

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 November 21st, 2023, at 6:30 p.m. to consider the following:

Consider whether to approve a Contract Zone Agreement between Seacoast Land Acquisitions, LLC and the Town of Old Orchard Beach, for the property located at 63-91 E. Emerson Cummings Blvd, MBL: 207-1-2, in the PMUD district, pursuant to 30A M.R.S.A., Section 4352 (8), Chapter 78, Section 78-31 and Chapter 78, Article IX of the Old Orchard Beach Zoning Ordinance, and Section 410 of the Old Orchard Beach Charter. The purpose of the Contract Zone is to allow the establishment of a 61-unit single-family condominium project, as follows.

CONTRACT ZONE
AGREEMENT

This CONTRACT ZONE AGREEMENT is made this _____ day of ____, 2023, by and between SEACOAST LAND ACQUISITIONS, LLC, a Maine limited liability company with a principal place of business in the City of Saco, in the County of York and State of Maine, (hereinafter "Seacoast"), and THE TOWN OF OLD ORCHARD BEACH, a municipal corporation located in York County, Maine.

WHEREAS, Seacoast proposes to construct a single-family condominium development containing sixty-one (61) units on 19.23 acres of land located in Old Orchard Beach, 63-91 E Emerson Cummings Boulevard (hereinafter referred to as the "Project"); and

WHEREAS, the parcel to be developed is shown as Tax Map 207, Block 1, Lot 2 on the Town of Old Orchard Beach Tax Maps, more specifically described on Exhibit A attached (the "Property"), and is located within the

Planned Mixed Use District (the "PMU District"); and

WHEREAS, at the time of application for a contract zone, Seacoast has purchased the Property and a copy of a Warranty Deed as recorded in the York County Registry of Deeds at Book _____, Page _____ has been presented to the Old Orchard Beach Town Council as evidence of right, title or interest in the Property; and

WHEREAS, residential dwellings are permitted as a conditional use within the PMU District, and the rezoning to permit the construction of the Project is consistent with the Old Orchard Beach Comprehensive Plan (the "Comprehensive Plan") and with existing uses within the PMU District; and

WHEREAS, Seacoast has petitioned for a contract zone to amend the Old Orchard Beach Zoning Ordinance (the "Zoning Ordinance") to allow the Project to be developed, for the following reasons:

- A. The proposed Project would provide sixty-one (61) units on 19.23 acres. The minimum lot area requirement within the PMU District for general residential uses with sewer is 20,000 square feet of buildable area per unit. Given the buildable area of the subject property after subtracting the wetland area that will remain protected, the Project would be restricted to 19 general residential units and would not be viable without the Contract Zone.

- B. The required front, side, and rear setbacks within the PMU District for a site with public sewer are equal to 35 feet (25 feet plus 10 feet per additional story above the 1st story – the proposed condominiums have two floors). Given the significant acreage of wetland area on-site, which is located generally to the southwest and covers nearly half of the property, development is restricted to upland areas to the north/northeast. The abutting parcel to the south of the subject property is zoned Residential 4 (R-4), which requires 20-foot front/rear setbacks and 15-foot side setbacks. With reduced setbacks that are in keeping

with the neighboring zone, the project will result in less wetland impact and will allow for more open space, which will contain these natural resources and be protected from further development in perpetuity.

C. The proposed Project use will be entirely single-family residential. Although the Distribution of Uses standard set forth in Section 78-1025 of the Zoning Ordinance states that no single use shall exceed 75 percent of the total building square footage permitted in the PMU District, the nature of the site and surrounding properties is more suitable for a solely residential development. Existing residential developments occupy general areas to the south and west of the project site and abutting parcels to the north and east have educational uses. Residential developments, such as the one proposed, provide living opportunities for families; with close proximity to two schools, a fully residential use meets the intent of the Comprehensive Plan.

D. Per Section 78-1027: Performance Standards – Site Amenities, residential neighborhoods containing in excess of 50 units in the PMU District shall provide neighborhood facilities designed to service the recreational needs of the residents. Such facilities may be designed for indoor or outdoor use and for passive or active recreational activities. An indoor facility is not feasible due to the limited amount of upland area on-site, however, walking trails within the dedicated Open Space area would allow for outdoor recreation for residents of the development, as well as general members of the public.

