

PLANNING BOARD

PACKET OF MATERIALS

MEETING OCTOBER 14, 2016

Cover page with date

Agenda

Supporting Documents

**Agenda
Special Meeting
Bar Harbor Planning Board
Friday October 14, 2016
Council Chambers- Municipal Building
93 Cottage Street
3:00 P.M.**

I. CALL TO ORDER

II. ADOPTION OF THE AGENDA

III. EXCUSED ABSENCES

IV. REGULAR BUSINESS

- a. Planning Board discussion with officials from Maine Port Authority and Bermello, Ajamil & Partners regarding potential zoning, uses and dimensional standards for 121 Eden Street Ferry Terminal**

NOTE: This item is open to the public and the public will be afforded an opportunity to ask questions after the Planning Board has concluded their questions.

V. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

VI. ADJOURNMENT



DOT meeting 1-7-2016

Item V. d.

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March 15, 2016

Mr. Robert Osborne
Planning Director
Town of Bar Harbor
93 Cottage St., Suite 1
Bar Harbor, ME 04609-1400

MAR 18 2016

Re: Bar Harbor Terminal

Dear Robert:

Consistent with our prior discussions, the Maine Department of Transportation and the Maine Port Authority are moving forward with plans to acquire the Bar Harbor Terminal. MDOT and Marine Atlantic, the current owner of the Terminal, are putting the finishing touches on a three year lease which contains an option for MDOT to purchase the Terminal at any time during the lease. MDOT expects that the parties will sign the lease in the near future.

As you know, MDOT and the Maine Port Authority have long viewed the Terminal as the logical location for not only the resumption of ferry service to and from Bar Harbor, but also as an appropriate facility to berth cruise ships visiting Bar Harbor. There is no question that Bar Harbor has a long history of hosting the cruise ship industry and its passengers. Fostering such business with appropriate facilities, but always keeping in mind the needs of the Town, would clearly be in the public interest of not only the Town of Bar Harbor, but also the State of Maine.

In reviewing the Town's zoning ordinance, both MDOT and the Maine Port Authority felt that those sections of the Ordinance addressing permitted uses for the zones in which the Terminal is currently located are not as clear as they could be with regard to a ferry and cruise ship facility, and its ancillary uses. We would, therefore, suggest that the permitted uses in the Bar Harbor (Gateway) District and the Shoreland General III District be clarified by adding "Commercial Waterborne Passenger Facility" as a permitted use in both Districts. A "Commercial Waterborne Passenger Facility" would be defined as including:

"a facility providing a ferry or cruise ship terminal for waterborne transportation; ferry and/or cruise terminal related operations, including, but not limited to land transportation; government related operations, including, but not limited to the United States Department of Homeland Security, including Customs and Border Protection; marina and marine uses; public access to

Mr. Robert Osborne
Planning Director
March 15, 2016
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pedestrian trails; public uses such as open air events, and other outdoor activities; parking of cars and buses; and, tourist related uses, including, but not limited to, a welcoming center, restaurant(s), and related office spaces.”

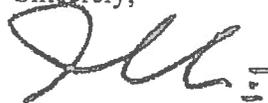
Such a clarification would certainly add some certainty to the scope of uses in both districts. We would appreciate your thoughts with regard to the above proposal.

We look forward to working with the Town of Bar Harbor to accomplish the longstanding goal of providing an appropriate facility to handle both existing and future ferry, cruise ship and their related uses, while at the same time addressing a number of infrastructure issues relating to traffic, and access to Acadia National Park.

Given the fact that the Maine Department of Transportation and the Maine Port Authority expect that the lease will be signed in the very near future, any efforts the Town can make to expedite the review/approval process would be greatly appreciated.

Please do not hesitate to contact me if you, or any other Town official, have any questions, or if either the MDOT or the Maine Port Authority can provide you with any further information.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Henshaw". The signature is fluid and cursive, with a horizontal line at the end.

