MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. BCD-24-316

ANN CANNON, et al.,
Petitioners/Appellants

- v. -

TOWN OF MOUNT DESERT,
Respondent/Appellee

and
MOUNT DESERT 365
Party-in-Interest/Appellee

On Appeal from the Business and Consumer Docket
Docket No. BCD-AP-24-2

BRIEF OF RESPONDENT/APPELLEE TOWN OF MOUNT DESERT

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SUMMARY OF THE ARGUMENT

The citizens of Mount Desert, as its legislative body at Town Meeting, identified development of affordable workforce housing as a top priority in furtherance of fostering a healthy and sustainable year-round community. The workforce housing development at issue in this matter is an important step toward addressing this critical need.

The proposed development is in an area that was predominantly a year-round neighborhood, but which has lost that character in recent years as former year-round residences have been acquired and converted to seasonal use. Consequently, what was formerly a vibrant year-round neighborhood is now largely deserted for ten months out of the year. The Appellants in this matter seek to keep it that way.

The Mount Desert Planning Board spent considerable time and resources to ensure the workforce housing development was reviewed properly and that all abutters and citizens had the opportunity to voice their opinions. All aspects of the Board's findings (in a comprehensive 40-page Decision) are supported by detailed and extensive competent record evidence and the Town's ordinances were properly interpreted and applied.

For the reasons set forth herein, the Town requests that the Court affirm the Business Court's decision and AFFIRM the Planning Board's October 24, 2023 Decision and deny the Appellants' further Rule 80B Appeal to this Court.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On March 30, 2023, MD365 submitted a Subdivision Plan Application to the Mount Desert Planning Board for a proposed six (6) dwelling unit year-round affordable workforce housing subdivision project ("the Project") at 5 Manchester Road, Northeast Harbor, Maine. (Administrative Record ("R.") 13-170.) The Project is located within the Village Residential One ("VR1") zoning district, identified as Tax Map 23, Lot 25 on Town tax maps. (R. 5, 6, 16; Appendix ("A.") 236.) The property at issue has an area of .90 acres, or 39,204 square feet. (R.7; A. 36.) The VR1 zoning district provides that the standard minimum lot area is 10,000 square feet served by municipal sewer. (A. 126.) The VR1 district is identified within the Town's Land Use and Zoning Ordinance ("LUZO") as "deemed appropriate for *intensive residential development*." (A. 112.) (emphasis added). Minimum lot area for workforce subdivisions is identified in the LUZO as "State Minimum,"[1] while that for a "cluster subdivision" with sewer is 5,000 square feet. *Id.*

[1] The present "State Minimum" lot area for affordable housing projects is at least 2.5 times greater than the zoning district's standard minimum lot size. *See* 30-A M.R.S. § 4364-B(2). In the Town's VR1 district, application of the current State minimum lot area to the property's 39,204 square feet would allow up to nine (9) dwelling units on the lot (39,204 / 10,000 standard minimum area = 3.9 units x 2.5 = 9.8 units).

The Project is a multi-unit condominium subdivision, subject to the Town's Subdivision Ordinance. It is not a "land subdivision" but rather a "developmental subdivision," and review was triggered because there will be the placement of 3 or more dwelling units on a single lot or parcel of land within a 5-year period. (A. 36-37.)

The Planning Board accepted evidence and conducted a thorough review of the Project's adherence to 81 review standards articulated within the Subdivision Ordinance, and as incorporated by reference from the LUZO and the Maine Municipal Subdivision Act, 30-A M.R.S. § 4404.[2] The Board issued a 40-page decision containing detailed factual findings and legal conclusions associated with each applicable standard, from which Petitioners unsuccessfully appealed to the Business and Consumer Court and, from that denial, to this Court. (A. 36-75).

Application of Petitioners' preferred practice of rounding down to the nearest whole number still results in a statutory allowable density for workforce affordable housing of 7 dwelling units per 39,204 ft lot size (39,204/10,000= 3.9; 3x2.5=7.5), which is higher than the proposed 6-unit development here. *See* 30-A M.R.S. § 4364-B(2).

