

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on June 7, 2022 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach consider whether to approve a Contract Zone Agreement between Land Matters, LLC and the Town of Old Orchard Beach, for the property located at 60 Saco Ave., Map 206, Block 10, Lot 1 in the GB2 district, pursuant to 30A M.R.S.A., Section 4352 (8) and Section 1.8 of the Old Orchard Beach Zoning Ordinance?

Per Order of the Municipal Officers this 17th day of May, 2022.

A True Copy

Attest:

s/Kim McLaughlin
Kim M. McLaughlin, Town Clerk

CONTRACT ZONING AGREEMENT

Land Matters, LLC and the Town of Old Orchard Beach

CONTRACT ZONE AGREEMENT made this ___ day of _____, 202_, by and between Land Matters, LLC, a Maine limited liability company with a principal place of business in Saco, the County of York, State of Maine, and The Town of Old Orchard Beach, a municipal corporation located in the County of York, State of Maine.

WHEREAS, at the time of application for a contract zone, Land Matters, LLC, has a purchase agreement with the current owners (Clifton Temm II and Suzanne M. Temm) dated April 9, 2021 ("the purchase agreement") which has been presented to the Council as evidence of right, title or interest in the property; and

WHEREAS, Land Matters, LLC proposes to develop an eight-unit residential condominium on approximately 14,250 square feet of land located at the corner of Saco Avenue and Fern Park Avenue in the Town of Old Orchard Beach. The proposed project would renovate and improve an existing structure which formerly housed the United States Post Office and create eight units for single-family residential use; and

WHEREAS, the parcel to be developed is depicted on the Town's tax maps as Map 206, Block 10, Lot 1 and is located in a GB2 District.

WHEREAS, the proposed development is consistent with the existing uses and allowed uses within a zoning district designated as GB2; and

WHEREAS, Land Matters, LLC has petitioned for a contract zone to amend the Old Orchard Zoning Ordinance with respect to the requirements of such GB2 District for the reasons as follow:

1. Land Matters, LLC seeks the right to develop an eight-unit residential condominium (tentatively named "The Franklin") on the above-referenced parcel while preserving the structure located on the parcel. Lot size and density standards in the GB2 do not allow the project as proposed; however, in order to preserve the existing structure, and to maintain the existing conforming zoning requirements of the improvements thereon (including setback requirements, parking requirements, height requirements, lot area requirements and footprint requirements) Land Matters, LLC has proposed changing only the current space and bulk requirements of the GB2 district (Section 78-835) with respect to this lot to permit the construction of its proposed eight unit condominium.
2. The proposed development will confer the following benefits to the Town, in keeping with the goals of the Comprehensive Plan:
 - a) The proposed development will allow for preservation of the existing structure (the former U.S. Post Office). Policy A.40 of the Comprehensive Plan provides that "the Town should preserve historic structures, neighborhoods, and sites in the community." Policy A41 recommends that the Town should ensure protection of

historic structures by “protecting sites identified in the future by State, local, or regional interest groups, or by developers in the development process.”

- b) The improvement of the current one story brick structure will include the incorporation of historic architectural materials and details which will reflect and enhance the former character of building and improve the aesthetics of the community consistent with Policy A26 for the Comprehensive Plan. The footprint of the existing structure shall not be enlarged and the building height will be less than than 35 feet..
- c) Similarly, the addition of a sidewalk along the southwesterly side of Fern Park Avenue (improving pedestrian safety) and the installation of landscaping and the addition of a small seating area on Saco Avenue will improve neighborhood pride.
- d) The project is consistent with the predominately residential nature of the surrounding neighborhood and will add eight moderately priced residential units to the Town’s housing stock. This reinforces the directive of Comprehensive Plan to assure opportunities for affordable housing and allow the proper working of the real estate marketplace as recommended in Policy A 3 of the Comprehensive Plan.
- e) The project will restore and improve the visual character of the premises which is prominently situated on Saco Avenue, the major gateway to the Town center. It will have no negative impact on traffic on Saco Avenue nor will it add any additional traffic to Fern Park Avenue beyond its parking lot with is accessed by the first driveway on the southerly side of Fern Park Avenue. Sightlines for traffic entering and exiting Fern Park Avenue to Saco Avenue are currently in excess of those required by regulation.
- f) This project will not require any additional burden upon the Town with respect to providing municipal services since the property is already improved with electric and cable service, water and sewer. Additionally, the condominium will provide private carting services for trash removal and the removal of waste. Snow removal will be accomplished by a private contractor employed by the owners’ association.
- g) Ample on-site parking will be provided for owners and guests consistent with Policy A 42 of the Comprehensive Plan and in conformity with the existing on-site requirements of the Town.
- h) Unit rentals will be prohibited for terms of less that 30 days.

