

# 2015 Shoreland Zoning Guidelines & Amendment Process MCOG/LCRPC Shoreland Zoning Workshop 2023



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MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

*Protecting Maine's Air, Land and Water*

# 2015 Guidelines

1/26/15 amendments to Guidelines means:

- Ordinances are not currently consistent
- The Act requires ordinances to be consistent
- Officials have choices to make about amendments



# Implementation Roles

## Municipality

- Adopts/Amends ordinance
- Administers ordinance
- Enforces ordinance
- Decides administrative and variance appeals

## Maine DEP

- Approves amendments
- Provides advisory opinions
- Provides enforcement assistance
- Comments on variances



# Timber Harvesting Options

Municipalities must choose one option:

**1. Repeal local regulation (recommended by DEP)**

- Limited local resources and/or limited harvesting activity
- Applicants and harvesters deal with one set of standards

**2. Adopt statewide standards**

- Local oversight desired, perhaps due to lots of harvesting activity
- Applicants and harvesters deal with one set of standards

**3. Retain original standards**

- Default by not repealing or adopting
- MFS will not assist with local administration of local standards
- Applicants and harvesters deal with two sets of standards



# Minor Timber Harvesting Amendments for Option 2 Municipalities

- Standards:
  - bridge & culvert sizing (25-yr storm; 3x cross-sectional area)
- Definitions:
  - Bureau of Forestry
  - timber harvesting



# Timber Harvesting

Defined as:

- the cutting and removal of timber for the primary purpose of selling or processing forest products

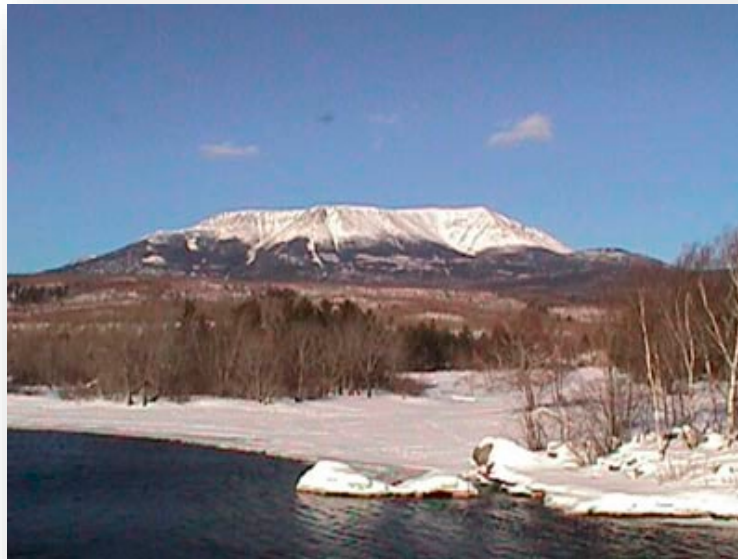
Does NOT include removal in the shoreland zone:

- associated with any other land use activity
- on a lot that has less than 2 acres within the shoreland zone



# Individual Private Campsites

- Vacant lot: one campsite per lot...or 30,000sf
- Lot with an existing principal use or structure:
  - requirements met for that principal use or structure, and
  - Additional 30,000sf of lot area required per individual private campsite



# Individual Private Campsites





# Structures Defined

Amend definition:

Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground...

- Structure does not include subsurface wastewater disposal systems.



# Definition Options

Optional exemptions from definition of structure:

- fences, poles and equipment for service drops
- geothermal heat exchange wells
- wells or water wells



# Decks over Rivers

## Optional exemption from setbacks:

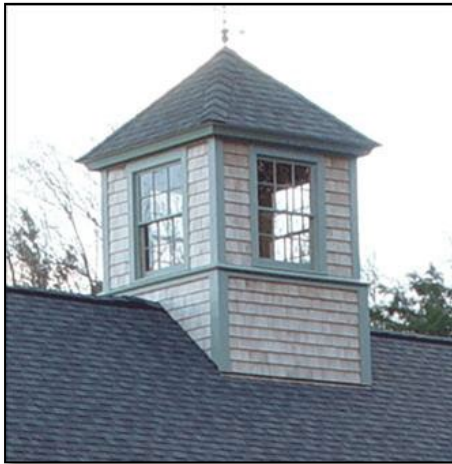
- Downtown revitalization along a river
- Pre-1971 commercial structure not meeting setbacks
- An attached, cantilevered deck allowed
  - No more than 700 square feet
  - Meets all other standards except setbacks



# Height Exemptions

## Optional exemptions:

- chimneys, steeples, antennas, and similar appurtenances
- transmission towers, windmills, antennas, and similar structures
- a non-habitable feature such as a cupola, a dome or a widow's walk, provided certain conditions are met



# Non-Vegetated Surfaces

Total area is limited as percentage of lot area:

- 20% in most shoreland zone districts
- 70% in shoreland zone of coastal wetlands and rivers not flowing to great ponds where district is CFMA or GD



# Non-veg. Surfaces & Exemptions

## Surfaces include:

- Structures
- Parking areas
- Lands previously developed

## 2015 Guidelines

- Structures
- Driveways
- Parking areas
- Other areas from which vegetation was removed

## Optional exemptions:

- Naturally occurring ledge and rock outcroppings- lots existing on 3/24/90
- Public boat launching facilities

\*No exemption for grass paver type products



# Naturally Occurring Ledge...



# Definition

Amend definition of functionally water-dependent:

- Correct inclusion of fish-related storage
- Include shoreline structures necessary for erosion control purposes (in place of retaining walls)
- Correct exclusion of recreational boat storage buildings





# Structures Below the Shoreline

If regulated in your municipality, new changes:

- One structure (dock) per lot, but optional exception:
  - Two structures allowed if lot has double the frontage required
- New note:
  - A structure on floats is prohibited unless it is designed to function as, and is registered as, a watercraft.



# Shoreline Stabilization

## New standards:

- Planning board review
- Access by barge if feasible
- Vegetation removal limited
- Revegetation required



# Functionally Water-Dependent: Problems...



# Functionally Water-Dependent: Problems...



# Functionally Water-Dependent?



# Certified Contractors

Consistent with the Act, ordinance should require:

- A certified person be on-site to oversee controls
- When an excavation contractor performs activities disturbing more than one cubic yard of soil

Request Cert. # on permit applications



# Excavation Contractor

Add definition, which excludes:

- Municipal, State, and federal employees conducting work associated w/their employment
- Timber harvesters conducting timber harvests
- Farmers conducting agriculture activities
- Homeowners doing work themselves



# Reconstruction Standards

In-place reconstruction/replacement if:

- $\leq 50\%$  of the market value of the structure is removed, damaged, or destroyed

Relocation required if:

- $> 50\%$  of the market value of the structure is removed, damaged, or destroyed





# Relocation Review

When relocation is required:

- The reviewing authority determines where the existing structure could be relocated to meet the setback to the greatest practical extent