[2] In conducting its review of the Project, the Planning Board met a total of eight (8) times. On April 26, 2023, the Planning Board met to begin conducting its completeness review of the application that presented an amended plan with 6 units. (R. 216-231.) On June 14, 2023, the Planning Board heard from the Applicant, residents, and the general public as a part of its public hearing on the Project. (R. 264-265.) On August 9, 2023, the Planning Board began its substantive review of the Project. (R. 399-414.) On September 13, 2023, (R. 478-488), October 11, 2023 (R. 544-557), and October 18, 2023 (R. 563-590), the Planning Board members continued their substantive review of the Project. On October 24, 2023, the Planning Board finalized its review of relevant sections of the LUZO, the Mount Desert Subdivision Ordinance, and 30-A M.R.S. § 4404 subdivision review standards. (R. 593-623.) On October 24, 2023, the Planning Board voted to approve the Applicant's final plat application for the Project with a 3-1 vote of the Board. (R. 626-776.)

STANDARD OF REVIEW

The October 24, 2023 Planning Board decision is the operative decision on appeal, as the Planning Board was the last de novo decision maker. *LaMarre v. Town of China,* 2021 ME 45, ¶ 4, 259 A.3d 764. In its appellate capacity, the Court reviews the Planning Board's decision directly for "error of law, abuse of discretion or findings not supported by substantial evidence in the record." *Friends of Lincoln Lakes v. Bd. of Envtl. Prot.*, 2010 ME 18, ¶ 12, 989 A.2d 1128 (internal citation omitted). The party seeking to overturn the Planning Board's decision – here, Plaintiffs – bears the burden of persuasion. *Friends of Lamoine v. Town of Lamoine*, 2020 ME 70, ¶ 20, 234 A.3d 214.

Substantial evidence exists where there is any competent evidence in the record upon which a reasonable mind may rely to support the conclusion. *Id.* ¶ 10. The fact that inconsistent conclusions could be drawn from evidence does not inherently mean a finding is unsupported by substantial evidence, *id.* ¶ 21, nor do inconsistencies within the record. *Duffy v. Town of Berwick*, 2013 ME 105, ¶ 22, 82 A.3d 148. To vacate the Planning Board's findings, Plaintiffs "must demonstrate that *no competent evidence* supports" the Planning Board's conclusions. *Adelman v. Town of Baldwin,* 2000 ME 91, ¶ 12, 750 A.2d 577 (emphasis added).

The interpretation of a municipal ordinance is a question of law subject to de novo review. *Logan v. City of Biddeford*, 2006 ME 102, ¶ 8, 905 A.2d 293. "Although the terms or expressions in an ordinance are to be construed reasonably with regard to both the objectives sought to be obtained and the general structure of the ordinance as a whole," courts must first look first to the plain language of the provisions to be interpreted. *Gensheimer v. Town of Phippsburg*, 2005 ME 22, ¶ 22, 868 A.2d 161 (quotations omitted). If the meaning of the ordinance is clear, the court will look no further than its plain meaning. *21 Seabran, LLC v. Town of Naples*, 2017 ME 3, ¶ 12, 153 A.3d 113. In reviewing the local agency's application of an ordinance, the court accords substantial deference to an agency's characterizations and fact-findings as to what meets the ordinance's standards. *Fissmer v. Town of Cape Elizabeth*, 2017 ME 195, ¶ 13, 170 A.3d 797.

ARGUMENT

The Town adopts all arguments as set forth in Party-in-Interest/Appellee Mount Desert 365's brief and provides the following in further support of the Planning Board's decision.

I. THE TOWN IS FACING A SEVERE SHORTAGE OF AFFORDABLE WORKFORCE HOUSING AND ITS ORDINANCES DEMONSTRATE LEGISLATIVE INTENT AND SUPPORT FOR WORKFORCE HOUSING IN THE VILLAGE RESIDENTIAL ONE (VR1) ZONING DISTRICT.

Mount Desert Island is an expensive place to live. The Town is facing an affordable housing crisis. The citizens of Mount Desert, as its legislative body at Town Meeting, have prioritized developing workforce housing. This is evident in the plain text of the operative ordinance provisions reviewed and applied by the Board in this matter.

The Town allows intensive residential development in the VR1 zoning district if a proposal conforms with the workforce subdivision provisions in § 3.5 of the LUZO and the operative provisions of the Town's Subdivision Ordinance. As the text of the Subdivision Ordinance shows, along with many comments filed in support of the project (R. 173-173; 184-186; 304-305; 352-353; 356-358; 360-361; 375-376; 392-394; 518-519), the workforce subdivision standards follow the Town Meeting's direction in its Comprehensive Plan and its ordinances to encourage the greater intensity of residential development to support critically needed "on island" workforce housing. (A. 95-96; 218.)

