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GOVERNOR

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

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COMMISSIONER

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EXECUTIVE DIRECTOR

PERMIT

AMENDMENT B TO FORESTRY OPERATIONS PERMIT FOP 868

The staff of the Maine Land Use Planning Commission (LUPC or Commission), after reviewing the application and supporting documents submitted by Thorv Norvlaan (Applicant or Permittee) for Amendment B to Forestry Operations Permit FOP 868, finds the following facts:

1. Applicant: Thorv Norvlaan
42 Stargate Drive
Stockton Springs, Maine 04981
2. Date of Completed Application: January 29, 2015
3. Location of Proposal: T22 MD BPP, Hancock County, Maine
Maine Revenue Service Map WA008; Plan 01; Lot 6.2
(Lot 6 – Subdivision Permit SP 3140-B, February 26, 2008)
4. Zoning: (D-RS) Residential Development Subdistrict
5. Lot Size: 9.0 Acres (Owned)
6. Size of Harvest in D-RS Subdistrict: Lot 6 – 4 Acres
7. Approximate Time Period of Proposed Operation: January 2015 to April 2016
8. The applicant is the current owner of Lot 6 approved under Subdivision Permit SP 3140. The lot is on the west side of State Route 193 and is currently developed with a residential structure permitted under Building Permit BP 14802. A three acre portion of Lot 6 has been previously harvested for timber and is being farmed for blueberries, reference Amendment A to Forestry Operations Permit FOP 868.
9. The applicant now proposes to harvest the trees on 4 acres of Lot 6 and to convert the land to agricultural blueberry fields. The applicant would leave 2 acres of the 9 acre lot un-harvested. Further, the applicant proposes to leave a 15 foot setback from Lot 5's adjacent side property boundary line un-harvested. The applicant owns adjacent Lot 7.

10. According to Section 10.21,J,3,b,(2) of the Commission's *Land Use Districts and Standards* (Standards), agriculture management activities shall be allowed without a permit from the Commission within (D-RS) Residential Development Subdistricts subject to the applicable requirements set for the in Sub-Chapter III.
11. According to Section 10.21,J,3,c,(19) of the Commission's Standards, timber harvesting may be allowed within (D-RS) Residential Development Subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. §685-B, subject to the applicable requirements set forth in Sub-Chapter III.
12. The [C]ommission may not approve an application, unless: "Adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods" (*12 M.R.S. § 685-B(4)(B), which is incorporated into Ch. 10.24,B*). The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected (*12 M.R.S. § 685-B(4), which is incorporate into Ch. 10.24*). 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 incorporate into Ch. 10.24*).
13. The facts are otherwise as represented in Forestry Operations Permit application FOP 868, Amendment A, Amendment B, and supporting documents.

Based upon the above FINDINGS OF FACT, the staff CONCLUDES that:

1. The proposal complies with Sub-Chapter III of the Commission's Standards.
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.

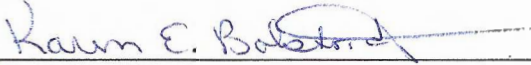
Therefore, the staff APPROVES the application amendment request of Thorv Norvlaan with the following CONDITIONS:

1. Prior to timber harvesting, the permittee shall file a Forestry Operations Notification with the Maine Forest Service.
2. The period of timber harvesting operations covered under this permit shall be from January 2015 to April 2016.
3. To buffer the Timber Harvesting from camps and homes in the immediate vicinity, Timber Harvesting shall only be conducted between the hours of 7 am and 7 pm on weekdays.
4. The permittee shall comply with the Standards for Timber Harvesting and Agricultural Management Activities, Section 10.27,E and 10.27,A of the Commission's Standards, revised September 01, 2013, a copy of which is attached.

5. All operations shall be halted where the continuation of such operations will cause or contribute to the occurrence of erosion or sedimentation to surface waters, whether such occurrence is precipitated by exceptionally wet weather, the failure of water control devices, or other factors. Adequate steps must be taken immediately to stop any erosion or sedimentation to surface waters and to correct the situation which led to such occurrences. For the purposes of this action erosion is defined as evidence of rill or gully erosion.

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 BANGOR, MAINE, THIS 9TH DAY OF FEBRUARY, 2015.

By: 
for Nicholas D. Livesay, Executive Director

10.27 ACTIVITY-SPECIFIC STANDARDS

The documents referenced within this section may be obtained from the Commission's office in Augusta, or any of its regional offices.

