



JANET T. MILLS
GOVERNOR

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

AMANDA E. BEAL
COMMISSIONER

STACIE R. BEYER
ACTING EXECUTIVE DIRECTOR

Memorandum

To: LUPC Commissioners
CC: Stacie R. Beyer, Acting Executive Director
From: Karen Bolstridge, Senior Regional Representative, Downeast Regional Office *KEB*
Date: December 01, 2021 (for December 08, 2021 Regular Business Meeting)
Re: Amendment B to Development Permit DP 5050, Rising Tide Towers, LLC., Dallas Plantation, Franklin County, Maine

This memorandum presents a staff recommendation on the pending Amendment B to Development Permit DP 5050 application submitted by Rising Tide Towers, LLC (Applicant) for development in Dallas Plantation, Franklin County, Maine.

AMENDMENT B TO DEVELOPMENT PERMIT DP 5050 APPLICATION

On March 18, 2021, the Applicant applied to the Commission for Amendment B to Development Permit DP 5050 seeking permit approval to construct a 300-foot lighted, self-supporting, lattice-style telecommunications tower and associated appurtenances, a 2,592-foot level C road project, and a 2,592-foot electric utility line off Dallas Hill Road in Dallas Plantation. The utility facility is proposed to be located within the M-GN subdistrict and the level C road project and utility line are proposed to be located within the M-GN subdistrict and the D-RS2 subdistrict. The tower is proposed to serve the telecommunications needs of the Dallas Plantation and the Rangeley area, and to close an existing connectivity gap to the nearest existing FirstNet tower.

At the request of Commission staff, the Applicant provided an alternative location and design for a shorter, 190-foot, unlighted, self-supporting, lattice-style telecommunication tower and associated appurtenances, and a 900-foot access driveway that would also meet the identified coverage gap in the FirstNet network. The alternative utility facility and the access driveway would both be located in the D-RS2 subdistrict.

In reviewing the application information, the Commission staff first analyzed the record of both the 300-foot tower proposal and the 190-foot tower alternative with regards to scenic character and determined that further analysis of the 300-foot tower was not warranted in light of a viable alternative which mitigates visual impacts while fulfilling the project purpose. The Commission staff then focused the remaining review on the 190-foot tower alternative.

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 October 01, 2020)¹. 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 telecommunications tower 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; tower decommissioning, abandonment and removal, and co-location (capacity expansion); and allowed use determination.

STAFF RECOMMENDATION

Staff recommends that the Commission deny in part and approve in part the amendment request of Rising Tide Towers, LLC. Specifically, and as outlined in the draft decision document, staff recommend the Commission:

1. Deny the amendment request for the 300-foot lighted telecommunications tower and associated appurtenances;

AND

2. Approve the alternative 190-foot unlighted telecommunications tower and associated appurtenances.

If the Commission does not agree with the staff recommendation, staff requests that the Commission table the decision until staff can re-draft the decision document as directed by the Commission.

Attachments:

- Attachment A – Amendment B to Development Permit DP 5050 Draft Decision Document
- Attachment B – Location Map/Zoning Map/Site Plan
- Attachment C – Google Earth Map
- Attachment D – Site Plan
- Attachment E – Public Hearing Record Index

¹ Chapter 10 was last revised November 01, 2021. This development permit application was complete for processing prior to the November 01, 2021 rule change; therefore, Chapter 10 rule notations are reference to, and the proposal was evaluated under, the version of Chapter 10 rules effective on October 01, 2020.

Attachment A

Amendment B to Development Permit DP 5050

Draft Decision Document

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PERMIT

COMMISSION DECISION IN THE MATTER OF

Rising Tide Towers, LLC

Findings of Fact and Decision

APPROVAL IN PART / DENIAL IN PART OF AMENDMENT B TO DEVELOPMENT PERMIT DP 5050

The Maine Land Use Planning Commission (Commission), at a meeting held on December 08, 2021, in Brewer, Maine, after reviewing the application and supporting documents submitted by Rising Tide Towers, LLC (Applicant or Permittee) for Amendment B to Development Permit DP 5050 (DP 5050-B), public comments and testimony, 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:** Rising Tide Towers, LLC
Attn: Todd Rich
5 Milk Street, Suite 420
Portland, Maine 04101
2. **Landowner:** Mark Beauregard, Inc.
Mark Beauregard
P.O. Box 304
Rangeley, Maine 04970
3. **Agent:** Black Diamond Consultants, Inc. (BDC)
Attn: James R. Hebert
P.O. Box 57
312 Water Street
Gardiner, Maine 04345
4. **Agent:** Drummond Woodsum Attorneys at Law
Attn: Agnieszka A. Dixon
84 Marginal Way, Suite 600
Portland, Maine 04101-2480



5. **Date of Completed Application**¹: March 30, 2021
6. **Location**: Dallas Plantation, Franklin County, Maine
Maine Revenue Service Map FRP02, Plan 02, Part of Lot 49
Tower Coordinates and Existing Ground Elevation:
Proposed 300-Foot Tower: 44° 58' 10.90"N; 070° 36' 19.60"W; 1852.57 Feet
Alternative 190-Foot Tower: 44° 57' 56.90"N; 070° 36' 12.52"W; 1975.44 Feet
7. **Zoning**: Community Residential Development subdistrict (D-RS2)
General Management subdistrict (M-GN)

PROPOSAL, PROJECT PURPOSE, AND ALTERNATIVE OPTION

8. **Proposal**: On March 18, 2021, the Applicant applied to the Commission for Amendment B to Development Permit DP 5050 seeking permit approval to construct a 300-foot lighted, self-supporting, lattice-style telecommunications tower and associated appurtenances, a 2,592-foot level C road project, and a 2,592-foot electric utility line off Dallas Hill Road in Dallas Plantation, Franklin County, Maine. The utility facility was proposed to be located within an M-GN subdistrict and the level C road project and utility line were proposed to be located within an M-GN subdistrict and a D-RS2 subdistrict.
9. **Project Purpose**: The Applicant stated that the project purpose for the proposed tower is to serve the telecommunications needs of the Dallas Plantation and Rangeley area and close an existing gap in FirstNet coverage. FirstNet, created by Congress in response to 9/11, is a nationwide wireless network intended to facilitate emergency public safety communications. FirstNet coverage systems allow the network to be utilized by ordinary commercial traffic; however, emergency public safety communications are to be prioritized and, in the event of an emergency that disrupts ordinary telecommunications functions, emergency users are to be given exclusive priority over non-emergency users. In the State of Maine, the FirstNet network is being constructed and managed by AT&T. To provide the necessary coverage and bridge the connectivity gap to the nearest existing FirstNet tower, the Applicant stated that they were directed by FirstNet/AT&T to a ½-mile diameter search ring around Dallas Hill.
10. **Alternative Option**: At the request of Commission staff, the Applicant provided an alternative location and design for a shorter, 190-foot self-supporting telecommunication tower that would also meet the identified coverage gap in the FirstNet network. The alternative proposal would include, among other appurtenances: a 190-foot unlighted, self-supported, lattice-style telecommunications tower with a 4-foot lighting rod and a concrete base; a 75-foot long by 75-foot wide crushed stone compound area surrounded by an 8-foot high chain-linked fence with a vehicle gate and a man gate, and topped with a 1-foot high barbed wire support arm with three strands of barbed wire; a 6-foot by 12-foot modular equipment platform covered by a 10-foot by

¹ In accordance with the Commission's *Rules of Practice*, 01-672 C.M.R. 4(4.03)(8)(a) (Chapter 4), ver. October 18, 2013. Chapter 4 was last revised November 01, 2021. This development permit application was complete for processing prior to the November 01, 2021 rule change; therefore, Chapter 4 rule notations are reference to, and the proposal was evaluated under, the version of Chapter 4 rules effective on October 18, 2013.

14-foot platform canopy; a meter board; an ice bridge; a 20-foot by 80-foot parking area; a 12-foot by approximately 900-foot driveway; and signage. The utility facility and the access driveway would be located in a D-RS2 subdistrict.

CURRENT SITE CONDITIONS

11. The Applicant leases a 40,000 square foot lot (Lease Area), which is a portion of an approximately 114-acre parent parcel owned by Mark Beauregard, Inc. The parent parcel is described as Maine Revenue Service Map FRP02, Plan 02, Lot 49. The parent parcel is currently developed with a shale pit with the remainder forested. The Lease Area is interior to the parent parcel and is located off the Dallas Hill Road. Additionally, the Applicant leases a 50-foot wide access and utility easement (Access/Utility Easement) from the Dallas Hill Road to the Lease Area. Both the Lease Area and the Access/Utility Easement are undeveloped and forested.

ADMINISTRATIVE HISTORY AND PUBLIC HEARING PROCESS

12. The administrative history of Development Permit DP 5050, and the public hearing process for Amendment B to Development Permit DP 5050 are attached as Appendix A to this permit amendment and is incorporated herein by reference.

SITE REVIEW

13. On June 10, 2021, Commission staff, the State Soils Scientist, the landowner, the agent, and the Applicant reviewed the 300-foot tower proposal site of the DP 5050-B application.
14. On September 07, 2021, from approximately 12:30 P.M. to 4:15 P.M., the Commission participated in a site visit to the area surrounding the proposed 300-foot tower location. The site visit was open to the public.

CRITERIA FOR APPROVAL AND LAND USE STANDARDS, ANALYSIS, AND COMMISSION 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 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, uses that are allowed with a permit by special exception, and uses that are prohibited. The Commission's subdistricts are codified in the Commission's *Land Use Districts and Standards*, 01-672 C.M.R. ch. 10 (Chapter 10) (revised October 01, 2020)².

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. The Commission's land use standards are codified in Chapter 10, subchapter III in §§ 10.25 - 10.27, and are grouped into three categories:

² Chapter 10 was last revised November 01, 2021. This development permit application was complete for processing prior to the November 01, 2021 rule change; therefore, Chapter 10 rule notations are reference to, and the proposal was evaluated under, the version of Chapter 10 rules effective on October 01, 2020.

development standards, dimensional requirements, and activity-specific standards. 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 following summary of criteria for approval and land use standards, analysis, and findings are most relevant to the proposed telecommunications tower project.

15. Existing uses and scenic character:

A. Criteria for approval and land use standards: 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. Chapter 10, § 10.24(C). In considering the land use standards, the Commission requires, among other items, that the design of proposed development take into account the scenic character of the surrounding area and that structures 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). To the extent practicable, proposed structures and other visually intrusive development shall 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).

B. Analysis:

1) *Tower design, lighting, and location:*

a) Design: Both the 300-foot and the 190-foot towers would be constructed from non-reflective materials and the lattice structure would appear textured, helping them to blend in against a natural backdrop. The Applicant's Visual Impact Assessment (VIA) indicated that the proposed 300-foot lattice-tower structure itself (not considering required obstruction lighting) would be easily visible in the foreground (0-.5 miles) due to its size and need to be taller than the surrounding vegetation, would be distinguishable but viewed in context as part of the landscape from the middle ground (.5 to 3-5 miles), and would be difficult to pick out at all in the background (5+ miles).

b) Lighting: The proposed 300-foot tower would include a strobing white light during the day and a blinking red light at night, resulting in a significant contrast with its surroundings and greatly increasing visibility of the tower from potentially affected scenic resources. Written comments submitted by property owners in the vicinity of Dallas Hill indicate that views of a blinking red light on top of the 300-foot tower would have an adverse effect on the scenic character of the area. The 190-foot tower design by contrast would not need to include Federal Aviation Administration (FAA)

obstruction lighting, minimizing the potential for visual impacts both during the day and at night.

