 8.d, p. 3.
- (2) The Limited Intervenor also argues that the Applicant does not have adequate financial resources if it does not receive regulatory approval for the 457 residential units that the record shows are intended to be constructed in Phase 2 of the development. Exhibit 8.d, p. 3. Their testimony states that, "[t]he Applicant proposes to pay the debt service on the bonds issued to finance construction of the development proposed in the pending application in part with money paid into TIF funds by Piscataquis County..." most of which "...will come from the tax increment generated by the 457 proposed residential units, for which regulatory approval has not yet been applied." Exhibit 8.d, p. 4. In support, the Limited Intervenor submitted a copy of "An Application for a Municipal Development and Tax Increment Financing District". Exhibit 8.e. The Limited Intervenor concludes that, "[t]herefore, the

question of ‘adequate financial resources’ for the pending application cannot be decided in the Applicant’s favor at least until such time as the Applicant gains regulatory approval for the proposed 457 residential units and the marina.” Exhibit 8.d, p. 4.

- (3) The Limited Intervenor further argues that several documents submitted by the Applicant as evidence of its financial capacity, including the “Project Development Agreement” and the “Indenture of Trust by and Between Finance Authority of Maine,” are missing critical information. The Limited Intervenor contends that, until the missing information is provided, the Commission cannot find that the Applicant has adequate financial resources. Exhibit 8.d, p. 5. In addition, in its pre-filed testimony for the re-opened public hearing dated August 5, 2022, the Limited Intervenor suggests that, because of the complexity and the novelty of the financial arrangement proposed by the Applicant, among other reasons, the Commission should consider retaining a qualified independent financial analyst to evaluate the feasibility of the Applicant’s financing proposals. Exhibit 8.q, p. 7.

#### D. Public Comments

- (1) Most of the public comments that the Commission received during the public hearing supported the goal of reopening the ski resort. The support was based on a desire to bring skiing back to the top of the mountain. The support was also based on the stated need for year-round, sustainable economic development in the region to provide year-round jobs; support local businesses, local schools, and the regional hospital; bring in families; and retain a permanent non-seasonal population. For example, the Moosehead Lake Economic Development Corporation (MLREDC) testified that the Project meets the community’s goal to develop a sustainable four-season economy. The Eastern Maine Development Corporation (EMDC) testified that their Board of Directors have endorsed the Project. Steve Leveque, a local resident with 35 years of experience in economic development work, including as Commissioner of the Maine Department of Economic and Community Development and President of MLREDC, testified that the project provides opportunity and has been well vetted by the Town of Greenville, MLEDC, EMDC, the County, and FAME.
- (2) Members of the public expressed concerns about the potential for the Project to fail, accuracy of the cost estimate, complexity and adequacy of the plan for financing, and scope of the project. Two members of the public suggested that financial assurance measures be considered. One member of the public also raised concerns about the differences in the Project cost estimate before and after the Covid-19 pandemic, the uphill capacity of the lifts, the need for a profit and loss statement, the impact of removing the proposed marina from the Project, and the late filing of materials by the Applicant.

#### E. Discussion and Analysis

##### *Accuracy of the Project Cost Estimate*

- (1) The Limited Intervenor and members of the public expressed concerns about changes to the Project cost estimate, and the underlying accuracy of the estimate provided by the Applicant. The Commission recognizes that project costs may change during the pendency of an

application, and it is important that the final cost estimate be accurate. The Commission further recognizes that absolute accuracy in the cost estimation of a project that will require materials and infrastructure subject to fluctuating market prices is not practicable. The funding package presented by the Applicant will allow the Applicant to secure up to \$135 million in bond-financed funding, an amount in excess of the Applicant's most recent cost estimate. The Commission finds that, in considering the project cost estimate, it is reasonable to rely on the expertise and experience of the Applicant and the Applicant's oral testimony at the reopened public hearing that the estimate is supported by a substantial estimating exercise conducted by PC Construction's estimating department. Exhibit 8.s,11:48.<sup>3</sup>

- (2) In addition, the Commission finds the Applicant's testimony regarding the financial analysis Barclays will conduct prior to underwriting the bond package to be credible. Because Barclays will require the cost estimate be prepared by a qualified estimator based on a guaranteed max pricing standard, the Commission is confident this final cost estimate will be one on which it can rely. As provided in condition 9, submission of a final cost estimate will be required as a condition of approval in this decision document before the Commission will authorize construction to begin. The inclusion of this condition provides assurance that construction will not commence until the Applicant has secured sufficient funding to comply with state environmental laws and rules.

#### *Strength of Barclays' Commitment/ Draft Agreements*

- (3) Chapter 10 Section 10.25,C,2 of the Commission's rules requires that when assessing the financial capacity standard, the Commission consider "the amount and strength of commitment by the financing entity." The Limited Intervenor urges the Commission to interpret this language as requiring a binding commitment letter from the financial entity for there to be an adequate demonstration of financial capacity. The Commission disagrees with that interpretation. Although having a commitment letter from a financing entity would be considered a strong commitment, the Commission often accepts a lower level of commitment (such as letters of intent or letters of interest from financial institutions) as evidence of adequate financial resources, provided that a final commitment letter is submitted prior to the start of project construction. The rule does not require a binding financial commitment equaling the amount necessary to fully finance a project, but instead directs the Commission to consider the "amount and strength of financial commitment" as a factor in assessing financial capacity. , The rule thus clearly contemplates a fact-specific inquiry into the nature of the project and the financial package presented by the applicant, and does not mandate that the Commission require an applicant to secure binding commitment letters from a financial entity prior to issuing a permit.
- (4) The Applicant argued both in pre-filed written testimony and oral testimony at the reopened public hearing that, for complex multi-stage development projects such as the one at issue here, the nature of the funding process is such that financial entities often require an applicant demonstrate the ability to secure discretionary development permits before they are willing to

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<sup>3</sup> Audio recordings of hearings in this matter were provided in the record. Record citations to audio recordings refer to the internal timestamp information contained within the recordings.

issue binding commitment agreements. Exhibit 8.p, p. 2. Based on the Commission's extensive experience in reviewing permit applications for development, the Commission finds the Applicant's testimony on this point persuasive. If the Commission were to interpret its rules as suggested by the Limited Intervenor, applicants would frequently be subject to a "catch-22" situation, not able to get either a commitment letter from a financial institution or a permit from the Commission. A requirement that prospective developers must, in every case, secure binding financial commitments sufficient to entirely fund large-scale and multi-phased development projects before the Commission will consider the application could often present insurmountable barriers to otherwise viable and economically beneficial projects.

- (5) In this case, the Applicant has submitted several letters from Barclays indicating their continued interest in the funding structure for the Project. Of particular note is the November 16, 2020, letter confirming the agreement among and between Barclays, Big Lake Development, Provident and a to-be-determined sponsor. The letter states that "Barclays will provide investment banking services to the Sponsor..." referencing a plan to design, build, operate, and maintain the Moosehead Lake and Ski Resort destination development project. Exhibit 8.1, p. 238. The Commission has determined that the level of commitment to this project shown by Barclays, supported by the approvals from other entities involved with the funding structure, including Piscataquis County and FAME, has sufficient strength for the Commission to find the Applicant has adequate financial resources. Taken together, the evidence shows that the Applicant has researched and put together a financing package that is reasonably calculated to provide funding sufficient to develop the project in compliance with the State's environmental laws and rules. That the financing entities responsible for effectuating the proposed bond financing package have not provided final and irrevocable financial commitments to fund the project, does not mean that the proposed financing structure is insufficient to meet the financial capacity standard.
- (6) Regarding the draft financial documents submitted by the Applicant, the Commission finds that the documents provide important details in support of the funding structure for the Project, as proposed by the Applicant. However, as is not practicable to require final versions of these documents, including the Project Development Agreement and the Indenture of Trust, until applicable permits have been issued and the Applicant has closed on the property, submission of these final financial agreements will be required as a condition of approval prior to the initiation of any construction of the Project as outlined in Condition 9. The Applicant will need to submit a final commitment from Barclays and all the financial documents necessary to execute the funding structure to the Commission prior to starting construction of the Project. This condition will ensure that the Project will have adequate funding to be constructed and operated in a manner that meets the criteria of applicable state and federal laws and the Commission's rules.

#### *Payment of Debt Service*

- (7) The Limited Intervenor, as well as several members of the public, contend that regulatory approval for future residential units is required for the Applicant to demonstrate adequate financial resources. The Commission disagrees with the Limited Intervenor on this point as



well. The relevant standard for the Commission to consider is “[t]he applicant shall have adequate financial resources to construct the proposed improvements, structures, and facilities and meet the criteria of all state and federal laws and the standards of these rules.” Chapter 10 Section 10.25,C,2 (emphasis added). The Applicant has proposed to fund construction of the Project and associated pollution controls through the issuance of municipal bonds. The record also includes provisions in the funding structure for the Project to pay debt service on the bonds (such as operating revenues, sale of residential lots, and tax increment revenues). The success of Phase I and future phases of development to generate sufficient revenue to service the debt goes beyond the Commission’s determination on the adequacy of financial resources to construct the project and would not be consistent with past precedent established by the Commission in its permitting review of other development projects. For example, when the Commission reviews a proposal for a new recreational lodging facility, it does not require evidence that the applicant can generate sufficient revenue to ultimately pay back any bank loans required to construct the facility. The financial risk is born by the lender. The financial capacity standard is not intended to protect lenders from the risk of potential default, but to ensure that provision has been made for adequate funding to construct the development in compliance with applicable environmental laws and rules. In this case, the Applicant stated in its testimony during the reopened public hearing that financial liability for the success of the Project goes to the bond buyers.

#### *Complexity of the Funding Structure*

- (8) The Limited Intervenor commented during the reopened public hearing that review of the proposed financial structure requires an in-depth understanding about sophisticated financing mechanisms and requested that the Commission retain a qualified independent financial analyst to evaluate the feasibility of the Applicant’s financing proposals. The Commission agrees that the proposed funding structure is complex and involves sophisticated financing mechanisms. However, it is not necessary for the Commission to comprehensively review all facets of the proposed financing mechanisms, nor any other technical matter that comes before it. In considering whether the financial capacity criterion has been met, the Commission can rely upon the credibility of the Applicant’s evidence, and the expertise the Applicant relied upon to provide that evidence (including Barclays and Provident). These entities have extensive experience in producing financing programs for large-scale development and have presented a comprehensive bond financing system for the funding of the Project. For this case in particular, the Commission can also rely on testimony from local and regional economic development organizations such as MLREDC and EMDC, and approvals of other government agencies such as the Piscataquis County Commissioners and FAME. As discussed above, the relevant criterion and standard for the Commission is “financial capacity.” The Commission must decide whether the Applicant has demonstrated adequate financial resources, primarily on the strength and level of commitment by any financing entity(ies). As discussed above, the Commission has sufficient evidence to make that determination, without the need for a qualified financial analyst, particularly at this stage of the Project. The Commission could reconsider the need for a qualified financial analyst when the Applicant submits final financing documents prior to commencing construction as will be required by Condition of approval 9.

### *Financial Assurance*

(9) Members of the public suggested that there should be financial assurance measures in place for construction of the Project. The Commission agrees, particularly for installation of erosion control measures, stormwater treatment practices, and the proposed wastewater sewer line and connection upgrades. Given the complexity of the funding structure, it is reasonable to require the submission of financial assurance as a condition of this decision document to ensure compliance with the requirements of the State's water pollution control laws and rules. The approval of the Project is thus conditioned on the submission of financial assurance documents prior to the commencement of construction as outlined in condition 10.

### F. Commission Findings

In assessing this criterion, the Commission considered the cost of the Project, and the amount and strength of commitment shown by Barclays, FAME, and the Piscataquis County Commissioners for the Project. In addition, the Commission considered the Applicant's stated need to purchase the property and have permits in hand before obtaining final commitments on the financing plan, the complexity of financing a ski resort, the applicant's testimony that Barclays will review the project costs and financial feasibility of the project before underwriting the bonds, the economic benefits of the project to the region, and its ability to impose reasonable terms and conditions in approving a development permit application. The most weight was placed on the experience and expertise of the financing entities as well as the strength of financing commitment shown, the credibility of the Applicant's testimony on the process behind the issuance of tax-exempt municipal bonds, and the Project's expected economic benefits to the region. Based on all these factors, the Commission finds that the applicant has adequate financial resources to construct the proposed improvements, structures, and facilities while complying with the criteria of all state and federal laws and the standards of these rules, provided, in accordance with conditions of approval included in this decision document, a final cost estimate, the final commitment letter from Barclays, all other final documents necessary to demonstrate that adequate financing has been obtained by the Applicant, and a surety bond or other form of financial assurance acceptable to the Commission for the installation of pollution controls are submitted to the Commission prior to the start of Project construction.