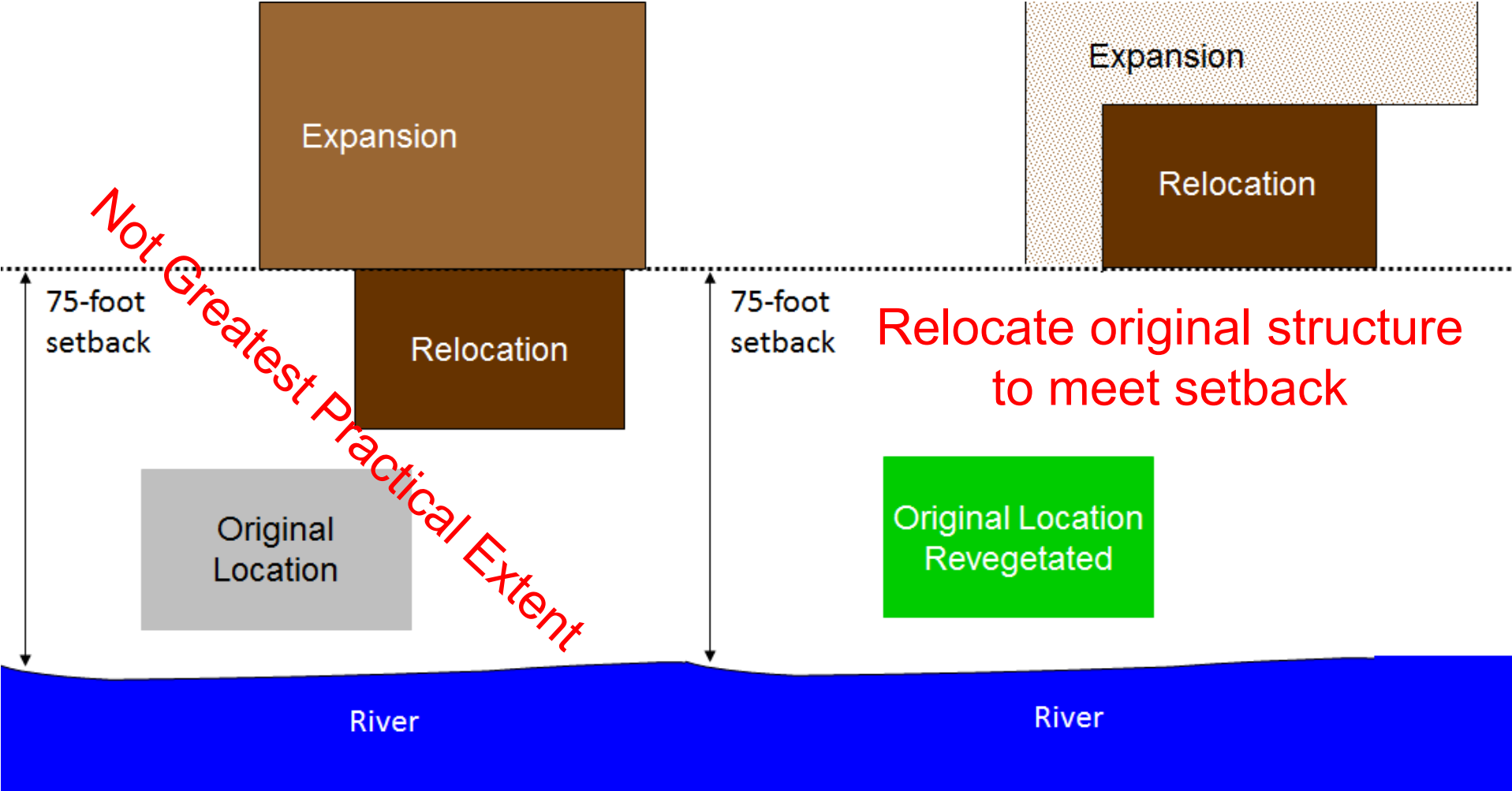
Criteria for making this determination includes:

- Characteristics of the land and lot
- Locations of existing structures
- Existing and future septic systems
- The condition of existing foundation

Seek advisory opinions



# Relocation First



# NEW!! Footprint and Height Method

Change from floor area and volume to “footprint” and height- tiered, based on distance from shore

- Landowners choose between the cap limit or 30% for footprint, and existing height or height cap
- Plans recorded at registry of deeds

Municipal officials may choose to:

- Limit expansions by the caps or by 30%, instead of allowing landowner choice
- Allow limited expansions within 25 feet of the shoreline
- Allow limited expansions in Resource Protection District



# What is “Footprint”?

- Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks



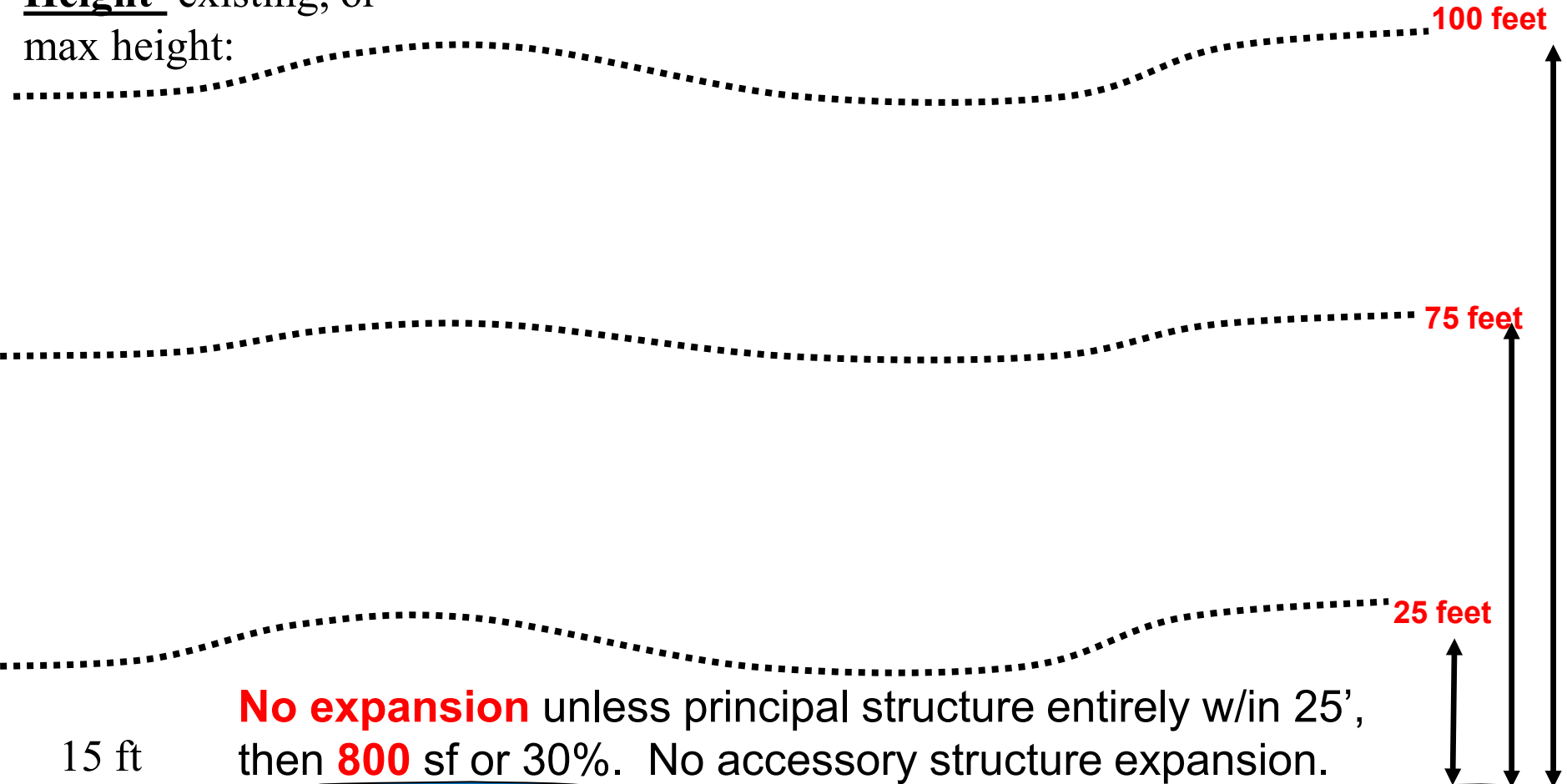
# Other Definitions using “Footprint”