- c) Location: The proposed 300-foot tower would be located farther downhill and away from the Dallas Hill Road and existing residential development patterns than the alternative tower location, but the reduction in elevation would require a much taller, lighted, tower design resulting in the potential for increased visibility during the day and at night from the Dallas Hill Road and residential development in the D-RS2 subdistrict. Several written comments regarding the proposed 300-foot tower requested that alternative locations and/or designs be considered to reduce visual impacts from their property and the surrounding neighborhood.

The 190-foot tower would be located in the D-RS2 subdistrict approximately 680 feet from Dallas Hill Road. The closest residence to the west is approximately 830 feet, and to the east is approximately 940 feet. The intervening distance in both directions is forested. The base of the 190-foot tower is located farther away from residential development than the telecommunication tower denied by the Commission in Development Permit Application DP 5050, while remaining at a sufficient elevation on Dallas Hill so as not to require a taller, and therefore likely to be lighted, tower design.

2) *Existing Uses and Resources:*

a) Roads:

i) 300-foot tower location:

- a. Based on the VIA, the proposed 300-foot tower would be visible during the day and at night from: portions of the Dallas Hill Road and from portions of other side roads nearby (e.g., Herrick Farm Road, Lyle Road, Alton Ave, Evergreen Circle); portions of the Rangeley Lakes National Scenic Byway (e.g., near cemetery hill west of Rangeley Village); portions of Route 16 north of Rangeley Village; numerous streets in Rangeley Village; and from roads in and around the Saddleback Base area. From these locations, during the day, the increased height and bulk of the support structure for the 300-foot tower would cause it to appear larger than the 190-foot tower and the white strobe light at the top would contrast with the surroundings, increasing visibility. At night, travelers would be able to clearly see the blinking red light on Dallas Hill, appearing against an undeveloped and dark background. Depending on the vantage point, lights associated with Rangeley Village or other existing development may also be visible in the foreground.

ii) 190-foot tower location:

- a. Roads in the immediate area: The 190-foot tower would also be visible from portions of the Dallas Hill Road and from portions of other side roads nearby (e.g., Herrick Farm Road, Lyle Road, Alton Ave, and

Evergreen Circle). Views of the tower by travelers on nearby roads would be intermittent, visible during the daytime only, and for the most part screened by existing vegetation.

- b. Rangeley Lakes National Scenic Byway: The 190-foot tower would be visible from portions of the Rangeley Lakes National Scenic Byway on Routes 4/16, particularly from Cemetery Hill to the west of Rangeley Village (approximately 3.2 miles away) and portions of Route 16 near Haley Pond and north of Rangeley Village (approximately 1.8 miles away). The Rangeley Lakes National Scenic Byway in this area traverses a developed landscape between Oquossoc and Rangeley villages on the north shore of Rangeley Lake. Views of the tower from these locations will be in the mid-ground, where details and textures become less clear, but the tower structure would be identifiable behind existing development on Dallas Hill and Rangeley Village. The Scenic Byway currently has an existing, lighted, communication tower located near the crest of Cemetery Hill.
- c. Downtown Rangeley and Saddleback Base Area: The 190-foot tower would be visible from roads in Rangeley Village and the Saddleback base area. However, from these locations, distance, vegetation, and the presence of existing development will moderate visibility and viewer expectations.

b) Waterbodies:

i) 300-foot tower location:

- a. The proposed 300-foot tower would be visible from Rangeley Lake, Haley Pond, and Gull Pond during the day and at night. Additional information about the characteristics and use of each waterbody is included with the analysis below in Finding 15,B,2),b),ii). During the day, the increased height and the bulk of the support structure would cause it to appear larger than the 190-foot tower and the white strobe light at the top would contrast with the surroundings, increasing visibility. During dusk or dawn, or at night, the blinking red light on Dallas Hill would be clearly visible, in many cases appearing against an undeveloped and dark background. From vantage points on, or around, the listed water bodies, a viewer may also see some lights associated with existing development along shorelines, depending on the viewer's location.

ii) 190-foot tower location:

- a. Rangeley Lake: The 190-foot tower would be visible from Rangeley Lake, located approximately two miles away. In the Commission's Lakes Management Program, Rangeley Lake is a Management Class 4 lake rated for outstanding scenic character, fisheries, cultural, and physical characteristics. Views of the tower from Rangeley Lake would

additionally include the village of Rangeley in the foreground, as well as additional existing development on Dallas Hill near the location where the tower will be constructed. The views closest to the tower would also be closest to other existing development along the shoreline, and views from farther out in the lake would be more distant from the tower, with the structure becoming increasingly more difficult to discern with distance. Additionally, from locations near the center of the lake or along the southern shoreline, to the viewer's north, there is an existing, lighted, cell tower located on Cemetery Hill (on the Route 4/16 National Scenic Byway). Rangeley Lake is heavily used for boating, paddling, swimming, fishing, snowmobiling, and other recreational activities.

- b. Haley Pond: The 190-foot tower would be visible from the western side of Haley Pond, which is located partly in Dallas Plantation and partly in the town of Rangeley (approximately 1.5 – 2 miles away). In the Commission's Lakes Management Program, Haley Pond is designated as a Management Class 7 lake, with significant fisheries resources. It is not rated for outstanding scenic character. The western side of the pond includes a dense, existing, development pattern, while the eastern shore of the pond is relatively undeveloped. From western portions of Haley Pond, the tower would appear on Dallas Hill above the eastern shoreline. Recreational activities on the pond include motorized and non-motorized boating, fishing, and ice skating.
- c. Gull Pond: The 190-foot tower would be visible from the northern portions of Gull Pond (approximately 1.8 miles away). In the Commission's Lakes Management Program, Gull Pond is a Management Class 7 Lake with significant fisheries resources. It is not rated for outstanding scenic character. Views of the tower would be from the northern part of the pond and would also include the densely developed southern shoreline. Recreational use of the pond includes fishing, paddling, boating and other activities.

c) Permanent Trails:

i) 300-foot tower location:

- a. The Appalachian National Scenic Trail (AT) is a hiking trail located 5+ miles away from the proposed 300-foot tower location. A 1.8-mile portion of the AT traverses the prominent ridge connecting Saddleback Mountain and The Horn. The AT in this section is almost entirely above tree line, and from the summit of Saddleback or The Horn hikers enjoy a 360-degree view in all directions. The 300-foot tower would be more visible from the AT than the 190-foot tower due to the increased height and the bulk of the structure and the white strobe light mounted on top, which intentionally creates contrast to increase visibility of the structure for pilots.

- b. The Maine Appalachian Trail Club (MATC) and the National Park Service (NPS) both commented on the potential visual impacts on the AT from the proposed 300-foot lighted tower, specifically, that lighting draws a viewer's attention both day and night and the impact of lights at night can adversely affect night sky views. In written comments, NPS suggested measures to reduce the potential for visual impacts on the AT, including limiting the tower height below that which requires lighting (200 feet above ground level). In comments submitted during the rebuttal period, the Applicant commented in response to MATC and NPS that night-time views of the lighted tower would be minimal due to low use of the impacted section of the AT at night, and because the tower would be visible in context with the lighting in Rangeley Village (and with two existing lighted telecommunication towers in the Town). The Applicant did not submit rebuttal comments in response to concerns about the potential impacts on the AT from the white strobe light that would be visible during the day.
- ii) 190-foot tower location:
 - a. The 190-foot tower would be intermittently visible from the AT Based on review of photo simulations included in the VIA , while it may be possible to identify where the lattice structure of the tower is in the landscape, it will appear in the background where objects are typically only recognized if they exhibit significant contrast in color, form, line, or texture with the surrounding landscape. Given that the tower will be unlighted, it will have less contrast with the surrounding landscape than the proposed 300-foot tower. The tower would also be viewed within the context of existing development on Dallas Hill, in Rangeley Village, along Routes 4 and 16, and at the Saddleback Base Area.
- d) Public Property:
 - i) 300-foot tower location:
 - a. The proposed 300-foot tower would be visible from the following public properties during the day and at night: Rangeley Lake State Park, Haley Pond Municipal Park, and the Dallas Plantation Town Office. During the day, the increased height and the bulk of the support structure would cause it to appear larger than the 190-foot tower and the white strobe light at the top would contrast with the surroundings, increasing visibility. At night, visitors to Rangeley Lake State Park or Haley Pond Park would be able to clearly see the blinking red light on Dallas Hill, appearing against an undeveloped and dark background. From Rangeley Lake State Park, lights associated with Rangeley Village and the developed eastern shoreline of the lake would appear in the foreground.

- ii) 190-foot tower location:
 - a. Rangeley Lake State Park: The 190-foot tower would be minimally visible from the public beach and boat launch within Rangeley Lake State Park, primarily due to the intervening distance (approximately 5.6 miles away). The tower would appear in the background where details of the structure become difficult to discern, and be viewed within the context of Rangeley Village, existing development on Dallas Hill and along the eastern shoreline of Rangeley Lake.
 - b. Haley Pond Municipal Park: The 190-foot tower would be visible from Haley Pond Municipal Park in Rangeley Village (approximately 1.9 miles away) and appear on Dallas Hill above the undeveloped eastern shoreline of Haley Pond. Use of the park includes launching boats, ice skating, picnicking, and other activities. While viewers would be able to see the tower framed against the relatively undeveloped shoreline to the east, there is existing residential development in a fairly dense pattern on the western shoreline of the pond and the park itself is very close to the sights and sounds of Main Street in Rangeley.
 - c. Dallas Plantation Town Office: The 190-foot tower would be visible from the parking lot behind the Dallas Plantation Town Office (approximately 530 feet away). The upper portion of the tower structure would appear in the foreground, where details are easily discerned. It would appear behind the Dallas Plantation Quonset hut. Use of the parking lot is limited to people conducting business at the Plantation Office.

C. Finding:

- 1) The record demonstrates that the proposed 300-foot lighted telecommunication tower located in the M-GN subdistrict on Dallas Hill would be highly visible during the day and at night from high-value, sensitive scenic resources including portions of the Rangeley Lakes National Scenic Byway, Rangeley Lake which is rated outstanding for scenic character, Rangeley Lake State Park, Haley Pond Municipal Park, and the Appalachian National Scenic Trail. The Commission finds, based on the evidence in the record, primarily the VIA submitted by the Applicant, that development of the proposed 300-foot tower would result in adverse visual impacts on the surrounding area, and its scenic character. Given that the Applicant has proposed an alternative tower location that the record clearly indicates will have reduced visual impacts, minimizing the adverse effect on the scenic character of the surrounding area, the Commission finds that the 300-foot tower is not proposed in a location that will minimize its visual impact on the surrounding area, and that is least likely to block or interrupt scenic views. The Commission finds that, based on the presence of a viable alternative location which will mitigate the visual impacts of the 300-foot tower as initially proposed, the adverse effects on scenic character are undue. Therefore, the 300-foot tower proposal does not meet the standards of Chapter 10, § 10.24(C), and Chapter 10, § 10.25(E)(1).

- 2) Based on analysis of the potential for visual impacts as detailed above for the 190-foot telecommunication tower, the Commission finds that the visual impacts on the surrounding area have been minimized with a lower tower height and unlighted design. The Commission also finds that construction of the 190-foot unlighted tower in the location proposed within the D-RS2 subdistrict is in a location least likely to block or interrupt scenic views while still meeting the project purpose, and therefore, meets the standards of Chapter 10, 10.25(E)(1).
- 3) The Commission finds, based on the evidence provided by the Applicant related to coverage and telecommunications needs, that the construction of the 190-foot tower will facilitate emergency public communications, and provide increased commercial telecommunications coverage in the area surrounding Dallas Plantation. Evidence presented by the Applicant via written submissions and through testimony at the public hearing demonstrates that the area surrounding Dallas Plantation and the proposed tower location currently experiences substandard telecommunications coverage. Numerous members of the public, through written comments and testimony at the public hearing, indicated that the lack of reliable telecommunications coverage in the area presents both safety concerns, and a significant inconvenience.³ The Commission finds that while, as detailed above, construction of the 190-foot tower will have some visual impacts, in light of the public safety benefit of the proposed tower, on which the Commission places great weight, as well as the benefits of improved commercial wireless communication capabilities in the area, the visual impacts will not result in an undue adverse effect on scenic character, and the proposed alternative therefore meets the standard of Chapter 10, § 10.24(C).