### 53. **Vehicular Circulation, Access, and Parking:**

A. Criteria and standards: The Commission may not approve an application unless 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. 12 M.R.S. § 685-B(4)(B) and Chapter 10, § 10.24(A)(1)(B). In considering the land use standards, the Commission evaluates, among other items, the proposal's general circulation, access management, parking layout and design. Chapter 10, § 10.25(D).

- B. Analysis: The Parcel will be accessed from Route 6/16 via the Ski Resort Road and the Moosehead Loop Road. Paved parking within Parking Lots 1, 2 and 3 will allow space for vehicles to turn around without having to back onto the Moosehead Loop Road or Ski Resort Road. Additional parking will be provided within the Hotel, Upper Base Lodge, and Event Center parking areas. The parking areas will be visually buffered from Route 6/16, the Ski Resort Road, and the nearest property boundary line by an extensive forested buffer. The Applicant has stated that routine operation of the Project is estimated to generate 197 one-way trips during the Friday evening anticipated peak hour and 172 during the Saturday morning anticipated peak hour. During the construction phase of the Project, temporary parking and a turn-around area for the safe and efficient handling of construction crew traffic will be within the existing parking lot areas. A traffic movement permit (TMP) is required from the MDOT due to the Project's estimated generation of more than 100 new one-way trips in the peak hours.
- C. The proposed upgrade to Moosehead Loop Drive (aka Parking Loop Road) varies in grade from 4.15% to 6.3%, with a maximum road grade of 6.3%. The proposed new Moosehead Loop Drive Extension varies in grade from -7.19% to 12.20% with a maximum grade of 12.20% [Profile Sheets C-2.02 through C-2.05]. The proposed upgrade to the Upper Base Access Road varies in grade from 8% to 12%, with a maximum grade of 12% [Profile Sheet C-2.06]. The proposed upgrade to the Moosehead Loop Drive II (a 550-foot portion of the existing driveway between the existing base lodge and old hotel) varies in grade from -1.5% to 10.9%, with a maximum grade of 10.9% [Profile C-2.05].
- D. Maximum sustained grade for Class 1 roadways may be increased by up to five percent over the specified 10% for Class 1 roadways, if no other option is practicable, provided that the roadway portion exceeding the maximum sustained grade standard is no longer than 300 feet in length and is greater than 150 feet from the next down-hill road intersection, and the Commission determines that the proposed alternative grade will not cause unreasonable drainage, erosion or public safety impacts. Chapter 10, §10.25(D)(4)(c)(3). The Commission finds that due to site topography, existing roadways, along with stream and wetland constraints, there is no practicable alternative to the proposed road grades. In addition, the portions of maximum sustained grade over 10% are no longer than 300 feet in length and are greater than 150 feet from the next down-hill road intersection. The road has also incorporated drainage measures such as roadside buffers, catch basins, and level spreaders to control runoff. Realignment of the Parking Loop is proposed to alleviate what would otherwise be an insufficient turning radius, and the new Moosehead Loop Drive Extension is proposed due to the elevation differences between the access road and base village, and to provide a secondary means of access/egress for safety purposes.
- E. Finding: Based upon the record and the above analysis, the Commission finds that the Applicant has made adequate provision for loading, parking and circulation on and from the site such that the Project will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods in accordance with Chapter 10, §§ 10.24(B) and 10.25(D), provided that the Applicant submits a copy of the MDOT traffic movement permit prior to the start of construction.

#### 54. Existing Uses, Scenic Character, Natural and Historic Resources, and Harmonious Fit:

##### A. Criteria and standards:

- (1) The Commission may not approve an application unless adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure 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. 12 M.R.S. § 685-B(4)(C) and Chapter 10, § 10.24(A)(1)(C).
- (2) In considering the land use standards, an applicant must demonstrate that there will be no undue adverse impact on critically imperiled (S1) or imperiled (S2) natural communities or plant species. Chapter 10, § 10.25(P)(4).
- (3) The design of proposed development shall take into account the scenic character of the surrounding area. Structures shall be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways, with attention to designated scenic byways; major water bodies; coastal wetlands; permanent trails; or public property. Chapter 10, § 10.25(E)(1)(a).
- (4) To the extent practicable, proposed structures and other visually intrusive development must be placed in locations least likely to block or interrupt scenic views as seen from existing roadways, with attention to designated scenic byways, major water bodies, coastal wetlands, permanent trails, or public property. Chapter 10, § 10.25(E)(1)(b).
- (5) The standards for hillside resources must be met for all subdivision, residential, commercial, industrial, and other non-residential development, if any portion of the project area is located on a hillside. Chapter 10, § 10.25(E)(2)

##### B. Analysis:

###### (1) *Existing Uses and Scenic Character:*

- a. The proposed development is located within a preexisting ski resort. The majority of the property is within a General Development Subdistrict (D-GN). Protected Mountain Areas (P-MA) exist above the 2700 foot elevation. The surrounding area mainly consists of forested land. The Applicant states the majority of the new development replaces existing structures and the proposed development has been located and designed to minimize the visual impact on the surrounding area.
- b. The Applicant addressed visual impacts of the proposed development from roadways, scenic byways, major waterbodies, permanent trails, and public property within three miles of the project site; including a viewshed analysis, site photographs, and written descriptions. These materials indicate the development will be screened by topography and forest cover from nearby public lands and trails, and the Moosehead Lake Scenic Byway/Route 15. However, the project area will be visible from points on Moosehead

Lake, Mountain View Pond, and Burnham Pond. The Commission finds that the measures described below for the protection of hillside resources will also minimize visual impacts of the development on the surrounding lakes and ponds.

(2) *Hillside resources:*

- a. **Stormwater Management:** The Applicant has provided a stormwater mitigation plan, erosion control details and grading plans.
- b. **Ridgeline Protection:** No portion of the proposed development will extend above the ridgeline of Big Moose Mountain or otherwise alter the ridge profile.
- c. **Vegetation Clearing:** Existing forest cover will be maintained to interrupt the view of the façade of building. Existing vegetation and landscaping between structures will be utilized to break up the mass of the buildings. Disturbance or construction on steep slopes will generally be avoided. Where work on steep slopes must be done, ground cover will be stabilized as specified in the Erosion, Sedimentation and Drainage Control Measures plan submitted. The use of existing clearings for the base area, ski lift, and zipline components will minimize new clearings.
- d. **Structural Development:** Proposed structures will be located, designed and landscaped to minimize their visual impact. The requirements for hillside structural development have been satisfied by proposing separate structures at the base lodge area, oriented at different angles to prevent large facades and long rooflines. Buildings have been located to fit in with the existing site conditions and natural topography. Structural development in other locations is within the same general footprint and scale as existing structures (e.g., ski lift components), or screened by topography and vegetation (e.g., maintenance facilities).
- e. **Construction Materials:** Construction materials satisfy the criteria of being muted, natural tones and blending in with the existing landscape. Buildings in the base area will be oriented to the north, minimizing sunlight reflecting off glass surfaces.
- f. **Linear Infrastructure:** The proposed improvements to access roads, utilities, ski lifts, and snowmaking infrastructure have been designed to utilize existing infrastructure and topography and minimize visibility to the greatest extent possible.
- g. **Lighting:** The applicant has indicated that all proposed lighting will be in compliance with applicable standards in Section 10.25(F). With respect to hillside resources, the visual impacts to the proposed lighting include concentrating lighting on the backside (non-lake side) of buildings, keeping ski runs and infrastructure unlit, and cutting off non-essential lighting after a proposed time of 10 pm.

(3) *Natural resources:*

- a. **Wildlife and fisheries:**



- (i) The Applicant submitted a wildlife report prepared by Tetra Tech, Inc. and dated March 2022.<sup>4</sup> The report's conclusions are replicated below.

#### Northern Bog Lemming

The entire Project Area is above 1,000 feet; therefore, all natural resources within the Project Area meet the elevation requirement for northern bog lemming habitat. A total of 11 wetlands were searched for signs of northern bog lemming (Table 1, Figure 2). Two wetlands, Unnamed Wetland 01 (UNWL-01) and Unnamed Wetland 02 (UNWL-02), both located in the marina property of the Project Area, were noted as having good habitat for northern bog lemming. These wetlands were characterized by mossy ground cover, mossy stream-sides, and spruce-fir forests (Appendix A). Both wetlands were extensively searched but no bog lemming signs were observed. One brown fecal pellet was observed (Appendix A) but it was determined to be from a non-target species and therefore was not collected for DNA analysis. Streams within the Project Area also were searched for northern bog lemming, but no streams with suitable habitat for the species were observed. Based on the results of the 2021 northern bog lemming survey conducted at the Moosehead Lake Ski Resort Project Area, the species is not likely to be present.

#### Bicknell's Thrush

Surveys were conducted on the mornings of June 3 and 16, 2021. Overall, 27 species of birds were observed during the surveys. Bicknell's thrush was observed on both dates. At least five (5) individual Bicknell's thrush were observed at point count locations 1–3 on June 3 and at least three (3) individuals were observed at point count locations 2 and 3 on June 16.

Eight (8) of the 11 target Mountain Bird Watch species were observed during the surveys as well as three (3) Maine species of special concern (Bicknell's thrush, black and white warbler [*Mniotilta varia*], and white-throated sparrow [*Zonotrichia albicollis*]; Table 3). The number of species detected at each point count location ranged from 4 to 19. 19 (Table 4, Table 5). Table 4 and Table 5 present the maximum count for each species across the four 5-minute survey intervals recorded at each point count location. With this method, data is presented as a "simple count" over the 20-minute period without double counting between intervals. Results from all intervals are included in Appendix C.

#### Northern Spring Salamander

One northern spring salamander was detected below a dam on Unnamed Stream 04 (UNST-04), which is located on the western boundary of the Project Area (Figure 4, Appendix D). Based on the results of the 2021 northern spring salamander survey conducted at the Moosehead Lake Ski Resort Project area, the species is present in stream UNST-04 and not likely to be present in other streams within the Project Area. The entire Project Area is above 1,000 feet; therefore, all natural resources within the Project Area meet the elevation requirement for northern spring salamander habitat. A

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<sup>4</sup> Public Hearing Record: Exhibit 5.gg Applicant's Wildlife Survey Report.

total of 23 streams were searched over 3 field days for a total search time of 20 hours and 30 minutes and a total search length of 18,486 feet (Figure 4, Table 6). Most of the streams were noted as having good habitat for northern spring salamander i.e., clear, cold streams with fast gradients, underlain by coarse substrate, and bordered by hardwood or mixed wood forests. Some of the streams, however, were mostly dry at the time of the survey (Table 6). Eastern red-backed salamander (*Plethodon cinereus*), northern dusky salamander (*Desmognathus fuscus*), and northern two-lined salamander (*Eurycea bislineata*) were three incidental salamander species observed in nearly every stream that was searched in the Project Area (Appendix D).

#### Roaring Brook Mayfly (*Epeorus frisoni*)

Tetra Tech, Inc. contracted Lotic Inc. to conduct Roaring Brook Mayfly surveys. The results of the survey are described in a report prepared by Lotic Inc. dated January 18, 2022:<sup>5</sup>

Epeorus nymphs were found at 2 sample locations and were sent to Dr. Steven Burian for identification. One nymph was collected at C4 and could not be identified below the level of genus. Twelve nymphs were collected at location G1. Six nymphs were early instars and could not be identified below the level of genus. Five nymphs were identified as a spring emerging species based on wing pad development. *E. frisoni* is a fall emerging species, so it was determined that these nymphs were possible *E. pleuralis*, but not likely *E. frisoni*. The twelfth specimen was a female with well developed wing pads. Based on comparison with female nymphs of both species it was determined that it was more likely *E. fragilis* than *E. frisoni*. During the course of the survey, observations were made of other species of macroinvertebrates. The presence of several species of Ephemeroptera, Plecoptera and Trichoptera indicate that these communities are typical of clean mountain stream habitats. Site G1 has a much higher community richness and abundance due to the presence of the pump house dam and impoundment, which is increasing nutrient levels downstream.

- (ii) The Maine Department of Inland Fisheries and Wildlife reviewed the Project and had the following comments:<sup>6</sup>

#### Bats

“We appreciate the applicant’s due diligence, and have minimal concerns related to bats for this phase of the Project.”

