

**Conditional Use Approval Application #017-2022**

**OWNER(S):** The Community School of Mount Desert

**AGENT(S):** Nick Jenei & Jasmine W. Smith

**LOCATION:** 585 Sound Drive, Mount Desert

**TAX MAP:** 010 **LOT(S):** 161 **ZONE(S):** Shoreland Residential Three (SR3), Rural or Woodland Three (RW3) and Resource Protection (RP)

**PURPOSE:** Section- 5.6 – Amendment to previously approved Conditional Use Approval Applications – Independent School. (CUA#10-2016 & 012-2020)

**SITE INSPECTION:** 3:45PM

**5.6 Amendment**

No proposed or existing building, premise or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this Ordinance, and the conditional use permit and approved site plan are amended accordingly.

**Minor changes.** The Code Enforcement Officer may authorize minor changes in the placement and size of improvements for an approved conditional use permit if the Code Enforcement Officer determines that the changes are consistent with the findings made by the Planning Board in connection with the approval of the conditional use permit and the standards of Section 6 of the Land Use Ordinance. The Code Enforcement Officer must also make a separate determination whether the minor changes are consistent with the standards of Section 6 of the Land Use Ordinance.

**Other Changes.** Changes to an approved conditional use permit, other than minor changes in the placement and size of improvements, shall require amendment to the conditional use permit by the Planning Board. The requirements for application and approval of a conditional use permit amendment shall be the same as the requirements for original application and approval.

**6A GENERAL PERFORMANCE STANDARDS**

6A.1	Compatibility	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> N/A
6A.2	Erosion and Sedimentation Control	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> N/A
6A.3	Highway Safety	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.4	Impact on Town Services	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.5	Land Suitability	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.6	Lighting - Outdoor	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.7	Stormwater	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.8	Vegetation	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6A.9	Dust, Fumes, Vapors, Odors and Gases	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A

**Findings of Fact(s):** The findings of fact are as presented by the applicant (see attached application and/or notes below).

**VOTE:** Findings of Facts (Randolph/Loftus Keller) Motion approved 4-0. \_\_\_\_\_

**Conclusion of Law:** The proposed use is in compliance with all standards of Section 6A.

**VOTE:** Conclusion of Law (Randolph/Loftus Keller) Motion approved 4-0. \_\_\_\_\_

**6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES**

6B.1	Agriculture	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.2	Air Landing Sites	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.7	Excavation (other than gravel pits) or filling	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.8	Fences and Walls	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.16	Sign Regulations	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.18	Wireless Communication Facilities	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.19	Animal Husbandry II	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6B.20	Mobile Food Vendors	<input type="checkbox"/> See notes below	<input type="checkbox"/> See notes below	X N/A

**X N/A (Except for Section(s): ~~6B.~~\_\_\_\_\_)**

**Findings of Fact(s):** The proposed use will include none of the specific activities or land uses described in section 6B, except for Applicable Sections(s) noted above.

**VOTE:** Findings of Facts (Randolph/Loftus Keller) Motion approved 4-0. \_\_\_\_\_

**Conclusion of Law:** Section 6B is not applicable, except for Sections(s): ~~6B.~~\_\_\_\_\_

**VOTE:** Conclusion of Law (Randolph/Loftus Keller) Motion approved 4-0. \_\_\_\_\_

Notes: \_\_\_\_\_

**6C SHORELAND ZONING STANDARDS FOR REVIEW BY PLANNING BOARD**

*Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.*

**N/A: Findings of Fact:** The proposed lot is entirely outside the Shoreland Zone.

**VOTE:** Findings of Facts - \_\_\_\_\_

**Conclusion of Law:** Section 6C is not applicable, except for Section(s): **6C.**\_\_\_\_\_

**VOTE:** Conclusion of Law - \_\_\_\_\_

6C.1	Agriculture	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6C.2	Archeological sites	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6C.5	Essential Services	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6C.6	Parking Areas	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6C.7	Marine and Freshwater Structure Standards	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6C.9	Roads and Driveways	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A
6C.11	Water Quality	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	X N/A

X N/A (~~Except for Section(s): 6C.~~\_\_\_\_\_)

**Findings of Fact(s):** The proposed use will include none of the specific activities or land uses described in section 6C, except for Applicable Sections(s) noted above.