Given the above analysis and findings on scenic character, which are sufficient to disapprove the 300-foot tower proposal in light of a viable alternative which mitigates visual impacts while fulfilling the project purpose, the Commission determines that further analysis of that portion of the proposal is not warranted. Therefore, the remaining analysis and findings by the Commission are limited to the 190-foot tower alternative (Project).

16. Title, right or interest, and subdivision and lot creation:

A. Criteria for approval and land use 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.” Chapter 10, § 10.24.
- 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 the subdivision has received the approval of the Commission. Chapter 10, § 10.24(F). In considering the land use standards, the Commission evaluates, among other items, whether the proposal to place a structure upon any lot in a subdivision and whether any divisions of land comply with the Commission’s laws and rules governing subdivisions. Chapter 10, § 10.25(Q).

³ For examples of written comments about the lack of reliable telecommunications coverage, see public hearing exhibits: 9.a, 9.a.1, or 9.b.1.

- B. Analysis: On December 04, 2018, the Applicant entered into a *Lease Agreement* (Lease) with Mark Beauregard, Inc. Section 1 of the Lease granted, among other items, rights to install, maintain, operate, repair and replace a cellular telecommunications tower and all appurtenances and cabinets connected thereto. On October 12, 2021, the Applicant entered into a *Second Amendment to Lease Agreement* (Lease Amendment) with Mark Beauregard, Inc. for a 40,000 square foot Lease Area and an Access/Utility Easement. The Lease Amendment expires December 31, 2021.

The Lease Area is a portion of an approximately 114-acre parcel owned by Mark Beauregard, Inc. The Applicant provided a 20-year land division history that indicated that no other non-exempt divisions have occurred from the parent parcel in the past 20 years.

- C. Finding: The Commission finds that the Applicant has demonstrated legally enforceable title, right or interest to all the property proposed for development in accordance with Chapter 10, § 10.24, and the proposed 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(F) and 10.25(Q).

17. **Public health, safety and general welfare:**

A. Criteria for approval and land use standards:

- 1) The burden is upon the applicant to demonstrate by substantial evidence that the public's health, safety and general welfare will be adequately protected. Chapter 10, § 10.24. 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) *Public facilities and services*:

- a) Solid waste generated during construction would be collected and properly disposed of at an approved licensed transfer and disposal facility. The Applicant provided a list of the general services that an available disposal facility could be contracted to provide. Daily operations would not generate any solid waste.
- b) Fire protection would be provided by the Rangeley Fire and Rescue Department located approximately two to three miles from the proposed development. The department provided the Applicant with an ability to serve letter.
- c) Ambulance services would be provided by NorthStar Emergency Medical Services, which is a department of the Franklin Memorial Hospital. The service provided the Applicant with an ability to serve letter.
- d) Police services would be provided by the Franklin County Sheriff's Office. The office provided the Applicant with an ability to serve letter.
- e) The Applicant proposes to install a service drop within the Access/Utility Easement. Central Maine Power Company would provide electric power. The company provided the Applicant with an ability to serve letter.
- f) The proposed development would not be connected to a water supply and would not generate wastewater.

- 2) *Tower failure evaluation*: To provide for the health, safety, and general welfare of the public, and therefore comply with Chapter 10, § 10.24, the Applicant must provide for the safety of nearby property owners in the event the proposed tower catastrophically fails and collapses. The Applicant submitted a tower failure evaluation, a design certification and an adjacent landowner acknowledgment of tower failure. The tower's minimum design specifications would be in accordance with American National Standards Institute (ANSI)/Telecommunications Industries Association (TIA) *Structural Standard for Antenna Supporting Structures and Antennas*, revision G (ANSI/TIA-222-G). In the event of a catastrophic failure, the Applicant has shown that the proposed tower would not fall onto land outside the Lease Area or surrounding lands owned by the lessor, Mark Beauregard, Inc. On November 18, 2020, Mark Beauregard, Inc. provided a signed agreement to the Applicant that acknowledges that upon tower failure a portion of the failed tower may encumber the immediate vicinity around the Lease Area on land owned by the lessor, Mark Beauregard, Inc. The document provides permission for the failed tower trespass.
- 3) *Unauthorized entry*: The Applicant must also provide adequate deterrents to reduce the probability of unauthorized entry into the development area. To deter unauthorized entry into the tower area, the Applicant proposed to surround the telecommunications tower and appurtenances with an 8-foot high, chain-linked fence topped with a 1-foot high barbed wire support arm with three strands of barbed wire. Additionally, the Applicant would install cautionary, licensed certification, and regulatory required signage in easily noticed locations at the tower site.
- 4) Some of the public comments received for the 300-foot tower discussed the current lack of cellular coverage and the implications for emergency situations. Those commenters supported development of a telecommunications facility on Dallas Hill.
- 5) Public comments were also received for the 300-foot tower regarding concerns that the radio frequency energy emitted by the proposed tower would cause adverse effects on human health. These public comments are also relevant to the proposed 190-foot telecommunications tower located in the D-RS2 subdistrict. In accordance with the Commission's *Rules for the Conduct of Public Hearings*, 01-672 C.M.R. 5(5.11)(2) (Chapter 5), ver. July 1, 2011⁴, the Commission has reviewed and takes official notice of the non-confidential agency records of Development Permit DP 5050 pertaining to cancer and health risks associated with cellular communications towers. This information was obtained from the World Health Organization's International Agency for Research on Cancer, the U.S. Federal Communications Commission, and the American Cancer Society.⁵

⁴Chapter 5 was last revised November 01, 2021. This development permit application was complete for processing prior to the November 01, 2021 rule change; therefore, Chapter 5 rule notations are reference to, and the Project was evaluated under, the version of Chapter 5 rules effective on July 1, 2011.

⁵ U.S. Food and Drug Administration, <https://www.fda.gov/radiation-emitting-products/cell-phones/current-research-results> (accessed November 22, 2021). International Agency for Research on Cancer press release No. 208, May 31, 2011, https://www.iarc.fr/wp-content/uploads/2018/07/pr208_E.pdf (accessed November 22, 2021). American Cancer Society <https://www.cancer.org/cancer/cancer-causes/radiation-exposure/cellular-phone-towers.html> (accessed November 22, 2021).

- C. Finding: The Commission finds that normal operation of the proposed Project will not place an undue burden on local public facilities and services, that the proposed location of the tower in the Lease Area, which is interior to the parent parcel from which it was divided, is such that the proposed 190-foot tower will not be capable of reaching neighboring properties in the event of a catastrophic failure and collapse, and that adequate deterrents to reduce the probability of unauthorized entry into the Lease Area are proposed. Based on its review of cancer and health risks associated with cellular communications towers, the Commission finds most credible the information from the scientific and regulatory authorities on cancer research and human health protection, which concludes that the cancer risk from cellular communications towers is low. Therefore, the Commission finds that the proposed development would comply with the Commission's public's health, safety and general welfare criteria for approval of permit applications.

18. Technical and financial capacity:

- A. Criteria for approval and land use standards: 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. Chapter 10, § 10.24(A). The applicant shall retain qualified consultants, contractors and staff to design and construct proposed improvements, structures, and facilities in accordance with approved plans and 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. Chapter 10, § 10.25(C).
- B. Analysis:
- 1) The Applicant contracted with Black Diamond Consultants, Inc. (BDC) to produce the DP 5050-B application, to perform specific site surveys, evaluations, screenings and assessments, and to complete the engineered drawings for the Project. In the DP 5050-B application, BDC provided project engineering drawings stamped by State of Maine Professional Engineers and a general overview of experience and training with respect to telecommunication services BDC has provided in the State of Maine. The Applicant contracted with Main-Land Development Consultant, Inc. to perform site soil and wetland surveys. The surveys were performed by a State of Maine Licensed Soil Scientist who is knowledgeable about the United States Army Corps of Engineer wetland mapping methodology. The Applicant contracted with Northeast Archaeology Research Center and TJD&A Landscape Architects & Planners to complete the historic properties evaluation, the archaeological resource review, and the VIA. The evaluations, reviews and assessments were completed by an Architectural Historian and a Maine Licensed Landscape Architect.
 - 2) The Applicant provided financial capacity to construct a 300-foot tower with a 2,592-foot level C road project and adjacent electric utility line, which included a total estimated construction cost of \$515,000 and a decommissioning cost of \$20,000. The Applicant provided a letter from Camden National Bank, dated March 05, 2021, stating that Rising Tide Towers, LLC has a committed loan facility that would cover the

construction and decommissioning cost of \$600,000. Because the proposed 190-foot tower is 110 feet shorter than the 300-foot tower and the access road is approximately 1,692 feet shorter, the Commission concludes that the proposed Project would be less expensive, or no more expensive, to construct and decommission than the 300-foot tower and its access road.

- C. Finding: The Commission finds that Rising Tide Towers, LLC has demonstrated that it has retained the services of qualified companies and individuals and has adequate financial resources to comply with applicable environmental laws and regulations in accordance with Chapter 10, §§ 10.24(A) and 10.25(C).

19. **Vehicular circulation, access and parking:**

- A. Criteria for approval and land use 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. Chapter 10, § 10.24(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 Lease Area would be located approximately 525 feet northwest of Dallas Hill Road, would be interior to the parent parcel, and would have no direct road frontage. The Lease Area would be accessed by an approximately 12-foot by 900-foot driveway with approximately 6-foot side ditches and would be located within the 50-foot wide Access/Utility Easement. Approximately 300 feet of the driveway currently exists and is used to access the shale pit on the parent parcel. Approximately 600 feet of the driveway would be new construction. A 20-foot by 80-foot gravel parking area at the Lease Area would allow space for vehicles to turn around without having to back onto the Dallas Hill Road. The parking area would be visually buffered by vegetation from the Dallas Hill Road and the nearest property boundary line. The Applicant stated that vehicle access to and circulation within the operating Project area would be infrequent and would require, at most, the use of two or three vehicles during a maintenance or troubleshooting event. During the construction phase of the Project, temporary parking and a turn-around area for the safe and efficient handling of construction crew traffic would be within the existing slate pit area.
- C. Finding: The Commission finds that Rising Tide Towers, LLC has made adequate provision for loading, parking and circulation on and from the site such that the proposed development would 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).

20. **Natural and historic resources:**

- A. Criteria for approval and land use standards: 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. Chapter 10, § 10.24(C). 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). The applicant must also demonstrate that the proposed activity will not have an undue adverse impact on historic resources. Chapter 10, § 10.25(E)(3).

