

OWNER(S): James Owen Parker Harris c/o Shepard Harris
APPLICANT(S): Parker Harris
AGENT(S): Jules Opton-Himmel and Erick Swanson
LOCATION: Lakeside Road/Echo Lake Road, Mount Desert
TAX MAP: 009 **LOT(S):** 120-009 **ZONE(S):** Shoreland Residential 2 (SR2)
PURPOSE: Sections 3.4 & 6.C.7 – Marine and Freshwater Structure Performance Standards
SITE INSPECTION: 2:30PM

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

Section 6B starts on page 9.

Section 6C starts on page 23.

6A GENERAL PERFORMANCE STANDARDS

6A.1 Compatibility *The proposed use shall be compatible with the permitted uses within the district in which it is located as measured in terms of its:*

Physical Size:

Findings of Fact(s): _____

Visual Impact:

Findings of Fact(s): _____

Proximity to other structures:

Findings of Fact(s): _____

Density of Development:

Findings of Fact(s): _____

VOTE: Findings of Facts (Eaton/Ashmore) 3-1 (Randolph) _____

Conclusion of Law for s. 6A.1 Compatibility: The proposed use will / ~~will not~~ be compatible with the permitted uses within the district in which it is located as measured in terms of its physical size, visual impact, proximity to other structures, and density of development.

In particular, _____

VOTE: Conclusion of Law (Eaton/Ashmore) 3-1 (Randolph) _____

6A.2 Erosion and Sedimentation Control

N/A: Findings of Fact(s): *The proposed use will cause no disturbance of the soil.*

VOTE: Findings of Facts _____

Conclusion of Law: Section 6A.2 standard has been met.

VOTE: Conclusion of Law _____ -

(go to Section 6A.3, page 3)

Applicable (see below)

6A2.1-5 *Soil Erosion Plan for unstabilized soil: Written soil erosion and sedimentation control plan required.*

Findings of Fact(s): CEO has ~~has not~~ received a satisfactory written soil erosion and sedimentation plan, which addresses: development to fit topography, erosion control measures, stabilization of bare ground, and drainage ways and outlets.

VOTE: Findings of Facts (Eaton/Ashmore) 4-0 _____

Conclusion of Law: Standards of Sections 6A2.1, 6A2.2, 6A2.3 6A2.4 and 6A2.5 have ~~have not~~ been met.

VOTE: Conclusion of Law (Eaton/Ashmore) 4-0 _____

6A2.6 Removal of sand or gravel. *Removal of sand or gravel from natural beaches or the disruption or removal of buffer strips that protect fragile land areas immediately behind a shoreline and on neighboring properties is prohibited.*

X N/A Applicable, Standard Met Applicable, Standard Not Met

Findings of Fact(s): _____

VOTE: Findings of Facts _____ -

Conclusion of Law: Standards of Sections 6A2.6 have / have not been met.

VOTE: Conclusion of Law _____ -

6A2.7 Tilling of soil: *Where soil is tilled in a Conservation District, or where soil in excess of twenty thousand (20,000) square feet lying either wholly or partially within the area covered by this Ordinance is tilled in a Rural or Woodland District, such tillage shall be carried out in conformance with ...*

X N/A Applicable, Standard Met Applicable, Standard Not Met

Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: Standards of Sections 6A2.7 have / have not been met.

VOTE: Conclusion of Law - _____

6A.8 Excavation Contractor:

X N/A Applicable, Standard Met Applicable, Standard Not Met

6A. 3 Highway Safety: *The proposed use shall not cause unreasonable congestion on highways or public roads, or unsafe conditions with respect to the use of highways or public roads existing or proposed. Sufficient off-street parking shall be available.*

Findings of Fact(s): _____

Highways or public roads: _____

VOTE: Findings of Facts (Eaton/Ashmore) 4-0 _____

Off-street parking: _____

VOTE: Findings of Facts - _____

Conclusion of Law: Standards of Sections 6A.3 have/~~have not~~ been met.

VOTE: Conclusion of Law (Eaton/Ashmore) 4-0 _____

6A. 4 Impact on Town Services. *The proposed use shall not unduly burden the capacity of the Town's facilities, including public water and sewage, or the ability of the Town to provide essential public services (such as, but not limited to, schools, fire and police protection, refuse collection, and parking) to its residents and visitors.*

Findings of Fact(s): _____

_____ Standard has been Met. _____

VOTE: Findings of Facts (Randolph/Eaton) 4-0 _____

Conclusion of Law: The proposed use ~~will~~ **will not** unduly burden the capacity of the Town's facilities. [In particular, an undue burden will be placed upon]_____

VOTE: Conclusion of Law (Randolph/Eaton) 4-0

6A. 5 Land Suitability: *All uses to be on suitable soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction.*

Findings of Fact(s): _____
Standard has been Met.

VOTE: Findings of Facts (Ashmore/Eaton) 4-0

Conclusion of Law: Proposed use ~~will~~ **will not** be located on soils so as to cause adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction.