The zoning district where the Project is located – VR1 – is identified within the LUZO as "deemed appropriate for *intensive residential development*." (A. 112.) (emphasis added). Section 5.16.2.2(c)2 of the Subdivision Ordinance provides affordable workforce housing developments a "density bonus" of 75 percent over the standard minimum lot size, rather than the current State minimum of a 150 percent increase. (A. 96-97.).

Workforce housing is defined in the LUZO as "[h]ousing that is economically viable for the year-round working community." (A. 218). The VR1 zoning district not only explicitly allows one- and two-family dwelling units, but also "cluster and workforce subdivisions." (A. 117.) The VR1 zoning district permits this type of housing while nine (9) other zoning districts within the Town explicitly do not allow "cluster and workforce subdivisions." (A. 117—not allowed in districts SR1, SR2, SR3, SR5, VC, SC, C, RP, SP, VR3.) Further evidencing the legislative goal of expanding housing in the VR1 district is that it is the *only* zoning district in the entire Town where a mobile home park is allowed. (A. 117.) In fact, the VR1 zoning district is the *only* zoning district in which *every* type of residential living is permitted with Town approval. *Id.*

The Town's Subdivision Ordinance also advances the Town Meeting's goals of increasing workforce housing in Mount Desert. The Subdivision Ordinance states that the purpose of "cluster and workforce subdivision" standards is "to encourage new concepts of cluster housing with maximum variations of design that will result in" the following: 1) "more creatively designed development than would be possible through strict application of other sections of the Land Use Zoning Ordinance"; 2) "uses of land that promotes efficiency in public services and facilities with small networks of utilities and streets"; and 3) "development of housing that is more economically viable for the year-round working community." (A. 95-96.) Further,

the Subdivision Ordinance allows for a workforce housing density bonus, demonstrating the legislative desire for these projects. (A. 97—"Projects that include covenants held by a qualified workforce housing entity may receive density bonus as follows: An increase of up to 75% in the gross residential density of the site may be permitted if 100% of the residential units are conveyed with covenants designed to benefit the creation and preservation of workforce housing.") As Appellants note, there is no dispute among the parties that the Project proposed 100 percent workforce housing, and therefore a 75 percent density bonus is permitted. (Appellants. Br. at 24 n. 5.)

As the Town Economic Development Committee noted in its letter of support for the Project:

> We have identified development of affordable workforce housing proximate to the Village of Northeast Harbor as a top priority in furtherance of [fostering a healthy and sustainable year-round community]. We believe that the proposed Heel Way Subdivision located at the intersection of Neighborhood and Manchester Roads is an important step toward addressing this critical need. It is consistent with the Town's Comprehensive Plan and with its Land Use and Zoning Ordinance, and it is appropriately sited proximate to the Main Street business district and to the local elementary school, library, and other community services. The proposed site is in an area that was predominantly a year-round neighborhood but which has lost that character in recent years as former year-round residences have been acquired and converted to seasonal use. As a consequence, what was formerly a vibrant year-round neighborhood is now largely deserted for ten months out of the year. We believe that development of the Heel Way Subdivision would be a significant step toward re-establishing the historical character of this neighborhood and of the community as a whole.

(R. 352-353).

II. THE PLANNING BOARD PROPERLY DETERMINED THAT THE PROJECT ONLY INCLUDES ONE LOT AND AS SUCH MEETS THE ROAD, DENSITY BONUS, AND OPEN SPACE REQUIREMENTS OF THE TOWN'S ORDINANCES.

a. The Planning Board correctly determined a single lot was proposed and applied relevant standards to the Project's driveway.

The crux of the Appellants' argument is that six separate lots were created through division of ownership on a single parcel of land. However, the Planning Board correctly determined that "the proposed project is only a single lot condominium style of developmental subdivision so there is no street or road to be designed or constructed to serve three or more lots." (A. 66.) Plaintiffs fail to recognize the distinction between a developmental subdivision, in which "the construction or placement of 3 or more dwelling units on a *single tract or parcel of land*" and a land subdivision, where there is "the division of a tract or parcel of land into *3 or more lots*." 30-A M.R.S. § 4401(4) (emphasis added.); *see also Subdivision Ordinance* § 5.7.3 (defining and differentiating between a "land subdivision" and a "non-land subdivision"). (A. 90-91.) The Subdivision Ordinance does not specifically define the term "lot," but incorporates by reference the provisions of the LUZO. *Subdivision Ordinance* § 2.2.3. The LUZO defines "lot" to mean: "[a] parcel of land described on a deed, plot, or similar legal document, and [that] is all contiguous land within the same ownership." (A. 208-09, *LUZO* § 8, at *8-9.)

