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DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
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PERMIT

AMENDMENT A TO DEVELOPMENT PERMIT DP 4684; EC 15-13

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Katahdin Forest Products, Co. for Amendment A to Development Permit DP 4684, finds the following facts:

1. Applicant: Katahdin Forest Products, Co.
Attn: Mr. David Gordon
PO Box 145
Oakfield, ME 04763
2. Date of Completed Petition: September 15, 2016
3. Property Location: Garfield Plantation, Aroostook County, Maine
Tax Map 4, Lot 4A for Garfield Plantation
Aroostook County Northern Registry of Deeds: Book 4671; Pages 202
4. Zoning: (D-CI) Commercial Industrial Development Subdistrict
5. Lot Size: 20 Acres (owned)
6. Development: Log Storage Yard (up to 20 acres)
7. Affected Waterbody: Machias River (within 500 feet)

Proposal Summary:

8. The applicant seeks after-the-fact approval for expansion of their log storage area from 5 acres up to 20 acres for Katahdin Cedar Homes, a mill located on the adjacent lot in the Town of Ashland. The applicant is currently using 11.4 acres for log storage.

Administrative History:

9. The applicant's lot was originally part of a working farm. In approximately 2001, a previous owner began to pile logs on the lot for processing at their mill on the abutting property in the Town of Ashland without prior approval from the Commission [Reference: Enforcement Case EC 03-129; Resolved].
10. In March of 2004, Development Permit DP 4684 was issued to SWP Maine, Inc. granting after-the-fact approval for a pile down area associated with a sawmill. Condition #5 of DP 4684 limited the pile down area to one acre unless prior permit approval was received from the Commission. The pile down area was to be setback approximately 400 feet from the normal high water mark of the Machias River, 75 feet from American Realty Road and at least 25 feet from property lines, except for the petitioner owned property in Ashland.
11. In March of 2015, the Petitioner self-reported that they were piling logs on approximately 11.4 acres of their 20 acre lot in noncompliance with the terms and conditions of Development Permit DP 4684 [Reference: Enforcement Case EC 15-13; Active].
12. In August of 2015, Zoning Petition ZP 755, authorized by the Commission at his regular monthly meeting, rezoned the applicant's 20 acre lot from (M-GN) General Management Subdistrict to (D-CI) Commercial Industrial Development Subdistrict.

Project Information:

13. Site Location and Access.

- A. The Facility is at the end of the Garfield Road (Public Road) and beginning of the Realty Road (Privately owned) on the Town of Ashland/Garfield Plantation town line, Aroostook County, Maine. All of the buildings for the mill are in the Town of Ashland. Logs are unloaded and stored in the pile down area on the subject lot in Garfield Plantation.
- B. *Vehicle Access.* The pile down area has direct access off of the Realty Road for trucks to load and unload logs. A network of interior roads is used to load and unload logs along the pile down areas. All interior roads are setback at least 20 feet from the Realty Road. Parking is available on-site for employees and visitors at the mill in Ashland.
- C. *Utility Access.* The pile down area is not served by any utility lines or sewage disposal systems.

14. Soil Suitability and Mapping.

- A. Soil map unit data obtained from the U.S. Department of Agriculture's Soil Conservation Service's (SCS) Soils Survey for Aroostook, County, Maine identified three soil types at the site (MaB) Machias gravelly loam, 2 to 8 percent slopes, (SgB) Stetson gravelly loam, 2 to 8 percent slopes, and (HoB) Howland gravelly loam, 2 to 8 percent slopes.
- B. A Soils Survey was conducted to identify and map soils within the existing roadways, pile down areas, and other areas that may be disturbed for future use. The survey generally agrees with the original soils mapping by SCS, but many of the soil surfaces within or close

to the developed areas have been altered to varying degrees. Soils are “moderately well drained” and developed in mixed deposits of sandy and gravelly material to silty clay materials. These soils include Machias gravelly loams, Howland gravelly silt loam, and Eldridge gravelly loamy sands to silt loams. The soils report stated that the existing soils were found to be supporting their current use, but within the traveled ways and log storage areas there was considerable rutting and ponded water. A sound stormwater management plan would address these issues, according to the report. The petitioner has indicated that they plan to implement a stormwater management plan as part of their required licensing with the Maine Department of Environmental Protection.

C. The Maine Department of Environmental Protection’s, Division of Environmental Assessment completed an initial review of the soils and stated that the soil types should be generally suitable for a woodyard if the yard is operated and maintained correctly.