- Expansion of a structure, change floor area & volume
- Expansion of a use, change floor area
- Floor area, remove reference to unenclosed structures
- Nonconforming structure, add footprint



# Footprint expansion-highlights

**Height-** existing, or  
max height:



Great Pond

# Footprint expansion- highlights

**Height-** existing, or max height:



20 ft

Expansion up to **1,000** sf, or 30%, whichever is greater (maximum combined total footprint). No accessory structure expansion if closer to shoreline than principal structure.



15 ft

**No expansion** unless principal structure entirely w/in 25', then **800** sf or 30%. No accessory structure expansion.

Great Pond

# Footprint expansion- highlights

**Height-** existing, or max height:

25 ft

Expansion up to **1,500** sf, or 30%, whichever is greater (maximum combined total footprint). No accessory structure expansion if closer to shoreline than principal structure.

100 feet

20 ft

Expansion up to **1,000** sf, or 30%, whichever is greater (maximum combined total footprint). No accessory structure expansion if closer to shoreline than principal structure.

75 feet

15 ft

**No expansion** unless principal structure entirely w/in 25', then **800** sf or 30%. No accessory structure expansion.

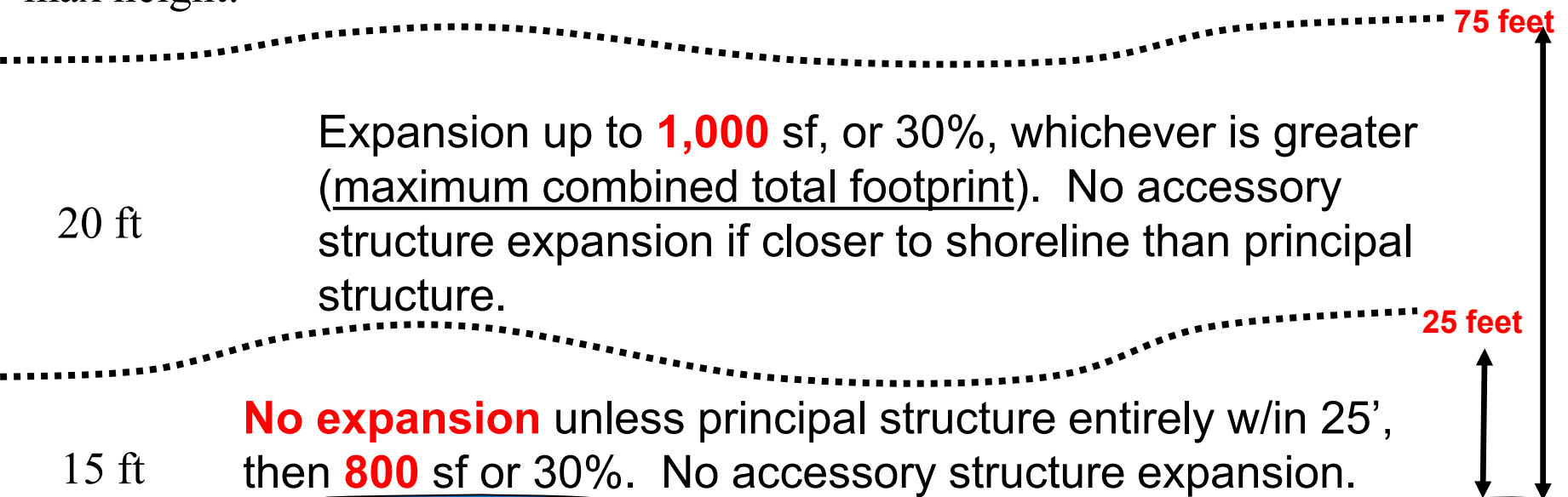
25 feet

Great Pond



# Footprint expansion- highlights

**Height-** existing, or  
max height:



Coastal or Freshwater Wetland, River, Stream, Tributary Stream

# Footprint expansion- highlights

## Resource Protection District

**Height-** existing, or max height:



Expansion up to **1,500** sf, or 30%, whichever is greater (maximum combined total footprint). No accessory structure expansion if closer to shoreline than principal structure.