#### Northern Bog Lemming

“In the wildlife report, the consultant reported that they located one brown fecal pellet in an area of potentially good Northern Bog Lemming habitat (UNWL-01), but it “was determined to be from a non-target species, and therefore was not collected for DNA analysis.” There is no explanation given for why that determination was made, which is problematic given that Northern Bog Lemming pellets can be brown. It is

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<sup>5</sup> Public Hearing Record: Exhibit 5.hh Addendum 7 Epeorus Survey

<sup>6</sup> Public Hearing Record: Exhibits 6k LUPC 3<sup>rd</sup> Review Request and 6.m, MDIFW Comments

our understanding that wetland UNWL-01 is located in the area of the proposed marina (Phase 2), which is not included in this Phase 1 project review. That said, based on the results of the study we will be recommending that this wetland be buffered with a 250-foot intact forested buffer during our Phase 2 review; alternatively, this site can be resurveyed, and any fecal samples be submitted for testing. If the latter is chosen, we recommend close consultation with MDIFW staff prior to surveys to confirm MDIFW protocol.”

#### Bicknell’s Thrush

“MDIFW supports the Forest Society of Maine (FSM) as the easement holder of the Big Moose Mountain Mitigation Parcel proposed as mitigation to offset impacts to Bicknell’s thrush habitat, and would like to review and approve the language of the Conservation Easement prior to submittal to LUPC. As a condition of the CE and permit, we recommend that FSM and the Applicant work with MDIFW regional wildlife staff to ensure that the timing and extent of any future forest management activities are conducted in a way to enhance Bicknell’s habitat.”

“Bicknell’s thrush presence was confirmed during the applicant’s surveys. The applicant states in their letter that *‘It will be difficult to avoid construction between May 1 and July 31 as this corresponds with the only potential window for construction in this alpine environment.’* However, the applicant for another proposed ski resort expansion in Maine (ongoing), with clearing and construction proposed in confirmed Bicknell’s thrush habitat, is able to adhere to MDIFW’s timing recommendation for the protection of Bicknell’s thrush. We continue to recommend no clearing or construction activity within and adjacent to Bicknell’s thrush habitat from May 1 through July 31. Alternatively, we recommend an earlier (pre-May 1) start date, before Bicknell’s thrush begin breeding in these areas and subsequent nesting attempts/nest abandonment occurs.”

#### Roaring Brook Mayfly/Northern Spring Salamander

“Roaring Brook Mayfly was not documented during the course of the applicant’s surveys. Northern Spring Salamander was documented in one stream (UNST-04), although suitable habitat was available in several other streams, some of which were dry during the survey period. It is our understanding that the Phase 1 Project will not occur in the vicinity of stream UNST-04; therefore, we do not anticipate impacts to Northern Spring Salamanders, including its riparian buffer, as a result of Phase 1. However, MDIFW will be recommending that an intact, undisturbed 250-foot riparian buffer be maintained along this stream for future phases of the proposed expansion. Additionally, we reserve the right to request additional surveys for both Roaring Brook Mayfly and Northern Spring Salamander during Phase 2 of this Project, pending review of Phase 2 plans.”

#### Fisheries

“It is our understanding that all new and replacement crossings will be replaced with structures that meet Stream Smart standards. We recommend that construction Best Management Practices be utilized, and that all inwater work be conducted between

July 15 through September 30. Additionally, consistent with MDIFW recommendations for the protection of aquatic habitat, we recommend 100-foot intact, undisturbed riparian buffers on streams not supporting Roaring Brook Mayfly and/or Northern Spring Salamander, including intermittent/ephemeral streams. We recommend that any unavoidable impacts within 100-foot riparian buffer be mitigated at 1:1.”

(iii) In response to MDIFW comments, the Applicant proposes the following:<sup>7</sup>

- a) Protection of approximately 150 acres of adjacent Bicknells Thrush Habitat via a proposed conservation easement to be held by FSM. The applicant provided a letter from FSM stating that the organization had interest and capability to hold a conservation easement on land to be owned as part of the Project.<sup>8</sup>
- b) In-lieu fee compensation to MDIFW, calculated at 1:1, as mitigation for the 21,891 square feet of impact (vegetation clearing) to a 100-foot stream buffer from the new access road and realignment of the existing portion of the access road.
- c) Zipline construction avoidance plan, which includes excavation and form installation in late March to early April and pouring of concrete work prior to May 1. If concrete will extend beyond the May 1 date, a regular monitoring program, managed by Tetra Tech, will be employed beginning in early May, to confirm the absence or presence of Bicknell’s Thrush in the area of clearing and its immediate surroundings.  
Depending upon the results of this monitoring, late stage foundation installation activities will be altered to minimize impacts to a potential nest site in the immediate vicinity. The range of these actions are dependent upon the presence of a nest in the immediate area and could include rerouting access to the foundation site or other actions that may be recommended based upon actual nest location. These actions will be reviewed with MDIFW prior to any further action if a nest location is observed in the immediate vicinity.

b. Plant species and communities:

The Maine Natural Areas Program (MNAP) reviewed the Project 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 indicated that, according to their current information, the project area includes an exemplary and rare Subalpine Fir Forest at Big Moose Mountain. The proposed summit lift station is within an already cleared area, and there appears to be a current structure at that location. However, the proposed zipline summit station is within an intact vegetated area that buffers part of the mapped Subalpine Fir Forest. MNAP recommends no additional clearing upslope of the

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<sup>7</sup> Public Hearing Record: Exhibit 5.ff Applicants Response to MDIFW and 5.ss Applicant’s Response to LUPC.

<sup>8</sup> Hearing Record: Exhibit 5.rr Applicant’s response to LUPC Request.

location of the zipline summit station indicated in the submitted plans in order to protect the nearby rare natural community type.

c. Flowing water and wetlands:

The Applicant submitted a natural resources report prepared by Boyle Associates and dated February 19, 2021. The site was reviewed for rivers, streams, wetlands, and potential vernal pools. The survey work was conducted in January 2021. Thirty-nine streams and forty-four wetlands were identified onsite. However, because wetlands were delineated during winter months, the report recommended a follow-up verification of wetlands during the growing season to confirm wetland lines. No potential vernal pools were identified. However, the survey was done outside of the breeding season and the report recommended a formal vernal pool survey be completed.

- (i) In response to wetland and vernal pool concerns brought up during the public hearing, the Applicant provided the following update:<sup>9</sup>

The area around the zipline upper terminal is in fact outside of the area that was delineated for wetlands early in the project. However, the area that was selected for the departure point of the zipline is located on a rather rocky knoll that generally does not support wetlands. Based upon the topography of the location, we do not have concerns that there are any wetlands present. However, Big Lake Development, LLC agrees that a delineation should be completed prior to the commencement of any construction in this area. Should any wetlands be identified, we will work with MDIFW to address any concerns that may arise and address appropriate mitigation if necessary. An additional area of interest, that was “identified” as a potential vernal pool by the concerned party, is located near the top of the upper terminal of the existing lift in what is currently a ski trail. As this area was outside of the limit of disturbance associated with the replacement of this lift, the area was not delineated and additional accommodations were not proposed in the original application. In other words, it is an area that would not be disturbed during construction and would remain protected. Again, in an effort to ensure that we remain compliant and are properly protecting any sensitive environmental resources in the area, we agree that the area would be delineated prior to any construction activity in the area. If it is identified as a wetland, the area would be properly protected and avoided. If it is classified as a vernal pool, we would work with MDIFW to create appropriate protection for the resource and address mitigation if necessary.

- (4) *Historic resources*: The Maine Historic Preservation Commission (MHPC) reviewed the Project and had no comments.

B. Findings:

- (1) *Existing Uses, Scenic Character, Natural and Historic Resources, and Harmonious Fit*:

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<sup>9</sup> Public Hearing Record: Exhibit 8t Applicants Response to Wetland Concerns



The majority of the Project will involve reconstruction of preexisting buildings, utilization of topography, and maintenance of existing vegetation to minimize the impacts to existing uses and resources. Specifically, the Applicant has provided plans that seek to locate, design, and landscape proposed structures to reasonably minimize their anticipated visual impact on the surrounding area, thereby preserving the natural character of the area. These measures include vegetation buffering and retention, creating separate structures that are oriented at different angles to prevent large facades and long rooflines, construction material design that employs muted, natural tones which blend in with the existing landscape, orientation of proposed buildings to the north resulting in minimized sun reflection, and locating buildings within existing site conditions that fits within the natural topography of the site. Furthermore, the site has a longstanding history of hosting an operational ski resort, and is located in an area of the State, western Maine, in which ski resorts are a well-established feature of recreational culture. Ski lifts and associated infrastructure are not uncommon structures on western Maine mountains, further minimizing the likelihood of any incongruous visual impacts for visitors and those who reside in the area.

Potential wetland and vernal pool impacts were identified near the project area and interested persons raised concerns regarding potential impacts to these areas.. The Applicant's proposed responses to concerns raised by the MDIFW and interested persons regarding impacts to natural resources provide sufficient assurance that, if followed, there will be no undue adverse impacts. Conditions of compliance imposed by this Permit requiring the Applicant to conduct further studies prior to beginning any construction provide additional assurance that no undue adverse impacts to natural resources will occur and that the Project will fit harmoniously into the existing natural environment

Accordingly, prior to beginning any construction on the Project, the Applicant must: conduct follow-up verification of wetlands during the growing season to confirm wetland boundaries (Condition 15); complete a formal vernal pool study during the breeding season (Condition 15); conduct a wetland delineation around the Zipline upper terminal (Condition 15); execute the proposed Bicknell Thrush Conservation Easement according to final language approved by MDIFW and MFS (Condition 23);, pay to the MDIFW the proposed In Lieu Fee buffer mitigation payment (Condition 24);, and follow the proposed Zipline construction avoidance plan for Bicknell's Thrush (Condition 27). The Commission finds that with the imposition of these conditions of compliance, the Project will fit harmoniously into the existing natural environment and will not cause an undue adverse effect on existing natural and historic resources in the area likely to be affected by the proposal. 12 M.R.S. § 685-B(4)(C) and Chapter 10, § 10.24(A)(1)(C), 10.25(E)(1 through 3) and 10.25(P)(4).

## 55. Noise and Lighting:

- A. Criteria and standards: In considering the land use standards, the Commission imposes noise limitations measured at property lines and requires compliance with standards for exterior light levels, glare reduction, and energy conservation for any proposed lighting. Chapter 10, § 10.25(F).

B. Analysis:

- (1) *Noise:* The Applicant stated that except for day-time construction activities, operation of the Project will not generate any continuous, regular or frequent source of noise and that the Project is not expected to generate any discernible noise levels at the property boundary lines.
- (2) *Lighting:* The Applicant has stated in Exhibit 17 of the application that the exterior lighting for the Project will be designed and installed in compliance with the Commission's standards for lighting in Chapter 10, § 10.25(F). In addition, the Applicant states that all exterior lights will be full cut-off, lighting will be designed primarily for safety, the Base Lodge will act as a shield for outdoor areas uphill of the base village, up-lights will not be used on individual buildings, non-essential lighting will be turned off after 10 pm, and ski runs and associated infrastructure will not be lit.

- C. Finding: Sounds emanating from construction-related activities conducted between 7:00 A.M. and 7:00 P.M. are exempt from the Commission's noise standards.<sup>10</sup> The Commission finds credible the Applicant's representation that the Project will be in compliance with applicable lighting standards. Based upon the record and the above analysis, the Commission finds that the Project meets the Commission's noise and lighting standards.

**56. Soil Suitability and Erosion and Sedimentation Control:**

- A. Criteria and standards: The Commission may not approve an application unless 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. 12 M.R.S. § 685-B(4)(D) and Chapter 10, § 10.24(D). In considering the land use standards, among other items, the Commission requires that the applicant demonstrate that soils suitable to the proposed use of the land are present. Chapter 10, § 10.25(G). The Commission also requires the effective control of soil erosion and sedimentation during and following completion of construction activities. Chapter 10, § 10.25(M).

B. Analysis:

- (1) *Soil suitability:* The Applicant submitted a preliminary class B high intensity soil survey for the areas of proposed development completed by a State of Maine Licensed Soil Scientist. The Soil Scientist stated that the soil survey meets the Maine Association of Professional Soil Scientists' (MAPSS) Class B- High Intensity Soil Survey standards with the following exceptions: a lack of the required 5' contours, refinement of "D" and above slopes along the ravines, presence of winter conditions limiting the assessment of surface stoniness, and mapping for hydric soils. The Commission may waive one or more of the provisions of a Class A or B high intensity soil survey, including but not limited to, the contour mapping requirement, where such provision is considered by the Commission unnecessary for its review. Chapter 10, § 10.25(G)(1)(e)(4). In this case, given the steep slopes at the site,

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<sup>10</sup> Chapter 10, § 10.25(F)(1)(b)(1).

previous development on the property, and the separate wetland delineation, the Commission determined that the provisions of MAPSS' standards not met by the onsite soil survey were unnecessary for its review of this proposal.