**VOTE:** Findings of Facts (Randolph/Ashmore) Motion approved 4-0. \_\_\_\_\_

**Conclusion of Law:** Section 6C is not applicable, ~~except for Sections(s):6C.~~\_\_\_\_\_

**VOTE:** Conclusion of Law (Randolph/Ashmore) Motion approved 4-0. \_\_\_\_\_

Notes: \_\_\_\_\_

## SECTION 5 CONDITIONAL USE APPROVAL

### 5.9 Standards

The application for Conditional Use Approval shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of the standards of Section 6A and/or one or more of the applicable standards of Section 6B or 6C. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable standards have been met.

In addition, **in all shoreland areas**, after the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- |       |   |                              |  |   |
|-------|---|------------------------------|--|---|
| 5.9.1 | Will maintain safe and healthful conditions   | <input type="checkbox"/> N/A | X See Application                        | <input type="checkbox"/> Standard Not Met |
| 5.9.2 | Will not result in water pollution, erosion, or sedimentation to surface waters                                 | <input type="checkbox"/> N/A | X See Application                        | <input type="checkbox"/> Standard Not Met |
| 5.9.3 | Will adequately provide for the disposal of all wastewater  | <input type="checkbox"/> N/A | X See Application                        | <input type="checkbox"/> Standard Not Met |
| 5.9.4 | Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat         | <input type="checkbox"/> N/A | X See Application                        | <input type="checkbox"/> Standard Not Met |
| 5.9.5 | Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters          | <input type="checkbox"/> N/A | X See Application                        | <input type="checkbox"/> Standard Not Met |
| 5.9.6 | Will protect archaeological and historic resources as designated in the comprehensive plan                      | <input type="checkbox"/> N/A | X See Application                        | <input type="checkbox"/> Standard Not Met |
| 5.9.7 | Will not adversely affect existing commercial fishing or maritime activities in a Shoreland Commercial district | X N/A                        | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |

- 5.9.8 Will avoid problems associated with floodplain development and use; (In compliance with Floodplain Management Ordinance of the Town of Mount Desert – Amended March 7, 2006.)  N/A  See Application  Standard Not Met
- 5.9.9 Is in conformance with the provisions of Sections 6A, 6B and 6C  N/A  Standard Met  Standard Not Met

**Findings of Fact(s):** See Above

**Conclusion of Law:** All requirements for Section 5.9 ~~have~~ / ~~have not~~ been met.

**VOTE:** Finds of Fact/Conclusion of Law: (Randolph/Loftus Keller) – Motion approved 4-0.

**FOR BOARD USE  
AMENDED CONDITIONAL USE APPROVAL**

**PERMIT CONDITIONS:** *In addition to all applicable federal, state, and town permits be in place prior to any construction, the following conditions apply:*

(Randolph/Loftus Keller) Motion approved 4-0.

**AMENDED APPLICATION**

**APPROVED:** 01/11/2023 **DENIED:** \_\_\_\_\_  
(Date) (Date)

**NOTE:** *The holder of a Conditional Use Permit/Approval must construct and operate the approved conditional use as applied for and as represented during the permitting process to the Planning Board.*

**NOTE:** *The Land Use Zoning Ordinance requires that a Conditional Use Permit/Approval must be undertaken within one year from the date of approval, or a new permit must be obtained.*

**MINUTES OF THIS PUBLIC HEARING CONSTITUTE A PART OF THE RECORD FOR THIS MATTER**

**SIGNATURES OF BOARD MEMBERS:**

William Hanley  
William Hanley, Chairman

Tracy Loftus Keller  
Tracy Loftus Keller, Vice Chair

David Ashmore  
David Ashmore

Meredith Randolph  
Meredith Randolph

\_\_\_\_\_  
Gloria Kunje, Alt.

\_\_\_\_\_  
Christie Anastasia, Alternate