

Conditional Use Approval Application # 017-2011  
OWNER(S): Timothy H. Gott  
AGENT(S): Barry J. Hobbins, Esq.  
LOCATION(S): 400 Pretty Marsh Road/Pasture Farm Way, Mount Desert  
TAX MAP(S): 11 LOT(S): 8-1 ZONE(S): R2 & R3  
PURPOSE: Zoning Board of Appeals Remand

## 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

##### 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):** See checklist approved June 21, 2011 (“original checklist”) plus tower would  
be tallest object in the district.

**Visual Impact:**

**Findings of Fact(s):** See original checklist plus tower extends approximately 65 feet  
above tree canopy and is highly visible from three residences as shown on 3 photosims  
dated June 14, 2012.

**Proximity to other structures:**

**Findings of Fact(s):** See original checklist plus the Miller residence is approximately  
553 feet away based on photosim (location 1).

**Density of Development:**

**Findings of Fact(s):** See original checklist plus three residences are located 553 ±,  
1087 ±, and 612 ± feet away based on photosims.

**VOTE:** Findings of Facts - (S. Andrews/Tracy – 5-0)

**Conclusion of Law for s. 6A. 1 Compatibility:** The proposed use will 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, See original checklist

**VOTE:** Conclusion of Law - (Clunan/Tracy – 4-1, S. Andrews against)

**6A. 9 Preserving the Town's Character** *The proposed use shall be consistent with protecting the general character of the Town, conserving the natural beauty of the area and shall not tend to change the historical or cultural character of the neighborhood. Such use shall be similar to a use specified as P, CEO or C in Section 3.4 and shall be in accord with the Comprehensive Plan.*

**Findings of Fact(s):** See original checklist except that the primary change to the neighborhood will be the visual impact on the three residences and use is similar to “essential services” and “public utility”.

**VOTE:** Findings of Facts - (S. Andrews/Tracy – 5-0)

**Conclusion of Law:** The proposed use **will /will** be consistent with protecting the general character of the Town, **will not** be consistent with conserving the natural beauty of the area and **will** tend to change the historical or cultural character of the neighborhood. Such use **will** be similar to a use specified as P, CEO or C in Section 3.4 and **will** be in accord with the Comprehensive Plan. In particular, See original checklist.

**VOTE:** Conclusion of Law - (S. Andrews/Tracy – 5-0)

**FOR BOARD USE**  
**CONDITIONAL USE PERMIT/APPROVAL**

**APPLICATION: # 017-2011**

MR. TRACY MOVED, WITH MR. CLUNAN SECONDING, THAT AFTER CONSIDERATION OF THE SUBMISSIONS IN RESPONSE TO LUZO SECTION 6.B.17.G.8, AND THE ADDITIONAL LUZO SECTIONS REMANDED BY THE ZBA (6.A.1 AND 6.A.9), TO APPROVE THE ORIGINAL MOTION FROM THE HEARING DATED 6/21/11, INCLUDING ALL THE ORIGINAL CONDITIONS.

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

See original checklist.

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MOTION APPROVED 4-1 (S. ANDREWS AGAINST).

**APPLICATION**

**APPROVED:** 6/25/12  
 (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.*

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

**SIGNATURES OF ALL VOTING BOARD MEMBERS:**

\_\_\_\_\_  
Ellen T.Brawley - yea

\_\_\_\_\_  
Joseph Tracy - yea

\_\_\_\_\_  
Lilian Andrews - yea

\_\_\_\_\_  
Sandy Andrews - nay

\_\_\_\_\_  
James Clunan - yea

DRAFT