E. Per Section 78-1027: Performance Standards – Site Amenities, pedestrian travel, safety, and convenience for PMUD residents is encouraged; sidewalks shall be provided along all residential streets and between recreational site amenities. The applicant proposes that the roadway be designated as an internal drive, as it will not have its own Right of Way and the surrounding land will be considered common, outside of the individual condo plats for each unit. This being the case, the applicant proposes to construct a 24-foot-wide road, which will

consist of two (2) 10-foot-wide travel lanes, and a 4-foot-wide painted pedestrian path. This design allows for maneuverability of a ladder truck/other emergency vehicles and enhances pedestrian safety, without requiring the road to be widened, which would result in further wetland impacts. A 24-foot-wide paved road also meets the design criteria outlined within the street design standards for a “collector street”. The applicant also notes that a traditional curbed sidewalk would require 61 breaks for individual driveways along the travel way, which is not feasible from a design perspective, due to the close proximity of each driveway.

NOW, THEREFORE, pursuant to the authority found in 30-A M.R.S.A, Section 4352(8), and Article IX of the Zoning Ordinance (the "Contract Zoning Ordinance"), and by vote of the Old Orchard Beach Town Council on _____, 2023, the following findings are hereby adopted:

- A. The Property is a large undeveloped 19.23-acre parcel located in Old Orchard Beach, in an existing residential area, with access to existing public water and sewer, and extensive wetland area existing on a large portion of the site. Single-family dwellings are permitted as a conditional use within the PMU District. In keeping with the Comprehensive Plan, the proposed contract zone will allow the development of the Property to be maximized for residential use, while preserving roughly 9.5 acres of existing forested wetland area.
- B. The proposed rezoning is further consistent with one of the goals identified as most important to the Town, as set forth in Section IV of the Comprehensive Plan, which is to direct growth to areas with economical access to existing sewer and water facilities.
- C. The Comprehensive Plan has an overall theme of promoting desirable development, which includes providing a benefit to the public. The applicant, therefore, proposes the inclusion of “affordable” housing

within the proposed development, which restricts the purchase price of each unit so that it is affordable to a household earning up to 120% of the Area Median Income limits the resale price by deed restriction for all future sales of the home to ensure that it remains affordable. 10% of 61 units is 6.1; accordingly, 7 units will be offered at the affordable rate, as described.

- D. As an added benefit the applicant also proposes the creation of trails throughout the open space, which will be available for resident and general public use. These trails will be constructed with as little disturbance as possible to preserve the natural resources, terrain, and forested areas within the Open Space. Thirteen (13) parking spaces have been added to the layout for use by visitors/guests and those who wish to use the trails.
- E. The proposed rezoning is further consistent with Section IV(D) of the Comprehensive Plan, which provides that development should work to protect, preserve and enhance the wetlands of the community. The Property is a total of 19.23 acres, 9.5 acres of which will be preserved forested area, with at least 5.36 of that being wetlands. The wetlands will be protected from development in perpetuity and places within a conservation easement. The applicant proposes to convey this land to the Town of Old Orchard Beach.
- F. Short Term Rentals, as defined by the town of Old Orchard Beach Code of Ordinances, of any unit, including the entire unit or portion of a unit, shall be prohibited.
- G. The roadway serving the development shall remain private and roadway improvements, maintenance, and snow plowing/removal shall be the responsibility of the condominium association.
- H. The conditions hereinafter set forth in this contract and by the Old Orchard Beach Planning Board are sufficient to meet the

intent of the Contract 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 & Bulk Requirements in the PMU District to allow a reduction in the minimum lot size per dwelling unit to allow 61 residential units to be constructed on the Property and to allow for a 20-foot front/rear and 15-foot side setback; however, that this agreement shall be subject to the conditions and restrictions as follows:

- A. Except as set forth herein, the applicant shall adhere to all other applicable provisions of the PMU District, the Zoning Ordinance and Subdivision Ordinance.
- B. All details shown on the plans [insert either conditionally or preliminary] approved by the Old Orchard Beach Planning Board on _____, 2023 are incorporated into this contract by reference and shown in Exhibit B. The Property shall be developed substantially in conformance with those plans. Revisions to the Site Plan may be administratively approved by the Town Planner and Code Enforcement Officer in accordance with applicable provisions of the Zoning Ordinance. Any changes determined by the Planning Staff to require Planning Board approval shall be submitted for such review. If the Planning Board determines that any proposed revisions to the approved plans would not be comply with the provisions in this Agreement, Seacoast shall be required to obtain an amendment of the Agreement from the Town Council before the Planning Board can review and approve the revised plans.
- C. These amendments affect only the parcel of land identified as Tax Map 207, Block 1, Lot 2 on the Town of Old Orchard Beach tax maps as more particularly described on Exhibit A.
- D. This contract and its provisions shall specifically and exclusively

apply to the contract zone request submitted by Seacoast. Approval of this contract zone is in part based on the technical qualifications of Seacoast as submitted to the Town. 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 Seacoast except that this contract shall be binding upon, and shall inure to the benefit of, future owners of the Property, or any part thereof, provided, however, that Seacoast may (1) transfer this contract and the contract zone it creates to a Maine limited partnership in which the general partner thereof is controlled by _____ without any need for written consent of the Town Council and (2) this contract and the contract zone it creates may be assigned or pledged to lenders providing financing secured by the Property and the Project. In the event of a transfer to such a limited partnership, all references in this agreement to Seacoast shall thereafter be deemed to refer to such limited partnership.

- E. Failure of Seacoast to secure the required Site Plan and Subdivision approvals from the Planning Board, and any and all other permits or approvals that may be required by the Town or other regulatory agencies including but not limited to the Maine Department of Environment Protection and/or Department of Transportation 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 Seacoast, this one year deadline may be extended by one (1) year upon written request to the Town Council submitted by Seacoast 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.

F. Failure of Seacoast to initiate construction of the Project within two (2) years from the date of final approval of this contract zone by the Town Council, or within two (2) years from the date the permits and approvals referred to in Subparagraph E above become final, whichever shall last occur, shall render this contract null and void. In the event that permits or approvals are delayed due to circumstances beyond control of Seacoast, this two-year deadline may be extended by one year upon written request to the Town Council submitted by Seacoast prior to the expiration of the original applicable two-year period.

G. In the event that Property Owner and/or its successors and assigns fail to develop or operate the Property in accordance with this Agreement or in the event of any other breach of any conditions set forth in this Agreement, the Town Council shall have the authority, after written notice to Seacoast and/or its successors and assigns, and reasonable opportunity to cure, to terminate this Agreement or to re-zone the Property to the current zone or any successor zone. In the event of such a re-zoning, the Property shall then be used for only such uses or otherwise allowed by law. The Town can also enforce any breach of this Agreement or any other violation of the Zoning Ordinance through the provisions of 30-A M.R.S.A. § 4452.

H. Seacoast shall record this Contract Zone Agreement in the York County Registry of Deeds within thirty (30) days of the date on which Seacoast receives an executed original of this Contract Zone Agreement from the Town. The purpose of this requirement is to provide record notice of all of the requirements of the Contract Zone Agreement.

I. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property and shall be amended only upon

further written agreement of the Town and Seacoast and/or its heirs, successors and assigns to the Property.

J. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property and shall bind Seacoast and/or its heirs, successors and assigns of the Property or any party in possession or occupancy of the Property or any part thereof and shall inure to the benefit of and be enforceable by the Town.

K. If any of the restrictions, provisions, conditions or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portions shall be deemed as separate, distinct and independent provisions and such determination shall not affect the validity of the remaining portions hereof.

Based on the above findings, conditions and restrictions, the Town Council hereby incorporates this contract zoning agreement into the 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 and inure to the benefit of Seacoast.

The Town of Old Orchard Beach	Seacoast Land Acquisitions, LLC
bys/Shawn O'Neill, Chairman	bys/Jason Labonte, Owner
bys/Kenneth Blow, Vice-Chair	
bys/Michael Tousignant	

bys/Connor Rague	
bys/V. Louise Reid	

EXHIBIT A

MAP AND PROPERTY
DESCRIPTION

TO BE DETERMINED AFTER
PUBLIC HEARING

EXHIBIT B
PRELIMINARY OR CONDITIONALLY APPROVED PLAN
TO BE DETERMINED AFTER PUBLIC HEARING