The Project consists of a single lot. The Planning Board extensively analyzed this question and made findings based on that determination. (A. 36, 43, 45, 56-57, 59.) Appellants ignore the condominium filings (including the Plat plan) and the consistent representations in documents and testimony by the Applicant before the Planning Board that all land within the property's boundaries will remain in common ownership as a condominium, and that the individual units consist of two duplex structures and one additional single-family home on the existing lot. (R. 19).

The Condominium Declaration's definition of "unit" (each of which will be individually owned), does not include any land, so the land therefore remains undivided. (A. 222). The subdivision plan for the condominium shows no separate lots or parcels of land for the six dwelling units, which it would have to do if such lots were being created. (A. 236.) Instead, it shows one single lot with six dwellings located upon it. (A. 236.); *see also* Hancock County Registry of Deeds, File 51, No. 67, Instrument No. 96. That is why the definition of "unit" in the Condominium Declaration includes no land, but instead provides that each unit shall be comprised only of the built material existing on top of the land, and in particular the "buildings and/or structures and all other improvements." (A. 222.) If the condominium were to include separate lots of land as part of the units, then that would be in violation of the subdivision plan approved by the Planning Board.

The Planning Board correctly read the requirement in the Subdivision Ordinance that dealt with street design and construction. It provided in relevant part, "Where an access road from a public road or highway *is required to serve 3 or more lots*, said access road shall be in accordance with the standards in the ordinance." (A. 66.) (emphasis added). Here, there is only a single lot with 6 condominium units on it. Therefore, as the Business Court found, the Planning Board did not err in its determination that this "street design and construction" provision of the ordinance was not applicable to the "driveway" within the developmental subdivision proposed in this Project.

b. The Planning Board correctly calculated the density allowed on the single lot as a result of the workforce housing bonus.

As the Business Court noted, the Planning Board painstakingly, over a number of meetings, reviewed, discussed, and analyzed the calculation of the workforce density bonus.[3] Three pages of the Planning Board decision exclusively focus on

[3] At the first meeting on March 8, 2023, the Planning Board reviewed the density calculations. (R. 192, 195.) At the June 14, 2023 meeting, the Planning Board again discussed and calculated density. (R. 269-271—"This means that the total lot size of 39,204sf multiplied by .75 equals an additional 29,403 sf. Dividing 29,403 sf by 10,000 sf results in 2.9 additional units allowed. The baseline density of 3.9 units, plus the workforce housing density bonus of 2.9 units comes to 6.8 units allowed on the parcel. The calculation is included on Page 8 of the subdivision Application packet presented to the Planning Board."). Yet again, at the August 9, 2023 meeting, the Planning Board discussed and review density calculations. (R. 403-405.) At the September 13, 2023 meeting, the Planning Board again discussed and reviewed density calculations. (R. 482-488.) On October 18, 2023, yet again, the Planning Board reviewed extensive testimony and evidence regarding the density calculations. (R. 584-587.) Last, on October 24, 2013, the Board analyzed density for a final time. (R. 606-609.)

how the Board analyzed, applied, and calculated the workforce housing bonus and density requirements based on extensive competent record evidence. (A. 67-69.)

The Project is a single, 0.90-acre lot (39,204 sf). (A. 67-69.) The minimum lot area in the VR1 Zoning District is 10,000 sf for a lot served by public sewer. *Id.* When 100 percent of units are dedicated to workforce housing, a project receives a 75 percent density bonus per § 5.16.2.2(c) of the Subdivision Ordinance.