John H. Henshaw
Executive Director

comply with all applicable standards set forth in this article and in §§ 125-67, 125-68 and 125-69. All distances and heights in this article, unless otherwise stated, are in feet.⁷

§ 125-17. Bar Harbor Gateway. [Amended 11-2-2010]

Current Zoning

- A. Purpose. The Bar Harbor Gateway District largely consists of a mix of historically significant properties, various transient accommodations, and commercial uses, including a ferry terminal. It is situated along Route 3 and represents the primary point of access for visitors to downtown Bar Harbor and Acadia National Park. New development, redevelopment, and infill development shall respect the following standards to assure that the design and use of properties within this district are compatible to nearby properties.
- B. Dimensional standards.
- (1) Minimum lot size: 20,000 square feet with sewers; 40,000 square feet without sewers.
 - (2) Minimum road frontage and lot width: 100 feet with sewer; 150 feet elsewhere.
 - (3) Minimum front setback: 50 feet on Route 3; 25 feet elsewhere.
 - (4) Minimum side setback: 25 feet.
 - (5) Minimum rear setback: 25 feet.
 - (6) Maximum lot coverage: 50%.
 - (7) Maximum height: 40 feet.
 - (8) Minimum area per family: 5,000 square feet with sewers; 10,000 square feet without sewers.
- C. Allowed uses.
- (1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio; child care family; gallery; government facility; home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); municipal facility; municipal school; public or private park with minimal structural development; vacation rentals; single-family dwelling and two-family dwelling. **[Amended 6-14-2011]**
 - (2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.
- D. Uses allowed by site plan.

7. Editor's Note: At the Town's request, the editor has added "[feet]" to the text of Art. III as appropriate for the convenience of users of the Code.

- (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.
 - (2) Uses allowed by conditional use permit: public utility facility. **[Added 6-9-2015]**
- E. Allowed activities.
- (1) Activities allowed without a building permit, provided that they comply with all provisions of Chapter 125: activities necessary for managing/protecting land; filling/earthmoving activity of less than 16 cubic yards; forest management activities except timber harvesting; nonintensive recreation uses not requiring structures; public utility installation/essential services.
 - (2) Activities allowed by building permit and requiring approval of the Code Enforcement Officer: driveway construction; filling/earthmoving activity of 16 cubic yards or more.
- F. Other requirements.
- (1) Parking lots shall require buffering and vegetative screening if visible from Route 3.
 - (2) Lots with road frontage on Route 3 may be required to provide streetscape improvements, such as trees, sidewalks, bike paths, benches, and/or other related improvements as deemed appropriate by the Planning Board in the case of major site plan, or the Planning Department in the case of a minor site plan. Such improvements shall be exempt from setback requirements.

§ 125-18. Village Historic. [Amended 6-13-2006; 6-8-2010]

- A. Purpose. The Village Historic District consists of mostly single-family homes and historically significant estates. New development, redevelopment, and infill development shall respect and reflect the following standards to assure that the design and use of properties within this district are compatible with any nearby properties.
- B. Dimensional standards.
- (1) Minimum lot size: 40,000 square feet.
 - (2) Minimum road frontage and lot width: 100 feet with sewers; 150 feet without sewers. **[Amended 11-2-2010]**
 - (3) Minimum front setback: 30 feet.
 - (4) Minimum side setback: 25 feet.

- D. Minimum front setback: 75 [feet] from the center of Route 3, and 25 [feet] from the front lot line elsewhere.
- E. Minimum side setback: five [feet].
- F. Minimum rear setback: 15 [feet].
- G. Maximum lot coverage: 70% adjacent to tidal areas and rivers which do not flow to great ponds classified GPA; 20% elsewhere.
- H. Maximum height: 40 [feet].
- I. Minimum area per family: 30,000 square feet.

