PERMIT

AMENDMENT B TO
DEVELOPMENT PERMIT DP 4065

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Full Bloom Cannabis, LLC for Amendment B to Development Permit DP 4065, finds the following facts:

1. Applicant/Lessee: Full Bloom Cannabis, LLC  
Attn: Steve Rusnack  
2270 St. John Rd  
St. John Plt, Maine 04743

2. Landowner: Joseph and Elizabeth McNally Sr.  
PO Box 3  
Wallagrass, ME 04781

3. Date of Completed Application: November 17, 2016

4. Location of Proposal: Saint John Plt, Aroostook County, Maine  
Tax Plan 16; Lot 14

5. Zoning: (D-GN) General Development Subdistrict  
(P-SL1) Shoreland Protection Subdistrict  
(P-FP) Flood Prone Area Protection Subdistrict by Virtue of Section 10.23, C, 2 of the Commission’s Land Use Districts and Standards

6. Lot Size: 17.5 acres (Building Lease only)

7. Principal Building: Proposed Medical Marijuana Care Giver Facility within Existing Commercial Building (60 ft. by 70 ft.)  
Existing Attached Shed (20 ft. by 24 ft.)  
Existing Four Unit Motel Building (20 ft. by 50 ft.)  
Existing Eight Unit Motel Building (28 ft. by 100 ft.)
8. Accessory Structures:  
   Existing Boiler Room (16 ft. by 20 ft.)
   Existing Garage (28 ft. by 58 ft.)

9. Sewage Disposal:  
   Existing Combined System (Lodge/Restaurant/Lounge)
   Existing Combined System (12 Motel Units)

10. Affected Waterbody: Saint John River

Proposal Summary

11. The applicant has entered into a lease agreement for use of the existing 60 foot by 70 foot commercial building (former Lodge/Restaurant) and proposes to cultivate and process marijuana for medical patients. Interior modifications would be made to the building to create two growing rooms, each approximately 875 sq. ft. in size. The existing building is setback at least 250 feet from the Saint John River, at least 500 feet from Route 161 and at least 300 feet from nearest property boundary line. The existing building is located within the D-GN and P-FP Subdistricts.

Administrative History

12. In August of 1990, Zoning Petition ZP 461 was issued to Stanley Pelletier authorizing the rezoning of a 10.3 acre portion of the original 32 acre parcel from (M-GN) General Management Subdistrict to (D-GN) General Development Subdistrict. The rest of the parcel, which included Wheelock Island, remained zoned (P-SL) Shoreland Protection and/or (P-FP) Flood Prone Area Protection Subdistrict or (D-RS) Residential Development Subdistrict.

13. In February of 1991, Development Permit DP 4065 was issued to Stanley Pelletier granting after-the-fact approval for a 60 foot by 70 foot commercial lodge and restaurant and a 20 foot by 24 foot cabin [Reference: Enforcement Case EC 90-229; Resolved], and permit approval for a 30 foot by 60 foot private residence, a second 20 foot by 24 foot cabin and installation of two combined sewage disposal systems to serve the existing and proposed development. All structures were to be located within the (D-GN) General Development Subdistrict.

Development Permit DP 4065 also authorized 23 recreational vehicle sites and five tent sites in the (P-SL) Shoreland Protection and (P-FP) Flood Prone Area Protection Subdistrict.

14. In the mid 1990’s, a 20 foot by 50 foot 4 unit motel building was constructed by the previous owner, and in 2001, a 16 foot by 20 foot boiler room was constructed and fuel tanks and construction equipment were installed on the lot by the applicant without prior permit approval [Reference: Enforcement Case EC 02-039; Resolved].

15. The authorized private residence, second cabin, recreational vehicle sites and tent sites were never developed. The first 20 foot by 24 foot cabin is presumably now attached to the lodge for use as storage. Both combined sewage disposal systems were installed and Certificate of Inspections were issued for both systems on October 15, 1990.

16. In December 2001, the Heritage Trail Resort purchased a 17.5 acre portion of the original lot, including the existing development and excluding the portion of the original lot that was located in the (D-RS) Residential Development Subdistrict.
17. In July of 2002, Amendment A to Development Permit DP 4065 was issued to Heritage Trail Resort for re-establishment of the commercial lodge/restaurant/lounge business and construction of a 28 foot by 100 foot 8 unit motel building and 28 foot by 58 foot garage. Both buildings have been constructed.

18. Continuous, regular use of the lodge/restaurant/lounge has been documented from 2002 through 2012 and then from 2014 to 2015. The motel has also been continuously open for business since 2002. The current tax assessed value of the lodge/restaurant lounge building is approximately $213,000.

**Project Information**

19. **Technical and financial capacity.** The applicant and his wife are Licensed Care Givers with the Maine Department of Health and Human Services, Maine Medical Marijuana Program and have past experience with growing and processing marijuana as a home occupation. The applicant is hiring licensed professionals as needed to modify the existing building and has submitted financial information to demonstrate that the $20,000 project will be completed as proposed.