25 ft



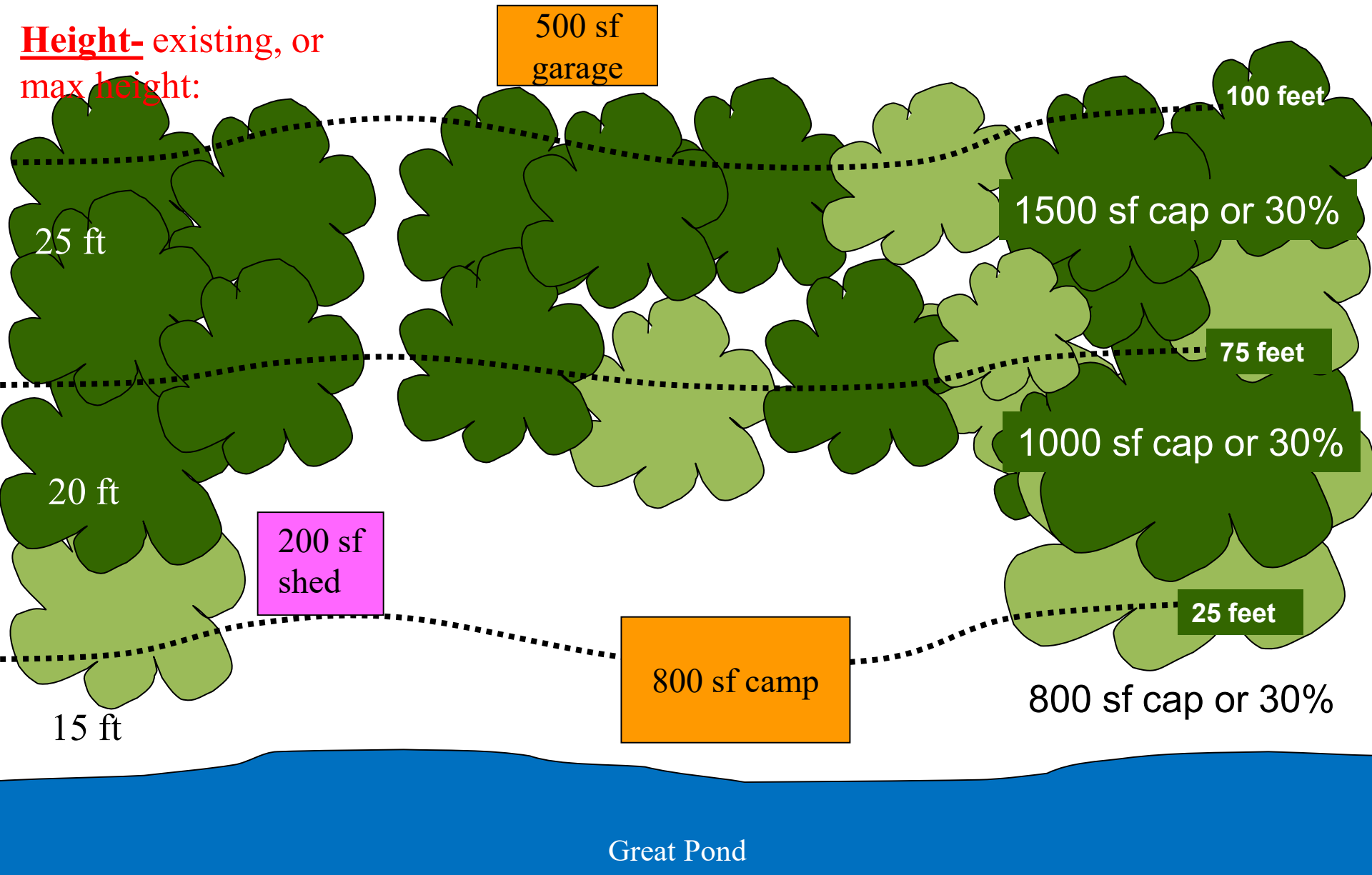
15 or 20 ft

**Same expansion thresholds as for other districts**



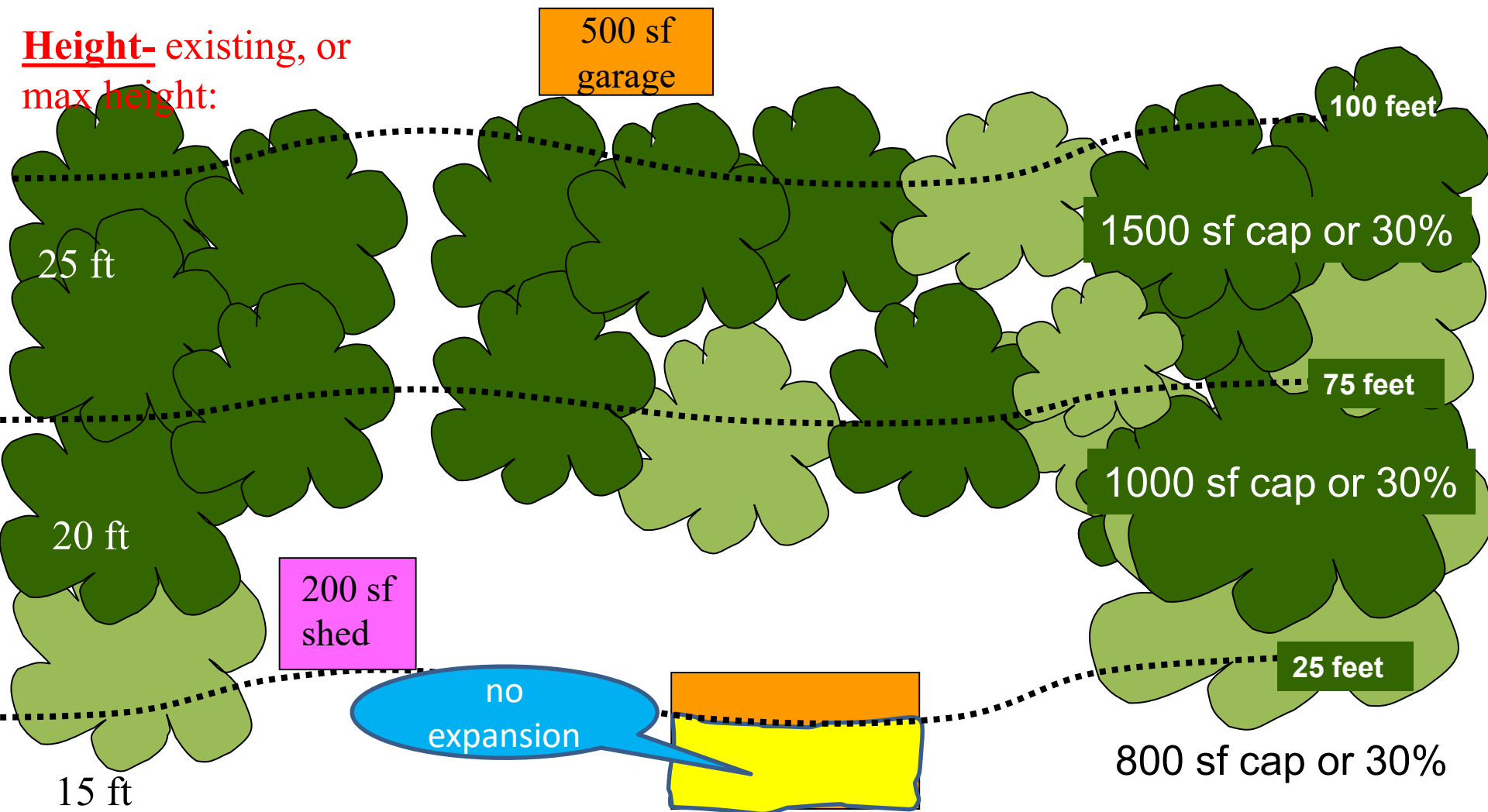
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# 1) What can be expanded?