B. Analysis:

1) *Natural resources:*

- a) Wildlife and fisheries: Public comments were received for the 300-foot tower regarding potential impacts on regional wildlife including endangered species and eagles. Those public comments are relevant to any telecommunications tower in the area. On October 06, 2021, the Applicant completed a United States Fish and Wildlife Service's (USFWS), Federal Wildlife and Rare Species Assessment (Assessment) for the 190-foot tower location and access road. The assessment was performed to determine whether the proposal is located within any endangered and threatened species habitat, and if the proposal would jeopardize the continued existence of a listed species or result in the destruction or adverse modification of a critical habitat. The Assessment identified two threatened species, the Northern Long-eared Bat and the Canada Lynx, that could potentially be located within the Project area.
 - i) Northern Long-eared Bat: The Assessment noted that tree removal activities resulting from the Project would not occur within 0.25 miles of a known hibernacula and would be conducted outside of the June 1 through July 31 pup season. The Assessment also noted that there are no known hibernacula documented in the Project area. The Assessment concluded that the proposal would not result in incidental take and that the Project would not be likely to adversely affect the Northern Long-eared Bat but may have minimal direct impacts to suitable habitat.
 - ii) Canada Lynx: The Assessment noted that the proposal would impact approximately 0.51 acres of forested land that is relatively thin due to past activities and is mature forest with little undergrowth to support snowshoe hare populations. Considering this and other proposal related information, the Assessment concluded that the Project would have insignificant direct impact on any potential suitable Canada Lynx habitat.
 - iii) The Assessment noted that the closest Bald Eagle's nest is located 3.5 miles from the tower site on a small island in Rangeley Lake, which exceeds the 660 foot area outlined for its protection under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.).
- b) Plant species and communities: The Applicant would clear 10,000 square feet of vegetation within the Lease Area and approximately 14,544 square feet along the new portion of the Access/Utility Easement; 24,544 square feet in total. The Maine Natural Areas Program 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, there are no rare botanical features documented specifically within the Project area.

- c) Flowing water and wetlands: No streams or mapped wetlands would be impacted by the Project.
- 2) *Historic resources*: The Applicant provided a Section 106 historic preservation evaluation of the 190-foot tower location. The Maine Historic Preservation Commission (MHPC) reviewed the archeological data provided by the Applicant, and concluded that there would be no historic properties (architectural or archaeological) affected by the proposed undertaking, as defined by Section 106 of the National Historic Preservation Act of 1966, as amended, reference MHPC# 1642-21, dated September 30, 2021.
- C. Finding: The Commission finds that there would be no undue adverse effect on natural and historic resources in the area likely to be affected by the Project in accordance with Chapter 10, §§ 10.24(C), 10.25(P)(4) and 10.25(E)(3).

21. Noise and lighting:

- A. Criteria for approval and land use 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 would 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 lease boundary lines.
 - 2) *Lighting*: The Applicant stated that the Project would normally be un-manned except for checks and maintenance, which are normally performed during daytime hours and that equipment cabinets are not lit when un-manned. The Applicant stated that the proposed Project would not include any exterior lighting or any FAA required lighting.⁶
- 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.⁷ The Commission finds that the proposed development would comply with the Commission's noise and

⁶ The October 15, 2021 supplemental filing, engineering drawing sheet number A1, erroneously indicated that the "Proposed tower light shall be dual lighting system designed to luminate red at night time and have medium intensity flashing white light for daytime and twilight." On November 05, 2021, the Applicant confirmed that the alternative 190-foot tower does not include the installation of any FAA lights.

⁷ Chapter 10, § 10.25(F)(1)(b)(1).

lighting standards provided no exterior or FAA lighting would be installed within the Project.

22. **Soil suitability and erosion and sedimentation control:**

- A. Criteria for approval and land use 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. 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 class A high intensity soil survey for the Lease Area and a class L soil survey for the Access/Utility Easement completed by a State of Maine Soil Scientist. The soil survey indicates that the soils within the Access/Utility Easement are Udorthents Loamy (UdB), somewhat poorly drained with slopes of 3 to 8 percent and Chesuncook Series (ChC), moderately well drained with slopes of 8 to 15 percent, and that the soils within the Lease Area are Telos-Monarda Complex (TUC), somewhat poorly drained to poorly drained with 8 to 15 percent slopes and Monarda Series (MrB), poorly drained with 3 to 8 percent slopes. The soil scientist indicated that the soils are rated as “very limited” and “somewhat limited” for non-residential development using the Natural Resource Conservation Service potential ratings.

The Applicant does not propose upgrades to the existing approximately 300-foot portion of the Access/Utility Easement where the soils are Udorthents Loamy. The survey indicates that the soils within the new 600-foot portion of the Access/Utility Easement, which are Chesuncook Series, would be suitable for the development but present limitations. The Applicant indicated that those limitations would be overcome by construction techniques such as excavating poor roadbed material, placing suitable road base materials, ditching and rip rapping, and installing appropriate water control devices.

The primary soil under the tower foundation would be Telos-Monarda Complex. The soils survey indicates that these soils are not suitable for the proposed development and are very limited. The Applicant stated that the tower foundation must be designed to account for soils conditions at a particular site. To overcome the soil limitations, the Applicant indicated that the tower foundation would be designed in compliance with ANSI/TIA-222-G based on the soil survey results and the soil geotechnical studies, which would be conducted at the site should the application receive permit approval. Additionally, since the groundwater flow at the 190-foot tower site is comparable to the groundwater flow at the 300-foot tower site that was reviewed by a Maine Licensed Soil Scientist contracted by the Commission, the Applicant stated that the foundation

engineering would take into consideration the suggested proper groundwater management methods and drainage methods provided by the Licensed Soil Scientist.

- 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 C5), stamped by a State of Maine 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: The Commission determines that, with an appropriate tower foundation design based upon onsite geotechnical studies and constructed with corrective measures to appropriately manage soil limitations and groundwater flow as proposed, the soils are suitable for the proposed use. The Commission finds that the proposed development will comply with the Commission's soil suitability standards set forth in Chapter 10, § 10.25(G). The Commission also finds that the proposed development will comply with Chapter 10, § 10.24(D) provided the Applicant follows 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.

23. Dimensional requirements:

- A. Criteria for approval and land use standards: Under Chapter 10, § 10.26, there are multiple dimensional requirement standards, all of which an Applicant must satisfy for the Commission to approve an application. Notwithstanding the public health, safety and general welfare, under the dimensional requirements, this proposal requires a minimum lot size of 40,000 square feet, and minimum setbacks of 75 feet from the traveled portion of all roadways and 25 feet from the side and rear property boundary lines. Chapter 10, §§ 10.26(A)(2), 10.26(D)(3)(b)(1), and 10.26(D)(3)(c), respectively. The maximum structure height in areas beyond 500 feet of the normal high water mark of a body of standing water 10 acres or greater in the D-RS2 subdistrict is limited to 35 feet. However, structures used for agricultural management, structures with no floor area, or features of buildings which contain no floor area such as chimneys, towers, ventilators, and spires may exceed these maximum heights with the Commission's approval. Chapter 10, § 10.26(F)(4)(a).
- B. Analysis: The Lease Area lot size is 40,000 square feet in size. The tower and parking area would be set back at least 25 feet from the Lease Area side and rear property boundary lines. The base of the tower would be set back 200 feet from the property boundary line of the parent parcel and approximately 525 feet from Dallas Hill Road. The only component of the proposal that exceeds the 35-foot height limitation for the D-RS2 subdistrict is the 190-foot tall telecommunications tower. The nature of the Project requires the tower structure to exceed the 35-foot height limitation.
- C. Finding: The Commission finds that the proposed tower will have no floor area and, given the nature of the project and the necessity of exceeding the applicable height limitation, authorizes the tower to exceed the maximum height limitation under Chapter 10 § 26(F)(4)(a). The Commission finds that, with this approval, the proposed development will

comply with the Commission's dimensional requirements in accordance with the applicable standards of Chapter 10, § 10.26.

24. Signs:

- A. Criteria for approval and land use standards: The Commission's regulations pertaining to signs establish standards to ensure placement of signs do not produce undue adverse impacts upon the resources and uses in the area. Chapter 10, § 10.27(J).
- B. Analysis: The Project includes required cautionary and regulatory signage to be installed at the tower site. The Applicant proposes to install four unlighted signs: a no trespassing sign measuring 24 inches by 24 inches, a Federal Communications Commission antennae registration sign measuring 10 inches by 14 inches; a notice of guidelines for working in radiofrequency environments sign measuring 7 inches by 10 inches; and a radiofrequency notice or caution sign measuring 10 inches by 14 inches.
- C. Finding: The Commission finds that the signs for the proposed Project will comply with the Commission's standards in accordance with Chapter 10, § 10.27(J).

25. Tower decommissioning, abandonment and removal, and co-location (capacity expansion):

- A. Criteria for approval and land use standards: The criteria for approval require compliance with 12 M.R.S. §§ 681 – 689 and the regulations, standards and plans adopted pursuant thereto. Chapter 10, § 10.24(E). Pursuant to 12 M.R.S. § 685-C(1), the Commission has a *Comprehensive Land Use Plan, ver. 2010 (CLUP)* that guides the Commission in developing specific land use standards, delineating district boundaries, siting development, and generally fulfilling the purposes of the Commission's governing statute. In approving applications submitted to it pursuant to 12 M.R.S. § 685-B, the Commission may impose such reasonable terms and conditions as the Commission may consider appropriate in order to satisfy the criteria of approval and purpose set forth in these statutes, rules, and the CLUP. Chapter 10, § 10.24.

A stated policy goal of the CLUP is to ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction's principal values and to require that highly visible facilities such as communication towers be dismantled and removed from the site when they are unused for an extended period of time. CLUP, p. 8. In the case of radio communication towers, the Commission will ensure that such towers are dismantled and removed from the premises if unused for an extended period. CLUP, p. 143.

Another stated policy goal of the CLUP is to require that communication towers be made available for other users where feasible in order to limit the number of such towers. CLUP, p. 8.

B. Analysis:

- 1) *Tower decommissioning, abandonment and removal*: Section 7 of the Lease stipulates that within 90 days of termination of the lease, Rising Tide Towers, LLC shall remove

the proposed Project, all foundations to within one-foot below ground level, and all other equipment, cables, fixtures and personal property and otherwise restore the premises to its original condition. The Applicant further stated that the tower and appurtenances would be removed within 90 days of the termination or abandonment of the Project.

- 2) *Co-location and capacity expansion*: In the Project's telecommunications needs analysis, the Applicant indicated that the tower must be located close to the significant FirstNet coverage gap within the search ring provided by FirstNet/AT&T. Within that search ring, there are no towers available that the Applicant could co-locate their wireless equipment on and achieve the needed coverage. Section 17 of the Lease provides, among other items, that the Applicant may sublease space upon and issue leases and licenses in and to the Project and the Applicant stated that the Project has been designed and would be constructed to provide accommodation for the future co-location of five additional wireless telecommunication providers.
- C. Finding: The Commission determines that a decommissioning plan, not contingent solely upon lease termination or tower abandonment, but based upon lease termination, lease expiration, tower abandonment, and tower inactivity is required to ensure compliance with the policy objective regarding tower removal and the criteria for approval of Chapter 10, § 10.24(E). The Commission finds that the proposed Project will comply with Chapter 10, § 10.24(E) provided a decommissioning plan acceptable to the Commission be submitted to the Commission prior to the commencement of construction. The Commission also finds that the policy objectives regarding co-location and capacity expansion will be met with a condition requiring co-location of utilities on the proposed tower.

26. **Allowed use determination:**

- A. Criteria for approval and land use standards: 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 pipe lines or above ground storage tanks. Chapter 10, § 10.02(249). Utility facilities compatible with residential uses, and related accessory structures, may be allowed within a D-RS2 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(N)(3)(c)(23).

The purpose of the Community Residential Development (D-RS2) subdistrict is to designate residential areas that can accommodate an appropriate range of low-impact commercial and public uses that are compatible with residential uses. This subdistrict seeks to promote residential living and thriving neighborhoods with a limited range of services. Chapter 10, § 10.21(N)(1).

