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

WALTER E. WHITCOMB
COMMISSIONER

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EXECUTIVE DIRECTOR

**Fourth Procedural Order
In the Matter of
Zoning Petition ZP 768**

**Allagash Timberlands LP, Aroostook Timberlands LLC, and
Maine Woodlands Realty Company (Irving)**

March 16, 2018
Commissioner E. Worcester, Chair and Presiding Officer

This Fourth Procedural Order summarizes the March 5, 2018 pre-hearing conference, sets the deadline for the Petitioner to update its proposal, contains the proposed hearing schedule and outlines the associated process, addresses pre-filed testimony and witness identification, and includes a summary of key dates and deadlines leading up to the hearing.

I. PRE-HEARING CONFERENCE

On March 5, 2018, a pre-hearing conference call was held pursuant to Chapter 5.07 of the Commission's Rules. The following individuals participated in the call:

LUPC Commission

Everett Worcester, Chair and Presiding Officer

LUPC Staff

Nick Livesay, Director

Samantha Horn, Planning Manager

Tim Beaucage, Senior Planner and Project Manager

Billie MacLean, Permitting and Compliance Regional Supervisor

Maine Attorney General's Office

Lauren Parker, Assistant Attorney General

Petitioner

Anthony Hourihan, Owner Representative, Irving Woodlands

Noel Musson, Project Manager, The Musson Group

Brian Rayback, Attorney, Pierce Atwood

Terry Dewan, Consultant, Terrence DeWan & Associates

Intervenors

Kirk St. Peter, President, Fish River Lakes Leaseholders Association
Cheryl St. Peter, Secretary, Fish River Lakes Leaseholders Association
Jake Metzler, Forest Society of Maine
Cathy Johnson, Senior Staff Attorney, Natural Resources Council of Maine
Carly Perruccio, Natural Resources Council of Maine

During the call, LUPC staff provided an update on the process to date, reviewed the tentative schedule, and summarized the anticipated process for the hearing. The possibility of conducting the hearing without cross-examination was discussed. Staff stated they would circulate a draft outline for the hearing. Another pre-hearing conference is scheduled for April 4.

Cathy Johnson, representing NRCM, stated an objection for the record. She opposed the idea of conducting the hearing without cross-examination, but noted she would like to review the hearing outline.

II. PETITIONER UPDATES TO PROPOSAL – DEADLINES

Presently, the Petitioner is considering updates to its proposal prior to the hearing. This Order establishes the following deadlines regarding these updates:

- March 29 – deadline for Petitioner to provide an outline of any updates to its proposal; the outline shall include sufficient detail to identify the nature of any updates.
- April 12 – deadline for Petitioner to provide updates identified in the outline; the filing shall include applicable GIS shapefiles affected by the updates.

III. HEARING SCHEDULE AND PROCESS

The dates for the public hearing have been set, May 22 through 24. A draft outline for the hearing is included as Attachment A to this order. Public hearings convened by the Commission are subject to applicable State statutes and Commission Rules, Chapter 4, Rules of Practice and Chapter 5, Rules for the Conduct of Public Hearings.

The purpose of the public hearing is to provide a forum for the Commission to receive and evaluate evidence relevant to its review of the Petitioner’s zoning petition and proposed concept plan. Oral testimony provided at the hearing is one source of information considered by the Commission as part of its review. The petition and concept plan, written agency comments, pre-filed testimony, post-hearing briefs and rebuttal briefs, and written public comments also aid the Commission.

The hearing will include technical sessions and public comment sessions. The technical sessions will include an opportunity for the Petitioner, Intervenors, Interested Persons, and government agencies to provide testimony to the Commission. Along with providing testimony on select, key topics, as part of the technical sessions the Petitioner, Intervenors, and Interested Persons will have an opportunity to provide opening statements and closing statements. While the Commission will consider many different topics as it conducts its review of the Petitioner’s proposal, all topics relevant to the Commission’s review will not be covered during the hearing. The public hearing topics have been selected based on consideration of a range of factors, including, among other

things: significance and relevance to the Commission's overall review, interest expressed by Intervenors and Interested Persons, anticipated value added by oral testimony (as opposed to Commission reliance on written materials), and public interest.