# 1) Answer: rear of camp or shed (30%), and garage

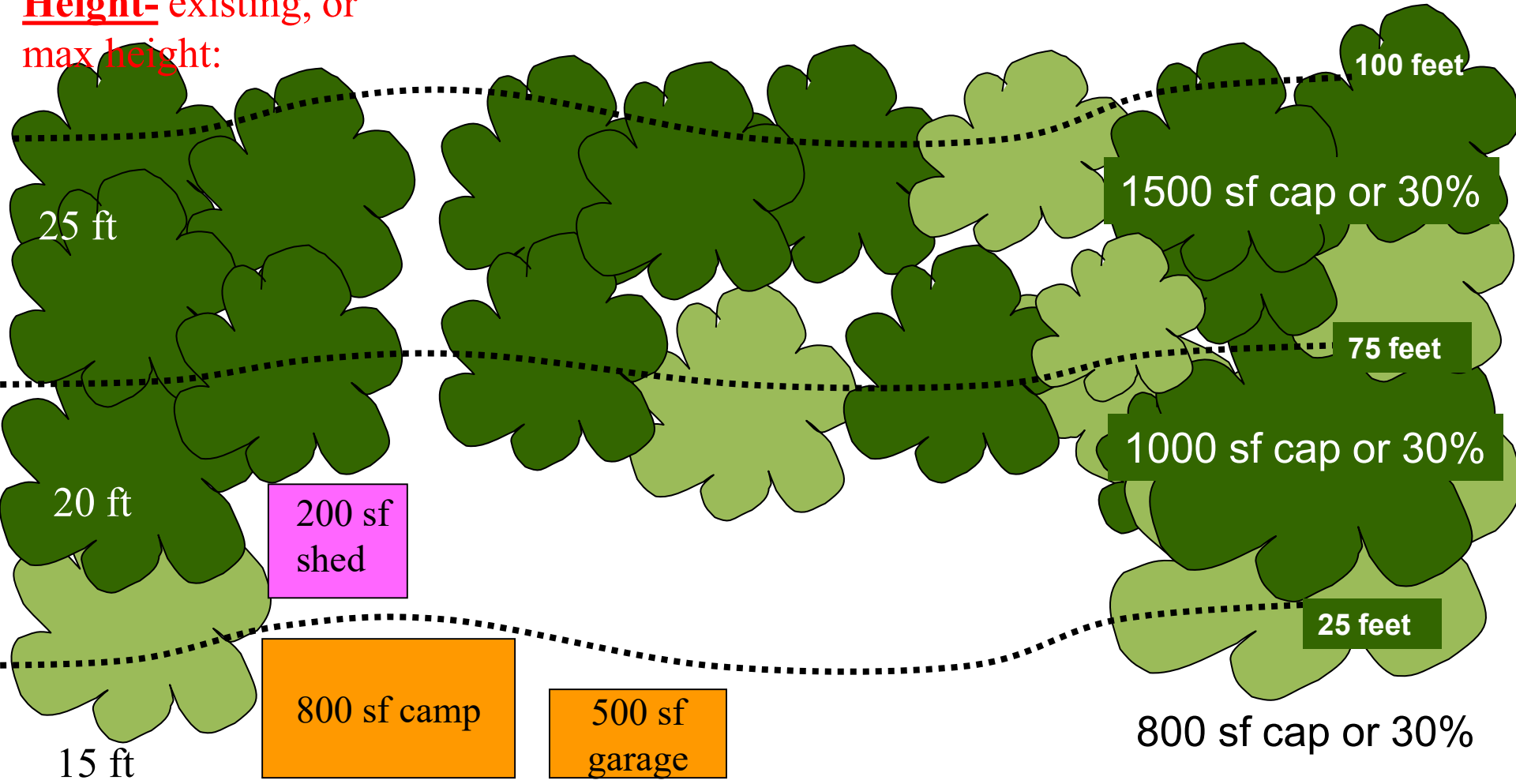
**Height-** existing, or max height:



Great Pond

## 2) What can be expanded?

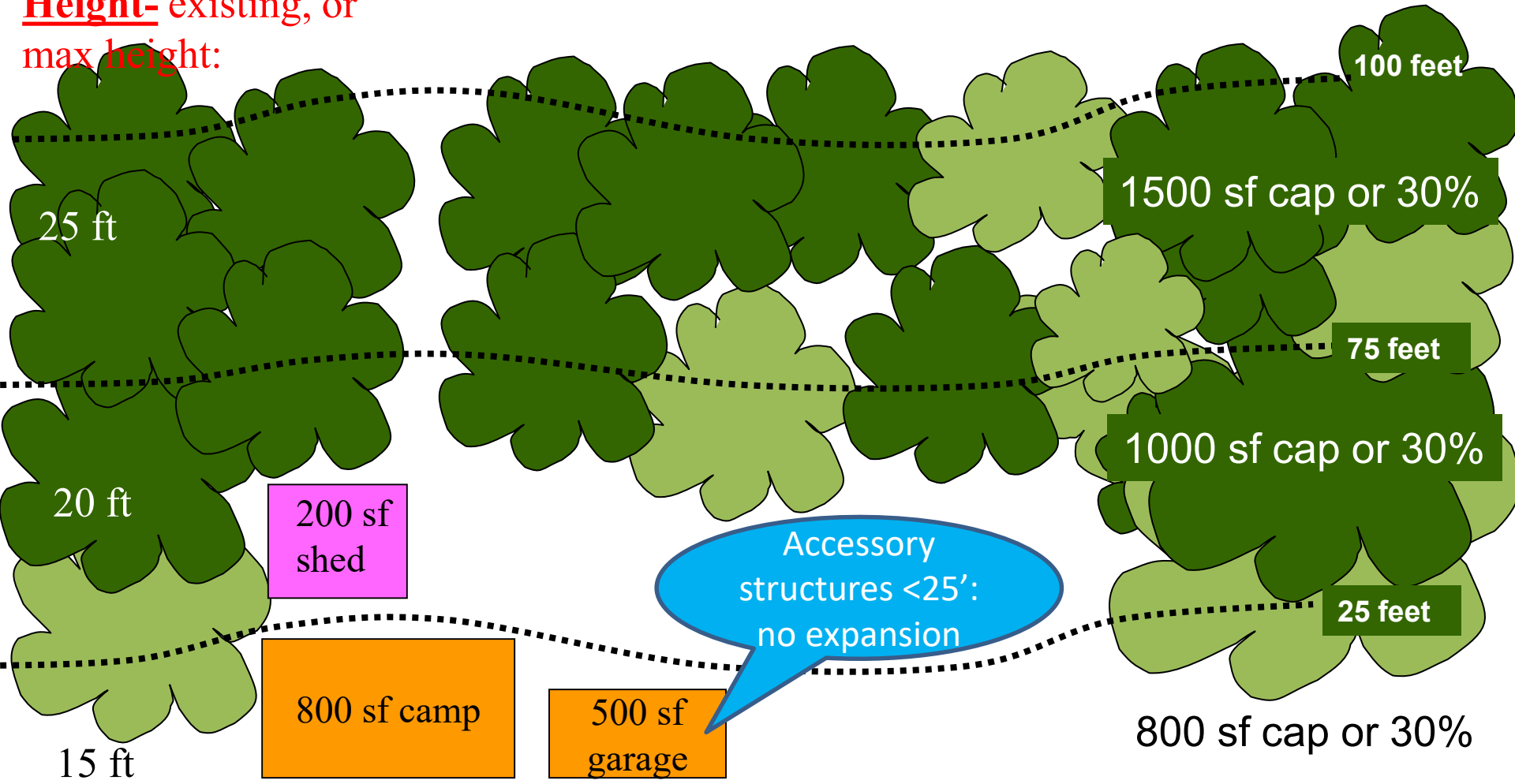
**Height-** existing, or  
max height:



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## 2) Answer: camp and/or shed (30%). Camp cannot add garage footprint.

