



Town Council - Meeting Agenda

Tuesday, November 21st, 2023 @ 6:30 pm
Council Chambers - 1 Portland Avenue

www.oobmaine.com/town-council

**Members of the public wishing to view the meeting from home may tune into Local Access TV (Channel 3 or 1301 - check with your provider) or by clicking the Meeting Videos link on oobmaine.com.)*

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ACKNOWLEDGEMENTS:

Police Chief Chard – Swearing in of new Officers Jason Harmon and Philip Leblanc

GOOD & WELFARE:

ACCEPTANCE OF MINUTES:

Acceptance of the minutes from the 10/17/2023 Regular Town Council Meeting and the 11/8/2023 Town Council Workshop

Chair: Shawn O'Neill

PUBLIC HEARINGS:

Public Hearing #1

Shall the Town 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.

Chair: Shawn O'Neill

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**

FROM: Planning Staff

SUBJECT: 61 Unit Contract Zoning Proposal at 63 -91 E. Emerson Cummings Blvd

DATE: 21 November 2023

This item is for a new contract zone that proposes a 61-unit single-family condominium development on a 19-acre vacant lot located at 63-91 E. Emerson Cummings Blvd. (MBL: 207-1-2), across from the high school. The project connects to public utilities. Access will be from E. Emerson Cummings Blvd. The primary reason why a contract zone is sought is the density allowed under current zoning does not make this a viable project. The applicants' submissions provide more information concerning this proposal.

As of the date of this memo, the proposed contract zone received a favorable recommendation by the Planning Board and has been reviewed by Council, including a workshop held earlier this month.

Regarding Planning Board review, the Board held a public hearing and provided a recommendation. Comments received at the public hearing included:

- Traffic and pedestrian safety, especially due to the nearness of schools.
- Expected traffic volume.
- Buffering along the property line shared with Cider Hill- what will it be, its depth, how maintained.
- Stormwater management systems and preventing stormwater flow to adjacent properties.

The Planning Board's recommendation included two conditions with the first being a prohibition on short-term rentals and the second a requirement that the roads remain private. Since the Board's decision, the applicant complied with both conditions by including applicable language within the revised contract zoning agreement.

Regarding Council review, Members had several comments and requests at the November workshop. Below are the comments and requests in my notes (Council and Diana/Tim may have others):

- Add two crosswalks with rapid flashing beacon signage at the proposed development's two road access points, proceeding across E. Emerson Cummings Blvd, then connecting with the existing sidewalk on the high school property. This must be added as a condition in the contract zoning agreement.
- Change the agreement language by removing the 10% reference associated with affordable housing and replacing it with 7 units.
- Replace language in the agreement in letter "C" on p 6 associated with the median income requirement with language that states something similar to "will meet the most recent, at the time of sale, affordable homeownership guidelines as prepared by the State of Maine."
- How will the developer ensure the affordable units remain affordable? Council request sample deed.
- Vehicle traffic concerns, primarily around the halfway intersection and Ocean Park Rd/Smithfield Rd.
- Location of internal walking trails.
- Require subdivision and site plan approvals before final vote on the contract zone.

Ordinance Modification Requests

To promote desirable development, contract zoning allows the Town to apply more "flexible and adaptable zoning methods" to proposals. These more flexible and adaptable methods are typically modifications to ordinance standards. The proposed contract zone agreement includes several modifications. The modifications and reasons for the modifications are found in the agreement and summarized below.

- Housing Density. The contract zone agreement proposes 61 single-family units. According to the applicant, when considering current zoning density standards and factor in square footage deductions (wetlands, access roads or 15% of lot area), the number of allowable units is 19.
- Setback Reduction. The PMUD Zoning District has a 35' front, side and rear setback. The agreement proposes a 20' front/rear setback and 15' side setback.