The soil survey indicates that the soils within the proposed development area are Telos-Chesuncook association (THC), somewhat poorly drained/moderately well drained with slopes of 3 to 15 percent, Telos-Monarda Complex (TMB), somewhat poorly drained to poorly drained with 8 to 15 percent slopes, and Monson-Elliottsville-Knob Lock association, ranging from very deep and moderately well drained to very shallow and well drained silt loam. The Soil Scientist stated that the soils are generally all suitable for the proposed use and indicated that properly installed and maintained best management practices and erosion control measures will address any necessary soil stabilization and restoration efforts. Staff review of the Natural Resource Conservation Service (NRCS) potential ratings indicate that the soils are rated as somewhat limited to very limited. Although soils mapped by NRCS within the areas of the Project are mapped as having very low potential for low density development, the prior existing ski resort was successfully developed with no issues related to soil conditions. In this case, the Commission gives more weight to the successful development of the existing ski resort and the conclusions of the Licensed Soil Scientist than the potential ratings published by NRCS.

The Applicant submitted additional soil information and a test pit location map from the Biodiversity Research Institute describing the results of an April 22, 2021, field visit.<sup>11</sup> The additional information provided soil profile descriptions, and confirmation of hydrologic soil groups and soil conditions within the proposed stormwater buffer areas so that soil physical properties could be accounted for in stormwater planning and post construction activities for the Project. Soil characteristics observed within the proposed buffer areas fall within Hydrologic Soil Group C and Hydrologic Group D. The stormwater design has primarily utilized Hydrologic Soil Group D and the additional soil information has confirmed this to be a suitable assumption for the stormwater design.

(2) *Erosion and sedimentation control.* The Commission requires the effective control of soil erosion and sedimentation during and following completion of construction activities. The Applicant submitted engineered plans with environmental and civil details (Sheet C-3.01), stamped by a State of Maine Licensed Professional Engineer, which describes the proposed construction and post-construction erosion and sedimentation control measures. The Applicant also submitted an erosion and sedimentation control plan outlining installation, maintenance, and inspection aspects of the Project's erosion control devices.

C. Finding: Based upon the record and the above analysis, the Commission finds that the Project will comply with the Commission's soil suitability standards set forth in Chapter 10, § 10.25(G). Based upon the record and the above analysis, the Commission also finds that the Project will comply with Chapter 10, § 10.24(D) provided the Applicant follows the proposed erosion control plan and all the applicable erosion control standards set forth in Chapter 10, § 10.25(M), a copy of which is attached to this permit amendment and is incorporated herein by reference.

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<sup>11</sup> Public Hearing Record: Exhibit 5.1, Stormwater Memo\_Test Pit Map

## 57. Solid Waste Disposal:

### A. Criteria and standards:

- (1) Provisions must be made for the regular collection and disposal of site-generated solid wastes at a state-approved landfill or transfer station and for the legal disposal of all construction debris, stumps, brush, wood wastes, asphalt and pavement products. Chapter 10, § 10.25(H).

### B. Analysis:

- (1) The Applicant has provided a letter from the Greenville Town Manager stating that, in regards to the municipal solid waste (msw), the Greenville transfer station in Greenville, Maine is capable of and willing to provide for the collection and disposal of solid waste generated by the Project.<sup>12</sup>
- (2) The Applicant has stated that all construction debris, including wood waste will be disposed in a proper manner, either at the Pinetree Landfill in Hampden or a similar facility.

- ### C. Findings: Based upon the record and the above analysis, the Commission finds that the Project meets the Commission standards for solid waste disposal pursuant to Chapter 10, § 10.25(H) provided that, prior to beginning construction, the Applicant submits a letter from a state-approved solid waste facility(ies) that confirms its availability and capacity to accept the types of construction wastes that will be generated by the Project.

## 58. Wastewater Disposal and Water Supply:

### A. Criteria and standards:

- (1) Where wastewater is to be collected and treated off-site by a municipal or quasi-municipal sewage treatment facility, the applicant must demonstrate that there is adequate capacity in the collection and treatment systems to ensure satisfactory treatment, the facility is fully licensed by the Maine Department of Environmental Protection, and the facility agrees to accept these wastes. Chapter 10, § 10.25(I)(3).
- (2) The Applicant must demonstrate that there is sufficient healthful water supply to serve the needs of the project for subdivisions and commercial, industrial, and other non-residential development. Chapter 10, § 10.25(J)(4).

### B. Analysis:

- (1) The Applicant submitted a letter from the Moosehead Sanitary District, dated March 22, 2021, which states that the Sanitary District is willing and able to provide wastewater disposal services for the proposed development. The facility is licensed by the Maine Department of Environmental Protection, Waste Discharge License #W-002119. The

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<sup>12</sup> Public Hearing Record: Exhibit 5c Addendum 1 Greenville Transfer Station

Applicant provided an estimated sewer flow calculation of 79.68 g.p.m. sewer flow for the proposed development. While the Sanitary District is willing and able to provide services, the Applicant has not provided a signed service agreement with the Sanitary District. The Applicant states they are currently working with the Sanitary District to get a formal agreement and states that the line from the resort to the connection with the Moosehead Sanitary District will be funded and constructed by the proposed development and not by the District.

- (2) The Applicant states that the wastewater line will be entirely within the MDOT right-of-way and submitted a letter from MDOT which states the MDOT Utility Accommodation Rules allow for the placement of utilities inside the public way under the conditions that the utility is installed in accordance with those rules and that the utility is owned by an authorized entity, also defined in the rules. The letter further states that “[p]ermits required for the installation of a buried sanitary sewer line on Route 6/15 include a utility location permit and highway opening permit.” The Applicant states the line as designated will meet these criteria.<sup>13</sup>
- (3) The Limited Intervenor and members of the public argue that the Applicant has not made adequate provisions for sewage disposal because there is no binding agreement in place between the Applicant and the Moosehead Sanitary District for wastewater disposal. As with the final commitment letter from the financing entity, the Commission finds that it is not reasonable or practicable to require a binding commitment with the sanitary district prior to the issuance of discretionary permits and closing on the sale of the property. A letter from the sanitary district indicating that it is willing and able to take wastewater from the Project is a sufficient demonstration that there is adequate capacity in the collection and treatment systems to ensure satisfactory treatment and the facility agrees to accept these wastes. To provide further assurance that this standard is met, the Commission has incorporated a condition in this decision document, Condition 12, requiring the submission of the signed wastewater disposal agreement with the sanitary district before the Permittee may begin construction of the Project.
- (4) The Commission had concerns about the need for upgrades in the existing collection system and pumpstations that will convey wastewater from the Project to the sanitary district’s treatment system. In a letter dated June 6, 2022, submitted by Treadwell Franklin Infrastructure Capital, on behalf of the Applicant, the Applicant recognized the need for upgrades to the existing sewer collection system and agreed that these capital costs will be covered by the Project. Exhibit 5.xx.
- (5) The Applicant provided a hydrogeology study as evidence of an adequate water supply and adequate water quality for a potable water system which will consist of a minimum of two shallow gravel wells, a booster station, four 32,000-gallon cisterns, and the necessary interconnecting pipe. The hydrogeology study was performed by Weston & Sampson, Frank Getchell, Maine Professional Geologist GE474, and submitted as Exhibit 14 of the application. The assessment indicates that the local water resources can support the proposed drinking water demands.

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<sup>13</sup> Public Hearing Record 5.ii Applicant’s Response to 01.12.2022 LUPC Request

- (6) The Maine Department of Health and Human Services (DHHS), Division of Environmental & Community Health, Drinking Water Program, reviewed the Project and had no comment.
- (7) The Greenville Fire Department reviewed the Project and stated that water supply will be a key factor in their ability to protect the proposed structures as they do not have the ability to shuttle the necessary amount of water. In addition, the height of the proposed structures is a concern since they operate a piece of apparatus with a 75-foot aerial ladder. Although the Greenville Fire Department expressed these concerns, a letter was provided as part of Exhibit 11 of the application that states the Greenville Fire Department is willing to provide fire protection services for the project.
- (8) The Greenville Town Manager reviewed the Project and had questions about the size of the water main supplying the resort and recommended placement of an additional hydrant before or west of the Hotel so as to not place the emergency vehicles in jeopardy of being trapped.
- (9) In response to the Greenville Fire Department and Town Manager's concerns, the Applicant stated that it is anticipated a series of redundant wells, along with redundant pumps, will be installed to ensure the water supply will not be interrupted by an intermittent outage due to mechanical failure. The Applicant further stated that the main water supply line is 6 inches in diameter and demand for the development is calculated at 89 g.p.m. The Applicant also agreed to add an additional hydrant north of the hotel/base lodge to prevent emergency vehicles from being trapped. The Applicant provided the following information regarding the height and access to the proposed structures:

The hotel is approximately 65' high from the back side of the building that faces south/ski slopes and approximately 75' high on the side that faces north. The base lodge is a single story with a vaulted ceiling on the south side that faces the ski trails. An additional story is accessed from the north side. Both levels are accessed directly at grade. The Taphouse building is two story building on the south side, with an accessible roof deck as the second story located 21' above grade. The two other levels are grade accessible. All buildings will be equipped with sprinklers to provide a measure of life safety to add in the ability to evacuate the building in the case of a fire.

- C. Findings: Based upon the record and the above analysis, the Commission finds that the Project meets the Commission standards for wastewater disposal and water supply pursuant to Chapter 10, § 10.25(I)(3), and Chapter 10 § 10.25(J)(4), provided that prior to beginning construction: the Applicant submits a signed wastewater disposal agreement with the Moosehead Sanitary District (Condition 12), adds an additional hydrant north of the hotel/base lodge in order to ensure the safety and effectiveness of emergency response vehicles (Condition 22), and submits a copy of a MDOT utility location permit and highway opening permit prior to the start of construction (Condition 13).



## 59. Public Health, Safety, and General Welfare

### A. Criteria and standards:

- (1) The burden is on the applicant to demonstrate by substantial evidence that the public's health, safety, and general welfare will be adequately protected. 12 M.R.S. § 685-B(4) and Chapter 10, § 10.24(A)(1). Also, the applicant must show that the proposed use will not burden local public facilities and services such as solid waste disposal, fire and ambulance services, and police. Comprehensive Land Use Plan, Section 4.3,E., p.65.

### B. Analysis:

- (1) The Applicant has stated that services for the Project will be provided as follows:
  - a. Fire Protection: Greenville Fire Department;
  - b. Ambulance Services: C.A. Dean Emergency Medical Services;
  - c. Police Services: Piscataquis County Sherriff's Office; and
  - d. Electricity: Central Maine Power.
- (2) The Applicant has submitted ability to serve letters from all these providers, except for C.A. Dean Emergency Medical Services.

- C. Finding: Based upon the record, Finding #58, and the above analysis, the Commission finds that normal operation of the proposed Project will not place an undue burden on local public facilities and services, and the applicant has demonstrated that the public's health, safety, and general welfare will be adequately protected, provided that the Applicant submits an ability to serve letter from C.A. Dean Emergency Medical Services prior to the start of construction.

## 60. Dimensional Requirements:

### A. Criteria and standards:

- (1) The minimum lot size for commercial, industrial, and other non-residential uses involving one or more buildings is 40,000 square feet. Chapter 10, § 10.26(A).
- (2) The minimum road frontage for commercial, industrial, and other non-residential uses involving one or more buildings is 200 feet. Chapter 10, § 10.26(C)(1)(b).
- (3) For commercial, industrial and other non-residential principal and accessory structures, the minimum setbacks for structures are 150 feet from each flowing water draining 50 square miles or more and of a body of standing water 10 acres or greater in size; 100 feet from each flowing water draining less than 50 square miles, body of standing water less than 10 acres in size except for constructed ponds, coastal wetlands, and non-forested wetlands located in P-

WL1 subdistricts; 30 feet from the travelled portion of all roadways in the D-RS/D-GN subdistrict; and 25 feet from side and rear property lines. Chapter 10, § 10.26(D)(3).