VOTE: Conclusion of Law (Ashmore/Eaton) 4-0

6A. 6 Lighting – Outdoor X N/A: **Findings of Fact(s):** *The proposed use will include no outdoor lighting.*

VOTE: Findings of Facts (Hanley/Eaton) 4-0

Conclusion of Law: Section 6A.6 is not applicable.

VOTE: Conclusion of Law (Hanley/Eaton) 4-0

(go to Section 6A.7, page 6)

Applicable (see below)

1. **Full cutoff.** All lights greater than *1800 lumens (a 100 watt incandescent light produces 1800 lumens) shall be shielded to direct all light towards the ground.
2. **Light trespass.** All light shall be directed away from adjacent properties. The light sources in flood and spot lights shall not be directly visible from adjacent properties. High intensity light sources shall not be directly visible to motorists on public roads.
3. **Excessive Lighting** may not be used to direct attention away from existing business and community lighting.
 1. The lighting of structural canopies such as gas station canopies shall not be used to attract attention to the business. Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average

to minimum illumination) shall be no greater than 5:1 with an average illumination level of not more than 30 foot candles.

- 2. Light fixtures located on structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.

Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

6A. 7 Stormwater: *For development on all lots the applicant shall submit a Stormwater Management Plan which demonstrates to the satisfaction of the Code Enforcement Officer that stormwater runoff has been minimized, and will not excessively exceed natural predevelopment conditions.*

Findings of Fact(s): CEO has ~~has not~~ received a storm water plan which meets the standards of Section 6A.7. _____

VOTE: Findings of Facts (Randolph/Eaton) 4-0 _____

Conclusion of Law: Standards of Section 6A.7 have ~~have not~~ been met. _____

VOTE: Conclusion of Law (Randolph/Eaton) 4-0 _____

6A. 8 Vegetation **N/A:** **Findings of Fact(s):** *The proposed use will include no clearing of trees or conversion to other vegetation.*

VOTE: Findings of Facts - _____

Conclusion of Law: Section 6A.8 is not applicable.

VOTE: Conclusion of Law - _____

(go to Section 6A.9, page 8)

X Applicable (see below)

- 1. **Clearing.** *Clearing of trees or conversion to other vegetation is allowed for permitted construction provided that:*
 - 1. *Appropriate measures are taken, if necessary, to prevent erosion when activity is undertaken.*
 - 2. *The activity is in conformity with State Mandated Shoreland Zoning.*
- 2. **Tree removal near town or state roads.** *Removal of more than 25% of the trees within 25 feet of any town or state road in any 12 month period (except for those required to complete permitted construction) shall require a Conditional Use Approval of the Planning Board. Other woody plants must be retained or replaced with native species.*

- 3. **Slash.** No accumulation of slash shall be left within 50 feet of any town or state road or within 50 feet of the normal high-water line of any water body. Slash shall be disposed of so that no part extends more than 4 feet above the ground.
- 4. **CEO Permit.** A CEO Permit is required for cutting timber larger than 4 inches in diameter measured 4 1/2 feet above ground when the total amount to be cut is greater than 10 cords but less than 50 cords in any one year period.
- 5. **Conditional Use Approval.** Conditional Use Approval is required from the Planning Board for cutting timber larger than 4 inches in diameter measured 4 1/2 feet above ground when the total amount to be cut is 50 cords or more in any one year period.

Findings of Fact(s): _____
MS. RANDOLPH MOVED THAT THE STANDARD WAS MET WITH THE CONDITION THAT NO TREES ARE CUT PER THE CONDITION SET IN SECTION 6C.3. FURTHERMORE, SECTIONS 6A.8.2-5 ARE NOT APPLICABLE. MS. EATON SECONDED THE MOTION. MOTION APPROVED 4-0.

VOTE: Findings of Facts _____ -

Conclusion of Law: _____
MS. RANDOLPH MOVED THAT THE STANDARD WAS MET WITH THE CONDITION THAT NO TREES ARE CUT PER THE CONDITION SET IN SECTION 6C.3. FURTHERMORE, SECTIONS 6A.8.2-5 ARE NOT APPLICABLE. MS. EATON SECONDED THE MOTION. MOTION APPROVED 4-0.

VOTE: Conclusion of Law _____ -

6A.9 Dust, Fumes, Vapors, Odors and Gases

Emission of dust, fly ash, fumes, vapors, odors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating that emission shall comply with applicable Federal and State regulations.

Findings of Fact(s): _____

VOTE: Findings of Facts _____ -

Conclusion of Law: _____
MS. EATON MOVED THAT, GIVEN THE NATURE OF THE PROJECT, SECTION 6A.9 STANDARDS HAVE BEEN MET. MS. RANDOLPH SECONDED THE MOTION. MOTION APPROVED 4-0.