§ 125-49.1. Shoreland General Development III. [Added 11-2-2010]

Current Zoning

- A. Purpose. The Shoreland General Development III District seeks to allow for corridor development that provides transient services and other commercial services along the Town's prominent entry corridor. Care in screening, landscaping, and building design should be taken to respect the National Scenic Byway (Eden Street) as well as the historic waterfront.
- B. Dimensional standards.
 - (1) Minimum lot size: 30,000 square feet per residential dwelling unit in tidal areas and 40,000 square feet per residential dwelling unit in nontidal areas with sewer; 60,000 square feet per governmental, institutional, commercial or industrial structure adjacent to nontidal areas; 40,000 square feet for all other uses or structures without sewer.
 - (2) Minimum road frontage and lot width: 100 feet with sewers; 150 feet without sewers.
 - (3) Minimum shore frontage: 150 feet for residential use or dwelling unit adjacent to tidal areas; 300 feet per governmental, institutional, commercial or industrial structure adjacent to nontidal area; 200 feet for each other use, dwelling unit or structure for all other uses or structures.
 - (4) Minimum front setback: 100 feet from the center of Route 3, and 75 feet from the front lot line elsewhere.
 - (5) Minimum side setback: 25 feet.
 - (6) Minimum rear setback: 25 feet.
 - (7) Maximum lot coverage: 25%.
 - (8) Maximum height: 35 feet.
 - (9) Minimum area per family: 30,000 square feet on sewers; 40,000 square feet without sewers.

C. Allowed uses.

- (1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: artist studio, child care, family, gallery, government facility, home occupation (NOTE: Home occupations in properties with lot frontage or access on Route 3 shall be required to obtain minor site plan approval.); municipal facility, municipal school; public or private park with minimal structural development; all vacation rentals; single-family dwelling and two-family dwelling.
- (2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

D. Uses allowed by site plan.

- (1) The following uses shall be permitted by site plan review in any part of this district: bank; bed-and-breakfast I; bed-and-breakfast II; bed-and-breakfast III; bed-and-breakfast IV; bed-and-breakfast V; child-care center; commercial boat yard; commercial fish pier; ferry terminal; farmers' market; hotel; marina; multifamily dwelling I; multifamily dwelling II; motel; nursing or convalescent homes or congregate housing; private compulsory school; professional office building; restaurant; retail; road construction; services; take-out restaurant; wind turbines, and wireless communication facilities.

E. Allowed activities.

- (1) Activities allowed without a building permit, provided that they comply with all provisions of Chapter 125: activities necessary for managing/protecting land; filling/earthmoving activity of less than 16 cubic yards; forest management activities except timber harvesting; nonintensive recreation uses not requiring structures; public utility installation/essential services.
- (2) Activities allowed by building permit and requiring approval of the Code Enforcement Officer: driveway construction; filling/earthmoving activity of 16 cubic yards or more.

F. Other requirements.

- (1) Parking lots shall require buffering and vegetative screening if visible from Route 3.
- (2) Lots with road frontage on Route 3 may be required to provide streetscape improvements, such as trees, sidewalks, bike paths, benches, and/or other related improvements as deemed appropriate by the Planning Board in the case of major site plan, or the Planning Department in the case of a minor site plan. Such improvements shall be exempt from setback requirements.

Robert Osborne

From: Robert Osborne <rosborne@barharbormaine.gov>
Sent: Wednesday, September 28, 2016 3:25 PM
To: 'Henshaw, John H'; Luis Ajamil (LAjamil@bermelloajamil.com); Cornell Knight (manager@barharbormaine.gov)
Subject: Questions from Planning Board regarding the ferry terminal

John and Luis,

This is what the Planning Board has provided so far on questions related to the ferry terminal:

Tom St. Germain's questions:

- 1) Is the consultant's plan for the property close to the plan for the Port Authority? If not, does the Port Authority have a sketch plan of its own?
- 2) Is a traffic light planned for the entrance to Eden Street?
- 3) Are any other curb cuts or entrances/exits planned?
- 4) Will the existing buildings be demolished?
- 5) Will the 88.9% lot coverage be maintained?
- 6) Will there be any marina/dockage offered for boats other than cruise ships and if so, what types of vessels?
- 7) How much inside square footage will be allocated to the excursion companies?
- 8) How many retail leases/units will be offered and what is the square footage of each?
- 9) How many restaurant leases/units will be offered and what is the square footage of each?
- 10) Is a parking garage planned for the site?