- (4) For nonconforming structures, permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S. § 685-B(4) and demonstrate that: a) the project will not adversely affect surrounding uses and resources; and b) there is no increase in the extent of nonconformance, except as provided in Section 10.11(B)(9) or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback. Chapter 10, § 10.11(B)1

**B. Analysis:**

- (1) The Subject Ski Resort Parcel is 1,191 acres in size with approximately 4,000 feet of road frontage on the Ski Resort Road.
- (2) The proposed Hotel and Conference Center, Upper Base Lodge, Tap House, Event Center Pavilion/Pool/Event Lawn, Ski Lifts and Operator Shacks, Zipline, Maintenance Garage, and Mid-Mountain Pump Station and Compressor Building will be setback a minimum of 30 feet from Moosehead Loop Drive, a minimum of 100 feet from the nearest stream or wetland, and greater than 25 feet from the nearest property boundary line.
- (3) Parking for the Event Center Pavilion will be less than 100 feet from a nearby stream. However, as there is a preexisting parking lot on this location that predates this requirement, the proposed development qualifies as reconstruction of a legally existing parking lot. As the reconstruction will not make the parking lot more non-conforming, and the Commission has not identified adverse impacts to surrounding uses and resources, this portion of the Project meets the approval criteria in 12 M.R.S. § 685-B(4) and Chapter 10.11 for a non-conforming use. All other parking will meet applicable dimensional requirements.

- C. Findings: Based upon the record and the above analysis, the Commission finds that the Hotel and Conference Center, Upper Base Lodge, Tap House, Event Center Pavilion/Pool/Event Lawn, Ski Lifts and Operator Shacks, Zipline, Maintenance Garage, Mid-Mountain Pump Station and Compressor Building, and proposed parking will conform with the applicable Commission's dimensional and setback requirements pursuant Chapter 10, § 10.26 or the approval criteria for nonconforming uses pursuant to Chapter 10.11,B,1, as applicable.

**61. Allowed Uses Determination:**

A. Criteria and standards:

*Principal Structures*

- (1) Recreation facilities and related accessory structures are an allowed use upon issuance of a permit in the General Development (D-GN) subdistrict subject to the applicable requirements set forth in Subchapter III. Chapter 10, § 10.21(C)(3)(c)(15).
- (2) Stores, commercial recreational uses not including recreational lodging facilities, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet, may be allowed within D-GN subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24(B)(1) through (3), and the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(d)(1)(c).
- (3) Under the criteria of Sections 10.24(B)(1) through (3), for uses allowed by special exception in accordance with Sub-chapter II, the applicant must show by substantial evidence that:
  - a. There is no alternative site that is suitable to the proposed use and reasonably available to the applicant;
  - b. The use can be buffered from uses within the area likely to be affected by the proposal with which it is or may be incompatible;
  - c. such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan;

#### *Ski Lifts & Zipline*

- (4) Public or private recreation facilities including, but not limited to, parks, playgrounds, and golf courses, and related accessory structures, may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(c)(15).
- (5) Structures related to downhill skiing and other mountain related recreation facilities may be allowed within P-MA subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), the criteria of Sections 10.24(B)(1) through 3, and subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.23(G)(3)(d)(4).

#### *Accessory Structures*

- (6) Other structures, uses or services that are essential to the uses listed in Section 10.21(C)(3) a through c may be allowed within a D-GN subdistrict upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(c)(28).
- (7) Filling and grading are allowed uses without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(b)(6).

- (8) Filling and grading are allowed uses without a permit from the Commission within M-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.22(A)(3)(b)(8).
- (9) Filling and grading are allowed uses without a permit from the Commission within P-GP subdistricts subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.23(E)(3)(b)(6).
- (10) Filling and grading which is not in conformance with the standards of Section 10.27(F) may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(c)(9).
- (11) Filling and grading which is not in conformance with the standards of Section 10.27(F) may be allowed within M-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.22(A)(3)(c)(8).
- (12) Filling and grading, which is not in conformance with the Standards of Section 10.27(F) may be allowed within P-GP subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.23(E)(3)(c)(8).

### *Signs*

- (13) Signs are allowed without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. The Commission's Sign standards are contained in Section 10.27(J).
- (14) Signs which are not in conformance with the standards of Section 10.27(J) may be allowed within a D-GN and M-GN subdistrict, under section 10.21(C)(3)(c)(20) and section 10.22(A)(3)(c)(20), respectively, upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III.
- (15) Under the provisions of Section 10.11(B)(1) permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S. § 685-B(4) and demonstrate that: a) the project will not adversely affect surrounding uses and resources; and b) there is no increase in the extent of nonconformance, except as provided in Section 10.11(B)(9) or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback.
- (16) Under the provisions of Chapter 10, section 10.27(J)(3) in approving, conditionally approving, or denying any application for a sign permit, the Commission shall require that

the applicant demonstrate that the proposed sign complies with those criteria set forth in 12 M.R.S. § 685-B(4) as well as the following:

- a. That the sign is compatible with the overall design of the building height, color, bulk, materials and other design and occupancy elements;
- b. That the color, configuration, height, size, and other design elements of the sign will fit harmoniously into the surrounding natural and man-made environment;
- c. That the sign will not constitute a hazard to the flow of traffic; and
- d. That the applicant sufficiently demonstrates the need for any non-conformity with the size, height, and other limitations set forth in Section 10.27,J,1.

### *Roads & Parking*

- (17) Level A Road Projects are uses allowed without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(b)(10).

Level A Road Projects are defined as reconstruction within existing rights-of-way of public or private roads other than land management roads, and of railroads, excepting bridge replacements. Examples of such activities include, without limitation, culvert replacements, resurfacing, ditching, and bridge repair. When there is no existing layout of right-of-way, the right-of-way should be assumed to extend 33 feet on either side of the existing centerline Chapter 2, § 2.02(202).

- (18) Level B and C Road Projects, except for water crossings as provide for in Section 10.21(C)(3)(b) are uses allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III.

Level B Road Projects are defined as Minor relocations, and reconstructions, involving limited work outside of the existing right-of-way of public roads or private roads other than land management roads and of railroads; bridge reconstruction and minor relocations whether within or outside of existing right-of-way of such roads; "Minor relocations" as used herein may not exceed 300 feet in horizontal displacement of centerline. "Reconstruction" as used herein may involve widening of existing rights-of-way not to exceed 50 feet on either side. Chapter 2, § 2.02(203).

Level C Road Projects are defined as construction of new roads, and relocations or reconstruction of existing roads, other than that involved in level A or level B road projects; such roads shall include both public and private roadways excluding land management roads. Chapter 2, § 2.02(204).

- (19) Extension, enlargement or resumption of use of presently existing roads, which are not in conformity with the provisions of Section 10.27(D) are subject to the provisions of Section 10.11. Chapter 10, § 10.27(D)(1)(j).

- (20) Permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S. § 685-B(4) and demonstrate that: a. the project will not adversely affect surrounding uses and resources; and b. there is no increase in the extent of nonconformance, except as provided in Section 10.11(B)(9) or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback. Chapter 10, § 10.11(B)(1).
- (21) Water crossings of minor flowing waters are allowed without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(b)(15).
- (22) Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27(D) may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(c)(25).
- (23) Driveways associated with non-residential uses may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(c)(8).
- (24) Chapter 10, § 10.25,D(3)(d)(1 through 4), contains the Commission's standards for off-street parking for commercial, industrial and other non-residential development.
- a. Where practicable, off-street parking shall be located to the side or rear of the principal structure. Chapter 10, § 10.25,D(3)(d)(1).
  - b. Notwithstanding the dimensional requirements of Section 10.26, the Commission may reduce the minimum road setback requirement by up to 50 percent or to no less than 20 feet, whichever is greater, for development utilizing on-street parking in accordance with Section 10.25(D)(3)(c) or for development whose parking area is located to the rear of the principal structure, except where the Commission finds that such parking will cause an undue adverse impact to the natural resources or community character of the area. Chapter 10, § 10.25,D(3)(d)(2)
  - c. Off-street parking shall not be directly accessible from any public roadway. Ingress and egress to parking areas shall be limited to driveway entrances. Chapter 10, § 10.25,D(3)(d)(3)
  - d. Off-street parking areas with more than two parking spaces shall be arranged so that each space can be used without moving another vehicle. Chapter 10, § 10.25, D(3)(d)(4).

### *Utilities*

- (25) Service drops are allowed without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(b)(11).



Service drops are defined as any utility line extension which does not cross or run beneath any portion of a body of standing water provided that: a. in the case of electric service (1) the placement of wires, and/or the installation of utility poles, is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and (2) the total length of the extension within any five-year period is less than 2,000 feet. Chapter 2, section 2.02(209)

- (26) Utility facilities compatible with residential uses, other than service drops, and wire and pipeline extensions which do not meet the definition of service drops, may be allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, § 10.21(C)(3)(c)(24).

Utility facilities are defined as structures normally associated with public utilities, including without limitation: radar, radio, television, or other communication facilities; electric power transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; municipal sewage lines; gas, oil, water, slurry or other similar pipelines or above ground storage tanks. Chapter 2, section 2.02(248).

- (27) The following criteria apply to permit applications for uses allowed by special exception in accordance with Sub-chapter II for stores, commercial recreational uses not including recreational lodging facilities, and entertainment or eating establishments having a gross floor area of more than 2,500 square feet, which may be allowed within D-GN subdistricts as special exceptions and structures related to downhill skiing and other mountain related recreation facilities which may be allowed within P-MA subdistricts as special exceptions. Specifically, the applicant must show by substantial evidence that: 1. there is no alternative site that is suitable to the proposed use and reasonably available to the applicant; 2. the use can be buffered from uses within the area likely to be affected by the proposal with which it is or may be incompatible; 3. such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan

B. Analysis:

*Principal Structures*

- (1) Private recreation facilities and related accessory structures, such as the proposed Event Center Pavilion and Upper Base Lodge, are allowed uses within in the General Development (D-GN) subdistrict subject to the applicable requirements set forth in Subchapter III. Chapter 10, § 10.21(C)(3)(c)(15).
- (2) The Applicant's proposed Hotel/Conference Center and Tap House will each have a gross floor area of more than 2,500 square feet and are for commercial purposes. Pursuant to Chapter 10, § 10.21(C)(3)(d)(1)(c), the proposed Hotel/Conference Center and Tap House are allowed uses within in the General Development (D-GN) subdistrict as special exceptions.

*Ski Lifts & Zipline*

- (3) The proposed Upper Ski Lift's Bottom Terminal, Bottom Operator Shack, and Bottom Bullwheel and foundation will be located within the (D-GN) General Development Subdistrict.
- (4) The proposed Upper Ski Lift's Top Terminal, Top Bullwheel and foundation, and Top Operator Shack will be located within the (P-MA) Mountain Protection Subdistrict.
- (5) The proposed T-Bar Top and Bottom Operator Shacks will be located within the (D-GN) General Development Subdistrict.
- (6) The proposed Top Upper Zipline foundation and platform will be located within the (P-MA) Mountain Protection Subdistrict
- (7) The proposed Mid and Lower Zipline foundations and platforms will be located within the (D-GN) General Development Subdistrict.
- (8) The Upper Ski Lift and Upper Zipline are structures related to downhill skiing and other mountain related recreation facilities and are allowed uses in the P-MA subdistrict by special exception. The Upper Ski Lift, T-Bar, and Mid and Lower Zipline are essential and directly related to the operation of the ski resort recreation facility and are allowed uses within the D-GN subdistrict.

*Accessory Structures*

- (9) The proposed Maintenance Garage is essential for the maintenance and storage of equipment related to the operation of the ski resort recreation facility and will be located within the (D-GN) General Development Subdistrict.
- (10) The proposed Mid-Mountain Pump Station and Compressor Building is essential for snowmaking for the ski resort and will be located within the (D-GN) General Development Subdistrict.
- (11) The proposed filling and grading for the replacement snowmaking lines, which is essential for snowmaking within the ski resort, will be located within the D-GN and M-GN, and P-GP subdistricts.
- (12) The proposed Maintenance Garage, Mid-Mountain Pump Station and Compressor Building, and filling and grading in conformance with the standards of Section 10.27(F) for the replacement snowmaking lines are allowed uses in the D-GN subject to the applicable requirements set forth in Sub-Chapter III.
- (13) Filling and grading in conformance with the standards of Section 10.27(F) for the replacement snowmaking lines is also an allowed use in the M-GN and P-GP subdistricts

subject to the applicable requirements set forth in Sub-Chapter III. No wetland impacts are proposed for the snowmaking lines and directional drilling is proposed for stream crossings.

- (14) Filling and grading not in conformance with the standards of Section 10.27(F) for the replacement snowmaking lines is an allowed use in the D-GN, M-GN, and P-GP subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, and subject to the applicable requirements set forth in Sub-Chapter III.

