Conditional Use Approval Application #020-2022 OWNER(S) NAME(S): Town of Mount Desert – Seal Harbor Beach AGENT(S) NAME(S): Tony Smith, Consultant LOCATION: 309 Peabody Drive, Seal Harbor TAX MAP: 030 LOT: 001 ZONE(S): Resource Protection (RP) PURPOSE: Section 3.4 – Excavation or Filling. Shoreline Stabilization. SITE INSPECTION: 2:30PM

# **CHECKLIST**

## Land Use Zoning Ordinance of the Town of Mount Desert

\*\* <u>Note:</u>

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	$\Box$ See notes below	X See Application	$\Box$ N/A
6A.2	Erosion and Sedimentation Control	$\Box$ See notes below	X See Application	$\Box$ N/A
6A.3	Highway Safety	$\Box$ See notes below	X See Application	$\Box$ N/A
6A.4	Impact on Town Services	$\Box$ See notes below	$\Box$ See Application	X N/A
6A.5	Land Suitability	$\Box$ See notes below	X See Application	$\Box$ N/A
6A.6	Lighting - Outdoor	$\Box$ See notes below	$\Box$ See Application	X N/A
6A.7	Stormwater	$\Box$ See notes below	$\Box$ See Application	X N/A
6A.8	Vegetation	$\Box$ See notes below	$\Box$ See Application	X N/A
6A.9	Dust, Fumes, Vapors, Odors and	$\Box$ See notes below	$\Box$ See Application	X N/A
	Gases			

**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.

Notes:

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

6B.1 6B.2 6B.7	Agriculture Air Landing Sites Excavation (other than gravel pits) or filling	<ul> <li>See notes below</li> <li>See notes below</li> <li>See notes below</li> </ul>	<ul> <li>See Application</li> <li>See Application</li> <li>X See Application</li> </ul>	X N/A X N/A □ N/A
6B.8 6B.16 6B.18 6B.19 6B.20 6B.21 6B.22	filling Fences and Walls Sign Regulations Wireless Communication Facilities Animal Husbandry II Mobile Food Vendors Rooming House Hotels and Motels	<ul> <li>See notes below</li> </ul>	<ul> <li>See Application</li> <li>See Application</li> <li>See Application</li> <li>See Application</li> <li>See notes below</li> <li>See notes below</li> <li>See notes below</li> </ul>	X N/A X N/A X N/A X N/A X N/A X N/A x N/A

## X N/A (Except for Section(s): 6B. 7\_\_\_\_\_)

**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. 7, for which the standard has been met.

**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.

**VOTE**: Conclusion of Law -

6C.1	Agriculture	$\Box$ See notes below	$\Box$ See Application	X N/A
6C.2	Archeological sites	$\Box$ See notes below	X See Application	🗆 N/A
6C.5	Essential Services	$\Box$ See notes below	$\Box$ See Application	X N/A
6C.6	Parking Areas	$\Box$ See notes below	$\Box$ See Application	X N/A
6C.7	Marine and Freshwater Structure	$\Box$ See notes below	$\Box$ See Application	X N/A
	Standards			
6C.9	Roads and Driveways	$\Box$ See notes below	$\Box$ See Application	X N/A
6C.11	Water Quality	$\Box$ See notes below	X See Application	🗆 N/A
	-			
X N/A (Except for Section(s): 6C. 2, 11 )				

**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 forSections(s):6C.2, 11, for which the standards have been met.

**VOTE:** Findings of Facts and Conclusion of Law(Randolph/Loftus Keller) 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	$\square$ N/A	X See Application	□ Standard Not Met
5.9.2	Will not result in water pollution, erosion, or sedimentation to surface waters	□ N/A	X See Application	$\Box$ Standard Not Met
5.9.3	Will adequately provide for the disposal of all wastewater	X N/A	□ See Application	□ Standard Not Met
5.9.4	Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat	X N/A	□ See Application	□ Standard Not Met
5.9.5	Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters	□ N/A	X See Application	□ Standard Not Met
5.9.6	Will protect archaeological and historic resources as designated in the comprehensive plan	□ N/A	X See Application	□ Standard Not Met
5.9.7	Will not adversely affect existing commercial fishing or maritime activities in a Shoreland Commercial district	X N/A	□ See Application	□ 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	X See Application	□ Standard Not Met
5.9.9	Is in conformance with the provisions of Sections 6A, 6B and 6C	□ N/A	X Standard Met	□ Standard Not Met
Findings of Fact(s): See Above				
(Randolph/Ashmore) Motion approved 4-0.				

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

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

Updated: 9/17/2021 Sec. 6 Checklist Abbreviated- Revised

## FOR BOARD USE CONDITIONAL USE PERMIT/APPROVAL

APPLICATION: #020-2022

**PERMIT CONDITIONS**: In addition to having 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.

## <u>APPLICATION</u>

APPROVED:

<u>01/11/2023</u> (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:

<u>William Hanley</u> William Hanley, Chairman <u> Tracy Loftus Keller</u>

Tracy Loftus Keller, Vice Chair

*Meredith Randolph* Meredith Randolph

Gloria Kunje, Alt.

David Ashmore

David Ashmore

Christie Anastasia, Alternate