Prospective zoning was adopted to provide explicit and reasonable boundaries to meet the development needs of a region. *Prospective Zoning Plan for the Rangeley Lakes Region*, Introduction. The D-RS2 zone was adopted as a limited mixed-use zone designed to better integrate a mix of home-based occupations, residential dwelling types and public uses that occur in a residential zone. The zone is for use in plantations where growth is deemed most

appropriate according to the regional vision developed for the Rangeley prospective planning area, which includes Dallas Plantation. *Prospective Zoning Plan for the Rangeley Lakes Region*, p. 27 (Rangeley Lakes Region Plan).

B. Analysis:

- 1) The proposed Project is a use allowed within a D-RS2 subdistrict with a permit and subject to the applicable land use standards, provided the proposed Project is compatible with residential uses.
- 2) Development of a telecommunications tower can both positively and negatively impact nearby residential development. Positive effects include the expansion or introduction of private wireless communication services for nearby residents, and additional capacity for communications by emergency responders or other public entities. Negative impacts are primarily related to the scale of the proposal and the visibility of the tower and associated infrastructure from nearby residential development, or roads serving such development. The Commission assessed overall compatibility and the potential for visual impacts to residential development in the nearby D-RS2 subdistrict by analyzing: proximity of the tower structure to dwellings or roads; intervening topography or vegetation that may obstruct visibility; the tower design and construction materials; plans for daytime and nighttime lighting; and the overall density of development and range of uses in the area.

The proposed 190-foot tower would be set back from nearby residences, be screened by existing forest, and not be lighted. The D-RS2 subdistrict located along the crest of Dallas Hill has a rural character and has a relatively low density compared to other places in the area such as Rangeley Village or the Saddleback base area. Commission review of aerial photography indicates that there are approximately 12 residential dwellings within a quarter-mile of the proposed Project. The two closest residences are greater than 800 feet away from the base of the proposed 190-foot tower. Other non-residential uses nearby on Dallas Hill Road include the Dallas Plantation Town Office, a private golf course, and a shale pit.

- 3) The Town of Rangeley and the Town of Dallas Plantation reviewed and commented on the 300-foot tower proposal. Those comments are relevant for any telecommunications tower in this location.
 - a) Town of Rangeley: The Town of Rangeley submitted a letter of support for approval of the proposal. The Town of Rangeley, while acknowledging an aesthetic impact, indicated that the area is remote and that improvements in telecommunication are critical to the health, safety and welfare of the people of the area.
 - b) Town of Dallas Plantation: The Dallas Plantation Board of Assessor submitted a letter of support for approval of the proposal. The Dallas Plantation Board of Assessors, while recognizing the concerns regarding the visual impact imposed on the scenic value of their area, concurred with the importance of FirstNet emergency response capabilities vital to public safety, the increased ability for wireless cellular

data transmission, and boosting cellular signal among their region's existing cell tower network.

- 4) According to Chapter 10 and the Rangeley Lakes Region Plan, the D-RS2 subdistrict is designated to residential areas that can accommodate an appropriate range of low-impact commercial and public uses that are compatible with residential uses. It is designed to better integrate a mix of home-based occupations, residential dwelling types and public uses. The Applicant stated that the tower would be used by FirstNet, a nationwide wireless network set up to facilitate emergency public safety.
- 5) Members of the public expressed concerns that the proposed Project would be unlike any other development in, and would not be compatible with, the residential neighborhood in which it is proposed. One commercial use, the shale pit on the parent parcel from which the Lease Area was divided, is located in the D-RS2 subdistrict. One public use, the Dallas Plantation Town Hall, is located 530 feet northeasterly of the Lease Area in a Community Center Development (D-GN2) subdistrict. The Dallas Plantation Town Hall Quonset storage accessory building is located in the D-RS2 subdistrict.

C. Finding: Although a telecommunications tower would be unlike other existing commercial, public, and residential uses within the subdistrict, the Commission places the most weight in this decision on the facts demonstrating that: 1) the telecommunications tower would provide an important public service; 2) the current 190-foot tower proposal allows for the most residentially compatible design of the three alternatives reviewed by the Commission⁸, considering the distance from residences, intervening vegetation, lack of FAA lighting, and lower tower height; and 3) the tower occurs in a residential subdistrict by necessity (due primarily to the topography of Dallas Hill) to achieve the appropriate balance of public safety and residential compatibility. The record shows that the proposed tower would be set back from existing dwellings and views of the structure would be mostly screened by existing vegetation. In addition, the Commission has not identified any significant traffic; noise; odors; emissions; or other nuisances, unsafe, or unhealthy conditions that would result from the Project. Given the factors weighed by the Commission and the balancing it must perform in reaching a decision in this case, the Commission finds that the proposed Project would be able to exist or occur together with residential uses without adversely affecting those uses and therefore is an allowed use in accordance with Chapter 10, § 10.21(N)(1) and the Rangeley Lakes Region Plan.

27. The facts are otherwise as represented in Amendment B to Development Permit DP 5050 and supporting documents.

⁸ The three alternatives reviewed by the Commission include a proposed 190-foot tall telecommunications tower denied by the Commission in DP 5050 (see Appendix A), the 300-foot tower proposed in Amendment B of DP 5050, and the alternative 190-foot tower also proposed Amendment B.

FINAL CONCLUSIONS ON THE 300-FOOT TOWER PROPOSAL

1. Based on review of the VIA and other materials submitted by the Applicant relevant to consideration of the scenic impacts likely from development of the lighted 300-foot telecommunications tower, and as described in Finding 15, the Commission concludes that, in light of the viable alternative presented by the Applicant, the 300-foot tower proposal does not meet the standards of Chapter 10, § 10.24(C) and Chapter 10, § 10.25(E)(1); and therefore would have an undue adverse effect on existing uses and scenic character in the area likely to be affected by the proposal.

Therefore, the Commission DENIES the amendment request of Rising Tide Towers, LLC for a 300-foot telecommunications tower and associated appurtenances.

FINAL CONCLUSIONS ON THE 190-FOOT TOWER PROPOSAL

1. 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; and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors, and for the securing and maintenance of sufficient healthful water supplies based on information provided by the Applicant as discussed in Findings 17 and 18.
2. 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, based on information provided by the Applicant as discussed in Finding 19.
3. 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 in that, as discussed in Findings 15, 20, and 26, the proposed location for the 190-foot tower is in a location least likely to block or interrupt scenic views and the Project has been designed to minimize visual impact while meeting the overall public safety purpose of the Project, provided that the 190-foot tower is designed and located as proposed and will not be lighted.
4. As discussed in Finding 22, 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, provided that adequate erosion control measures are installed and maintained during and following construction of the permitted activities.
5. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto provided that the tower is made available for co-location of other providers and antenna in accordance with the design and load capacity of the tower structure, the Applicant submits an acceptable decommissioning plan prior to construction, and the tower is decommissioned when no longer in use as discussed in Finding 25; and

6. The application does not propose construction of a structure upon a lot in a subdivision that has not received approval of the Commission as discussed in Finding 16.

Therefore, the Commission APPROVES the amendment request of Rising Tide Towers, LLC for a 190-foot telecommunications tower and associated appurtenances subject to the following Conditions of Approval:

1. **At least one week prior to commencing construction of the permitted activities**, the Permittee, or the designated agent acting on behalf of the Permittee, must contact the Commission staff and notify them of the estimated date construction work will start. Notice may be provided in writing, in person, by emailing, or by calling. If leaving or sending a message, the message must include the caller's full name and telephone number, the relevant permit number, and the date the work will start.
2. **Prior to commencing construction of the permitted activities**, the Permittee, or the designated agent acting on behalf of the Permittee, must provide a copy of this permit, including its attached Conditions of Approval, to contractors that will be performing work or will be responsible for work at the site.
3. **Prior to commencing construction of the permitted activities**, the Permittee must submit an acceptable decommissioning plan to the Commission.
4. The attached permit certificate must be posted in a visible location on the Project site immediately after receipt and remain posted during development of the site and construction of the structures and activities approved by this permit.
5. 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.
6. 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 Federal Communications Commission and the Federal Aviation Administration, the U.S. Army Corps of Engineers, the Maine Department of Transportation, the U.S. Fish and Wildlife Service, and the Maine Department of Environmental Protection.
7. The tower must be no taller than 190 feet and placed at the identified coordinate location of 44° 57' 56.90"N; 070° 36' 12.52"W. The base of the tower must be set back at least one tower height from any public road, any private road open for public use, and any other property boundary line. The tower appurtenances, accessory structures, and the parking area must be placed at the identified locations and must be set back at least 75 feet from local access roads and 25 feet from the side and rear property lines. The utility/access easement must be set back at least 25 feet from side and rear property boundary lines.
8. The tower must not be lighted.

9. The tower must be made available for co-location of other providers and antenna (or compatible systems) in accordance with the design and load capacity of the tower structure.
10. Within 90 days of the termination of the Lease, expiration of the Lease or abandonment of the tower, or should the tower be vacant, inoperable, or unused for more than two years, the Permittee must remove the tower, the associated appurtenances, all solid waste and other related debris from the parcel (excluding any portions one-foot below the ground surface and the access driveway), and dispose of the debris in a proper manner, in compliance with applicable state and federal solid waste laws and rules.
11. The total area altered (disturbed) for the Project must be less than 1.0 acre. The altered area must not impact any wetlands, vernal pools, or streams.
12. All imported fill material must be free of hazardous or toxic materials and must not contain debris, trash, or rubbish.
13. The Permittee must employ and maintain permanent and temporary erosion and sedimentation control measures that meet the standards and specifications of the *Maine Erosion and Sediment Control Practices Field Guide for Contractors* (Maine Department of Environmental Protection, 2015) or other equally effective practices. Areas of disturbed soil must be stabilized according to the *Guidelines for Vegetative Stabilization* (Chapter 10, app. B), a copy of which is attached to this permit amendment and is incorporated herein by reference, or by alternative measures that are equally effective in stabilizing disturbed areas.
14. Clearing and construction activities, except those necessary to establish permanent and temporary erosion and sedimentation control devices, must not begin until all erosion and sedimentation control devices have been installed and stabilized. Once in place, such devices must be maintained to ensure proper functioning. Effective, temporary stabilization of all disturbed and stockpiled soil must be completed at the end of each workday. Permanent soil stabilization must be completed within one week of inactivity or completion of construction. All temporary sedimentation and erosion control devices must 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.
15. If the permitted Project is constructed when the ground is frozen, once construction is complete, the Permittee must submit to Commission staff the site inspection log as required by, and in compliance with, Chapter 10, § 10.25(M)(4), a copy of which is attached to this permit amendment and is incorporated herein by reference. All inspections shall be documented in writing and made available to the Commission upon request. Such documentation shall be retained by the Permittee for at least six months after all permanent control measures have been effectively implemented.
16. With the exception of signage described in Finding 24, no signage or advertisements may be installed on the tower or appurtenances. The signs must be in conformance with the *Sign Standards* of Chapter 10, § 10.27(J), a copy of which is attached to this permit amendment and is incorporated herein by reference.

17. Prior to construction, the Permittee must submit to Commission staff the geotechnical investigation report for the tower foundation. Once construction is complete, the Permittee must submit to Commission staff photographs of the site showing the completed work at the Project location. The Permittee must submit all information requested by the Commission demonstrating compliance with the terms of the permit and the Conditions of Approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.
18. 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.
19. The approved portion of this permit amendment is as set forth in the supplemental filing concerning an alternative tower option and supporting documents, except as modified in the above stated Conditions of Approval, and remains valid only if the Permittee complies with all of these Conditions of Approval. Any proposal variation 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. § 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person.

DONE AND DATED AT BREWER, MAINE THIS 8TH DAY OF DECEMBER 2021.