### *Signs*

- (15) Directional Sign. The proposed new non-illuminated 5 foot wide by 4 foot tall (20 square feet) Directional Sign is in conformance with the Commission's size limitations for on-premises signs, and will not be located more than 1,000 feet from the building or other particular site at which the activity advertised is conducted, will not extend more than 15 feet above ground level, and will not have a supporting structure which extends more than two feet above such sign, in conformance with Section 10.27(J). The Directional Sign will be located within the D-GN subdistrict and is allowed without a permit from the Commission within the D-GN subdistrict subject to the applicable requirements set forth in Sub-Chapter III.
- (16) Southern Entrance, Northern Entrance, Resort Access Road, and Arrival Signs. The 7 foot wide by 20 foot tall, illuminated replacement sign for the existing Southern Entrance Sign, the new 7 foot wide by 20 foot tall, illuminated Northern Entrance Sign, the new illuminated 7 foot wide by 20 foot tall Resort Access Road Sign, and the new illuminated 12 foot wide by 10 foot tall Arrival Sign are not in conformance with the Commission's Sign Standards, Chapter 10, Section 10.27(J). Specifically, the signs will exceed the size limitations for on-premise signs, which allow a maximum size of 32 square feet for each individual sign in the D-GN and M-GN subdistricts and a maximum height of 15 feet above ground level in those subdistricts.
- (17) The proposed Southern Entrance, Northern Entrance, Resort Access Road, and Arrival Signs which are not in conformance with the standards of Section 10.27(J) may be allowed within a D-GN and M-GN subdistrict, upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III.
- (18) The Applicant states the lighted signs will be illuminated with LED uplights in such a manner that beams or rays of lights will not be directed at any portion of the state highway and will not cause glare or impair the vision of a driver.<sup>14</sup> In addition, the Applicant states there is need for a highly visible entrance sign with minimum size lettering as a function of the posted highway speed at the location.<sup>15</sup> The Applicant further states the resort will be operational after dark and lighting will be needed to ensure safety. The Applicant provided examples of other larger signs that travelers along Route 6 are accustomed to seeing, which

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<sup>14</sup> Public Hearing Record; Exhibit 5.w Applicant's Response to 5/05/2021 LUPC

<sup>15</sup> Minimum lettering size based on *Sign Guidelines for Planning, Designing, Fabricating, Procuring, Installing, and Maintaining Signs for Outdoor Public Use Area*. U.S. Department of the Interior, Bureau of Reclamation. October 2006

are in scale with the proposed signs. In Exhibit 8 of the application, the Applicant provided conceptual signage which also states that materials for signs will include muted, natural colors, and be constructed of primarily wood that will fit in with the natural environment. Based on the information provided, and if the signs are constructed in accordance with the conceptual designs, the signs will not be located near any buildings with which they could be incompatible, the design elements of the signs will fit harmoniously with the existing road system and surrounding woodland, the signs would not constitute a hazard to the flow of traffic, and the applicant has sufficiently demonstrated the need for signs of the size and nature proposed; thereby demonstrating that the criteria for sign approval have been met.

### *Roads & Parking*

- (19) The proposed upgrade of the Upper Base Access Road to a paved surface and the proposed slight realignment and upgrade to a paved surface of the Parking Loop Road meet the definition of a Level A Road Project. Level A Road Projects are uses allowed without a permit from the Commission within D-GN subdistricts subject to the applicable requirements set forth in Sub-Chapter III. The Upper Base Access Road is being reconstructed further away from an existing unnamed stream and effectively creates a 100-foot buffer area along the stream that does not currently exist.
- (20) The proposed new Loop Road Extension, aka “Moosehead Loop Drive”, including a new 240 linear foot hotel loop drive, meets the definition of a Level C Road Project. Level C Road Projects, except for water crossings as provided for in Section 10.21(C)(3)(b) are uses allowed within D-GN subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III.
- (21) Under the provisions of Chapter 10, § 10.27(D)(1)(j), extension, enlargement or resumption of use of presently existing roads, which are not in conformity with the provisions of Section 10.27(D) are subject to the provisions of Section 10.11. The proposed upgrade of the Parking Loop Road and Loop Road Extension are subject to the provisions of Section 10.11. Under the provisions of § 10.11(B)(1), in order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S. § 685-B(4) and demonstrate that: a. the project will not adversely affect surrounding uses and resources; and b. there is no increase in the extent of nonconformance, except as provided in Section 10.11(B)(9) or in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a water body setback. The new Loop Road extends the existing Parking Loop Road and does not increase the extent of nonconformance with a water body setback and will not adversely affect surrounding uses and resources as discussed in Finding #54, therefore, the Commission finds that the proposed upgrade meets the provisions of Section 10.11.
- (22) The two new proposed water crossings within the Moosehead Loop and the proposed Ski Bridge meet the definition of water crossings of a minor flowing water which are allowed without a permit from the Commission within D-GN subdistricts provided that each crossing is in conformance with the activity specific standards of Section 10.27(D). Water crossings of minor flowing waters which are not in conformance with the standards of Section 10.27(D) may be allowed within D-GN subdistricts upon issuance of a permit from the

Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. The Applicant stated that the bridges have not been designed at this time and therefore, other than the bridge abutments being constructed outside the resource boundary and at least 1.2 times the width of the channel, no details are available. Provided the water crossings are designed to be in conformance with the Commission's activity specific standards, unless otherwise approved by the Commission, the water crossings will be an allowed use in the D-GN subdistrict.

#### *Utilities*

- (23) The Applicant's proposed electrical upgrade meets the definition of a service drop and is an allowed use within the D-GN subdistrict.
- (24) The Applicant's proposed sewer connection line to the Moosehead Sanitary District meets the definition of a utility facility. The connection line will be within the D-GN subdistrict on the Applicant's parcel and within multiple subdistricts along the road right-of-way off the Ski-Resort Road and Route 6/15. For each subdistrict, the sewer line is an allowed use.

#### C. Findings:

- (1) Based upon the record and the above analysis, the Commission finds that the Event Center Pavilion, Upper Base Lodge, Lower Ski Lifts, and Lower Zipline are allowed uses within the General Development (D-GN) subdistrict pursuant to Chapter 10, § 10.21(C)(3)(c)(15).
- (2) Based upon the record and the below analysis, the Commission finds that the Hotel/Conference Center and Tap House are allowed uses by special exception within the General Development (D-GN) subdistrict pursuant to Chapter 10, § 10.21(C)(3)(d)(1)(c). The Applicant's property and existing development area is within the D-GN and P-MA subdistricts. There is no alternative site that would allow the proposed structures to be within the existing ski resort. The Applicant has demonstrated by substantial evidence that the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible as discussed in Finding #54.
- (3) Based upon the record and the below analysis, the Commission finds that the Upper Base Ski Lift and Upper Zipline meet the special exception criteria under Chapter 10 § 10.24(B)(1) through (3). In accordance with Section 10.23(G)(3)(d)(4), the proposed Upper Base Ski Lift and Zipline may be allowed within P-MA subdistricts as special exceptions. The Applicant has demonstrated by substantial evidence that there is no alternative site which is both suitable for the proposed use and reasonably available to the applicant and that the use can be buffered from those other uses and resources within the subdistrict with which it is incompatible. Specifically, due to the nature of their use, location of existing streams and downhill ski trails, the lift and zipline cannot practically be relocated without additional clearing. In addition, the zipline's location has been selected and designed to create the least overall cumulative impacts while meeting the purpose of the Project. Furthermore, the location of the proposed Upper Base Ski Lift and Zipline is developed with downhill skiing trails, with no other uses or resources present with which it would be incompatible, provided

that no additional clearing upslope of the location of the Zipline summit station occurs as recommended by the MNAP.

- (4) Based upon the record and the above analysis, the Commission finds that the Maintenance Garage and Mid-Mountain Pump Station and Compressor Building are allowed uses within the General Development (D-GN) subdistrict pursuant to Chapter 10, § 10.21(C)(3)(c)(15).
  - (5) Based upon the record and the above analysis, the Commission finds that the Event Center Pavilion and Upper Base Lodge are allowed uses within the General Development (D-GN) subdistrict pursuant to Chapter 10, § 10.21(C)(3)(c)(15).
  - (6) Based upon the record and the above analysis, the Commission finds that the proposed new non-illuminated 5 foot wide by 4-foot tall (20 square feet) Directional Sign is an allowed use within the General Development (D-GN) subdistrict pursuant to Chapter 10, § Chapter 10, § 10.21(C)(3)(b)(12).
  - (7) Based upon the record and the above analysis, the Commission finds that the proposed Southern Entrance, Northern Entrance, Resort Access Road, and Arrival Signs which are not in conformance with the standards of Section 10.27(J) are allowed within a D-GN and M-GN subdistrict, upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B. The Commission further finds that the signs, as reflected in the conceptual designs submitted, meet the criteria for sign approval in Section 10.27(J)(3). However, because the signs are in a conceptual design stage, the Commission needs final details on the signs before final approval can be given. Accordingly, the construction of these signs is authorized subject to the condition that final sign designs be submitted to the Commission for approval prior to construction of the signs.
  - (8) Based on the record, the proposed upgrade of the Upper Base Access Road and the Parking Loop Road are allowed uses within the General Development (D-GN) subdistrict pursuant to Chapter 10, § 10.21(C)(3)(b)(10).
  - (9) Based on the record, the proposed new Moosehead Loop drive is an allowed use within the General Development (D-GN) subdistrict pursuant to Chapter 10, § Chapter 10, § 10.21(C)(3)(c)(18).
  - (10) Based on the record, the proposed water crossings of minor flowing waters are allowed uses within the General Development (D-GN) subdistrict provided they meet the Commission's Water Crossing Standards pursuant to Chapter 10, § Chapter 10, § 10.21(C)(3)(c)(18).
62. The facts are otherwise as represented in Development Permit Application DP 3636, subsequent amendments, Amendment Request F, and supporting documents.
63. If carried out in compliance with the Conditions below, the proposal and activities will meet the Criteria for Approval, §685-B(4) of the Commission's Statutes, 12 M.R.S.



**Therefore, the Commission, approves the application of Big Lake Development, LLC, with the following conditions:**

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started 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.
2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation is subject to prior review and approval of the 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.
3. The permittee shall secure and comply with all other applicable licenses, permits, authorizations and monitoring requirements of all federal, state and local agencies including, but not limited to, the Maine Department of Health and Human Service's Division of Environmental Health's Subsurface Wastewater Unit and Health Inspection Program, the Maine Department of Environmental Protection, and the Fire Marshal's Office.
4. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
5. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.
6. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
7. All water crossings shall be in conformance with the Commission's Water Crossing Standards, Chapter 10, Section 10.27(D)(2), a copy of which is attached.
8. All in-water work be must be conducted between July 15 through September 30.

9. Prior to the start of any construction associated with the Project, the Applicant shall submit to the Commission for review and receive approval of:
  - a. A final cost estimate for the Project
  - b. A final commitment letter from Barclays demonstrating a binding agreement from Barclays to provide funding sufficient to meet the final cost estimate for the Project, and
  - c. All other final documents necessary to demonstrate that adequate financing has been obtained for the Project.
10. Prior to the start of any construction associated with the Project, the Applicant shall submit to the Commission for review and receive approval of a surety from a commercial bank or indemnity insurance company, such as an irrevocable standby letter of credit, surety bond, or another form of financial assurance acceptable to the Commission, to cover the cost of installing erosion control measures, stormwater treatment practices, and the proposed wastewater sewer line and connection upgrades. The Applicant shall maintain financial assurance sufficient to cover the cost of installing the listed pollution control measures throughout the construction period for the Project, including final stabilization of the Project site.
11. Prior to the start of any construction associated with the Project, the permittee must submit to the Commission a copy of a signed Maine Department of Transportation traffic movement permit for the Project.
12. Prior to the start of any construction associated with the Project, the permittee must submit to the Commission a signed service agreement with the Moosehead Sanitary District for disposal of wastewater generated by the Project.
13. Prior to the start of any construction associated with the Project, the permittee must submit to the Commission copies of a signed Maine Department of Transportation utility location permit and highway opening permit for construction of the sewer line proposed for the Project.
14. Prior to the start of any construction associated with the Project, the permittee must submit to the Commission an ability to serve letter from C.A. Dean Emergency Medical Services acceptable to the Commission.
15. Prior to the start of any construction associated with the Project, the permittee must conduct a follow-up verification of all wetland boundaries within the Project site during the growing season to confirm wetland boundary lines, complete a formal vernal pool study of the Project site during the breeding season, and perform a wetland delineation around the Zipline upper terminal. Copies of reports documenting these additional studies and acceptable to the Commission must be submitted to the Commission prior to the start of any construction associated with the Project. If any additional wetland or wildlife mitigation is required based on these additional studies, no construction associated with the Project may begin until the Commission has approved a plan for that additional mitigation requirement.