A. AGRICULTURAL MANAGEMENT ACTIVITIES

Agricultural management activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to agricultural management activities in all development and protection subdistricts:

1. All agricultural management practices shall be accomplished in accordance with best management practices, described in the publication, "Manual of Best Management Practices for Maine Agriculture", Maine Department of Agriculture, January, 2007.
2. Exposed mineral soil created by tilling of soil shall occur no closer to the normal high water mark of any body of standing water, flowing water, or tidal water than is indicated by the following table, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 50 feet:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of the Ground)
0	50
10	90
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,A-1. Water body setback requirements for exposed mineral soil created by tilling of soil.

E. TIMBER HARVESTING

Timber harvesting activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements apply to timber harvesting within all development subdistricts and, in the case of P-RP subdistricts, any protection subdistricts contained within a development area, except as otherwise hereinafter provided:

1. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by a P-SL1 subdistrict except to cross such channels with a culvert or bridge according to the water crossing requirements of Section 10.27,D,2 and 5;
2. Timber harvesting operations in P-SL1 and P-GP subdistricts shall be conducted in the following manner:
 - a. Within 50 feet of the normal high water mark, no clearcutting shall be allowed and harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained so as to maintain the aesthetic and recreational value and water quality of the area and to reasonably avoid sedimentation of surface waters.
 - b. At distances greater than 50 feet from the normal high water mark, harvesting activities may not create single openings greater than 14,000 square feet in the forest canopy. In such areas single canopy openings of over 10,000 square feet shall be no closer than 100 feet apart.
 - c. Harvesting shall not remove, in any ten year period, more than 40 percent of the volume on each acre involved of trees 6 inches in diameter and larger measured at 4½ feet above ground level. Removal of trees less than 6 inches in diameter, measured as above is permitted if otherwise in conformance with these regulations. For the purpose of these standards, volume may be determined as being equivalent to basal area.
 - d. No accumulation of slash shall be left within 50 feet of the normal high water mark of surface water protected by the P-SL1 and P-GP subdistricts. In such subdistricts, at distances greater than 50 feet from the normal high water mark of such waters, all slash larger than 3 inches in diameter shall be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

3. Except as provided in Section 10.27,E,7, skid trails and other sites, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high water mark of surface water areas:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

Table 10.27,E-1. Unscarified filter strip width requirements for exposed mineral soil created by the operation of machinery used in timber harvesting.

The provisions of Section 10.27,E,3 apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions of Section 10.27,E,3 do not apply where skid roads cross such waters;

4. Timber harvesting operations shall be conducted in such a manner that slash is not left below the normal high water mark of a body of standing water or tidal waters, or below the normal high water mark of stream channels downstream from the point where such channels drain 300 acres or more;
5. Except when surface waters are frozen, skid trails and skid roads shall not utilize stream channels bordered by P-SL2 subdistricts except to cross the same by the shortest possible route; unless culverts or bridges are installed in accordance with Section 10.27,D,2 and 5, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged. The requirements of Section 10.27,E,5 may be modified according to the provisions of Section 10.27,E,7;
6. Except as provided in Section 10.27,E,7, skid trail and skid road approaches to stream channels shall be located and designed so as to divert water runoff from the trail or road in order to prevent such runoff from directly entering the stream;
7. Timber harvesting operations in P-SL2 subdistricts along stream channels upstream from the point where they drain 300 acres or less, and in P-WL subdistricts adjacent to such P-SL2 subdistricts, may be conducted in a manner not in conformity with the requirements of the foregoing Sections 10.27,E,3, 5, and 6 provided that such operations are conducted so as to avoid the occurrence of sedimentation of water in excess of 25 Jackson Turbidity Units as measurable at the point where such stream channel drains 1 square mile or more. Jackson Turbidity Units are a standard measurement of the relative amount of light that will pass through a sample of water compared with the amount of light that will pass through a reference suspension; the Jackson Turbidity Unit measurement for water without turbidity is 0;
8. Harvesting operations in P-SL2 subdistricts along stream channels downstream from the point where they drain 300 acres or more and along bodies of standing water shall be conducted in such a manner that sufficient vegetation is retained to maintain shading of the surface waters;

9. Written notice of all timber harvesting operations shall be given to the Commission prior to the commencement of such activity. Such notice shall conform to the requirements of Section 10.16 and shall state whether or not such operations will be conducted according to the provisions of Section 10.27,E,7; and
10. In addition to the foregoing minimum requirements, except as provided for in Section 10.27,E,7, provision shall otherwise be made in conducting timber harvesting operations in order to reasonably avoid sedimentation of surface waters.