By: _____
Stacie R. Beyer, Acting Executive Director

APPENDIX A

ADMINISTRATIVE HISTORY⁹

1. **Denial of Development Permit DP 5050:** At a meeting of the Commission on October 09, 2019, the Commission denied Development Permit DP 5050 for construction of a 190-foot tall, lattice style telecommunications tower on Maine Revenue Service Map FRP02, Plan 02, Part of Lot 49.
2. **Development Permit DP 5070:** On April 01, 2020, Rising Tide Towers, LLC applied to the Commission for a development permit in which it sought approval to construct a 170-foot tall, green monopole style telecommunications tower on Maine Revenue Service Map FRP02, Plan 02, Part of Lot 49. Subsequently, the Commission staff returned the application because it was not complete for processing and because the Applicant failed to demonstrate that there was a significant change in circumstances or substantial new information to be presented to the Commission.
3. **Amendment A to Development Permit DP 5050:** On November 30, 2020, Rising Tide Towers, LLC applied to the Commission for a development permit in which it sought approval to construct a 300-foot tall, lattice style telecommunications tower on Maine Revenue Service Map FRP02, Plan 02, Part of Lot 49. On December 23, 2020, the Commission staff returned the application (Amendment A to Development Permit DP 5050), because it was deemed substantially incomplete.

AMENDMENT B TO DEVELOPMENT PERMIT DP 5050 PUBLIC HEARING PROCESS

1. On May 12, 2021, at its regular business meeting, the Commission voted to hold a public hearing on the DP 5050-B application in a location close to the area of the proposal, barring COVID 19 constraints, once the Applicant had submitted all the outstanding information needed to complete the application review.
2. On August 04, 2021 and in the matter of the DP 5050-B application, the Commission provided notice of a September 07, 2021 public hearing and an opportunity to intervene pursuant to Commission's *Rules for the Conduct of Public Hearings*, 01-672 C.M.R. 5(5.13) (Chapter 5). No petitions to intervene were submitted. The notice outlined that the hearing record would remain open until September 17, 2021 at 5:00 P.M. to allow the filing of written statements, and until September 24, 2021 at 5:00 P.M. to file statements in rebuttal of those filed by the September 17th deadline.
3. On August 24, 2021, the Presiding Officer issued the First Procedural Order, which outlined that the hearing record would remain open until September 17, 2021 at 5:00 P.M. to allow the filing

⁹ Information presented in the Administrative History is intended to be a summary only and may lack specific details of previously permitted or denied activities. A copy of a particular permit action, containing a complete and detailed description of activities authorized or not authorized under that action, may be obtained through requests in writing to: Maine Land Use Planning Commission; 22 State House Station; Augusta, Maine 04333

of written statements, and until September 24, 2021 at 5:00 P.M. to file statements in rebuttal of those filed by the September 17th deadline. Additionally, the document outlined the Commission site visit general itinerary and public participation process.

4. On August 27, 2021, the Commission provided a second notice of the September 07, 2021 public hearing and an outline of the Commission site visit general itinerary and public participation process.
5. On September 07, 2021, from approximately 12:30 P.M. to 4:15 P.M., the Commission participated in a site visit to the area surrounding the proposed 300-foot tower proposal. The site visit was open to the public.
6. On September 07, 2021, the Commission held a public hearing in the matter of the DP 5050-B application at 6:00 P.M. at the Sugarloaf Mountain Hotel, 5092 Access Road, Carrabassett Valley, Maine 04947.
7. On September 24, 2021, the Presiding Officer issued the Second Procedural Order, which revised the close of the hearing record to November 6, 2021 at 5:00 P.M. to allow for the Applicant to submit additional alternative location information until 5:00 P.M. on October 15, 2021. The hearing record remained open until October 29, 2021 at 5:00 P.M. for interested persons to file comments on any additional information supplied by the Applicant, and until November 6, 2021 at 5:00 P.M. for statements in rebuttal to comments filed by the October 29th deadline.
8. The Commission's public hearing record for the DP 5050-B application closed on November 06, 2021 at 5:00 P.M.

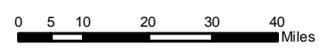
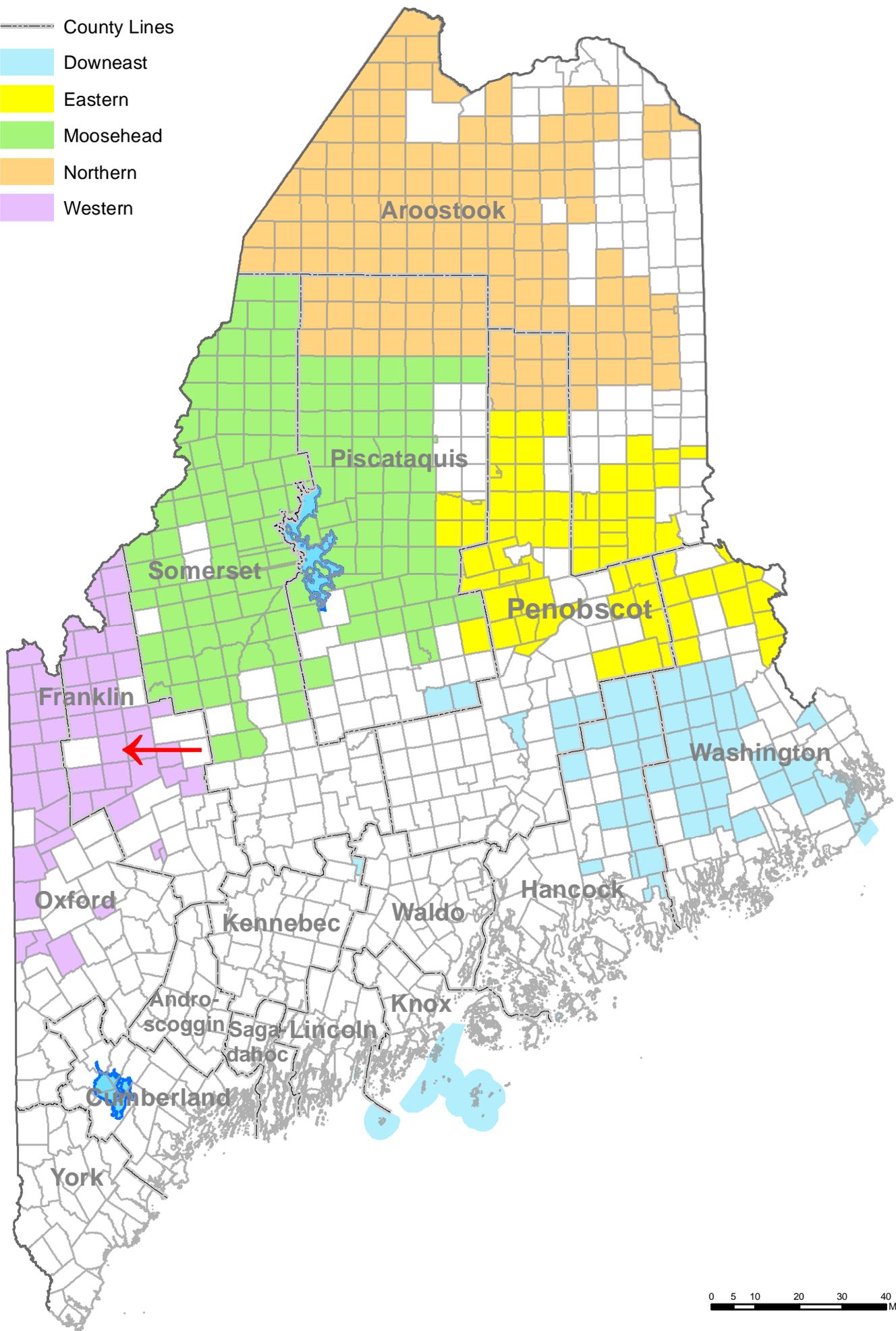
Attachment B

Location Map/Zoning Map

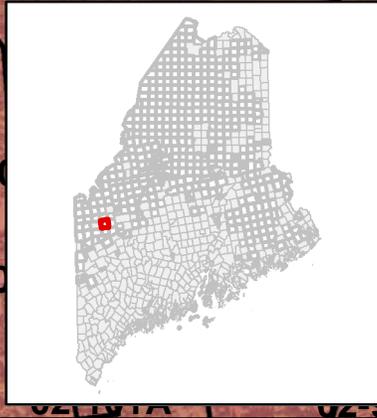
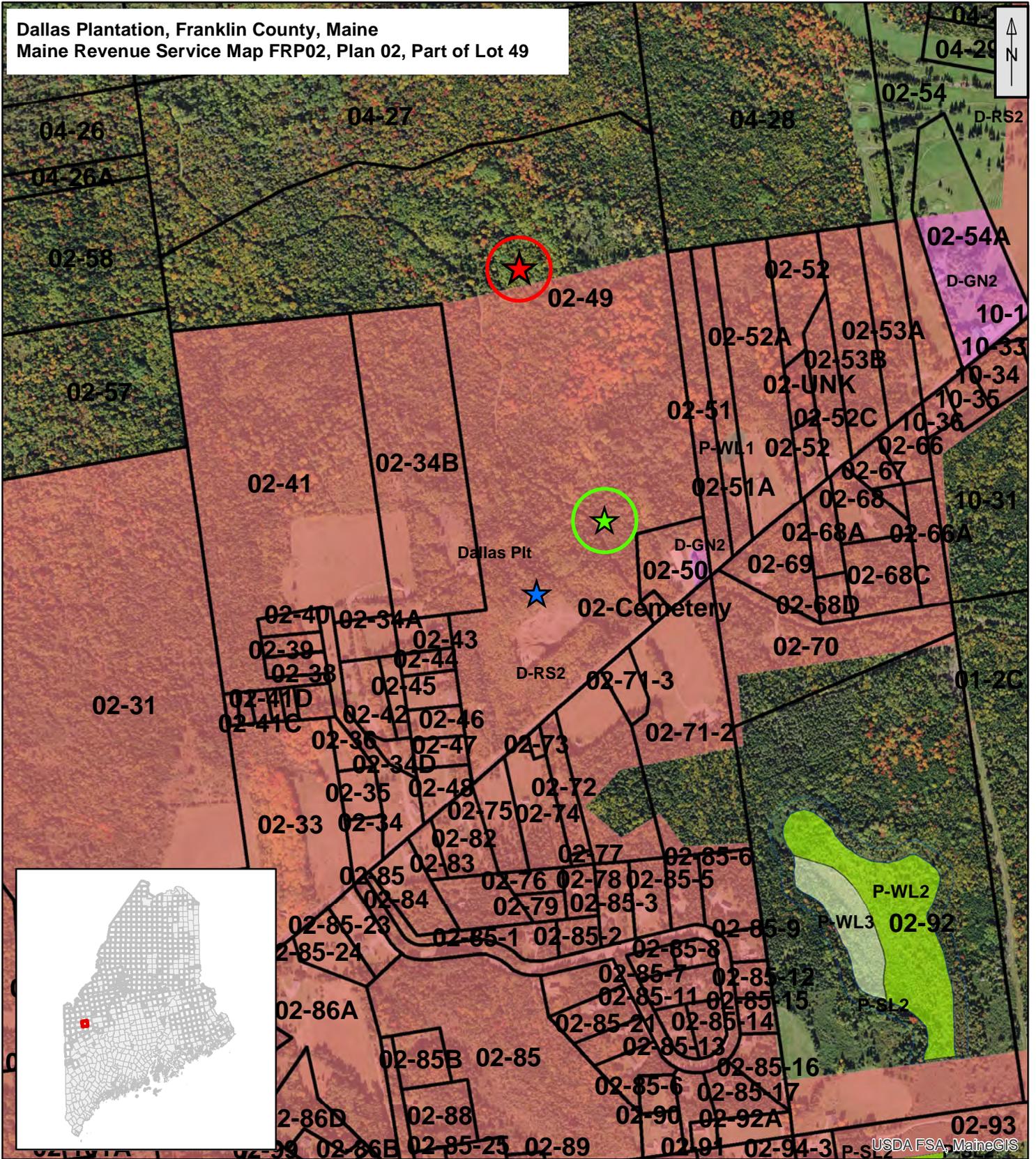
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- County Lines
- Downeast
- Eastern
- Moosehead
- Northern
- Western