16. Prior to the start of any construction associated with the Project, the permittee must submit to the Commission for final review and receive approval of:
  - a. Final construction details of the proposed wastewater sewer line and connection upgrades in regard to streams and wetlands impacts.
  - b. A separate Wetland Alteration Permit application for the construction of the sewer line if any impacts will occur to streams or wetlands.
17. The permittee must follow the proposed erosion control plan and all the applicable erosion control standards set forth in Chapter 10, § 10.25(M), a copy of which is attached to this permit amendment and is incorporated herein by reference.
18. Prior to the start of any construction associated with the Project, the permittee must record in the Piscataquis County Registry of Deeds the deed restrictions and conservation easements for the meadow and forested stormwater buffers as shown on the revised Permit Set R1, Plan Sheets C-1.01-1.03, C-2.01-2.06, C-5.01, and D-1.01-D-1.03, revised and dated April 28, 2021, and submit a copy of such recording to the Commission.
19. During construction of the stormwater best management practices, the design engineer must be onsite and oversee the construction of those practices to ensure construction meets all of the design specifications.
20. The permittee must submit to MDEP, Bureau of Land Resources (BLR) and the Commission a status update at least once per year during construction of the Project and as-built plans of the stormwater best management practices within 30 days after completion of construction.
21. No additional clearing upslope of the location of the zipline summit station may occur as recommended by the MNAP.
22. The permittee must add an additional hydrant north of the hotel/base lodge for effective emergency response in accordance with the recommendation of the Town of Greenville.
23. Prior to the start of any construction associated with the Project, the permittee must submit to the Commission a signed and recorded Conservation Easement for the Forest Society of Maine for the proposed approximately 150 acre Bicknell Thrush Conservation Easement. The permittee shall work with MDIFW and FSM to review and receive their approve of the final language in the easement.
24. Prior to the start of any construction associated with the Project, the permittee must pay the proposed In-Lieu-Fee to MDIFW related to stream buffer impacts and provide evidence to the Commission that the fee has been paid.
25. Prior to the start of any construction associated with the Project, the Applicant must submit to the Commission a signed letter from a state-approved solid waste facility(ies) that confirms its

availability and capacity to accept the types of construction wastes that will be generated by the Project.

26. Prior to installation of the Southern Entrance Sign, Northern Entrance Sign, Resort Access Road Sign, and Arrival Sign, the Permittee must submit to the Commission and receive approval of the final location and design details for these signs.
27. The Applicant must avoid construction of the Upper Zipline between May 1 and July 31, except as provided in the approved Zipline Construction Avoidance Plan. If vegetation clearing for the Upper Zipline has been completed, but a weather delay of concrete work occurs after April 30, the permittee must notify the Commission and follow the approved Zipline Construction Avoidance Plan as outlined in Finding #54 3(a)(iii)(c).

This permit is approved upon the proposal as set forth in the application and supporting documents, except as provided for and modified in the above stated conditions and remains valid only if the Permittee complies with all of these conditions. Any variation from the application or the condition of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law.

In accordance with 5 M.R.S. section 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after the 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.

DONE AND DATED AT BANGOR, MAINE, THIS 14<sup>th</sup> DAY OF SEPTEMBER 2022.

By: \_\_\_\_\_  
Stacie R. Beyer, Acting Executive Director

## **Attachment D**

### **DP 3639-F Hearing Record Index**

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MAINE LAND USE PLANNING COMMISSION  
**INDEX TO THE PUBLIC HEARING RECORD<sup>1</sup>**  
CONCERNING DEVELOPMENT PERMIT DP 3639-F:

Big Lake Development Company, LLC (PO Box 669, Spruce Head, ME, 04462) is proposing Amendment F to Development Permit DP 3639, for the redevelopment of the Big Moose Mountain Ski Resort in Big Moose Twp., Piscataquis County. The proposed redevelopment includes a new hotel, base lodge, tap house, event center pavilion, swimming pool, maintenance garage, new ski and surface lifts, and ziplines. The Applicant also proposes infrastructure improvements, including electric utility lines, replacement snowmaking lines, a mid-mountain pump station, vehicle access and parking, a potable water system, and sanitary district sewer lines.

A list of acronyms is provided at the end of this document.

**LIST OF EXHIBITS**

**(as of August 23, 2022)**

- \* *All items are in chronological order. Items regarding the same event or requirement are entered in chronological order as sub-exhibits, and the group is entered according to the date of the first item.*
- \* *Exhibits that only have an effective date (e.g., official zoning maps, and Commission statutes and rules), are entered as an exhibit according to the date of the appropriate stage.*

| Exh. # | Date | Description |
|--------|------|-------------|
|--------|------|-------------|

**A. Rules in Effect at the Time<sup>2</sup>**

- |      |   |   |
|------|---|---|
| 1.   | Statutes, Rules, and Plans  |   |
| 1.a. | <i>12 M.R.S. §§681, et seq. (05/02/2022)</i>  | <a href="#">1a Statute 2022 May.pdf</a>     |
| 1.b. | <i>Land Use Districts and Standards, Chapter 10 of the Commission's Rules and Regulations (03/29/2022)</i>            | <a href="#">1b_Ch10_ver2022_March.pdf</a>   |
| 1.c. | <i>General Provisions, Chapter 1 of the Commission's Rules and Regulations (11/01/2021)</i>                           | <a href="#">1c_Ch01_ver2021.pdf</a>         |
| 1.d. | <i>Rules of Practice, Chapter 4 of the Commission's Rules and Regulations (11/01/2021)</i>                            | <a href="#">1d_Ch4_ver2021_Nov1.pdf</a>     |
| 1.e. | <i>Rules for the Conduct of Public Hearings, Chapter 5 of the Commission's Rules and Regulations (11/01/2021)</i>     | <a href="#">1e_Ch5_ver2021_Nov1.pdf</a>     |
| 1.f. | <i>Comprehensive Land Use Plan for Areas within the Jurisdiction of the Maine Land Use Planning Commission (2010)</i> | <a href="#">1f 2010 CLUP.pdf</a>            |
| 2.   | Guidance Materials  |   |
| 2.a. | <i>Comprehensive Land Use Plan Guidance Document (10/05/2012)</i>   | <a href="#">2a_CLUPguidance10052012.pdf</a> |

<sup>1</sup> The hearing record includes all information required by Chapter 5 of the Commission's rules, Section 5.11. Generally, this includes all information relied upon or submitted to the Commission; limited administrative items (e.g., procedural orders, information regarding party status); and information available, offered, or received at the hearing. All other information or documentation regarding process are included in the administrative record.

<sup>2</sup> As of the date the permit application was deemed complete for processing in accordance with Rules of Practice, 01-672 C.M.R. Chapter 4.

- 3. Land Use Guidance Maps
  - 3.a. *Big Moose Township (Large Map)* [3a\\_big-moose-twp.pdf](#)
  - 3.b. *Big Moose Township (Tabloid Map)* [3b\\_big-moose-twp\\_tabloid.pdf](#)
- 4. Pre-application Materials
  - 4.a. 06/19/2020 *Land Title Survey Maps Prepared for Big Lake Development Co., LLC*  
[4a\\_LandTitleSurveyMaps.pdf](#)
  - 4.b. 02/24/2021 *Pre-application Meeting Minutes*  
[4b\\_PreapplicationMeetingMinutes.pdf](#)
  - 4.c. 03/16/2021 *Pre-application MNAP Initial Information Request*  
[4c\\_Preapplication\\_MNAPRequest.pdf](#)

## B. Petition Filing through Complete for Processing

- 5. Application and supporting materials for Development Permit DP 3639-F
  - 5.a. 03/21/2021 *Original Application* [5a\\_OriginalApplication.pdf](#)
  - 5.b. 03/21/2021 *Original Site Plans* [5b\\_SitePlans.pdf](#)
  - 5.c. 03/24/2021 *Application Addendum #1, Greenville Transfer Station*  
[5c\\_Addendum1\\_GreenvilleTransferStation.pdf](#)
  - 5.d. 03/25/2021 *Application Addendum #2, Moosehead Sanitary District*  
[5d\\_Addendum2\\_MooseheadSanitaryDistrict.pdf](#)
  - 5.e. 03/26/2021 *Town of Greenville Information Request* [5n\\_LUPC\\_InformationRequest3.pdf](#)
  - 5.f. 04/05/2021 *Applicant's Response to MNAP* [5f\\_Applicant'sResponseToMNAP.pdf](#)
  - 5.g. 04/08/2021 *LUPC Information Request #1* [5g\\_LUPC\\_InformationRequest1.pdf](#)
  - 5.h. 04/21/2021 *MNAP Initial Comments* [5h\\_MNAP\\_Comments.pdf](#)
  - 5.i. 04/28/2021 *LUPC Information Request #2* [5i\\_LUPC\\_InformationRequest2.pdf](#)
  - 5.j. 04/29/2021 *Applicant's Response to MDEP* [5j\\_Applicant'sResponse\\_MDEP.pdf](#)
  - 5.k. 04/29/2021 *Applicant's Response to MDEP: Stormwater Calculations*  
[5k\\_Applicant'sResponse\\_StormwaterCalculations\\_MDEP.pdf](#)
  - 5.l. 04/29/2021 *Stormwater Memo & Test Pit Map*  
[5l\\_StormwaterMemo\\_TestPitMap.pdf](#)
  - 5.m. 04/29/2021 *Application Addendum#3, Revised Exhibit 30 & Permit Set R1*  
[5m\\_ApplicationAddendum3\\_RevisedExhibit30\\_PermitSetR1.pdf](#)
  - 5.n. 05/05/2021 *LUPC Information Request #3* [5n\\_LUPC\\_InformationRequest3.pdf](#)
  - 5.o. 05/19/2021 *LUPC Information Request #4* [5o\\_LUPC\\_InformationRequest4.pdf](#)
  - 5.p. 05/21/2021 *Applicant's Response to 4/8/2021 LUPC Request #1*  
[5p\\_Applicant'sResponse\\_to\\_4.8.2021\\_LUPCRequest1.pdf](#)
  - 5.q. 05/24/2021 *Application Addendum #4, CMP Ability to Serve*  
[5q\\_ApplicationAddendum4\\_CMP\\_AbilityToServe.pdf](#)
  - 5.r. 05/25/2021 *Applicant's Request to Remove Proposed Constructed Pond*  
[5r\\_Applicant'sRequest\\_RemoveProposedConstructedPond.pdf](#)
  - 5.s. 05/25/2021 *Applicant's Response to 5/19/2021 LUPC Request #4*  
[5s\\_Applicant'sResponse\\_to\\_5.19.2021\\_LUPCRequest4.pdf](#)
  - 5.t. 05/27/2021 *Applicant's Response to 4/28/2021 LUPC Request #2*  
[5t\\_Applicant'sResponse\\_to\\_4.28.2021\\_LUPCRequest2.pdf](#)
  - 5.u. 06/08/2021 *MDIFW Comments* [5u\\_MDIFW\\_Comments.pdf](#)
  - 5.v. 06/10/2021 *LUPC Information Request #5* [5v\\_LUPC\\_6.10.2021\\_InformationRequest5.pdf](#)
  - 5.w. 06/23/2021 *Applicant's Response to 5/5/2021 LUPC Request #3*  
[5w\\_Applicant'sResponse\\_to\\_5.5.2021\\_LUPCRequest3.pdf](#)
  - 5.x. 12/13/2021 *Applicant's Partial Response to MDIFW*  
[5x\\_Applicant'sPartialResponse\\_to\\_MDIFW.pdf](#)



