

Conditional Use Approval Application: #024-2021
OWNER NAME(S): Mount Desert 365
APPLICANT(S): College of the Atlantic
AGENT(S): Millard Dority
LOCATION: 141 Main Street, Northeast Harbor
TAX MAP: 024 Lot: 078 **ZONING DISTRICT:** Village Commercial (VC)
PURPOSE: Restaurant Use.
SITE INSPECTION: 4:30PM

CHECKLIST

Land Use Zoning Ordinance of the Town of Mount Desert

**** Note:** All Conclusions of Law are to be read as if they are prefaced by the words “Based upon said Findings of Fact ...”

SECTION 6 STANDARDS FOR USES, PERMITS AND APPROVALS FOR REVIEW BY PLANNING BOARD

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	<input type="checkbox"/> See Application	X N/A
6A.3	Highway Safety	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> N/A
6A.4	Impact on Town Services	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> 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	X See Application	<input type="checkbox"/> 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 (Loftus Keller/Randolph) Motion approved 4-0.

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

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

Notes:

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	X See Application	<input type="checkbox"/> 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
6B.21	Rooming House	<input type="checkbox"/> See notes below	<input type="checkbox"/> See notes below	X N/A
6B.22	Hotels and Motels	<input type="checkbox"/> See notes below	<input type="checkbox"/> See notes below	X N/A

X N/A (Except for Section(s): 6B. 16)

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

Conclusion of Law: Section 6B is not applicable, except for Sections(s):6B. 16, for which standard is met.

VOTE: Conclusion of Law (Loftus Keller/Randolph) 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.

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

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

Conclusion of Law: Section 6C is not applicable.

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

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

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.

Conclusion of Law: Section 6C is not applicable, except for

Sections(s):**6C._____**

VOTE: Findings of Facts and Conclusion of Law -

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 | <input type="checkbox"/> 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 | <input type="checkbox"/> 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 | <input type="checkbox"/> 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 | <input type="checkbox"/> 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 | <input type="checkbox"/> 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 | <input type="checkbox"/> 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 | <input type="checkbox"/> 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.) | <input type="checkbox"/> N/A | <input type="checkbox"/> See Application | <input type="checkbox"/> Standard Not Met |
| 5.9.9 | Is in conformance with the provisions of Sections 6A, 6B and 6C | <input type="checkbox"/> N/A | <input type="checkbox"/> Standard Met | <input type="checkbox"/> Standard Not Met |

Findings of Fact(s): Proposed lot is outside shoreland.

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

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

VOTE: Conclusion of Law Section 5.9 is Not Applicable.

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

FOR BOARD USE
CONDITIONAL USE PERMIT/APPROVAL

APPLICATION: 024-2021

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

Seven additional parking spaces are secured prior to issuance of Certificate of Occupancy,
per approval dated March 17, 2021.

State Fire Marshal approval for change of use.

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

APPLICATION

APPROVED: 01/19/2022
(Date)

DENIED: _____
(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.*

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

SIGNATURES OF ALL VOTING BOARD MEMBERS:

William Hanley
William Hanley, Chairman

David Ashmore

Tracy Loftus Keller
Tracy Loftus Keller, Alternate

Christie Anastasia
Christie Anastasia

Meredith Randolph
Meredith Randolph