The draft hearing schedule is included as Attachment A. The draft schedule identifies procedure, the topics of focus at the hearing, order of testimony, and time allotments. There is no obligation to fill all the allotted time. No cross-examination of witnesses is proposed. Given the lead advocate for each Intervenor (the person delivering opening and closing statements, statements expected to contain legal argument) has been identified as a witness, these advocate-witnesses will have the opportunity, in the course of their testimony, to raise questions the Commission may choose to ask the Petitioner or other Intervenors. In addition, after the conclusion of the Petitioner's final statements on a topic each Intervenors that had a witness testify on the topic will have an opportunity to identify questions to be asked through the Presiding Officer. The Presiding Officer, at his discretion, will ask the questions raised by participants during the technical sessions.

The public comment sessions will be held in the evening on May 22 and 23. Witnesses scheduled to testify during the technical sessions may not testify during the evening public comment sessions. Member of the public affiliated with the Petitioner, an Intervenor, or an Interested Person may testify in the evening session in their individual capacity only and not on behalf of the organization that person is affiliated with. Members of the public testifying at the public comment session may be directly questioned by Commissioners and Commission staff only. The Petitioner or Intervenors may ask for clarification through the Presiding Officer.

Any comments on the draft hearing schedule contained in Attachment A and related hearing procedure must be filed with the Commission by April 2. A subsequent order containing the final hearing schedule and time allocations will be distributed to the parties and made available to the public after the next pre-hearing conference. The next pre-hearing conference is scheduled for April 4.

IV. PRE-FILED TESTIMONY & WITNESSES

As identified above, the hearing will provide an opportunity for oral testimony on specific topics. Written comments regarding all other relevant topics may be filed prior to the close of the comment period that will follow the hearing.

A. Pre-filed Testimony

To assist the Commission and hearing participants, the Commission anticipates requiring pre-filed testimony for any witness testifying on Topic Two or Topic Three identified in Attachment A. Pre-filed testimony is an important part of the hearing process because it allows the Commission, staff and other parties, with regard to the more technical Topics Two and Three, to review testimony in advance and come to the hearing prepared to participate in an efficient and focused manner.

This pre-filed testimony will have to be sworn under oath, notarized, and filed by May 2. If the witness wishes to be considered an expert, his or her credentials must be set forth in the pre-filed testimony. No person will be allowed to testify at the hearing for a party on Topics Two or Three unless that person has submitted pre-filed testimony, and no testimony will be allowed into the record if the witness does not participate in the hearing.

Pre-filed rebuttal testimony will not be allowed.

Any comment on the anticipated requirement for the submission of pre-filed testimony on Topics Two and Three must be filed with the Commission by April 2.

B. Witnesses Identification

All parties must provide a list of witnesses and topics issues on which they wish to testify, no later than April 13.

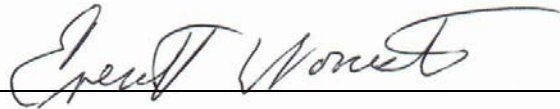
V. SUMMARY OF SCHEDULE

A summary of key dates and deadlines, noted above in this order, follows:

March 29	Deadline for Petitioner to file outline of updates to proposal
April 2	Deadline for Petitioner, Intervenors, and Interested Persons to file comments on draft hearing outline and pre-filed testimony topics
April 4	Pre-hearing conference to review topics to be addressed at the hearing and hearing process
April 12	Deadline for Petitioner to file updates to proposal
April 13	Deadline for Petitioner, Intervenors, and Interested Persons to file final witness list with statement indicating topics about which each witness will testify
April 27-May 4	Newspaper hearing notice published
May 2	Deadline for submission of pre-filed testimony
May 22-24	Public hearing

If you have any questions on this *Procedural Order*, please contact Tim Beaucage (call (207) 287-4894; e-mail Timothy.Beaucage@maine.gov).