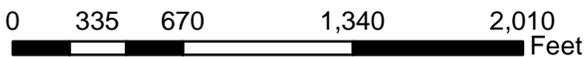
Dallas Plantation, Franklin County, Maine
 Maine Revenue Service Map FRP02, Plan 02, Part of Lot 49



USDA FSA, MaineGIS

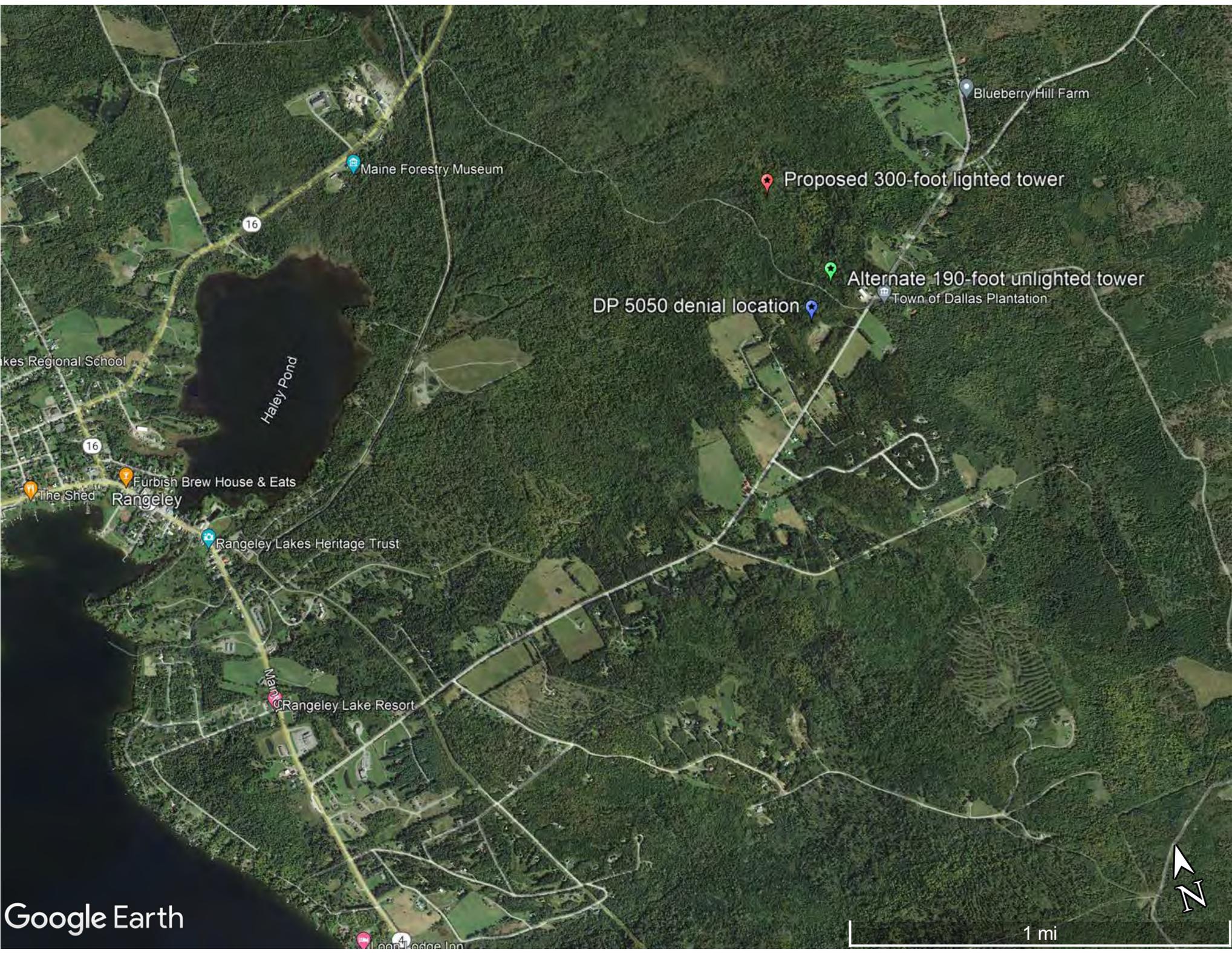
- ★ DP 5050 Location
- ★ (in red circle) DP 5050-B 300-foot tower
- ★ (in green circle) DP 5050-B 190-foot tower

- D-GN2: Community Center
- D-RS2: Community Residential
- P-SL2: Shoreland - 75'
- P-WL1: Wetlands of Special Significance
- P-WL2: Scrub-shrub Wetlands
- P-WL3: Forested Wetlands



Attachment C
Google Earth Map

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Blueberry Hill Farm

Maine Forestry Museum

Proposed 300-foot lighted tower

16

Alternate 190-foot unlighted tower

DP 5050 denial location

Town of Dallas Plantation

Rangeley Regional School

Haley Pond

16

Furbish Brew House & Eats

The Shed

Rangeley

Rangeley Lakes Heritage Trust

Maine

Rangeley Lake Resort

Google Earth

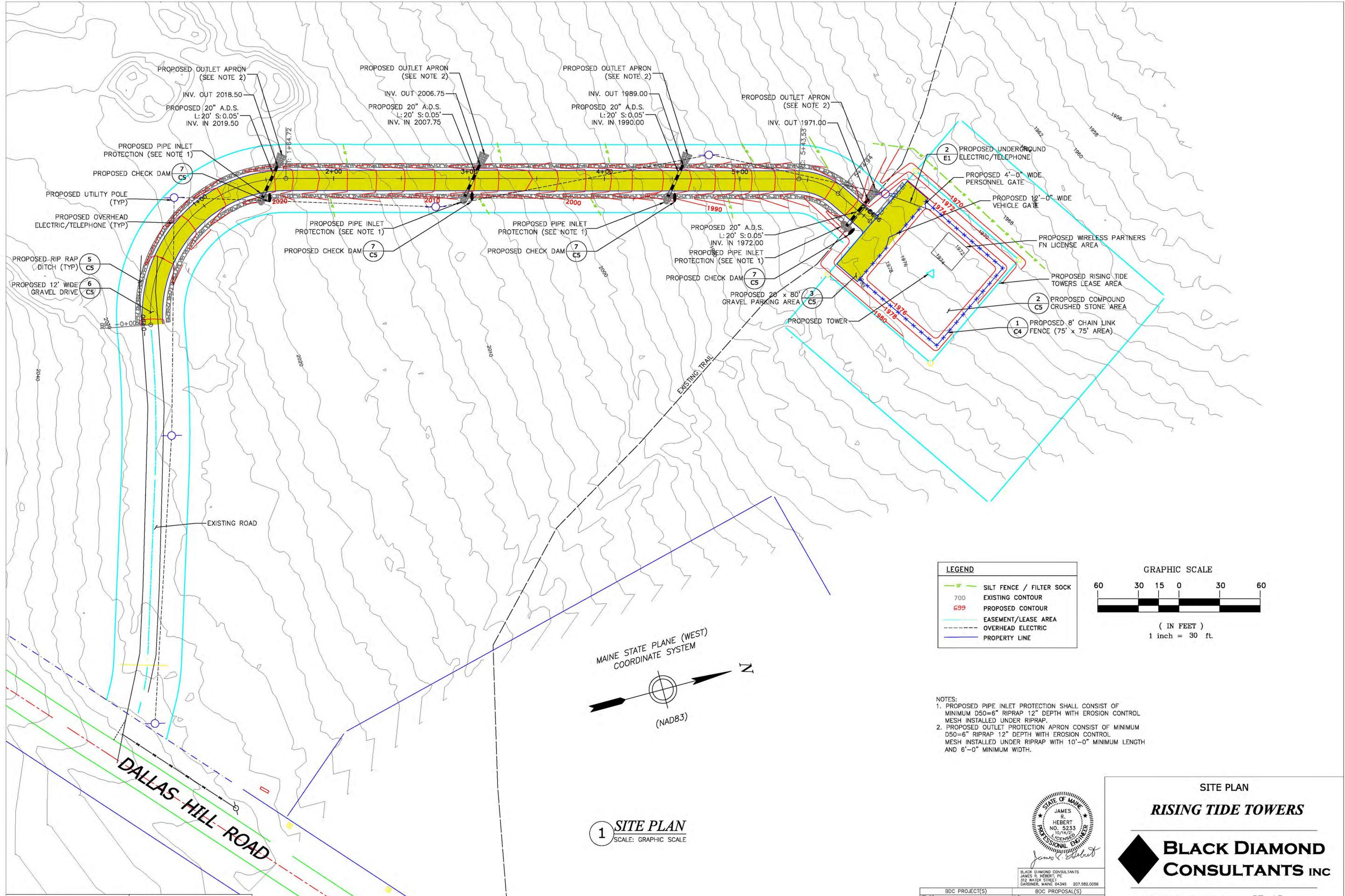
1 mi



Attachment D

Site Plan

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Classification: **UNCLASSIFIED**
 Quality Category: **NON-Q**

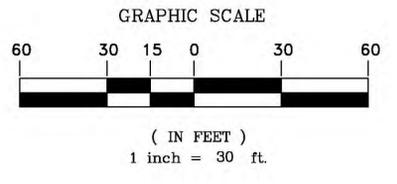
SITE NAME: DALLAS PLANTATION
 SITE NUMBER: N/A

1 SITE PLAN
 SCALE: GRAPHIC SCALE

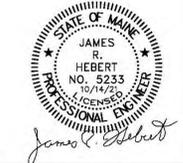
REV	DATE	BY	CHK'D	REV'D	APP'D	REV	DATE	BY	CHK'D	REV'D	APP'D	REV	DATE	BY	CHK'D	REV'D	APP'D
3	10/14/21	AMC	MJM	TR	JRH	2	08/20/21	AMC	AMC	TR	JRH	1	09/17/21	AMC	AMC	TR	JRH
REVISION NOTES: ECO #21-036																	
REVISION NOTES: ECO #21-022																	
REVISION NOTES: ECO #21-002																	
REVISION NOTES: ORIGINAL ISSUE																	

LEGEND

5'	SILT FENCE / FILTER SOCK
700	EXISTING CONTOUR
699	PROPOSED CONTOUR
---	EASEMENT/LEASE AREA
---	OVERHEAD ELECTRIC
---	PROPERTY LINE



- NOTES:**
- PROPOSED PIPE INLET PROTECTION SHALL CONSIST OF MINIMUM D50=6" RIPRAP 12" DEPTH WITH EROSION CONTROL MESH INSTALLED UNDER RIPRAP.
 - PROPOSED OUTLET PROTECTION APRON CONSIST OF MINIMUM D50=6" RIPRAP 12" DEPTH WITH EROSION CONTROL MESH INSTALLED UNDER RIPRAP WITH 10'-0" MINIMUM LENGTH AND 6'-0" MINIMUM WIDTH.