Basil Eleftheriou, Jr. questions:

- 1) Does the State of Maine and Port Authority have to abide to all local codes imposed? (Might be a question for maritime lawyer as well)
- 2) What would Port Authority envision for maximum heights for structures on the pier? What would those structures be? e.g. elevators, pedestrian ramps, loading stations?
- 3) Is a survey available showing current structures and lot coverages and new route 3 reconstruction setbacks?
- 4) Did Port Authority co-finance (with Bar Harbor and Cruise Maine) the Ferry Terminal Implementation Strategy from Bermello, Ajamil and Partners?
- 5) Is the goal of the Port Authority to implement all of the Strategy's business model....such as restaurants, marina, shops, fish market, farmers market, ferry service to local areas, and a marina?
- 6) Who would operate all these entities...Port Authority or some other lessee?
- 7) Does the Port Authority currently operate a pier or marina with such varied uses and if so, where?
- 8) How would the Port Authority receive the idea of setting limitations on non-marina activities? For example, limiting the amount of property utilized for shops and restaurants (or limiting seats in restaurants).
- 9) In areas where the Port Authority currently operates are there ordinances imposed on noise and ship activities that might interfere neighbors quality of life?

Bob Osborne,

Chapter 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES

13. Establishment of Districts

F. Commercial Fisheries/Maritime Activities District. The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the alloted uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

NOTE: A municipality may opt to identify one or more CFMA Districts, each of which may be as small as a single parcel, provided that the municipality includes in this district or combination of CFMA districts, all land currently occupied by or suitable for active water dependent uses, taking into consideration the above-listed factors.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

GD General Development I and General Development II

LR - Limited Residential Activities

CFMA - Commercial Fisheries/Maritime

LC - Limited Commercial

SP - Stream Protection

The following notes are applicable to the Land Uses Table on the following page:

NOTE: The term "functionally water-dependent use" as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises, and public shorefront parks. Communities are encouraged to define the functionally water-dependent uses which are to be allowed and which are prohibited in each CFMA district, based on considerations of prevailing existing uses, desired future uses, available support facilities, site suitability and compatibility with adjacent uses. A municipality can narrow the range of allowed uses by precluding certain functionally water-dependent uses, or by adopting conditional uses for certain functionally water-dependent uses that it determines would only be compatible with its plan for the waterfront under certain conditions.

NOTE: Recreational water-dependent uses such as marinas and excursion vessels may, in some communities, displace or threaten to displace traditional commercial fisheries and maritime activities. Therefore communities may wish to preclude or further limit these types of uses in this district in order to protect berthing space and onshore staging areas for commercial fishing enterprises.

TABLE 1. LAND USES IN THE SHORELAND ZONE
LAND USES

	<u>DISTRICT</u>					
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>	<u>CFM</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO ¹³	yes	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes ²				
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes	yes
15. Principal structures and uses						
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO	CEO	no
B. Multi-unit residential	no	no	PB	PB	PB	no
C. Commercial	no	no ¹⁰	no ¹⁰	PB	PB	PB ⁵
D. Industrial	no	no	no	no	PB	PB ⁵
E. Governmental and institutional	no	no	PB	PB	PB	PB ⁵
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO	CEO	PB ⁵
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO	yes	yes
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland						
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB	PB	PB ⁵
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI	no
19. Home occupations	PB	PB	PB	CEO	yes	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI
21. Essential services	PB ⁶	PB ⁶	PB	PB	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO	CEO ⁵
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁷	PB	PB	PB	no
26. Road construction	PB	no ⁸	PB	PB	PB	PB ⁵
27. Land management roads	yes	PB ¹³	yes	yes	yes	yes
28. Parking facilities	no	no ⁷	PB	PB	PB	PB ⁵
29. Marinas	PB	no	PB	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(L)(2). ⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(H)(4).