VOTE: Conclusion of Law _____ -

**6B SPECIFIC PERFORMANCE STANDARDS FOR ACTIVITIES AND LAND USES
FOR REVIEW BY PLANNING BOARD**

| | | | |
|-------|--|------------------------------|---|
| 6B.1 | Agriculture | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.2 | Air Landing Sites | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.3 | Beach Construction | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.4 | Boat Storage | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.5 | Campgrounds | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.6 | Driveway Construction | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.7 | Excavation (other than gravel pits) or filling | <input type="checkbox"/> N/A | <input checked="" type="checkbox"/> Applicable, see below |
| 6B.8 | Fences and Walls | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.9 | Home Occupation and Home Office | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.10 | Lots | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.11 | Manufactured Homes | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.12 | Mineral Exploration and Extraction | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.13 | Mobile Homes, Campers, Trailers, and RVs | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.14 | Sanitary Standards | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.15 | Sign Regulations | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.16 | Vehicles Unregistered | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.17 | Wireless Communication Facilities | X N/A | <input type="checkbox"/> Applicable, see below |
| 6B.18 | Animal Husbandry II | X N/A | <input type="checkbox"/> Applicable, see below |

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 (Eaton/Ashmore) 4-0

Conclusion of Law: Section 6B is not applicable, except for Sections(s): **6B. 7**, for which standard is met.

VOTE: Conclusion of Law (Eaton/Ashmore) 4-0

If no sections applicable, go to Section 6C, page 23.

- For the subsections 6B.1 through 6B.15, please record applicable Findings of Fact and Conclusions of Law on pages 32 and/or 33.
- 6B.14 recording of applicability begins on page 11; 6B.17 recording begins on page 11.

6B. 1 Agriculture *In non-shoreland areas, all spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209). In shoreland areas, all spreading or disposal of manure shall comply with Section 6C.1.*

6B. 2 Air Landing Sites *No air landing site shall be developed or used for such purpose without Conditional Use Approval of the Planning Board.*

6B.7 Excavation (other than gravel pits) or filling *Excavation or filling shall be permitted in any district only to the extent such activities are essential or are incidental to any permitted, conditional, or other lawful use. Filling, dumping, or excavation of any matter of ten (10) to less than fifty (50) cubic yards is allowed, except in the Stream Protection District where a Code Enforcement Officer permit is required, and is prohibited in the Resource Protection District. Excavation and filling, greater than fifty (50) cubic yards shall require Conditional Use Approval of the Planning Board, and is prohibited in the Resource Protection District. Appropriate measures shall be taken to prevent erosion during or after the filling or excavation, and the applicable standards of Section 6B.13 shall be complied with. All fill permits are approved for a twelve (12) month period only and expire twelve (12) months from the date of approval. The Code Enforcement Officer may renew either the Code Enforcement Officer permit or the Conditional Use Approval for additional twelve (12) month periods.*

6B.8 Fences and walls *Such fences or walls shall not unduly restrict scenic views. The structural side of the fence shall not face the public view.*

1. **A Code Enforcement Officer Permit** *may be issued for solid fences or walls up to six (6) feet in height provided that:*

1. *A setback of six (6) feet is maintained from roads, sidewalks, and right-of-ways.*
2. *It does not obstruct highway visibility.*
3. *A plan for vegetative screening, in the six (6) foot setback area, is provided that produces a minimum of twenty (20) percent cover of the fence or wall area. The plan must be implemented and maintained.*
4. *Such fences or walls shall not unduly restrict scenic views.*
5. *The structural side of the fence shall not face the public view.*

6B.12 Mineral Exploration and Extraction *Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance. Approval of the Planning Board shall be required for mineral exploration that exceeds the above limitations.*

6B.15 Sign Regulations

Size limit. *No sign (except banners) shall exceed thirty-two (32) square feet in area. Nor shall the aggregate of all signs on site pertaining to any business exceed thirty-two (32) square feet in area unless Conditional Use Approval of the Planning Board is obtained. In shoreland areas, no sign shall extend higher than twenty (20) feet above the ground.*

Roof signs. *Roof signs shall not be permitted except after the issuance of Conditional Use Approval of the Planning Board. No roof sign shall extend above the roof line of the building.*

6B.17 Wireless Communication Facilities:

6B.17.2 Exemptions. *The following activities and structures are exempt from a Conditional Use Approval:*

- a. *A ground, building- or tower-mounted antenna, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is not licensed or used for any commercial purpose.*

Exempt Not Exempt

b. Radio or television satellite dish antenna for the sole use of the resident occupying a residential parcel on which the satellite dish is located.

Exempt Not Exempt

c. A single ground- or building-mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located.

Exempt Not Exempt

d. A ground- or building-mounted citizens band radio or two-way antenna, including any mast.

Exempt Not Exempt

e. A wireless facility that is integrated into an existing or proposed church steeple, flagpole, light standard, power line support device, water tower, or similar structure.