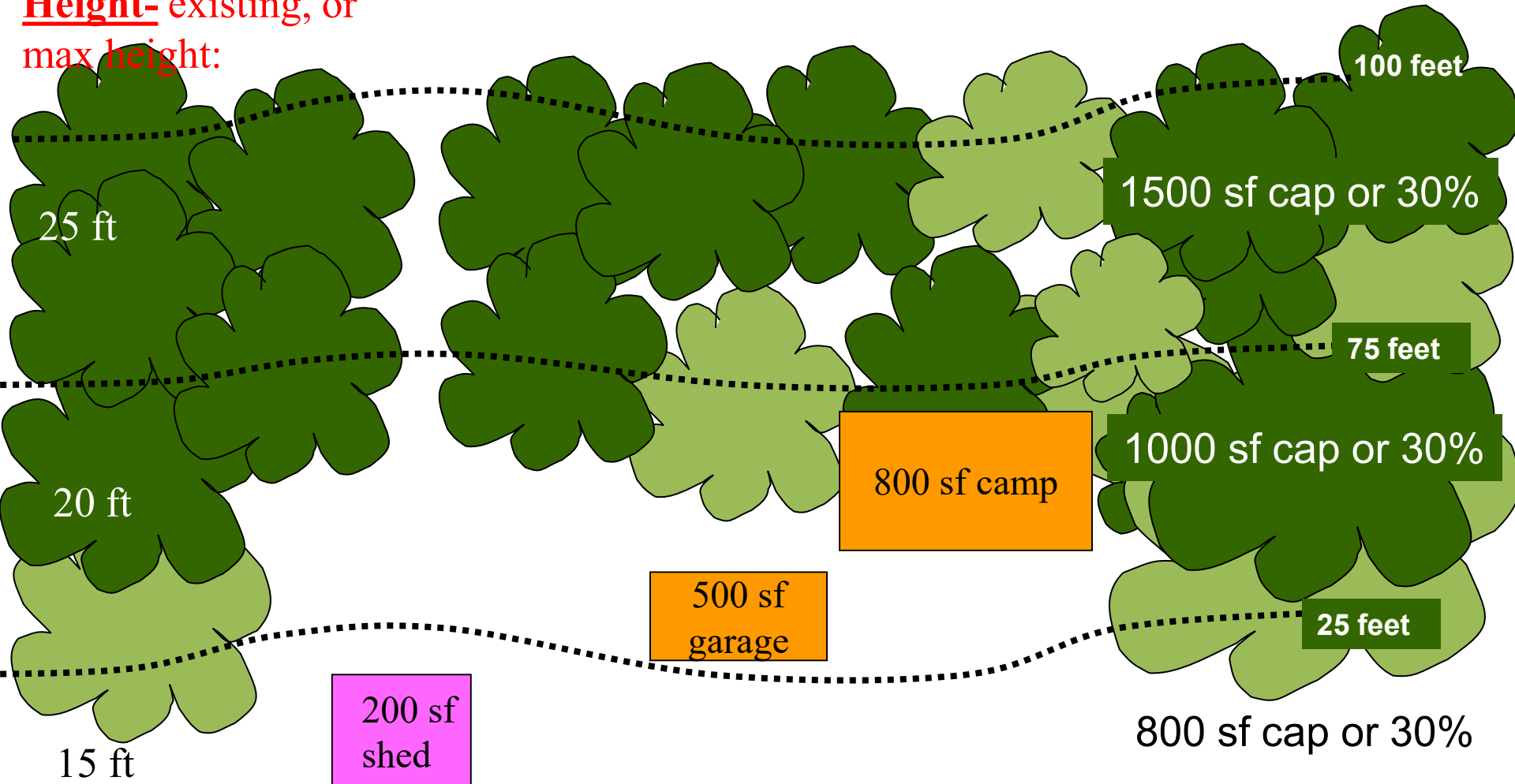
**Height-** existing, or  
max height:



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# 3) What can be expanded?

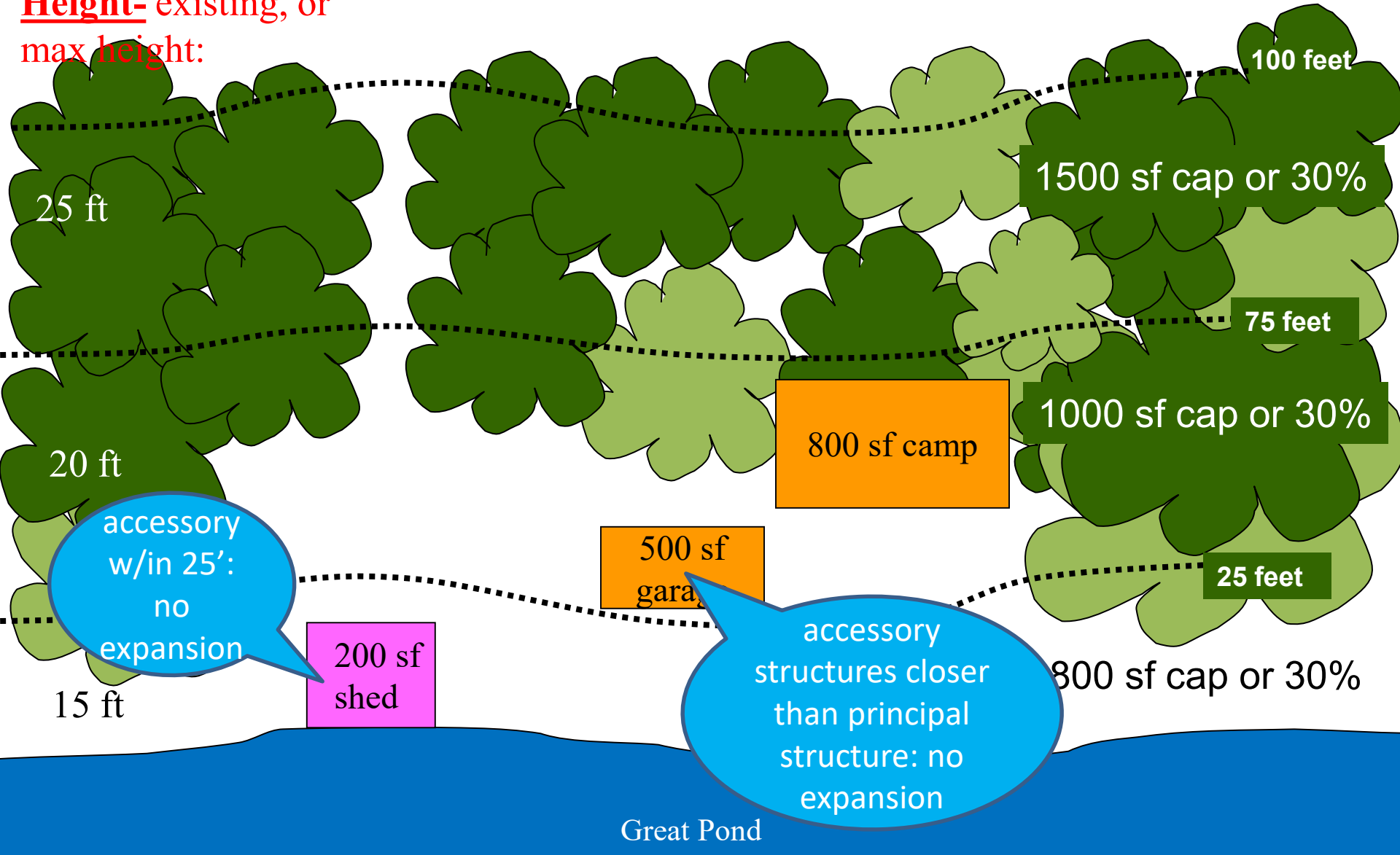
**Height-** existing, or max height:



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### 3) Answer: camp only (30% of total footprint of all structures)

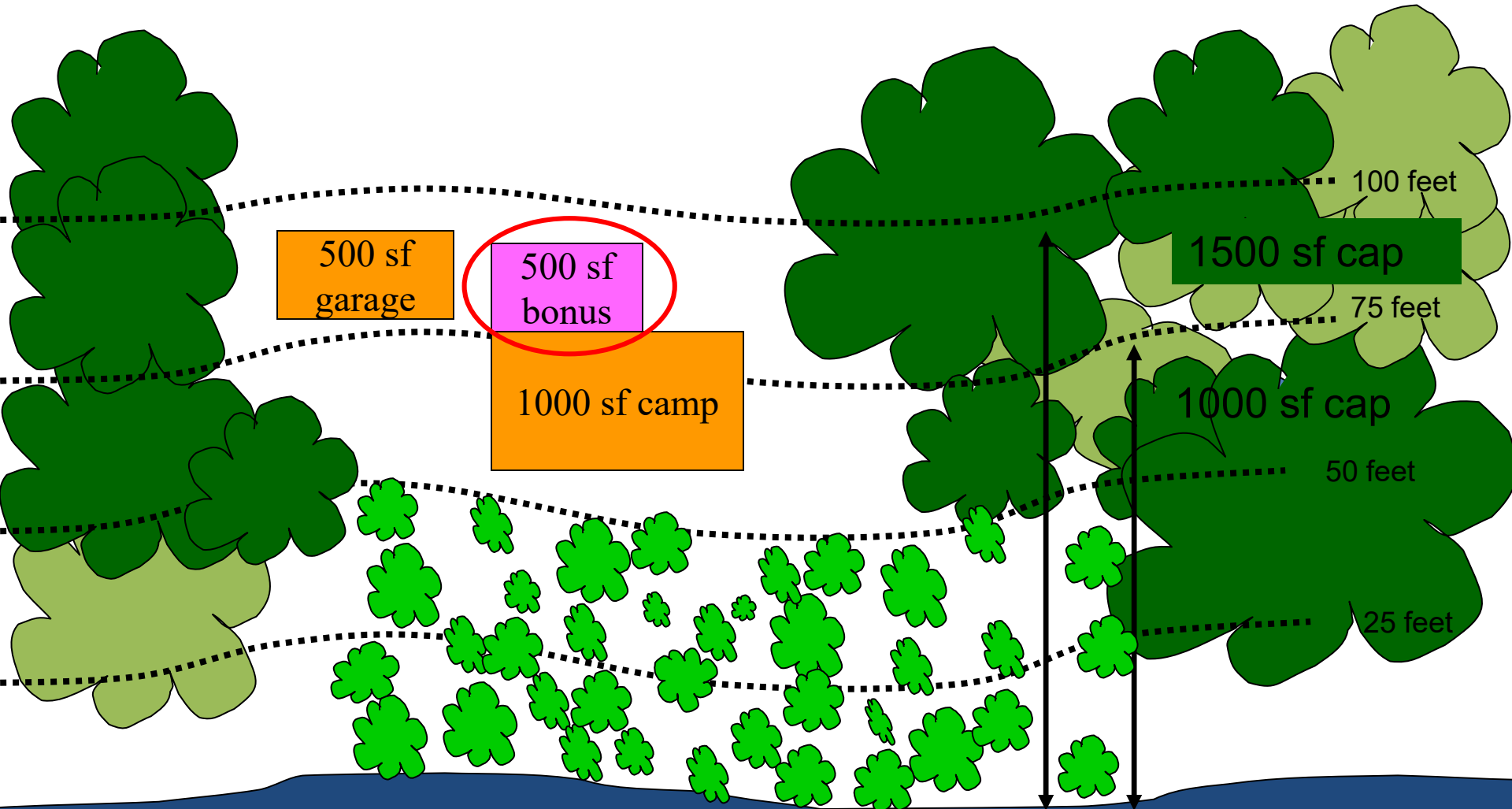
**Height-** existing, or max height:





# Old Optional Expansion Allowance

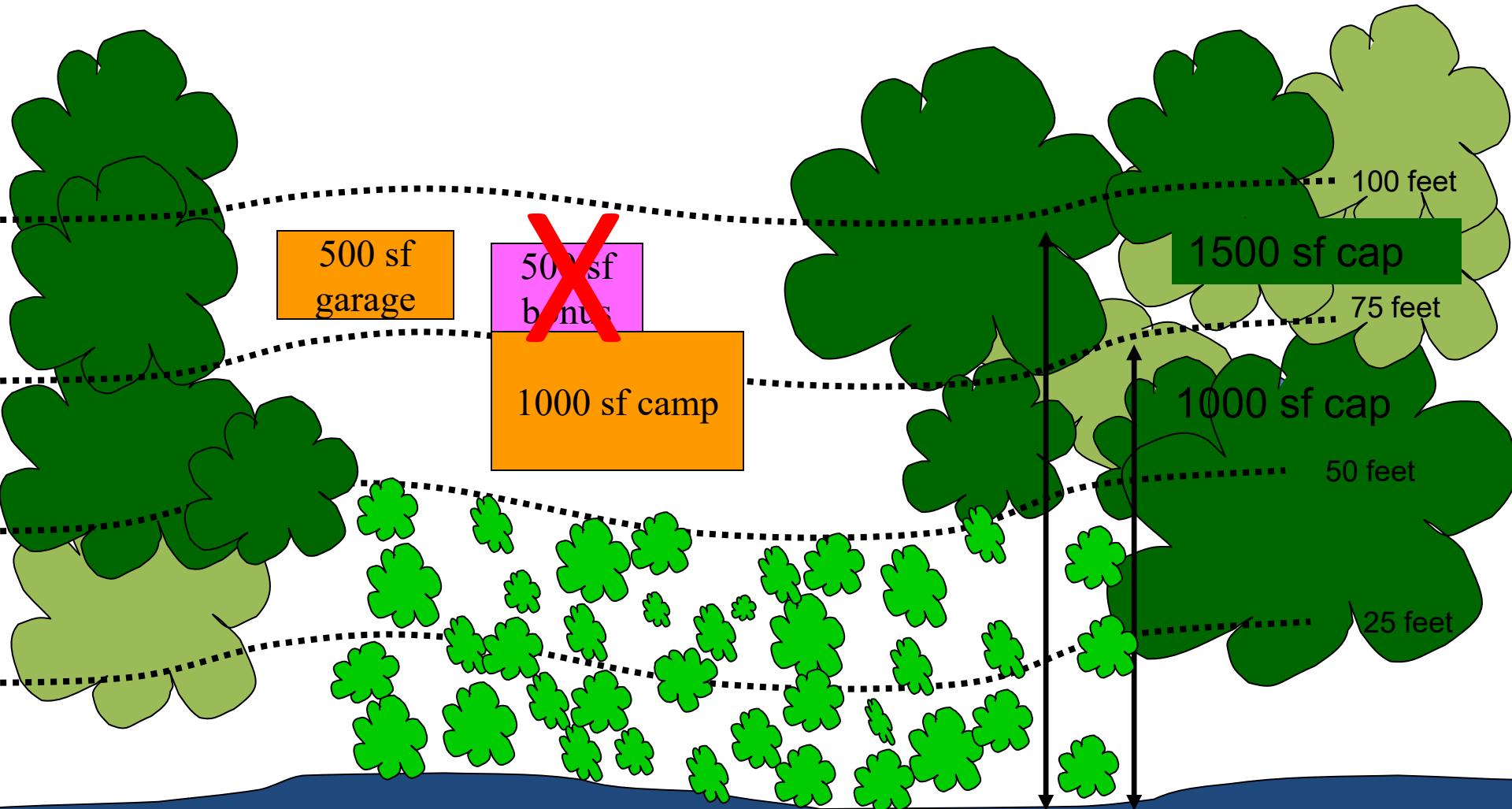
Additional 500 sf bonus



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# Old Optional Expansion Allowance

Additional 500 sf bonus: **NO LONGER EXISTS!**

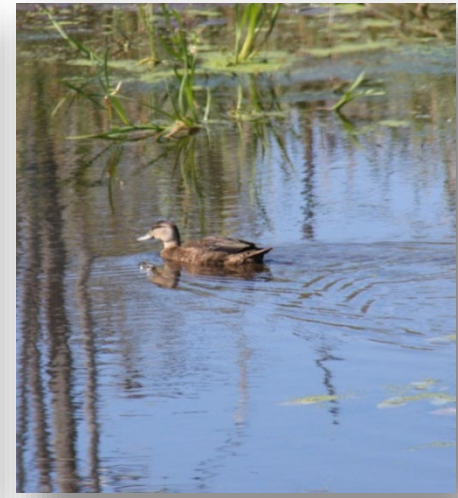


Great Pond

# Vegetation Purposes

Vegetation is the cheap and natural way to:

- Intercept and infiltrate stormwater runoff
- Slow and control soil erosion and sedimentation
- Provide bird & wildlife habitat, and shade aquatic habitat
- Keep privacy and conserve natural character of Maine



# Vegetation Definitions

New definitions for:

- Sapling – a tree species that is less than 2” in diameter
- Seedling – a tree species that is less than 4.5 ft in height
- Tree – a woody perennial plant that has a well-defined trunk(s) at least 2” in diameter...a more or less definite crown and reaches a height of at least 10ft at maturity



# Hazard Trees

## Within shoreline buffer:

- Replace tree canopy opening > 250sf
  - new tree growth present or
  - Plant native trees at least 4ft in height and 2in DBH
- No stump removal

## CEO may require:

- Professional evaluation
- >1:1 for >8in DBH trees

## Outside buffer:

- Replace if tree volume or cleared openings exceeded
- With new tree growth or
  - With native trees at least 2in DBH



# Hazard Tree Defined

Add new definition for hazard tree:

- structural defect...
- under the normal range of environmental conditions, not:
  - hurricanes, hurricane-force winds,
  - tornados, microbursts, or
  - significant ice storm events
- exhibits a high probability of failure...
- will strike a target.
  - Area where personal injury or property damage could occur
  - roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger
- also trees that pose imminent risk to bank stability.



# Dead Trees

Dead trees – contain no foliage during the growing season:

- Removal allowed if dead from natural causes
- No creation of new lawn areas or other permanently cleared areas
- No stump removal



# Storm-Damaged Trees

## Within shoreline buffer:

- Pruning damaged limbs above 1/3 allowed
- Replace tree canopy opening > 250sf
  - By natural regeneration or
  - With native seedlings or saplings, 1 per 80sf
- No creation of new lawn or other cleared areas
- No stump removal

## Outside buffer:

- Replace tree volume or cleared openings
  - By natural regeneration
  - With native seedlings or saplings on 1:1 basis

Regeneration must occur within 1 season





# Storm-Damaged Tree Definition

Add new definition for storm-damaged tree:

- a tree that is damaged beyond the point of recovery as a result of a storm event.
- Could be uprooted, blown down, lying on the ground, or still standing



# Exemptions from Standards

Section for exemptions from vegetation standards:

- Existing cleared areas: maintenance cutting required
- Permitted activities: where shoreline setbacks are n/a
- Agriculture: when BMPs used & standards met



# Brownfields & VRAP

Exemptions from vegetation standards, cont...:

- Brownfields & Voluntary Response Action Program
- Within the shoreland zone of a coastal wetland or a river that does not flow to a great pond
- Zone must be designated as a General Development or Commercial Fisheries / Maritime Activities District
- Only when necessary for remediation activities to clean up contamination



# Non-Native Invasive Vegetation

Optional exemption from vegetation standards:

- Any wheeled or tracked motorized equipment is operated and stored at least 25ft from the shoreline
  - except allowed on existing structural surfaces within 25ft
- Any removal within 25ft occurs via hand tools
- Replanting required if vegetation standards exceeded



# Non-Native Invasive Definition

## New definition:

- species is invasive and not native to Maine ecosystems
- listed by the Maine Department of Agriculture, Conservation and Forestry (Maine Natural Areas Program)

## Invasive species – Do not use

Autumn olive  
Black locust  
Black swallowwort  
Bittersweet, oriental or Asiatic  
Buckthorn, smooth & common  
Burning bush / winged euonymus  
Common reed  
European alder  
Garlic mustard  
Japanese barberry  
Japanese knotweed  
Japanese stilt grass  
Lesser celandine  
Mile-a-minute weed  
Multi-flora / rambler rose  
Nonnative honeysuckles  
Norway maple  
Porcelainberry  
Purple loosestrife  
Reed mannagrass  
Rosa rugosa  
Small-flowered tickle-grass

# Emergency Response

Exemption from vegetation standards:

- Clearing or removal of vegetation associated with emergency response activities conducted by the DEP, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.



# Revegetation Standards

When revegetation is required:

- Professional revegetation plan
- Specific revegetation location and deadline



# Tree Revegetation

Trees and saplings must be replaced with:

- native species
- saplings at a minimum
- if > 3 planted, then at least 3 different species
- no one species shall make up 50% or more
- shoreline stabilization: re-establishes screening
- survival rate: 80% for 5 years





# Ground Cover Revegetation

Ground cover must be replaced with:

- native herbaceous vegetation
- quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater
  - Where necessary, supplement with mulch 4 inches deep
- Survival and functionality must be sufficient to remain in compliance with the vegetation standards for 5 years



# Shoreland Zoning Program



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