20. **Title, right, and interest and land division history.** The applicant has submitted a signed lease agreement with the landowner, Elizabeth McNally, for use of the former lodge/restaurant building. The owned parcel was last divided in December of 2001 (Reference Finding of Fact #16).

21. **Vehicular circulation, Access and Parking.** The applicant proposes to use the existing access driveway off of Route 161 and the existing 200 foot by 200 foot, 30 space parking area for access and parking for the 4 employee vehicles. The facility would not be open to the public. There would be some vehicular traffic associated with shipping and receiving products but generally would not include truck traffic, and would not exceed expected traffic normally associated with past commercial activities at the site.

22. **Solid Waste Disposal.** The applicant has submitted a letter from the St. Francis Transfer Station indicating that the proposed facility would not impact their services.

23. **Subsurface Waste Water Disposal.** The applicant proposes to continue to use the existing combined sewage disposal system approved in 1990 for a 132 seat restaurant (design flow of 1,782 gallons per day). The facility would be limited to 2 caregivers and 2 additional employees.

24. **Air Quality.** The applicant proposes to install two, 8 inch, 1,000 CFM Can-Lite Carbon Air Filters, one in each room. No air would be vented to the outside of the building.

25. **Flood Prone Areas.** Although the Commission’s Land Use Guidance Map for Saint John Plantation identifies the applicant’s leased building as being within a (D-GN) General Development Subdistrict, according to the Federal Emergency Management Agency’s (FEMA) Flood Insurance Agency (FIA) Flood Hazard Boundary Map for Saint John Plt., the building is located within an area of 100 year flood frequency (reference the National Flood Insurance Act of 1968 P.L. 90-48, as amended).

In November of 2005, revisions to Section 10.23,C of the Commission’s Land Use Districts and Standards were made to include areas within the 100 year flood area as mapped by the FEMA
FIA as (P-FP) Flood Prone Area Protection Subdistricts. Also in November of 2005, development standards for activities in flood prone areas, Section 10.25,T of the Commission’s Land Use Districts and Standards, were adopted. The existing building is subject to these standards, even though the Land Use Guidance Map identifies the property as being within the (D-GN) General Development Subdistrict.

The applicant proposes to make renovations to the existing building exceeded $1,000 in cost but does not propose to make a substantial improvement to the existing building as defined in Finding of Fact #28, therefore, no elevation information has been submitted for the proposed renovations to the building. The applicant proposes to meet the standards for development in a Flood Prone Area in Section 10.25,T,2.

Relevant Commission Review Criteria

26. Pursuant to Section 10.23,C,3,f of the Commission’s Land Use Districts and Standards, Commercial uses are prohibited within the P-FP Subdistrict. Prior to November of 2005, this facility was not designated as being located within a P-FP and only became a legally existing, nonconforming use when areas within the 100 year flood area as mapped by the FEMA FIA were designated as (P-FP) Flood Prone Area Protection Subdistricts. At this time the facility was categorized as a commercial facility having a gross floor area of more than 2,500 square feet, an allowed use by special exception within the D-GN Subdistrict. Prior to July 1, 2011, normal maintenance and repair and renovations were allowed without a permit in the P-FP. In order to ensure that structures were reviewed to ensure that all of the Standards for development in a Flood Prone Area (Section 10.25,T) were met, and to comply with the National Flood Insurance Program, the Commission now requires permits for normal maintenance and repair or renovations of structures equaling or exceeded $1,000 in cost within the P-FP.

27. Pursuant to Section 10.23,C,3,c(12) of the Commission’s Land Use Districts and Standards, normal maintenance and repair or renovation equaling or exceeding $1,000 in cost, or additions and expansions to any legally existing structure or use that do not meet the definition of substantial improvement require a permit from the Commission within the P-FP Subdistrict pursuant to 12 M.R.S. § 685-B and subject to the applicable requirements set forth in Sub-Chapter III.

28. Under provisions of Section 10.02,204 of the Commission’s Land Use Districts and Standards, substantial improvement is defined as follows: For purposes of regulating development in areas of special flood hazard, any reconstruction, rehabilitation, renovation, expansion, normal maintenance and repair or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term also includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure exclusively to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by any state or local enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of an historic structure, provided that the alteration will not preclude the structure’s continued designation as an historic structure, and a variance is obtained from the Commission in conformance with Section 10.10, Variances.
29. Under provisions of Section 10.11, B, 1 of the Commission's Land Use Districts and Standards, permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in this Section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S. Section 685-B(4) and demonstrate that the project will not adversely affect surrounding uses and resources and that there is no increase in the extent of nonconformance, except in instances where a road setback is waived by the Commission in order to increase the extent of conformance with a waterbody setback.

30. The Commission may not approve an application, unless:

A. “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, including without limitation the minimum lot size laws, [12 M.R.S.A.] Sections 4807 to 4807-G, the site location of development laws, 38 M.R.S.A. §481 to §490, and the natural resource protection laws, 38 M.R.S.A.§480-A to §480-Z, 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;” (12 M.R.S. § 685-B(4)(A), which is incorporated into Ch. 10.24,A).