Exempt Not Exempt

Findings of Fact(s): _____

Conclusion of Law: The application is / is not exempt due to the above referenced activities and/or structures, in particular

VOTE: Conclusion of Law - _____

6B.17.3 Space requirements. *The maximum height of any tower shall not exceed 125 feet, including antenna arrays and other attachments, subject to the approval of the Planning Board with possible conditions and restrictions to meet the purpose of this chapter.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

Conclusion of Law: The height of the tower will / will not exceed 125 feet, including antenna arrays and other attachments, and is subject to the following conditions and restrictions in order to meet the purpose of 6B.17.3:

VOTE: Conclusion of Law - _____

6B.17.4 Mass of antennas per user. *The mass of antennas, including required antenna support structures, on a tower shall not exceed 1,900 cubic feet per array. The Planning Board may allow an increase in the mass if it determines an increase is necessary for the provision of services. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array and all of its parts and attachments.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

Conclusion of Law: The mass of antennas, including required antenna support structures, on the tower will /will not exceed 1,900 cubic feet per array. The Planning Board has /has not allowed an increase in the allowable mass as determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array and all of its parts and attachments.

VOTE: Conclusion of Law -

6B.17.5 Lot area requirement. *A wireless communications tower may be placed on a legally nonconforming lot that does not meet the dimensional requirements of the districts it is in after a finding by the Planning Board that such a tower siting will not jeopardize the health, safety and welfare of surrounding lot owners, and all setback requirements are met. This requirement does not apply to towers and antennas that are exempted in Section 8 – Structure Definition.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

Conclusion of Law: All lot area requirements have / have not been met.

VOTE: Conclusion of Law -

6B.17.6 Setbacks.

a. *The center of the base of any wireless communications tower must be set back a minimum of 105% of the tower height or the required minimum setback of the district in which it is located, whichever is greater.*

N/A Acceptable Not Acceptable

b. *No part of the structure, including anchors, overhead lines, masts, etc., shall be located in the required district setback or in any required buffer area both on the ground or in the air space above the ground.*

N/A Acceptable Not Acceptable

c. *Accessory support buildings containing electronic equipment and any other structures accessory to the wireless communications tower shall meet the required district building setback.*

N/A Acceptable Not Acceptable

d. *If more than one wireless communications tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.*

N/A Acceptable Not Acceptable

- e. *If other non-accessory uses are located on the same lot or parcel as a tower, all structures associated with such other uses shall be located a minimum distance of 105% of the tower height from the center of the base of the tower.*

N/A Acceptable Not Acceptable

- f. *Setback requirement cannot be waived by abutting property owner as otherwise allowed in Section 3.5 footnote (d).*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

Conclusion of Law: All requirements for setbacks **have / have not** been met.

VOTE: Conclusion of Law - _____

6B.17.7 Co-location requirements.

- a. ***Existing towers.*** *Applicants for Conditional Use Approval for a new communications tower must send written notice by certified first-class United States Mail to all other owners of communications towers in the Town and all licensed communications providers utilizing existing towers, regardless of tower location, to service the town, stating their siting needs and/or co-location capabilities in an effort to meet the town co-location requirement. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new wireless communications tower must include evidence that existing or previously approved towers cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be:*

1. *Planned, necessary equipment would exceed the structural capacity of existing and approved towers, considering the existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment.*
2. *Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower and the interference cannot be prevented or mitigated.*
3. *Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively.*
4. *Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers.*

Acceptable Not Acceptable

- b. ***Construction of new towers.*** *A proposal to construct a new wireless communications tower must include evidence that the tower can structurally support a minimum of three antenna arrays for co-location purposes.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

Conclusion of Law: All requirements for co-location have / have not been met.

VOTE: Conclusion of Law - _____

6B.17.8 Submissions. *In addition to all of the relevant Conditional Use Approval Application submission requirements, the following submissions, in a form acceptable to the Planning Board shall be required, unless waived by the Planning Board:*

(a) *A report from a professional engineer registered in the State of Maine that describes the communications tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s) and volume of antenna(s) that it can accommodate and the basis for the calculation of capacity.*

N/A Acceptable Not Acceptable

(b) *For pole-mounted facilities, certification by a professional engineer registered in the State of Maine that the design is adequate to support, without failure, the maximum forces expected from wind, earthquakes, ice/snow loading when the pole is fully loaded with antennas, transmitters, other equipment, and camouflaging, as described in the submitted plan.*

N/A Acceptable Not Acceptable

(c) *Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility, including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.*

N/A Acceptable Not Acceptable

(d) *Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, measurements and elevations of the structure shall be provided.*

N/A Acceptable Not Acceptable

(e) *Details of all accessory structures, including buildings, parking areas, utilities, gates, access roads, etc.*

N/A Acceptable Not Acceptable

(f) *A narrative and demonstration detailing:*

1) *The extent to which the proposed facility would be visible from scenic resources as determined by the Planning Board and from Acadia National Park.*

2) *The tree line elevation of vegetation within 300 feet of the proposed tower.*