15. Waterbodies and Wetlands. No wetland alteration is proposed and the proposed development would be set back at least 350 feet from the Machias River.
16. Land Division History. The Petitioner submitted an outlined 20-year land division history and indicated that no non-exempt divisions have occurred on either parcel in the past 20 years.
17. Technical and financial capacity. The applicant has submitted a bank statement demonstrating that they have the available funds to complete the project. The applicant has retained a Professional Engineer from B.R. Smith Associates, Inc. to design layout of the log storage area and the stormwater system for the existing development.
18. Water Quality and Erosion and Sedimentation Control. The applicant will adhere to Best Management Practices to control erosion and sedimentation. In addition, the applicant has submitted a “Stormwater management Plan” for their mill which includes the log storage area in Garfield. The plan includes two wet ponds, culvert replacement/relocation, and level lip spreaders. The applicant is currently working with the MDEP to obtain a stormwater license for the mill in Ashland.

Agency Review Comments

19. The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposal and commented that all potential wildlife concerns are addressed in the application. There are no other wildlife or fisheries concerns.
20. The Maine Soil Scientist reviewed the proposed application and has visited the site. He comments that the soils are generally suitable for the use. Buffers should have soil reconditioned by rototilling (to eliminate compaction) before applying loam and seed. Also, he recommends that the applicant use erosion control blanket as it will take a couple of years for vegetation to become established.

21. The Maine Historic Preservation Commission reviewed the site and commented that based on the information submitted, the Commission has concluded that there will be no historic properties affected by the proposed undertaking, as defined by Section 106 of the National Historic Preservation Act. Consequently, pursuant to 36 CFR 800.4(d)(1), no further Section 106 consultation is required unless additional resources are discovered during project implementation pursuant to 36 CFR 800.13.
22. The Maine Natural Areas Program reviewed the site 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 indicates that according to their current information there are no rare botanical features that would be disturbed within the project site.

Relevant Review Criteria

23. According to Section 10.21,A,3,c,(2) of the Commission's Land Use Districts and Standards, commercial and industrial uses are allowed uses upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-B and subject to the applicable requirements set forth in Sub-Chapter III within a (D-CI) Commercial Industrial Development Subdistrict.
24. 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).
25. The applicant shall retain qualified consultants, contractors and staff to design and construct proposed improvements, structures, and facilities in accordance with approved plans. In determining the applicant's technical ability, the Commission shall consider the size and scope of the proposed development, the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations or previous approvals granted to the applicant (Ch. 10.25,C,I).

26. The applicant shall have adequate financial resources to construct the proposed improvements, structures, and facilities and meet the criteria of all state and federal laws and the standards of these rules. In determining the applicant's financial capacity, the Commission shall consider the cost of the proposed subdivision or development, the amount and strength of commitment by the financing entity, and, when appropriate, evidence of sufficient resources available directly from the applicant to finance the subdivision or development (*Ch. 10.25,C,2*).
27. Natural Features. If any portion of a subdivision or commercial, industrial or other nonresidential project site includes critically imperiled (S1) or imperiled (S2) natural communities or plant species, the applicant shall demonstrate that there will be no undue adverse impact on the community and species the site supports and indicate appropriate measures for the preservation of the values that qualify the site for such designation (*Ch. 10.25,E,2,a*).
28. Historic Features. If any portion of a subdivision or commercial, industrial or other nonresidential project site includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places, or is considered by the Maine Historic Preservation Commission or other pertinent authority as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the appropriate authority. If a significant archaeological site or structure is located in the project area, the applicant shall demonstrate that there will be no undue adverse impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation (*Ch. 10.25,E,2,b*).
29. The standards set forth below must be met for all subdivisions and commercial, industrial and other nonresidential development (*Ch. 10.25,G*).
 - A. Soil types shall be determined by a site-specific soil survey, according to the “Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping” Maine Association of Professional Soil Scientists, 2009. The soil survey class shall be determined as follows, unless the Commission finds that a lower intensity soil survey will provide the information necessary or a higher intensity soil survey class is needed for the Commission’s review (*Ch. 10.25,G,1*).
 - B. For... other non-residential development, a Class A high intensity soil survey shall be used to identify soils within any proposed disturbed area. A Class C soil survey may be used to identify soils elsewhere within the project area (*Ch. 10.25,G,1,b*).
 - C. Hydric soil map units, and map units with a low or very low development potential rating for low density development must be clearly identified on the soil survey map as being hydric soils or as having a low or very low development potential rating, respectively (*Ch. 10.25,G,1,d*).
 - D. The Commission may waive one or more of the provisions of a Class A or B high intensity soil survey, including but not limited to the contour mapping requirement, where such provision is considered by the Commission unnecessary for its review (*Ch. 10.25,G,1,e,(4)*).