NOW, THEREFORE, pursuant to the authority found in 30-A M.R.S., Section 4352(8), and Section 1.8, et. seq. of the Old Orchard Beach Zoning Ordinance, and by vote of the Old Orchard Beach Town Council on _____ the following findings are hereby adopted:

1. Town Tax Map 206, Block 10, Lot 1 comprises approximately 14,437 square feet and the density requested is consistent with other area properties and would not cause additional impacts to surrounding properties, traffic, public utilities and other public services. The proposal will allow for reasonable development of the lot while preserving and improving the existing historic structure located thereon and implementing various aspects of the Town's Comprehensive Plan as set forth hereafter.
2. The proposed rezoning is consistent with the goals set forth in the Old Orchard Beach Comprehensive Plan to use tools including contract zoning to minimize infrastructure needs and development costs, and to protect aesthetic character of the community.
3. The conditions hereinafter set forth in this contract and by the Old Orchard Beach Planning Board are sufficient to meet the purposes of contract zoning as set forth in Section 78-2131 of the Zoning Ordinance.

WHEREFORE, based on the findings above set forth, the Old Orchard Beach Town Council hereby agrees that this contract shall modify the space and bulk requirements in the GB2 district for the parcel currently depicted as Map 206, Block 10, Lot 1 according to the following terms and conditions:

1. This amendment affects only the parcel of land identified as Tax Map 206, Block 10, Lot 1 on the Town of Old Orchard Beach tax maps.
2. This contract and its provisions shall specifically and exclusively apply to the contract zone request submitted by Land Matters, LLC. Accordingly, without the prior written consent of the Town Council, which consent shall not unreasonably be withheld, this contract and the contract zone it creates shall not be transferable by Land Matters, LLC.
3. Failure of Land Matters, LLC to secure any and all other permits or approvals that may be required by the Town or other regulatory agencies having jurisdiction within one year of the approval of this contract by the Town Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of Land Matters, LLC, this one year deadline shall be extended by one year upon written request to the Town Council submitted by Land Matters, LLC prior to the expiration of the original one-year period, and in the event the final permits or approvals are delayed due to the pendency of an appeal, the one year deadline shall start to run from the date the appeal(s) are determined and such permits or approvals become final.
4. Failure of Land Matters, LLC to initiate substantial construction of the project within two (2) years from the date of final approval of this contract zone shall render this contract null and void. In the event that permits or approvals are delayed due to circumstances beyond control of Land Matters, LLC, this two-year deadline shall be extended by one year upon written request to the Town Council submitted by Land Matters, LLC prior to the expiration of the original two-year period.
5. All details shown on the plans and referenced in the Findings of Fact approved by the Old Orchard Beach Planning Board on _____ are incorporated into this contract by reference. The site shall be developed substantially in conformance with those plans. Any variation from site plan review proposals, plans, supporting documents and representations are subject to review and approval by the Planning Board, provided that de minimis variation is subject to review and approval by the Town Planner. If it is determined by the Planning Board that the changes constitute a change in the contract,

then Land Matters, LLC shall also be required to obtain Town Council approval of the changes.

- 6. Rental of any unit for terms of less than 30 days shall be prohibited.
- 7. Applicant shall construct a sidewalk along the subject property's Fern Park Ave. frontage, from the Fern Ave./Saco Ave. intersection.
- 8. Excepting the requirement excepted by this agreement, applicant will meet all applicable Local, State and Federal fire, safety and accessibility codes, ordinances and regulations as well as all building codes as required by the Town.
- 9. Breach of these conditions and restrictions by Land Matters, LLC shall constitute a breach of the contract. Should Land Matters, LLC seek to modify these conditions or restrictions, it shall be required to apply for a contract modification. Failure to apply for and obtain a modification shall constitute a zoning violation, subject to enforcement action.

Based on the above findings, conditions and restrictions, the Town Council hereby incorporates this contract zoning agreement into the Old Orchard Beach Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein. The above restrictions, provisions and conditions are an essential part of the rezoning of the property, shall run with the land, shall bind Land Matters, LLC, and its respective successors in interest and assigns of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Old Orchard Beach.

Adopted by the Old Orchard Beach Town Council on _____.

Town of Old Orchard Beach

- By: _____
- By: _____
- By: _____
- By: _____
- By: _____
- By: _____
- By: _____

Land Matters, LLC

By: _____
Thomas Gillis, Managing Member