|       |            |  |
|-------|------------|--|
| 5.y.  | 12/13/2021 | Applicant's Replacement Lift: Site Plan – Chairlift Sheet WE-2<br><a href="#">5y_Applicant's ReplacementLift Site Plan Chairlift Sheet WE2.pdf</a>                             |
| 5.z.  | 12/13/2021 | Application Addendum #5, Applicant's Revised Base Site Plan Sheet C-1.01<br><a href="#">5z_ApplicationAddendum5 Revised Base Base Site Plan Sheet C-1.01.pdf</a>               |
| 5.aa. | 12/13/2021 | Application Addendum #6, Applicant's Revised Base Utility Sheet C-6.01<br><a href="#">5.aa_Addendum6 Revised Base Utility Sheet C-6.01.pdf</a>                                 |
| 5.bb. | 01/07/2022 | MDIFW Information Request #1<br><a href="#">5.bb_MDIFW InformationRequest1_01.07.2022.pdf</a>  |
| 5.cc. | 01/12/2022 | LUPC Information Request #6<br><a href="#">5.cc_LUPC_01.12.2022_InformationRequest6.pdf</a>  |
| 5.dd. | 02/17/2022 | LUPC Information Request #7<br><a href="#">5.dd.LUPC_02.17.2022_InformationRequest7.pdf</a>  |
| 5.ee. | 02/24/2022 | Applicant's Response to 2/17/2022 LUPC Request #7<br><a href="#">5.ee.Applicant'sResponse to 2.17.2022_LUPCRequest7.pdf</a>  |
| 5.ff. | 03/10/2022 | Applicant's Response to 01/07/2022 MDIFW Request<br><a href="#">5.ff.Applicant'sResponse to 01.07.2022_MDIFW_Request.pdf</a>   |
| 5.gg. | 03/10/2022 | Applicant's Wildlife Survey Report<br><a href="#">5.gg_Applicant's WildlifeSurveyReport.pdf</a>  |
| 5.hh. | 03/10/2022 | Application Addendum #7, Epeorus Survey<br><a href="#">5.hh_Addendum7 EpeorusSurvey.pdf</a>  |
| 5.ii. | 03/16/2022 | Applicant's Response to 1/12/2022 LUPC Request #6<br><a href="#">5.ii_Applicant'sResponse to 01.12.2022_LUPCRequest6.pdf</a>   |
| 5.jj. | 03/16/2022 | MDOT Utility Accommodation Rules Letter<br><a href="#">5.jj_MDOT_UtilityAccomodationRules Letter.pdf</a>   |
| 5.kk. | 03/16/2022 | Application Addendum #8, Wastewater Calculations<br><a href="#">5.kk_ApplicationAddendum8_WastewaterCalculations.pdf</a>   |
| 5.ll. | 03/17/2022 | MDIFW Information Request #2<br><a href="#">5.ll_MDIFW_InformationRequest2_03.17.2022.pdf</a>  |
| 5.mm. | 03/24/2022 | LUPC Information Request #8<br><a href="#">5.mm_LUPC_InformationRequest8_03.24.2022.pdf</a>  |
| 5.nn. | 03/28/2022 | Applicant's Partial Response to 3/24/2022 LUPC Request #8<br><a href="#">5.nn_Applicant'sPartialResponse to 03.24.2022_LUPCRequest8.pdf</a>                                    |
| 5.oo. | 04/01/2022 | Application Addendum #9, Cost Update<br><a href="#">5.oo_ApplicationAddendum9_CostUpdate.pdf</a>   |
| 5.pp. | 04/01/2022 | Application Addendum #10, Wildlife Report-Final<br><a href="#">5.pp_WildlifeReport_FINAL.pdf</a>   |
| 5.qq. | 04/04/2022 | Application Addendum #11, Lift Station Plan Sheet C-1<br><a href="#">5.qq_ApplicationAddendum11_LiftStation_PlanSheet C-1.pdf</a>  |
| 5.rr. | 04/12/2022 | Applicant's Partial Response to 3/24/2022 LUPC Request #8<br><a href="#">5.rr_Applicant'sPartialResponse to 3.24.2022_LUPCRequest8.pdf</a>                                     |
| 5.ss. | 04/13/2022 | Applicant's Partial Response to 3/24/2022 LUPC Request #8<br><a href="#">5.ss_Applicant'sResponse to 3.24.2022_LUPCRequest8.pdf</a>  |
| 5.tt. | 04/29/2022 | Applicant's Partial Response to 3/24/2022 LUPC Request #8<br><a href="#">5.tt_Applicant'sPartialResponse to 3.24.2022_LUPCRequest8.pdf</a>                                     |
| 5.uu. | 05/27/2022 | Application Addendum #12, Purchase & Sale Agreement Extension<br><a href="#">5.uu_ApplicationAddendum12_Purchase&amp;SaleAgreement_Extension.pdf</a>                           |
| 5.vv. | 06/06/2022 | Application Addendum #13, Natural Resources Report<br><a href="#">5.vv_ApplicationAddendum - Natural Resources Report</a>  |
| 5.ww. | 06/06/2022 | Application Addendum #14, Moosehead Sanitary District Cost Estimate<br><a href="#">5.ww_ApplicationAddendum, Moosehead Sanitary District Cost Estimate</a>                     |
| 5.xx. | 06/06/2022 | Application Addendum #15, Financial Capacity – Sanitary District Connection<br><a href="#">5.xx_ApplicationAddendum #15, Financial Capacity – Sanitary District Connection</a> |
| 5.yy. | 06/24/2022 | Supplemental Filing, Letters of Support<br><a href="#">5.yy_Supplemental Filing, Letters of Support</a>  |
| 5.zz. | 07/08/2022 | Supplemental Filing, Financial Capacity and Purchase & Sale Agreement<br><a href="#">5.zz_Supplemental Filing, Financial Capacity and Purchase &amp; Sale Agreement</a>        |

6. Governmental agency review comments

- 6.a. 03/25/2021 LUPC Review Request; sent to MBP&L, MDEP, MDOT, MHPC, MDIFW, MNAP, Piscataquis County Commissioner, PCSWCD, Senator Paul Davis, Rep. Paul Stearn, Town of Greenville [6a\\_LUPC Review Request.pdf](#)
- 6.b. 03/26/2021 Town of Greenville Comments [6b\\_TownOfGreenville\\_Comments.pdf](#)
- 6.c. 04/12/2021 MHPC Comments [6c\\_MHPC\\_Comments.pdf](#)
- 6.d. 04/21/2021 MNAP Comments [6d\\_MNAP\\_Comments.pdf](#)
- 6.e. 04/21/2021 MDOT Traffic Movement [6e\\_MDOT Traffic Movement.pdf](#)
- 6.f. 05/11/2021 MDEP Final Comments [6f\\_MDEP Final Comments.pdf](#)
- 6.g. 06/08/2021 MDIFW Initial Comments [6g\\_MDIFW Initial Comments.pdf](#)
- 6.h. 12/20/2021 LUPC 2<sup>nd</sup> Review Request [6h\\_LUPC 2nd Review Request.pdf](#)
- 6.i. 12/21/2021 PISCATAQUIS CNTY [6i\\_PiscCntyComm\\_Comments.pdf](#)
- 6.j. 12/28/2021 PCSWCD Comments [6j\\_PCSWCD\\_Comments.pdf](#)
- 6.k. 03/15/2022 LUPC 3<sup>rd</sup> Review Request [6k\\_LUPC 3rd Review Request.pdf](#)
- 6.l. 03/17/2022 MNAP Final Comments [6l\\_MNAP\\_FinalComments.pdf](#)
- 6.m. 05/26/2022 MDIFW Comments [6m\\_MDIFW\\_Comments.pdf](#)

7. Request for Public Hearing

- 7.a. 01/31/2022 Memorandum; proposal background and request for hearing [7a\\_Memorandum; proposal background and request for hearing.pdf](#)
- 7.b. 02/09/2022 February Commission meeting agenda [7b\\_February Commission meeting agenda.pdf](#)
- 7.c. 02/09/2022 Presentation, request for hearing [7c\\_Presentation, request for hearing.pdf](#)
- 7.d. 02/09/2022 Audio Excerpt of request for hearing (Electronic only) [Big-Moose-Ski-Resort.mp3](#)
- 7.e. 02/09/2022 Approved Meeting Minutes for Feb. 9, 2022 [7e\\_Approved Meeting Minutes for Feb.9, 2022.pdf](#)
- 7.f. 02/09/2022 Notice of Public Hearing; published in Bangor Daily News, GovDelivery, and via USPS mail to abutters [7f\\_Notice of Public Hearing.pdf](#)
- 7.g. 05/12/2022 Responses to Opportunity to Intervene [7g\\_Responses to Opportunity to Intervene](#)
- 7.h. 5/27/2022 2nd Notice of Public Hearing; published in Bangor Daily News, GovDelivery, and via USPS mail to abutters [7h\\_Responses to Opportunity to Intervene](#)

8. 06/07/2022 Public Hearing

- 8.a. 05/31/2022 Memorandum; proposal summary, preliminary hearing schedule, and relevant review criteria [8a\\_Memorandum First Procedural Order and Site Visit Itinerary](#)
- 8.b. 06/02/2022 June 7, 2022 Hearing Schedule [8b\\_Public Hearing Agenda](#)
- 8.c. 06/03/2022 Prefiled Direct Testimony – Applicant [8c\\_Prefiled Direct Testimony – Applicant](#)
- 8.d. 06/06/2022 Prefiled Direct Testimony – Limited Intervenor [8d\\_Prefiled Direct Testimony - Intervenor](#)
- 8.e. 06/06/2022 Limited Intervenor’s Anticipated Exhibit [8e Limited Intervenor’s Anticipated Exhibit](#)
- 8.f. 06/07/2022 Public Hearing Sign-Up Sheets & Written Testimony [8f\\_Public Hearing Sign-Up Sheets and Written Testimony](#)
- 8.g. 06/06/2022 Staff Opening Statement and Presentation [8g\\_Staff Opening Statement and Presentation](#)

- 8.h. 06/06/2022 *Audio of Public Hearing (Electronic Only)*  
[8h Audio of Public Hearing](#)
  - 8.i. 06/15/2022 *Second Procedural Order*  
[8i Second Procedural Order](#)
  - 8.j. 06/21/2022 *LUPC Information Request*  
[8j LUPC Information Request](#)
  - 8.k. 07/06/2022 *Memorandum; summary, background information, and request for second hearing*  
[8k Memorandum, request for second public hearing](#)
  - 8.l. 07/12/2022 *Financial Capacity Evidence*  
[8l Financial Capacity Evidence](#)
  - 8.m. 07/13/2022 *Audio of Commission Meeting July 13, 2022 (Electronic Only)*  
[8m Audio of Commission Meeting 07.13.2022](#)
  - 8.n. 07/20/2022 *Third Procedural Order*  
[8n Third Procedural Order](#)
  - 8.o. 07/22/2022 *Notice of Reopening of Public Hearing*  
[8o Notice of Reopening of Public Hearing](#)
  - 8.p. 07/29/2022 *Prefiled Testimony, Applicant*  
[8p Applicant Prefiled Testimony](#)
  - 8.q. 08/05/2022 *Prefiled Testimony, Limited Intervenor*  
[8q Limited Intervenor Prefiled Testimony](#)
  - 8.r. 08/05/2022 *Memorandum, Reopened public hearing, purpose, timeline*  
[8r Memorandum Reopened hearing](#)
  - 8.s. 08/10/2022 *Audio of Reopened Public Hearing August 10, 2022*  
[8s Audio of Reopened Public Hearing 08.10.2022](#)
  - 8.t. 08/20/2022 *Applicant's Response to Wetland Concerns*  
[8t Applicant's Response to Wetland Concerns 08.20.2022](#)
9. Public Comments
- 9.a. 05/27/2022 *Appalachian Mountain Club, Maine Conservation Policy Director*  
[9a Appalachian Mountain Club Comments.pdf](#)
  - 9.b. 06/02/2022 *Public Comments*  
[9b Public Comments](#)
  - 9.c. 6/15/2022 *Public Comments (6/7/2022-06/15/2022)*  
[9c Public Comments \(06.07.22 thru 06.15.2022\)](#)
  - 9.d. 6/16/2022 *Public Comments (06/16/2022)*  
[9d Public Comments 06.16.2022](#)
  - 9.e. 06/17/2022 *Public Comments (06/17/2022)*  
[9e Public Comments 06.17.2022](#)
  - 9.f. 07/19/2022 *Public Comments*  
[9f PublicComments 07.19.2022](#)
  - 9.g. 07/21/2022 *Public Comments*  
[9g Public Comments](#)
  - 9.h. 07/22/2022 *Public Comments*  
[9h Public Comments](#)
  - 9.i. 08/20/2022 *Public Comments*  
[9i Public Comments 08.20.2022](#)

\* \* \* This exhibits list represents the hearing record between the date the permit application was filed with the Commission (03/21/2021) and 08/23/2022

## ACRONYMS

This document includes the following acronyms:

- . BLDC Big Lake Development Company, LLC (Applicant)
- . CMP Central Maine Power
- . LUPC Land Use Planning Commission, Maine Department of Agriculture, Conservation, and Forestry<sup>3</sup>
- . MDEP Maine Department of Environmental Protection
- . MDIFW Maine Department of Inland Fisheries & Wildlife
- . MDOT Maine Department of Transportation
- . MHPC Maine Historic Preservation Commission
- . MNAP Maine Natural Areas Program
- . M.R.S. Maine Revised Statutes
- . PCSWCD Piscataquis County Soil & Water Conservation District
- . PSA Purchase & Sale Agreement

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<sup>3</sup> “LUPC staff” herein refers to the administrative staff to the Land Use Planning Commission; “Commission” herein refers to the nine-member voluntary citizen board of Commissioners of the Land Use Planning Commission; “the LUPC” herein refers to the agency as a whole.