3) *The distance to the proposed facility from the designated scenic resources.*

N/A Acceptable Not Acceptable

(g) *A visual impact assessment, which shall include a photo montage, field mockup, or other techniques, shall be prepared by or on behalf of the applicant who identifies the potential visual impacts at design capacity, of the proposed facility. Consideration shall be given to views from public areas, as well as from private residences and from Acadia National Park, archaeological and historic resources, including historic districts, areas and structures, specifically those listed in the National register of Historic Places, or eligible for inclusion. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communications facilities in the area and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed communications service.*

N/A Acceptable Not Acceptable

(h) *Site photos showing vegetation, existing and adjacent structures and views of and from the proposed site. Topography of and land uses on the proposed parcel and on abutting properties.*

N/A Acceptable Not Acceptable

(i) *Landscaping plan showing location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.*

N/A Acceptable Not Acceptable

(j) *Identification of any other communications facilities existing or proposed on the site.*

N/A Acceptable Not Acceptable

(k) *A written description of how the proposed facility fits into the applicant's communications network, including a demonstration of a coverage and/or capacity problem, demonstration that all alternatives and existing structures have been identified and fairly rejected, that the proposed height is the minimum height necessary to achieve the targeted coverage area and a description of how other tower heights would change the coverage area.*

It should also describe reasonable anticipated expansion of the proposed facilities on the proposed site and related facilities in the region and reasonable anticipated changes of technology and their effect on expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information.

N/A Acceptable Not Acceptable

(l) *A letter of intent that commits the tower owner and successors in interest to:*

1) *Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.*

2) *Negotiate in good faith for shared use by other parties.*

N/A Acceptable Not Acceptable

(m) *Evidence that co-location on existing or an approved tower is not possible per co-location section above or in adjacent towns. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower and generally describe the means and projected cost of shared use of the existing or approved tower site.*

N/A Acceptable Not Acceptable

(n) *Proof of financial capacity to build, maintain, and remove the proposed tower.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

Conclusion of Law: All required submissions **have / have not** been submitted in a form acceptable to the planning board, or have been waived.

VOTE: Conclusion of Law - _____

6B.17.9 Design Standards. *The following design standards shall be met by the applicant. The Planning Board, as part of the Conditional Use Approval review process, shall determine if the applicant has complied with these standards. All communications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:*

(a) *Towers shall be constructed of metal or other nonflammable material unless specifically waived by the Planning Board due to technical or engineering reasons.*

N/A Acceptable Not Acceptable

(b) *Accessory facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.*

N/A Acceptable Not Acceptable

(c) *Accessory facilities shall be constructed out of no reflective exterior materials with earth toned colors or shall be placed underground, if possible.*

N/A Acceptable Not Acceptable

(d) *New accessory facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.*

N/A Acceptable Not Acceptable

(e) *All buildings, poles, towers, antenna supports, antennas and other components of each communications facility site shall be initially painted and thereafter repainted as necessary with matte finish paint. The color(s) selected shall be one that the Planning Board determines will minimize their visibility to the greatest extent feasible. To this end, improvements that will be primarily viewed against soils or trees shall be painted colors matching these landscapes, while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location unless the Planning Board determines that an alternative proposal will minimize visibility.*

N/A Acceptable Not Acceptable

(f) *The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).*

N/A Acceptable Not Acceptable

(g) *Sufficient anticlimbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.*

N/A Acceptable Not Acceptable

(h) *Only security lighting is permitted. All outdoor lighting shall meet Section 6A.6 standards of the Land Use Zoning Ordinance unless required by the Federal Communications Commission, Federal Aviation Administration, or other federal agency.*

N/A Acceptable Not Acceptable

(i) *Advertising and commercial signs shall not be permitted on a communications facility.*

N/A Acceptable Not Acceptable

(j) *Guy wires shall not be permitted as part of a communications facility.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: All communications facilities **will/will not** be designed to blend into the surrounding environment to the greatest extent feasible.

VOTE: Conclusion of Law - _____

6B.17.10 Location. *All communications facilities shall be located so as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location:*

- (a) *Communications facilities shall not be sited in areas of high visibility, as determined by the Planning Board, to meet the purpose of this subsection unless the facility is designed to minimize its profile by blending with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable.*

N/A Acceptable Not Acceptable

The height of a communications tower that is located within the view shed of a scenic vista, scenic landscape or scenic road, as determined by the Planning Board, may be, at the discretion of the Planning Board, subject to height limitation. Such limitation may restrict the height of the tower such that it does not exceed the height of vegetation within 300 feet of the proposed location.