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required but must file a written "notice of intent to construct" with CEO.

¹³Option 3 towns only.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate "piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland".

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

NOTE: In a district equivalent to a General Development District that is served by municipal water and sewer systems the Department may approve a municipal shoreland zoning

ordinance that provides for greater residential densities than set forth in Section 15(A)(1) above.

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

NOTE: Municipalities may include provisions for clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, 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, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

NOTE: The *Natural Resources Protection Act*, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the *Natural Resources Protection Act* for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational

necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

NOTE: All tidal land which is subject to tidal action during the highest annual tide is coastal wetland.

NOTE: A municipality may within its ordinance, authorize the Planning Board to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

NOTE: A municipality may also exempt a cupola, dome, widow's walk or other similar feature from the height limits in accordance with 38 M.R.S.A. Section 439-A(9).

- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) With the exception of General Development Districts located adjacent to coastal wetlands and rivers that do not flow to great ponds, and Commercial Fisheries/Maritime Activities Districts, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

In a General Development District located adjacent to coastal wetlands, or rivers that do not flow to great ponds, or in a Commercial Fisheries/Maritime Activities District, non-vegetated surfaces shall not exceed a total of seventy (70) percent of the portion of the lot located within the shoreland zone.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

NOTE: A municipality may choose not to adopt subparagraph B(5) below. However, if a municipality elects to adopt a provision similar to that subparagraph, it must be no less restrictive.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (c) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection.

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

NOTE: If a municipality elects not to regulate structures and uses extending over or below a water body or wetland, Section 15(C) should not be incorporated into the Ordinance.

B. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) 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 in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond 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.

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

- (7) 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*.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (9) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending

beyond 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.

- (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
- (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
- (b) Revegetation must occur in accordance with Section 15(S).

NOTE: A permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection for Shoreline Stabilization activities.

NOTE: A municipality may adopt a provision such as paragraph 11 below to allow the construction of decks over a river in a downtown revitalization project, in accordance with 38 M.R.S.A. § 439-A(4-B).

- (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
- (a) The total deck area attached to the structure does not exceed 700 square feet;
- (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
- (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
- (d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and
- (e) The construction of the deck complies with all other state and federal laws.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and

retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

SEATTLE TRANSPORTATION FACILITIES DEFINITION

"Transportation facilities" means one (1) of the following commercial uses:

6. "Passenger terminal" means a transportation facility where passengers embark on or disembark from carriers such as ferries, buses or planes that provide transportation to passengers for hire by land, sea or air. Passenger terminals typically include some or all of the following: ticket counters, waiting areas, management offices, baggage handling facilities, restroom facilities, shops and restaurants. A passenger terminal use on the waterfront may include moorage for cruise ships and/or vessels engaged in transporting passengers for hire. Activities commonly found aboard such vessels, whether moored or under way, that are incidental to the transport of passengers shall be considered -part of the passenger terminal use and shall not be treated as separate uses. Bus stops are not included in this definition. Also excluded is the use of sites where passengers occasionally embark on or disembark from transportation in a manner that is incidental to a different established principal use of the site.

Draft Order

Of the Bar Harbor Town Council
For the June 2017 Town Meeting

It is hereby ordered that the following article be placed on the special town meeting warrant with voting thereon to be held by Australian ballot.

Draft Warrant Article b

LAND USE ORDINANCE AMENDMENT – Shoreland Maritime Activities District – Shall an Ordinance dated x, 2016 and entitled “An amendment to create a new shoreland district entitled Shoreland Maritime Activities District and define “passenger terminal” use in the Land Use Ordinance” be enacted?

Shoreland Maritime Activities District

An amendment to create a new Shoreland Maritime Activities District at the ferry terminal site 121 Eden Street and define “passenger terminal” use.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE III Land Use Activities and Standards

§ 125-49.3 Shoreland Maritime Activities District.