The density calculations detailed in testimony to the Planning Board (including demonstrative exhibits)[4] are:

39,204 sf/ 10,000 sf = 3.9 units
39,204 sf x .75 = 29,403 sf
29,403 sf/ 10,000 sf = 2.9 bonus units
3.9 units + 2.9 units = 6.8 units
-OR-
39,204 sf x 1.75 = 68,607 sf
68,607 sf/ 10,000 sf = 6.86 units

The record makes clear the Planning Board did not err in its calculations of density allowed on the lot. According to Appellants, the correct calculation would remove fractions of units from the formula before applying the workforce density bonus. Here, instead of applying the bonus to 3.9204 dwelling units, Appellants argue that the number of units first should have been reduced to 3.0.

As the Business Court found:

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[4] Specifically, the Planning Board found, "that the workforce density bonus calculation in § 5.16.2.2(c) is based on total area/ acreage with no deductions and no rounding down, with the use of the entire parcel ("total acreage") under 5.7.3.3." (A. 69.)

> There is no demonstrable error of law or abuse of discretion with the Board's adoption and approval of the maximum permitted density calculation provided by the Developer. Close review of the Subdivision Ordinance and LUZO does not reveal any provision requiring use of only whole units when applying the Workforce Housing density bonus. Nor does it reveal any provision mandating the Board to round-up or down when its density calculations result in a fraction. Because neither ordinance limits application of the Workforce Housing density bonus-multiplier to only whole units, and not fractions of units, Plaintiffs have not established that it was error for the Board to adopt the Developer's density calculation.

(A. 22.) These workforce housing density bonuses are allowed as a direct result of the Town Meeting's desire to increase housing in the VR1 district. In fact, the density bonus is actually significantly less than the state standard for affordable housing projects. *See* 30-A M.R.S. § 4364-B(2) (providing for a 2.5 times multiplier).

The Planning Board did not err in its determination that this provision of the Subdivision Ordinance was met and that the density calculations were accurate for the developmental subdivision proposed for the Project.

c. The Planning Board correctly calculated the open space requirements on the single lot as a result of the workforce housing bonus.

The Planning Board's detailed findings and decision regarding open space demonstrate a thorough review and correct conclusion on the open space required. (R. 402-404, 595-597, 604-611; A. 62-63, 66-69.) Specifically, the Board (by unanimous vote) found that "the Project is a Workforce Housing subdivision (and

not a Cluster Subdivision under Section 3.5 of LUZO or Section 5.16.2 of the Subdivision Ordinance)" and "that the Open Space requirements for Cluster Subdivisions under 5.16.2.3 do not apply and that the Open Space and Recreation Area requirements be reviewed for the proposed Workforce Subdivision Project under Section 5.10.2." (A. 69.) The Planning Board analyzed and correctly determined the Project met the open space requirements for a workforce housing project under § 5.10.2 of the Subdivision Ordinance. (A. 63.) Pursuant to § 5.10.2, the Planning Board made a condition of approval that there be the permanent preservation of approximately 1600 square feet of wooded area as open space on the lot. (A. 62-63.)

As the Business Court found:

> Plaintiffs' reading, however, would simply make workforce housing a subset of cluster subdivision when imposing the open space requirement. Workforce housing, however, serves a different purpose than cluster development. Cluster development allows for greater housing density in order to preserve open space. "Workforce" or affordable housing covenants are designed to allow development of less expensive housing when current zoning laws in a community would otherwise restrict its availability. See R. 57-58, 61 (the Developer's proposed affordable housing covenants, conditions and restrictions, including eligibility criteria based in part on income and related restrictions on transfer). A developer, by agreeing to accept certain limitations on the value of any units constructed, is able to build denser housing where expressly permitted. See R. 16, 57-58. *Imposing open space requirements meant for cluster development would defeat the purpose of workforce housing.* |

(A. 23-24, emphasis added.)

The Planning Board correctly calculated the open space requirement for the workforce housing project.

III. THE PLANNING BOARD CORRECTLY APPLIED ITS DISCRETION NOT TO REQUIRE A PERFORMANCE BOND

Contrary to the Appellants' contentions, the Planning Board did assure that the infrastructure connections to existing public water, sewer, and roads already surrounding the workforce housing subdivision development parcel were in place before any new units could be built; the Board did so by a detailed and explicit condition of approval. (A. 64-65.) When the Planning Board reviewed the operative standard and their discretionary authority under the standard to require an improvement guarantee against the fact that immediately adjacent public infrastructure is already in place for the condominium lot, the Board decided to waive the requirement for any improvement guarantee and used their discretion to impose an explicit, detailed, and rigorous condition of approval.[5] (A. 64-65.) That condition of approval effectively operates as a "properly executed agreement with the Town" as the more direct alternative to an improvement guarantee.