DONE AND DATED AT AUGUSTA, MAINE THIS 16TH DAY OF MARCH 2018



Everett Worcester, Chair and Presiding Officer

Attachment A

Fourth Procedural Order In the Matter of Zoning Petition ZP 768

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Maine Woodlands Realty Company (Irving)

DRAFT HEARING SCHEDULE

TUESDAY, MAY 22

Location: New Canada Community Center, 1809 Caribou Road, New Canada, Maine

Afternoon (2:00 to 5:00 PM): Technical Session

- Introductions, opening statement by Presiding Officer, and swearing in of those testifying [5 minutes]
- LUPC staff statement, administrative history, overview of hearing process, and submitting the file to the record [15 minutes]

- Opening statement and project summary by Petitioner [30 minutes]
- Opening statements by Intervenors and Interested Persons
 - Intervenors (Fish River Lakes Leaseholders Association (Leaseholders Association), Forest Society of Maine (FSM), Natural Resources Council of Maine (NRCM)) [10 minutes each]
 - Interested Persons (Ms. Pierson, Sandy Point & Connection Lane Road Association (Road Association)) [5 minutes each]

- Topic One: Access and Potential Impacts to Existing Camp Owners:
 - *Means of access to proposed and existing development*
 - *Road ownership, associations, and maintenance*
 - *Impacts on existing camp owners (e.g., traffic, common water access for subdivisions, proximity of proposed development areas to existing camp/dwellings)*

 - Commission staff introduction of topic and related review standards [10 minutes]
 - Testimony
 - Petitioner [15 minutes]
 - Intervenor (Leaseholders Association) [15 minutes]
 - Interested Persons (Road Association, Ms. Pierson) [10 minutes each]
 - Petitioner [5 minutes]
 - Commissioner and staff questions [25 minutes]

- Note: Commissioners and staff may ask questions throughout the delivery of testimony. During their allotted time, the Petitioner, Intervenor, and Interested Persons may identify questions they would like the Commission to ask; questions would be asked through the Presiding Officer. Additionally, the Intervenor and each Interested Party with allotted time during the topic will have an opportunity to identify questions to be asked through the Presiding Officer after the conclusion of the Petitioner's closing remarks on the topic area. The Presiding Officer, at his discretion, will ask the questions raised.

BREAK (approximately 5:00 PM)

Evening (6:00 PM): Public Comment Session

- Introductions, opening statement by Presiding Officer, and swearing in of those testifying [5 minutes]
- Project summary by Petitioner [15 minutes]
- Public testimony [3 to 5 minutes each; may be adjusted based on number of individuals interested in offering testimony]
 - Note: witnesses offering testimony during the technical sessions may not provide public comment; affiliates (e.g., employees, members) of the Petitioner, Intervenor, and Interested Persons may participate in the public comment session, but only in their individual capacities and not on behalf of a party; members of the public may only be directly questioned by the Commission and its staff; the Petitioner and Intervenor may ask for clarification through the Presiding Officer
- Recess and closing statement by Presiding Officer [2 minutes]

WEDNESDAY, MAY 23

Location: Caribou Inn & Convention Center, 19 Main Street, Caribou, Maine

Morning (8:30 AM to 12:00 Noon): Technical Session

- Introductions, opening statement by Presiding Officer, and swearing in of those testifying [5 minutes]
- Topic Two: Potential Resource Impacts, Impact Minimization Efforts, and Conservation:
 - *Extent and location of proposed development areas*
 - *Outcome based forestry and certification – what these processes involve*
 - *Resource impacts (e.g., brook trout habitat, vernal pools) Note: Potential phosphorus impacts will be considered and addressed through the course of the Commission's review, including through the receipt of written comments, but phosphorus will not be a topic of focus at the hearing.*