N/A Acceptable Not Acceptable

- (b) *No facility shall be located so as to create a significant impact to the health or survival of rare, threatened or endangered plant or animal species.*

N/A Acceptable Not Acceptable

- (c) *No facility shall be located within areas two hundred fifty (250) feet of the normal high-water line of any great pond or salt water body, or areas within two hundred fifty (250) feet of the upland edge of a coastal or freshwater wetland, or areas within seventy-five (75) feet of the high-water line of a stream.*

N/A Acceptable Not Acceptable

Findings of Fact(s): _____

VOTE: Findings of Facts _____ - _____

Conclusion of Law: The proposed communications facility **will / will not** be located so as to minimize its visibility and to minimize the total number of towers in the Town. _____

VOTE: Conclusion of Law _____ - _____

6B.17.11 Standards. *In addition to the criteria and standards, listed in Section 6 of the Land Use Zoning Ordinance these additional criteria and standards shall be utilized by the Planning Board in reviewing applications for Conditional Use Approval for proposed communications facilities:*

- (a) *Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either by landscaping, fencing or other architectural screening.*

N/A Acceptable Not Acceptable

- (b) *Antennas shall be as small as technically possible in order to minimize visual impact.*

N/A Acceptable Not Acceptable

- (c) *Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.*

N/A Acceptable Not Acceptable

- (d) *Other technically feasible sites have been investigated, and if available, the proposed facility has been located in order to minimize the effect on visually sensitive areas.*
 N/A Acceptable Not Acceptable
- (e) *Co-location, where technically feasible and visually desirable, on an existing tower, has been investigated, and if technically and financially feasible, the proposed facility is co-located.*
 N/A Acceptable Not Acceptable
- (f) *Use of an existing community facility site, such as utility poles, has been investigated as a potential site for a tower, antennas and other equipment and, if available and technically feasible and visually desirable, is proposed as the site for the facility.*
 N/A Acceptable Not Acceptable
- (g) *Adequate bonding for removal of the communications, facility, in a form, and amount acceptable to the Town Manager has been submitted.*
 N/A Acceptable Not Acceptable

Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: The proposed communication facility **does / does not** meet the listed criteria and standards. In particular: _____

VOTE: Conclusion of Law - _____

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 - _____

(go to page 30)

| | | | |
|------|--|------------------------------|--|
| 6C.1 | Agriculture and Animal Husbandry | X N/A | <input type="checkbox"/> Applicable, See Application |
| 6C.2 | Archeological sites | <input type="checkbox"/> N/A | X Applicable, See Application |
| 6C.3 | Clearing or Removal of Vegetation For Activities Other than Timber Harvesting | <input type="checkbox"/> N/A | X Applicable, See Application |
| 6C.4 | Commercial and Industrial Uses | X N/A | <input type="checkbox"/> Applicable, See Application |
| 6C.5 | Essential Services | X N/A | <input type="checkbox"/> Applicable, See Application |
| 6C.6 | Parking Areas | X N/A | <input type="checkbox"/> Applicable, See Application |
| 6C.7 | Marine and Freshwater Structure Standards | <input type="checkbox"/> N/A | X Applicable, See Application |

| | | | |
|-------|------------------------------------|------------------------------|--|
| 6C.8 | Principal and Accessory Structures | <input type="checkbox"/> N/A | X Applicable, See Application |
| 6C.9 | Roads and Driveways | X N/A | <input type="checkbox"/> Applicable, See Application |
| 6C.11 | Timber Harvesting | X N/A | <input type="checkbox"/> Applicable, See Application |
| 6C.12 | Water Quality | <input type="checkbox"/> N/A | X Applicable, See Application |

N/A (Except for Section(s): 6C. 2, 3, 7, 8, 12)

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 _____

6C3: MS. EATON MOVED, WITH MR. ASHMORE SECONding, TO FIND SECTION 6C3 STANDARD IS MET, WITH THE CONDITION THAT NO CLEARING OF TREES OCCUR, AS DEFINED IN THE LUZO, FOR THE INSTALLATION OF THE BARK MULCH FOOTPATH. MOTION APPROVED 4-0.

6C7.1: MS. RANDOLPH MOVED, WITH MS. EATON SECONding, TO FIND SECTION 6C7.1 STANDARD IS MET, WITH THE CONDITION THAT A REVIEW BE MADE OF SECTION 6C.7.1 TO PROVIDE FURTHER CLARIFICATION OF DETAIL E ON SHEET C2 SHOWING THE ACCESS TO THE SHORE AND MINIMIZING SOIL EROSION. MOTION APPROVED 4-0.

6C7.3: MR. ASHMORE MOVED, WITH MS. EATON SECONding, TO FIND SECTION 6C7.3 STANDARD IS MET, WITH THE CONDITION OF CERTIFICATION BY THE DESIGN PROFESSIONAL AND THE CEO THAT CONSTRUCTION IS CONSISTENT WITH DESIGN AND TWO MONITORING VISITS OCCUR, ONE DURING CONSTRUCTION AND ONE AFTER. MOTION APPROVED 4-0.