[5] "The Board *may* require that the subdivider file with the Board at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of the proposed improvements." (A.92-93, Subdivision Ordinance § 5.12.1) (emphasis supplied). The guarantee may be tendered in the form of a performance bond. *Id*. Just as the Board may require a performance guarantee from a developer, it may also "at its discretion, waive the requirement . . . and recommend a properly executed conditional agreement with the Town." *Id*. § 5.12.4. A conditional agreement in lieu of a performance bond must, in part, require that no part of the subdivision may be sold "until it shall have been certified ... that all improvements have been made" within the applicable period of time. *Id*.

Subdivision Ordinance § 5.12.1 grants the Planning Board discretion, when applicable, to require that a subdivider file a performance guarantee in an amount sufficient to defray expenses of completing and creating "street grading, paving, storm drainage and utilities" specified on the final plat plan. (A. 92-93). That the section is discretionary is evident from the ordinance's use of the term "may" in describing the Board's authority, rather than the mandatory "shall." Additionally, § 5.12.4 provides the Board with additional discretionary authority to "recommend a properly executed conditional agreement with the Town" as an alternative to ensuring completion of the required infrastructure installation. (A. 93). In the event of such an agreement, the terms must be noted in writing on the final plan and be subject to the requirement that no building permit may be issued until all such improvements have been made. *Id.*

The Planning Board did just that through a condition of approval that required:

> Before any unit in the subdivision may be sold and before construction of any new buildings (excepting only the storage/ utility building), the Board will require certification from the Code Enforcement Officer to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (State, Federal, and local codes, Ordinances, laws, and regulations).

(A. 65.) Further, the condition required that it be noted in writing on the final plat plan (which it is) and that:

> no unit in the subdivision may be sold and no permit shall be issued for the construction of any new buildings (excepting only the

> Storage/Utility Building) in the subdivision until it shall have been certified in the manner set forth above that all infrastructure improvements (specifically, water, sewer, electric, stormwater, and adequate construction access) have been made within 2 years of the final approval of the Project (including the resolution of any appeals such that the Board's approval becomes final).

Id. The Planning Board used its discretionary authority to require the final plat plan include this condition and that no unit is to be sold until all improvements are made.[6]

The Planning Board did not err in exercising its discretionary authority not to require a performance bond and imposing a condition of approval to ensure compliance for the Project.

CONCLUSION

The Mount Desert Planning Board spent considerable time and resources to ensure the Project was reviewed properly and that all abutters and citizens had the opportunity to voice their opinions. All aspects of the findings are supported by detailed and extensive competent record evidence. While Petitioners may not like that affordable year-round workforce housing is permitted and encouraged on this property, the fact remains that the legislative body of the Town, through ordinance

[6] The Plaintiffs' contention that the driveway is somehow a road is plainly wrong as discussed above. Further, the conditions of approval for the Project explicitly requires adequate access to the site (e.g., a driveway) to be completed before units can be sold. Therefore, the Plaintiffs contention that the Board "excluded construction" of the driveway from the condition is incorrect.

provisions, expressed its policy choice for increased workforce housing in Mount Desert.

For the reasons set forth herein, the Town requests that the Court AFFIRM the Business Court's decision and AFFIRM the Planning Board's October 24, 2023 Decision and DENY Appellants' further Rule 80B Appeal to this Court.

Dated at Bangor, Maine, this 8th day of January 2025.

DEFENDANT TOWN OF MOUNT DESERT

By: _____

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CERTIFICATE OF SERVICE

I, P. Andrew Hamilton, Esq., attorney for Respondent/Appellee, Town of Mount Desert, hereby certify that I have this day made due service of this Brief of Respondent/Appellee upon the Appellant, Ann Cannon et al., by mailing a conformed copy thereof to their attorney Grady R. Burns., of Bernstein Shur, 100 Middle Street, P.O. Box 9729, Portland, Maine, and to Party-in-Interest/Appellee**,** Mount Desert 365 by mailing a conformed copy thereof to its attorney Daniel A. Pileggi Esq., of the firm Acadia Law Group, LLC, P.O. Box 723, Ellsworth, Maine by regular course of the U.S. mail, postage prepaid.

Dated: January 8, 2025 By: _____

P. Andrew Hamilton, Esq.