- *Conservation easement – identified conservation values and manner in which values are promoted/ensured; easement area and activities allowed within easement area; certainty that desired conservation will be achieved*
- Commission staff introduction of topic and related review standards [15 minutes]
- Testimony
 - Petitioner [25 minutes]
 - Government Agencies (Maine Forest Service (MFS) and Dept. of Inland Fisheries and Wildlife (DIFW)) [15 minutes each] Note: participation of agencies to be verified
 - Intervenors (FSM, NRCM) [25 minutes each]
 - Intervenor (Leaseholders) [15 minutes]
 - Petitioner [5 minutes]
- Commissioner and staff questions [45 minutes]
 - Note: Commissioners and staff may ask questions throughout the delivery of testimony. During their allotted time, the Petitioner and Intervenors may identify questions they would like the Commission to ask; questions would be asked through the Presiding Officer. Additionally, each Intervenor with allotted time during the topic will have an opportunity to identify questions to be asked through the Presiding Officer after the conclusion of the Petitioner’s closing remarks on the topic area. The Presiding Officer, at his discretion, will ask the questions raised.

BREAK (approximately 12:00 Noon-1:30 PM)

Afternoon (1:30 PM to 5:00 PM): Technical Session

- Introductions, opening statement by Presiding Officer, and swearing in of those testifying [5 minutes]
- Topic Three: Anticipated Use of Lakes and Lake Character:
 - *Types and location of public access to lakes*
 - *Anticipated change in intensity and types of use of lakes*
 - *Anticipated effect on recreation uses and experiences*
 - *Public expectations regarding use of and experience on different lakes*
 - *Effect on character of lakes (including scenic impacts of hillside development) and user experience*
- Commission staff introduction of topic and related review standards [15 minutes]
- Testimony
 - Petitioner [25 minutes]
 - Government Agencies (Bureau of Parks and Lands (BPL) and DIFW) [15 minutes each] Note: participation of agencies to be verified
 - Intervenors (NRCM, Leaseholders) [25 minutes each]

- Petitioner [5 minutes]
- Commission and staff questions [45 minutes]
 - Note: Commissioners and staff may ask questions throughout the delivery of testimony. During their allotted time, the Petitioner and Intervenors may identify questions they would like the Commission to ask; questions would be asked through the Presiding Officer. Additionally, each Intervenor with allotted time during the topic will have an opportunity to identify questions to be asked through the Presiding Officer after the conclusion of the Petitioner's closing remarks on the topic area. The Presiding Officer, at his discretion, will ask the questions raised.

BREAK (approximately 5:00 PM)

Evening (6:00 PM): Public Comment Session

- Introductions, opening statement by Presiding Officer, and swearing in of those testifying [5 minutes]
- Project summary by Petitioner [15 minutes]
- Public testimony [3 to 5 minutes each; may be adjusted based on number of individuals interested in offering testimony]
 - Note: witnesses offering testimony during the technical sessions may not provide public comment; affiliates (e.g., employees, members) of the Petitioner, Intervenors, and Interested Persons may participate in the public comment session, but only in their individual capacities and not on behalf of a party; members of the public may only be directly questioned by the Commission and its staff; the Petitioner and Intervenors may ask for clarification through the Presiding Officer
- Recess and closing statement by Presiding Officer [2 minutes]

THURSDAY, MAY 24

Location: Caribou Inn & Convention Center, 19 Main Street, Caribou, Maine

Morning (8:30 AM to 10:45 AM): Technical Session

- Introductions and opening statement by Presiding Officer [5 minutes]
- Closing statements
 - Interested Persons (Ms. Pierson, Road Association) [10 minutes each]
 - Intervenors (Leaseholders, FSM, NRCM) [20 minutes each]
 - Petitioner [20 minutes]
- Recess and closing statement by Presiding Officer [5 minutes]