BLACK DIAMOND CONSULTANTS
 JAMES R. HEBERT, PE
 31/2 WATER STREET
 GARDNER, MAINE 04345 207.582.0056

BDC PROJECT(S)	N/A	BDC PROPOSAL(S)	N/A
BDC JOB ORDER(S)		CLIENT DATA	
SITE NAME:	DALLAS PLANTATION	SITE NUMBER:	N/A

SITE PLAN
RISING TIDE TOWERS

BLACK DIAMOND CONSULTANTS INC

PROJECT NUMBER: RT-13
 SHEET NUMBER: C1.1

Attachment E
Public Hearing Record Index

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MAINE LAND USE PLANNING COMMISSION
INDEX TO THE HEARING RECORD¹
AMENDMENT B TO DEVELOPMENT DP 5050

For September 07, 2021 Public Hearing

Rising Tide Towers, LLC (5 Milk Street, Suite 420, Portland, Maine 04101) is proposing Amendment B to Development Permit DP 5050 for permit approval to construct a 300-foot lighted, self-supporting, lattice-style telecommunications tower and associated appurtenances, and a 2,592-foot level C road project with an adjacent electric utility line to serve the tower. The 300-foot tower was proposed to be located within an M-GN subdistrict and the level C road project and utility line were proposed to be located within an M-GN subdistrict and a D-RS2 subdistrict. At the request of the Commission, the Applicant provided an alternative location and design for a shorter, 190-foot self-supporting telecommunication tower; the tower and access driveway were to be located in a D-RS2 subdistrict.

Date Application Received: March 18, 2021

Date Application Deemed Complete for Processing²: March 30, 2021

Date of Public Hearing Request Approval: May 12, 2021

Date of Commission Site Visit: September 07, 2021

Date of Public Hearing: September 07, 2021

Close of Hearing Record: November 06, 2021

LIST OF RECORD EXHIBITS

Ex. #	Date	Description
1.		Statutes, Rules and Plans in Effect at the Time of Complete Application²
1.a	11/01/2017	<u>12 M.R.S. §§ 681, et seq.</u>
1.b	10/18/2013	<u>Rules of Practice, 01-672 C.M.R. Chapter 4</u>
1.c	07/01/2011	<u>Rules for the Conduct of Public Hearings, 01-672 C.M.R. Chapter 5</u>
1.d	10/01/2020	<u>Land Use Districts and Standards, 01-672 C.M.R. Chapter 10</u>
1.e	2010	<u>Comprehensive Land Use Plan for Areas within the Jurisdiction of the Maine Land Use Planning</u>
1.f	01/01/2001	<u>Prospective Zoning Plan for the Rangeley Lakes Region</u>
2.		Guidance Materials
2.a	10/05/2012	<u>Comprehensive Land Uses Plan Guidance Document</u>

¹ Except Exhibit 1 through 3, and 11, 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 revision.

² In accordance with Rules of Practice, 01-672 C.M.R. Chapter 4.

3. Land Use Guidance Maps

3.a 01/28/2021 [Dallas Plantation](#)

4. Pre-application Materials

4.a 08/31/2020 [Memorandum - Rising Tide Towers LLC, Visual Impact Assessment](#)

4.b 10/21/2020 [Section 106 FCC SKM](#)

4.c 12/15/2020 [Site Visit Photographs \(12/15/2020\)](#)

4.d 12/17/2020 [Land Division History Information](#)

4.e 12/17/2020 [State Soil Scientist Site Visit \(12/15/20\) Comments for DP 5050-A](#)

4.f 12/23/2020 [DP 5050-A Application Deficiencies and Return Letter](#)

5. Application Material

5.a 03/18/2021 [Original Application](#)

5.b 03/18/2021 [Original Application, Large Site Plans](#)

5.c 03/25/2021 [Information Request #1](#)

5.d 03/25/2021 [Application Addendum #1 - Visual Impact Assessment](#)

5.e 03/30/2021 [Application Wet Signatures](#)

5.f 04/05/2021 [Application Addendum #2 – Notice of Filing Information](#)

5.g 04/14/2021 [Information Request #2](#)

5.h 04/19/2021 [Application Addendum #3 – Soils Information](#)

5.i 06/04/2021 [Virtual Meeting Schedule and Notes \(06/04/2021\)](#)

5.j 06/09/2021 [Permit Review Timeline and Public Hearing Letter](#)

5.k 06/10/2021 [Site Visit Photographs \(06/10/2021\)](#)

5.l 06/13/2021 [Soil Scientist Site Visit \(06/10/2021\) Review Comments](#)

5.m 06/29/2021 [Application Addendum #4 - Response to Soil Scientist Comments](#)

5.n 06/30/2021 [Application Addendum #5 - Partial Response to 04-14-2021 Request](#)

5.o 07/08/2021 [Application Addendum #6 - Partial Response to 04-14-2021 Request](#)

5.p 07/16/2021 [Agency Review Request for Comments](#)

5.q 07/16/2021 [Maine Natural Areas Program Comments](#)

5.r 07/22/2021 [Bureau of Parks and Lands Comments](#)

5.s 07/26/2021 [Dixon Agent Authorization](#)

5.t 07/28/2021 [Maine Department of Inland Fisheries and Wildlife Comments](#)

5.u 07/29/2021 [Maine Historic Preservation Commission Comments](#)

5.v 08/06/2021 [National Park Service Comments \(Appalachian National Scenic Trail\)](#)

5.w 08/20/2021 [Maine Department of Environmental Protection Phosphorus Comments](#)

5.x 08/25/2021 [Town of Rangeley Selectmen Comments](#)

5.y 09/13/2021 [Information Request #3](#)

5.z 09/15/2021 [Town of Dallas Plantation Comments](#)

5.aa 09/24/2021 [Application Addendum #7 – Response to 09-13-2021 Request](#)

5.bb 09/24/2021 [Request for Hearing Record Extension](#)

5.cc 10/15/2021 [Supplemental Filing – Alternative Tower Option](#)

5.dd 10/21/2021 [Maine Natural Areas Program Comments](#)

5.ee 10/29/2021 [Information Request #4 – Application Addendum #8](#)

5.ff 11/05/2021 [FAA Determination Clarification](#)

-
- 6. Public Hearing Request, Commission’s May 12, 2021 Regular Business Meeting - Virtual**
- 6.a 05/03/2021 [Public Hearing Request Item Notices \(includes 05-05-2021 Correction\)](#)
 - 6.b 05/03/2021 [Public Hearing Request Commission Packet \(for 05/12/2021\)](#)
 - 6.c 05/05/2021 [Applicant Meeting Item Notice](#)
 - 6.d 05/12/2021 [Commission Meeting Agenda](#)
 - 6.e 05/12/2021 [Public Hearing Request Power Point Presentation](#)
 - 6.f 05/12/2021 [Audio of Meeting \(Electronic only\)](#)
 - 6.g 06/09/2021 [Approved Meeting Record for May 12, 2021](#)
- 7. Notice of Public Hearing and Procedural Orders**
- 7.a 05/27/2021 [Rising Tide Towers, LLC Gov Delivery Bulletin 1](#)
 - 7.b 07/28/2021 [Update on Upcoming Public Hearing Notice](#)
 - 7.c 08/04/2021 [Notice 1 of Public Hearing and Opportunity to Intervene \(Letter/List\)](#)
 - 7.d 08/04/2021 [Notice 1 of Public Hearing and Opportunity to Intervene \(Email/List\)](#)
 - 7.e 08/04/2021 [Notice 1 of Public Hearing and Opportunity to Intervene \(Newspaper\)](#)
 - 7.f 08/04/2021 [Notice 1 of Public Hearing and Opportunity to Intervene \(GovDelivery with Revision\)](#)
 - 7.g 08/24/2021 [Public Hearing First Procedural Order](#)
 - 7.h 08/27/2021 [Notice 2 of Public Hearing and Commission Site Visit \(Letter/List\)](#)
 - 7.i 08/27/2021 [Notice 2 of Public Hearing and Commission Site Visit \(Email/List\)](#)
 - 7.j 08/27/2021 [Notice 2 of Public Hearing \(Newspaper\)](#)
 - 7.k 08/27/2021 [Notice 2 of Public Hearing \(GovDelivery\)](#)
 - 7.l 08/27/2021 [Notice of Commission Site Visit \(GovDelivery\)](#)
 - 7.m 09/24/2021 [Second Procedural Order – Record Extension with Com/App Notice\(Letter/List\)](#)
 - 7.n 10/18/2021 [Notice 3 of Supplemental Filing \(Letter/List\)](#)
 - 7.o 10/18/2021 [Notice 3 of Supplemental Filing \(Email/List\)](#)
 - 7.p 10/18/2021 [Notice 3 of Supplemental Filing \(GovDelivery\)](#)
- 8. Commission Site Visit, September 07, 2021**
- 8.a 08/02/2021 [Site Visit and Public Hearing Updates, Emails with Commission Packet](#)
 - 8.b 08/02/2021 [Site Visit Request Item Notice and Commission Packet \(for 08/11/2021\)](#)
 - 8.c 08/09/2021 [Applicant Suggested Site Visit Itinerary](#)
 - 8.d 08/11/2021 [Commission Meeting Agenda](#)
 - 8.e 08/11/2021 [Site Visit Request Power Point Presentation](#)
 - 8.f 08/24/2021 [Commission Site Visit Itinerary](#)
 - 8.g 09/07/2021 [Applicant’s Site Visit Material](#)
- 9. Public Comments**
- 9.a <09/07/2021 [Comments from Received Date to the Public Hearing Date – \(Comments 1-32 up to 08-22-2021\)](#)
 - 9.a.1 [Comment 33-39 \(08-22-2021 to 09-07-2021\)](#)
 - 9.b 09/07 to 09/17 [Comments Received During the Public Hearing Comment Period – \(Comment 40\)](#)
 - 9.b.1 [\(Comment 41-44\)](#)
 - 9.c 09/07 to 09/24 [Rebuttal Comments Received During the Rebuttal Period](#)
 - 9.d 09/24 to 10/29 [Comments Received During the Public Hearing Comment Period Extension \(Comments 45-46\)](#)
-

9.e	10/29 to 11/06	No Rebuttal Comments for Comment Period Extension
9.f	11/06/2021	Close of the Hearing Record
9.g	11/06 to 12/1	No Comments Received After the Close of the Record to 12/01/2021

10. Public Hearing, September 07, 2021

10.a	08/22/2021	Commission Item Notice - Public Hearing Record to 08-22-2021
10.b	08/24/2021	Pre-Hearing Conference Request
10.c	08/30/2021	Public Hearing/Site Visit Item Notice and Comm Pkt (for 09/07/2021)
10.c.1	09/07/2021	Public Hearing Agent Testimony Notice
10.d	09/07/2021	Reference Location and Zoning Map
10.e	09/07/2021	Agent Testimony Exhibit 1
10.e.1	09/07/2021	Agent Testimony Written 1 (Submitted 09/17/2021)
10.f	09/07/2021	Agent Testimony Exhibit 2
10.f.1	09/07/2021	Agent Testimony Written 2 (Submitted 09/17/2021)
10.g	09/07/2021	Testimony Sign Up Sheets
10.h	09/07/2021	Audio of Meeting (Electronic only)

11. Reference Materials

11.a	11/18/2009	FCC-09-99A1 Rcd
11.b	07/11/2016	FAA Obstruction Lighting Buyer's Guide
11.c	11/16/2020	Obstruction Marking and Lighting Advisory Circular (70/7460-1M)
11.d	2013	BLM RenewableEnergyVisualBMPs LowRes (Electronic Only)
11.e	10/09/2019	DP 5050 Permit
11.f		https://www.fda.gov/radiation-emitting-products/cell-phones/current-research-results U.S. Food and Drug Administration, accessed November 22, 2021.
11.g		https://www.iarc.fr/wp-content/uploads/2018/07/pr208_E.pdf International Agency for Research on Cancer press release No. 208, May 31, 2011, accessed November 22, 2021.
11.h		https://www.cancer.org/cancer/cancer-causes/radiation-exposure/cellular-phone-towers.html American Cancer Society, accessed November 22, 2021.