6C7.4: MS. EATON MOVED, WITH MR. ASHMORE SECONding, THAT BECAUSE NO PART OF THE PIER IS WIDER THAN SIX FEET, THE ROUTE WILL NOT CHANGE FROM THE PLAN AS FAR AS THE ANGLE, AND BECAUSE THE PIER IS LOW AND THE MAJORITY OF IT IS ONLY FOUR FEET WIDE WITH JUST A SIX-FOOT WIDE ANGLE AT THE END, THE STANDARDS OF SECTION 6C7-4 HAVE BEEN MET. MOTION APPROVED 3-1 (RANDOLPH)

6C7.4: MS. RANDOLPH MOVED, WITH MS. EATON SECONding, THAT

SECTION 6C7.4 STANDARD HAS BEEN MET WITH THE CONDITION THAT THIS STANDARD BE CONSISTENT WITH THE BOARD'S CONDITION SET AS TO SECTION 6C7.13. MOTION APPROVED 4-0.

6C7.10: MS. EATON MOVED, WITH MR. ASHMORE SECONDING, STANDARDS OF SECTION 6C7.10 HAVE BEEN MET WITH THE CONDITION THAT THE APPLICANT WILL PERFORM PERIODIC CHECKS AND MINIMIZE INTERFERENCE WITH THE NATURAL FLOW OF ANY SURFACE OR SUBSURFACE WATERS AND CORRECT ANY INTERFERENCES WITH THE NATURAL FLOW OF ANY SURFACE OR SUBSURFACE WATERS FOUND, IN CONFORMANCE WITH THE STANDARDS OF SECTION 6C7.10. MOTION APPROVED 4-0.

6C7.13: MS. EATON MOVED, WITH MR. ASHMORE SECONDING, TO FIND THE SECTION 6C7.13 STANDARD IS MET WITH THE CONDITION THAT THE APPLICANT PRESENT A REVISED PLAN TO THE TOWN OFFICE SHOWING THE PERMANENT STRUCTURE WITH THE LENGTH FROM THE UPLAND EDGE OF THE FRESHWATER WETLAND TO THE END OF THE MARINE STRUCTURE AS MEASURED DOWN THE CENTER OF THE PERMANENT STRUCTURE. LENGTH OF THE STRUCTURE MUST NOT EXCEED 150 FEET. MOTION APPROVED 4-0.

6C.8: MS. RANDOLPH MOVED, WITH MS. EATON SECONDING, THAT THE PROPOSED STRUCTURE IS EXEMPT, FOR SETBACK PURPOSES, FROM THE NORMAL HIGH WATER LINE. MOTION APPROVED 4-0.

6C.12: MS. RANDOLPH MOVED, THAT THE CONDITIONS OF SECTION 6C12 HAVE BEEN MET. MS. EATON SECONDED THE MOTION. MOTION APPROVED 4-0.

For all applicable subsections, please record findings of fact and conclusions of law on page 32 and/or page 33.

- 6C.5 recording of applicability begins on page 24;
- 6C.6 recording of applicability begins on page 25;
- 6C.7 recording of applicability begins on page 25;
- 6C.9 recording of applicability begins on page 28;
- 6C.11 recording of applicability begins on page 30;
- 6C.12 recording of applicability begins on page 31

6C.1 Agriculture and Animal Husbandry

1. **Manure spreading.** *All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).*
2. **Manure storage.** *Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands.*
3. **Conservation plan.** *Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board.*
4. **New tilling.** *There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands.*
5. **Livestock grazing areas.** *Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high- water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands.*

6C.2 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

6C.5 Essential Services

1. **Limited to public ways.** *Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.*

N/A Acceptable Not Acceptable
2. **Exclusion from RP, Stream Protection.** *The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District except to provide services to a permitted use within the Stream Protection District or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.*

N/A Acceptable Not Acceptable
3. **Damaged lines.** *Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.*

N/A Acceptable Not Acceptable

6C.6 Parking Areas

1. **Setback from water.** *Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Shoreland Commercial District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The*

setback requirement for parking areas serving public boat launching facilities in Districts other than the Shoreland Commercial District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

N/A Acceptable Not Acceptable

2. *Adequate size. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.*

N/A Acceptable Not Acceptable

3. *Determination of size. In determining the appropriate size of proposed parking facilities, the following shall apply:*

1. *Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long. However, should the Planning Board find that there are special circumstances of topography, traffic access and safety, or environmental concerns, the Board may waive provisions of this section provided that such waiver does not have the effect of nullifying the purpose of this section.*

2. *Internal travel aisles: Approximately twenty (20) feet wide.*

N/A Acceptable Not Acceptable

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

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

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

16. 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

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

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

6C.9 Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- 1. Setback,** *Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling*

basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

Steep slopes. On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 6C.9.1 neither applies to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 6C.10.1 except for that portion of the road or driveway necessary for direct access to the structure.

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

2. **Existing public roads.** Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

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

3. **New roads, driveways, prohibited in RP and SP.** New roads and driveways are prohibited in the Resource Protection and Stream Protection Districts except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the Resource Protection and Stream Protection Districts in accordance with Section 7.5.3. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

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

4. **Steepness.** Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 6C.