A. Purpose. The Shoreland Maritime Activities District seeks to support maritime activities related to the reuse of Bar Harbor Tax Map 231, Lot 004, the ferry terminal for both cruise ship and ferry activities. This district includes all land currently occupied by or suitable for active water dependent uses, taking

into consideration: (1) Shelter from prevailing winds and waves; (2) Slope of the land within 250 feet, horizontal distance, of the shoreline; (3) Depth of the water within 150 feet, horizontal distance, of the shoreline; (4) Available support facilities including utilities and transportation facilities; and (5) Compatibility with adjacent upland uses.

B. Dimensional standards.

(1) Minimum lot size: None.

(2) Minimum road frontage and lot width: None.

(3) Minimum setback from shoreline: None.

(4) Minimum shore frontage: None.

(5) Minimum front setback: 50 feet (measured from centerline of Route 3).

(6) Minimum side 25 feet and rear setback: None.

(7) Maximum lot coverage: 70%.

(8) Maximum height: 35 feet.

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: government facility and grounds, and temporary pier, dock, wharf, breakwater or other use projecting into the water.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

D. Uses allowed by site plan. The following uses shall be permitted by site plan review Transportation Terminal, Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland that are water-dependent uses Essential services Parking facilities Marinas

E. Allowed activities.

(1) Non-intensive recreational uses not requiring structures such as fishing and hiking

(2) Emergency operations

F. Other requirements. (To be determined).

ARTICLE XII Construction and Definitions

§ 125-109 Definitions.

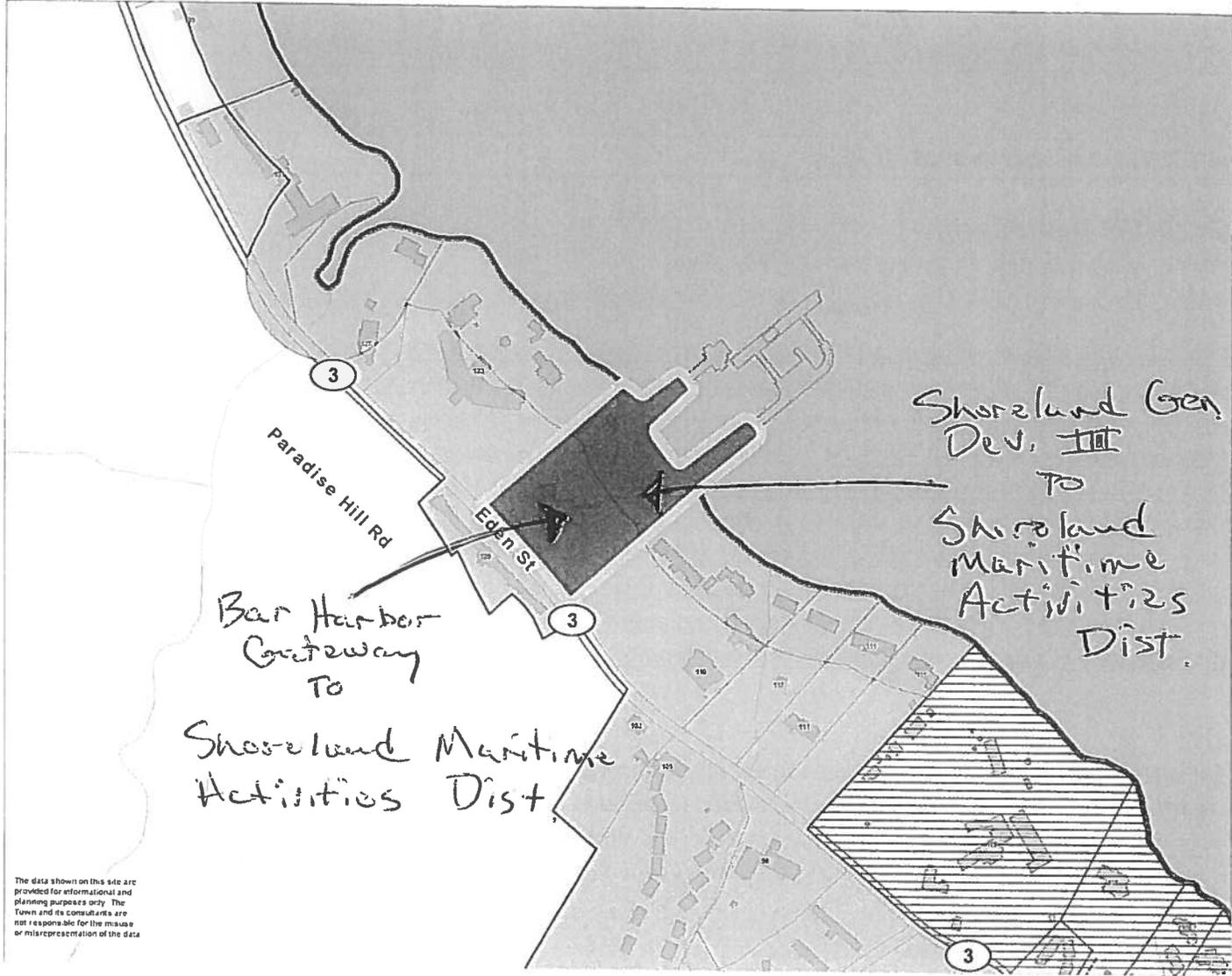
The following terms shall have the following meanings:

PASSENGER TERMINAL - A transportation facility where passengers embark on or disembark from carriers such as ferries, buses or planes that provide transportation to passengers for hire by land, sea or air. Passenger terminals typically include some or all of the following: ticket counters, waiting areas, management offices, baggage handling facilities, restroom facilities, shops and restaurants. A passenger terminal use on the waterfront may include moorage for cruise ships and/or vessels engaged in transporting passengers for hire. Activities commonly found aboard such vessels, whether moored or under way, that are incidental to the transport of passengers shall be considered -part of the passenger terminal use and shall not be treated as separate uses. Bus stops are not included in this definition. Also excluded is the use of sites where passengers occasionally embark on or disembark from transportation in a manner that is incidental to a different established principal use of the site.

EXPLANATION: Maine's Municipal Guide to Shoreland Zoning, Chapter 1000 allows municipalities to create a shoreland district on a single parcel of land to facilitate the uses and structures necessary for a deep water port. Thus the district proposed to cover the single parcel at 121 Eden Street. The dimensional standards proposed are compliant with Chapter 1000.



- Parcel History
- Zoning
- Bar Harbor Gates
 - Village Historic (E)
 - Mount Desert St C
 - Village Residential
 - Downtown Village
 - Downtown Village
 - Downtown Village
 - Downtown Reside
 - Erney District (D)
 - Hulls Cove Busin
 - Hulls Cove Resid
 - Hulls Cove Rural
 - Indian Point Resid
 - Indian Point Rural
 - Industrial (N)
 - Wesson Hill Corridor
 - Wesson Hill Reside
 - McFarland Hill Re
 - McFarland Hill Ru
 - Otter Creek (S)
 - Resource Protect
 - Salisbury Cove C
 - Salisbury Cove R
 - Salisbury Cove R
 - Salisbury Cove VI
 - Schooner Head (I)
 - Scientific Resear
 - Town Hill Busines
 - Town Hill Resider
 - Town Hill Rural (D)
 - Shoreland Genen
 - Shoreland Limit
 - Shoreland Genen
 - Shoreland Genen
 - Shoreland Genen
 - Marine Resear
 - Educational Inst
 - Stream Protector
- ROVs
- Parcels
 - Town Boundary
 - Highways
 - Buildings (2008)
 - Road Centerlines
 - Streams
 - Lakes & Ponds
 - Mask
 - Atlantic Ocean



The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.

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