- E. Determination of soil suitability shall be based on the National Resource Conservation Service's (NRCS) soils potential ratings for low density development. Soils with a low or very low development potential rating shall not be developed unless the Commission determines that adequate corrective measures will be used to overcome those limitations that resulted in a low or very low rating (*Ch. 10.25,G,2*).
30. The standards set forth below must be met for all development that involves filling, grading, excavation or other similar activities which result in unstabilized soil conditions (*Ch. 10.25,M*).
- A. Soil disturbance shall be kept to a practicable minimum. Development shall be accomplished in such a manner that the smallest area of soil is exposed for the shortest amount of time possible. Operations that result in soil disturbance shall be avoided or minimized in sensitive areas such as slopes exceeding 15% and areas that drain directly into water bodies, drainage systems, water crossings, or wetlands. If soil disturbance is unavoidable, it shall occur only if best management practices or other soil stabilization practices equally effective in overcoming the limitations of the site are implemented (*Ch. 10.25,M,1,a*).
 - B. Permanent and temporary erosion and sedimentation control measures shall meet the standards and specifications of the "Maine Erosion and Sediment Control BMPs" (Maine Department of Environmental Protection, March 2003) or other equally effective practices. Areas of disturbed soil shall be stabilized according to the "Guidelines for Vegetative Stabilization" (Appendix B of this chapter) or by alternative measures that are equally effective in stabilizing disturbed areas (*Ch. 10.25,M,2,a*).
 - C. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all sedimentation control devices have been installed and stabilized (*Ch. 10.25,M,2,b*).
 - D. Effective, temporary stabilization of all disturbed and stockpiled soil shall be completed at the end of each workday (*Ch. 10.25,M,2,f*).
 - E. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction (*Ch. 10.25,M,2,g*).
 - F. All temporary sedimentation and erosion control measures shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been implemented (*Ch. 10.25,M,2,h*).
25. The facts are otherwise as represented in Development Permit application DP 4684, Amendment Request A and supporting documents.

Based upon the above Findings, the staff concludes that:

- 1. In accordance with Section 10.21,A,3,c,(2) of the Commission's Land Use Districts and Standards, the lumber mill and associated log storage area are allowed uses upon issuance of

a permit within a (D-CI) Commercial Industrial Development Subdistrict.. The proposed activities would meet the applicable requirements set forth in Sub-Chapter III

2. The applicant has demonstrated evidence of sufficient right, title or interest in all of the property that is impacted by this project and will meet 12 M.R.S. §685-B(2)(D), which is incorporated into Ch. 10.24.
3. The Applicants proposal meets Sections 10.25,C,1, 10.25,C,2 and 10.24,A of the Commission's Standards. Specifically, the Applicants have submitted evidence of adequate financial ability to construct and maintain the storage dam and will hire an experienced construction contractor.
4. The proposal will meet the criteria of Sections 10.25,E,2,a and 10.25,E,2,b of the Commission's Standards. Specifically, no critically imperiled (S1) or imperiled (S2) natural communities or plant species, or historic features were indicated on the property.
5. The Commission has determined that a lower intensity soil survey will provide the information necessary for the construction of this project and the project will meet Section 10.25,G, of the Commission's Standards.
6. The proposal will meet the criteria of Sections 10.25M of the Commission's Standards. Specifically, the applicant is proposing adequate erosion and sediment control devices to protect the river from undue sedimentation.
7. 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.A.

Therefore, the staff approves the amendment request of Katahdin Forest Products, Co. with the following Conditions:

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
2. **Prior to construction, 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: the Maine Department of Environmental Protection.**
3. The permittee shall construct the log storage area in accordance with the submitted Stormwater Management Plan or as directed by the MDEP under a Stormwater License.
4. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have

been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.

5. The scenic character and healthful condition of the area covered by this permit must be maintained. The area must be kept clear of litter, trash, and any other materials that may constitute a hazardous or nuisance condition.
6. Should any erosion or sedimentation occur during construction, the permittee shall contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.
7. Nothing in this permit shall be construed to release the permittee(s) from any liability or responsibility arising from any violation, including Enforcement Case EC 15-43, or to be considered a waiver of the authority of the Commission or the state to fully pursue or prosecute such violations.
8. 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.
9. All conditions of Development Permit DP 4684 shall remain 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 Planning 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 4th DAY OF OCTOBER, 2016.

By: Billie J. MacLean
for Nicholas Livesay, Executive Director