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

5. **Grades.** Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

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

6. **Drainage to unscarified strip.** In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

7. **Ditch relief.** Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

1. **Ditch relief culverts.** Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

| <i>Grade (Percent)</i> | <i>Spacing (Feet)</i> |
|----------------------------|---------------------------|
| 0-2 | 250 |
| 3-5 | 200-135 |
| 6-10 | 100-80 |
| 11-15 | 80-60 |
| 16-20 | 60-45 |
| 21 | 40 |

2. **Drainage dips.** *Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.*
2. **Slopes greater than 10%.** *On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.*
3. **Culvert size.** *Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.*

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

8. **Maintenance.** *Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.*

6C.11 Timber Harvesting

1. **Resource Protection and Stream Protection Districts.** *In the Resource Protection and Stream Protection Districts, timber harvesting is prohibited.*

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

2. **Areas other than Resource Protection or Stream Protection.** *Except in areas as described in Section 6C.13.1 above, timber harvesting shall conform with the following provisions:*

1. **40% limit.** *Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:*

1. **No clearcuts within shoreline setback.** *Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover shall be maintained.*
2. **Cleared openings farther than shoreline setback.** *At distances greater than one-hundred (100) feet, horizontal distance, of a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.*

1. Harvesting in excess of 40%. *Timber harvesting operations exceeding the 40% limitation in Section 6C.13.2.1 above may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.*

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

3. Accumulation of slash. *No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.*

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

4. Stream channel travel prohibited. *Timber harvesting equipment shall not use stream channels as travel routes except when:*

1. *Surface waters are frozen; and*
2. *The activity will not result in any ground disturbance.*

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

5. Crossing of flowing water. *All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.*

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

6. Skid trail runoff. *Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.*

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

7. Soil exposure setback. *Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.*

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

6C.12 Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

N/A Applicable, standard met Applicable, standard not met **Sections 6B and 6C Sections that Apply**

Section 6 _____ Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

Section 6 _____ Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

Sections 6B and 6C Sections that Apply

Section 6 _____ Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

Section 6 _____ Findings of Fact(s): _____

VOTE: Findings of Facts - _____

Conclusion of Law: _____

VOTE: Conclusion of Law - _____

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 | 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.) | <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): MS. EATON MOVED TO FIND THAT SECTIONS 5.9.1, 2, 4, 5, 6, AND 8 ARE DETERMINED TO BE “SEE APPLICATION”. SECTIONS 5.9.3 AND 7 ARE DETERMINED TO BE NOT APPLICATION. SECTION 5.9.9 IS DETERMINED TO BE STANDARD IS MET. THE CONCLUSION OF LAW IS THAT THE REQUIREMENTS FOR SECTION 5.9 HAVE BEEN MET. MR. ASHMORE SECONDED THE MOTION. MOTION APPROVED 4-0.

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

VOTE: Conclusion of Law (Eaton/Ashmore) 4-0

FOR BOARD USE
CONDITIONAL USE PERMIT/APPROVAL

APPLICATION: #032-2014

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

6C3: Ms. Eaton moved, with Mr. Ashmore seconding, to find Section 6C3 standard is met, with the condition that no clearing of trees occur, as defined in the LUZO, for the installation of the bark mulch footpath. Motion approved 4-0.

6C7.3: Mr. Ashmore moved, with Ms. Eaton seconding, to find Section 6C7.3 Standard is met, with the condition of certification by the design professional and the CEO that construction is consistent with design and two monitoring visits occur, one during construction and one after. Motion approved 4-0.

6C7.13, Ms. Randolph moved, with Ms. Eaton seconding, the Applicant construct the project consistent with the plan dated up to 11/28/2016 (revised) with the length from the upland edge of the freshwater wetland to the end of the marine structure as measured down the center of the permanent structure. Length must not exceed 150 feet. Motion approved 4-0.

6C7.10: Ms. Eaton moved, with Mr. Ashmore seconding, Standards of Section 6C7.10 have been met with the condition that the applicant will perform periodic checks and minimize interference with the natural flow of any surface or subsurface waters and correct any interferences with the natural flow of any surface or subsurface waters found, in conformance with the standards of Section 6C7.10. Motion approved 4-0.

Ms. Eaton moved, with Ms. Randolph seconding, that The Applicant, his agents or assigns, shall periodically remove all debris from the wetland area around the boardwalk. Motion approved 4-0.

Ms. Randolph moved, with Ms. Eaton seconding, that The Applicant, his agents or assigns, shall provide the Echo Lake Road Association and the Echo Lake Owners Association with a current name and contact information or a responsible party of the Applicant who can be contacted to report violations of conditions and enforce adherence to the above conditions. Motion approved 4-0.

Ms. Eaton moved, with Chairman Hanley seconding, that vehicle access to the project be limited to the following: that it will be made clear in the deeds to future residents of Lakeside 2 and 3 that access to and from the boardwalk will be limited to foot traffic only. The only use of one vehicle for access that is permissible will be for the periodic and brief unloading and loading of a kayak or a canoe. There is a clear gravel space at this location

