

Conditional Use Approval Application # 014-2016
NAME: Coffeepot Realty, LLC
AGENT: G.F. Johnston Associates
LOCATION: 131 Peabody Drive; Northeast Harbor
TAX MAP: 003 **LOT:** 034 **ZONE(S):** Shoreland Residential 2 (SR2)
PURPOSE: Section 3.4 & 6C.7 Marine Structure – Pier, Ramp & Float.
SITE INSPECTION: 4:00PM

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	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	X See Application	<input type="checkbox"/> 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	X See Application	<input type="checkbox"/> N/A
6A.9	Dust, Fumes, Vapors, Odors and Gases	<input type="checkbox"/> See notes below	X See Application	<input type="checkbox"/> 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 (Andrews/Randolph) 5-0

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

VOTE: Conclusion of Law (Andrews/Randolph) 5-0

Notes:

6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES

6B.1	Agriculture	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.2	Air Landing Sites	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.7	Excavation or filling	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.8	Fences and Walls	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.12	Mineral Exploration and Extraction	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.15	Sign Regulations	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> N/A
6B.17	Wireless Communication Facilities	<input type="checkbox"/> See notes below	<input type="checkbox"/> See Application	<input type="checkbox"/> 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 _____ (Andrews/Eaton) 5-0

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

VOTE: Conclusion of Law _____ (Andrews/Eaton) 5-0

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 and Animal Husbandry	X See notes below	<input type="checkbox"/> See Application
6C.2	Archeological sites	<input type="checkbox"/> See notes below	X Applicable, Standard Met
6C.5	Essential Services	X See notes below	<input type="checkbox"/> See Application
6C.6	Parking Areas	X See notes below	<input type="checkbox"/> See Application
6C.7	Marine and Freshwater Structure Standards	<input type="checkbox"/> See notes below	X Applicable, Standard Met
6C.9	Roads and Driveways	X See notes below	<input type="checkbox"/> See Application
6C.11	Timber Harvesting	X See notes below	<input type="checkbox"/> See Application
6C.12	Water Quality	<input type="checkbox"/> See notes below	X Applicable, Standard Met

X N/A (Except for Section(s): 6C. 2, 7, 12, for which standards are met)

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. 2, 7, 12 for which standards are met

VOTE: Findings of Facts and Conclusion of Law (Andrews/Eaton) 5-0

Notes: _____

6C.7 Marine and Freshwater Structure Performance Standards

Marine Structure Definition. *Piers, docks, floats, wharves, bridges over ten (10) feet in length, and other marine structures extending over or below the normal high-water line of a water body or within a wetland.*

Requirement. *All marine structures shall require Conditional Use Approval of the Planning Board and compliance with the performance standards below before Conditional Use Approval will be granted.*

The Planning Board may require the submission of an environmental impact assessment on natural areas and may require mitigation measures such as 1.) Changes in the design and/or location of the marine structure, and/or 2.) Changes in the magnitude of activities on the marine structure.

The performance standards are as follows:

Commercial and public marine structures are exempt from requirements 13 through 16.

- 1. Access from shore.** *Access from the shore shall be developed on soils appropriate for such use and measures shall be taken to minimize soil erosion both during and after construction. Whenever possible, access from the shore to the marine structure shall be placed on bedrock. The Planning Board may require consultation with the local Soil and Water Conservation District Office.*

N/A Applicable, standard met Applicable, standard not met

- 2. Interference with existing uses and beaches, etc.** *The location of the marine structure shall not interfere with developed or natural beach areas, nor access to existing marine structures or points of public access, nor shall it unreasonably interfere with the use of other marine structures and landing places.*

N/A Applicable, standard met Applicable, standard not met

- 3. Effect on fisheries, wildlife, etc.** *The marine structure shall be designed, sited, and constructed to minimize adverse impacts on fisheries, significant wildlife habitats or unique natural areas including, but not limited to: fin fish and shellfish fisheries, salt marshes, eel grass beds, shorebird and nesting habitats, critical fish spawning and nursery areas.*

N/A Applicable, standard met Applicable, standard not met

- 4. Size.** *The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.*

N/A Applicable, standard met Applicable, standard not met

- 5. No new structures.** *No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.*

N/A Applicable, standard met Applicable, standard not met

- 6. New permanent piers and docks.** *New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.*

N/A Applicable, standard met Applicable, standard not met

7. Conversion to dwellings. *No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.*

N/A Applicable, standard met Applicable, standard not met

8. Height limit. *Except in the Shoreland Commercial District, structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.*

N/A Applicable, standard met Applicable, standard not met

10. Interference with natural flow. *Interference with the natural flow of any surface or subsurface waters shall be minimized during the construction and subsequent use of the marine structure.*

N/A Applicable, standard met Applicable, standard not met

11. Encroachment on navigation. *The marine structure shall be designed, sited, and constructed so as not to encroach upon officially designated navigation channels.*

N/A Applicable, standard met Applicable, standard not met

12. Mooring area. *The Planning Board shall request comment from the Harbor Master in cases where the applicant proposes to build a marine structure in an officially designated mooring area.*

N/A Applicable, standard met Applicable, standard not met

13. Dimensional limits. *The marine structure shall comply with the dimensional limits listed below. The facility shall be no larger than necessary to accomplish the purposes for which it is designed. Its size and construction shall not change the intensity of the adjoining land use, and by no means shall exceed a total distance of more than one-third the width of the coastal wetland or water body, when proposed for coastal or inland waters. Notwithstanding the dimensional limits below, in areas where the horizontal distance from the normal high-water line to the mean lower low water is in excess of 160 feet, no permanent structure will be allowed seaward of the upland edge of a coastal wetland..*

<i>Marine Structure</i>	<i>Dimensional Requirement</i>	<i>Proposed Dimensions</i>
<i>Maximum length of entire marine structure (i.e. pier, ramp and float combined)</i>	<i>225 feet¹</i>	
<i>Maximum length of all permanent structures</i>	<i>150 feet</i>	
<i>Maximum length of all non-permanent structures (i.e. ramp and float)</i>	<i>75 feet²</i>	
<i>Maximum width of pier walkway</i>	<i>6 feet</i>	
<i>Maximum width of ramp</i>	<i>6 feet</i>	
<i>Maximum square footage of floats</i>	<i>400 square feet</i>	
<i>Maximum square footage of floats for communal marine structures (see 14 and 15 below)</i>	<i>800 square feet</i>	

¹ Or length needed to obtain six feet of depth of water at mean lower low water, whichever is less.

² In cases where no permanent structure is proposed the applicant will be permitted to install a ramp and float extending no further than 75 feet into the water body.

N/A Applicable, standard met Applicable, standard not met

14. Additional square footage for floats. *If two or more shorefront lot owners choose to have a communal marine structure the applicant may request additional square footage of floats.*

N/A Applicable, standard met Applicable, standard not met

15. Communal dock. *When proposed by the applicant, new subdivisions may provide a communal dock in lieu of the development of docks on individual lots. The applicant may request additional square footage of floats provided a demonstrated need can be shown.*

N/A Applicable, standard met Applicable, standard not met

16. Limit on number. *There shall be no more than one marine structure on a lot.*

N/A Applicable, standard met Applicable, standard not met

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 | X 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 | 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 | <input type="checkbox"/> N/A | X 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 | X 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 | X Standard Met | <input type="checkbox"/> Standard Not Met |

Findings of Fact(s): See Above
(Andrews/Eaton) 5-0

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

VOTE: Conclusion of Law (Andrews/Eaton) 5-0