B. The Commission may not approve an application, unless: “Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal” (12 M.R.S. § 685-B(4)(C), which is incorporated into Ch. 10.24,C).

C. In addition, the applicant must demonstrate “evidence of sufficient right, title or interest in all of the property that is proposed for development or use.” (12 M.R.S. §685-B(2)(D), which is incorporated into Ch. 10.24).

31. Under the provisions of Section 10.25,T,2 of the Commission’s Land Use Districts and Standards, development in flood prone areas shall be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; use construction materials that are resistant to flood damage; use construction methods and practices that will minimize flood damage; and use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

32. The facts are otherwise as represented in Development Permit application DP 4065, Amendment Requests A and B, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The changes to the legally existing nonconforming use would meet the provisions of Section 10.11, B, 1 in that the changes and renovations to the existing building would not constitute a substantial improvement, adversely affect surrounding uses and resources, or increase the extent of nonconformance. Additionally, the renovations would be an allowed use with a permit under Section 10.23,C,3,c,12 of the Commission’s Land Use Districts and Standards and would meet the
applicable standards of Section 10.25,T,2 of the Commission’s Land Use Districts and Standards. Specifically:

A. The proposed improvements would not cause an undue adverse impact to surrounding uses because the proposed air filtration system and ventilation system would prevent the facility from emitting any odors associated with processing medical marijuana. The proposed facility would be located in an existing commercial building, approximately 580 feet from the nearest residence, and is buffered from nearby residences by existing vegetation.

B. The proposed improvements would not increase the extent of nonconformance for the facility. Planned upgrades and changes would be inside the building and mostly include upgrades to the electrical, security, and air filtration systems in the existing structure. Traffic, noise, and visual impacts associated with shipping, receiving and employees would not exceed that associated with past commercial activities at the site.

C. The proposed improvements to the building would cost approximately $20,000, which is less than 50% of the market value of the structure, assessed for tax purposes as $213,000 in 2012;

D. The proposed improvement would be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

E. The permittee(s) would use construction materials that are resistant to flood damage, construction methods and practices that will minimize flood damage, and electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions;

2. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.

Therefore, the staff approves the amendment request of Full Bloom Cannabis, LLC with the following Conditions:

1. **At least one week prior to commencing the permitted activities**, the permittee or the designated agent 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 email, or by calling. If you leave or send a message, please include your full name, telephone number, permit number, and the date the work will start.

2. **Prior to commencing the permitted activities**, the permittee, or the designated agent acting on behalf of the permittee, must provide a copy of the permit, including its attached conditions, to contractors that will be performing work or will be responsible for work at the site.

3. 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.
Notwithstanding Condition 3, construction activities authorized within P-FP subdistricts, FEMA zones, and other areas prone to flooding must be substantially started within 180 days 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.

4. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation is subject to prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.

5. This permit only pertains to a medical marijuana personal caregiver facility as described in Finding of Fact #11 of this permit. The permittee shall not establish a retail or any other type of facility related to the production, sale, or consumption of marijuana or marijuana products on the property without prior approval from the Commission.

6. Prior to operation of the medical marijuana personal caregiver facility, the air filtration system must be installed and functioning as proposed. The permittee shall adequately maintain the air filtration system and ensure that no offensive odors associated with the processing of marijuana are emitted from the facility.

7. The permitted improvements must be designed or modified and adequately anchored to prevent flotation (excluding floating piers and docks), collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

8. The permittee(s) must use construction materials that are resistant to flood damage, use construction methods and practices that will minimize flood damage, and use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

9. The improvements to the existing commercial building must not increase the market value of the structure by more than 50%.

10. The permittee shall not advertise Land Use Planning Commission approval without first obtaining approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.

11. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and conditions of approval. The new owner or lessee should then contact the Land Use Planning Commission to have the permit transferred into his/her name. If there are no additional changes the transfer can be accomplished on a Minor Change Form.

12. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection
13. 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.

14. The permittee shall secure and comply with all applicable licenses, permits, authorizations, and requirements of all federal, state, and local agencies including but not limited to: Air and Water Pollution Control Regulations; Subsurface Wastewater Disposal System approval from the Local Plumbing Inspector and/or Maine Department of Health and Human Services, Subsurface Wastewater Program; the Maine Department of Transportation, Driveway Entrance Permit; and a physical E-911 address from your County Commissioner’s Office.

15. Once construction is complete, the permittee shall submit a self-certification form, notifying the Commission that all conditions of approval of this permit have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.

16. All conditions of Development Permit DP 4065 and Amendment A shall remain in effect except as modified by this amendment.

This permit is approved upon the proposal as set forth in the application and supporting documents except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT ASHLAND, MAINE, THIS 22ND DAY OF DECEMBER, 2016.

By: Nicholas Livesay, Executive Director