- Distribution of Uses. The PMUD ordinance states no single use can exceed 75% of the total building square footage unless the Planning Board determines the size of the project property is inadequate to effectively support multiple uses. All building square footage associated with this contract zone will be for residential uses.
- Recreational Site Amenities. The PMUD requires developments exceeding 50 units to include indoor or outdoor amenities to serve the recreational needs of the residents. The contract zone proposes walking trails which should satisfy this standard (indoor and outdoor are not required) and not require a modification. Although, creation of these trails should be a condition included in the contract zone agreement.
- Sidewalks and Curbing. As proposed, the contract zone will modify the sidewalk standards (instead of a raised sidewalk the proposal includes an at-grade marked area), curbing, and right-of-way width (the proposal does not include a 50' right-of-way). Note: This is the reason the PB required a condition of the agreement that the road must remain private.

Desirable Development and Public Benefits

Contract zones basically are an agreement between the Town and a private person/entity that allow modifications to ordinance language to encourage desirable development and provide public benefits. This proposal includes the construction of 61 units of affordable and reasonably priced homes. With the need for this type of housing this is certainly desirable development.

Regarding public benefits, the applicant and PB negotiated the following:

- 7 units will be dedicated affordable housing. This will be enforced through the contract zone agreement and deed language to ensure the units remain affordable.
- Short-term rental of all units will be prohibited which will help increase year-round housing options.
- Publicly accessible trails.
- Crosswalks to the sidewalk on the high school property
- Preservation of half of the property (9.5 acres).
- Conveyance of the preserved 9.5 acres to the Town.

Council Responsibilities

The Council acts on contract zoning requests in accordance with the procedures in Section 410 of the OOB Town Charter. Section 410 requires the Council to review a contract zone with the same procedure as an ordinance amendment- schedule a public hearing, hold a public hearing, issue a decision. In addition to formal meetings, Council can schedule workshops which are helpful to sort through project details.

Council has the option to add conditions to the contract zone agreement or alter in any way they feel is necessary to meet the contract zoning ordinance standards (Ch. 78, Art. IX). As stated in the contract zoning ordinance: “The decision whether or not to rezone remains committed to the town council exercising its sole and exclusive judgment as the elected legislative body of the Town of Old Orchard Beach.”

Next Council Steps

After tonight’s public hearing the Council will hold a final vote on 5 Dec. A few questions for Council to consider before the final vote:

- Did the applicant acceptably address Council comments and requests? If not, please identify outstanding items.
- Does this particular contract zone require site plan and subdivision approval before Council votes on the contract zone?
- Add conditions or restrictions? If yes, please note the conditions and restrictions must relate only to the physical development and operation of the property.

Public Hearing #2

Shall the Town consider a request from Atlantic Developers to accept title in fee simple and to accept and establish town ways those portions of Mary's Way and Kylie Lane, together with any storm water drainage systems located within the right of way of said Mary's Way and Kylie Lane; two 50' x 50' turnaround and snow storage easements located on subdivision plan lots 4 and 5; 12' wide easement off Ross Road, as shown on the _____ plan dated _____, for the purposes of accessing storm water drainage systems within the open space area; 50' wide water, gas, and public access easement across the remaining land of Beaulieu from the terminus of Mary's Way to the Eastern Trail; 5' wide public access easement from Ross Road to Kylie Lane, as shown on the _____ plan dated _____, through the open space area; fire hydrants; street signs; together with the responsibility for trash removal, plowing of roads within the travelled way and all responsibilities of maintaining public road or way, except and specifically excluding a 15' wide utility easement located on subdivision lot 18; 10' wide utility easements located along subdivision lots 5 – 18 and open space area; open space areas; lawn care and maintenance of 12' wide Ross Road access easement, 5' wide public access easement, and 50' wide water, gas and public access easement; mailboxes and snow removal of the mailbox area; sidewalks and sidewalk maintenance including plowing and repairs; landscaping and maintenance of the cul-de-sac on Kylie Lane; street lights; lighting facilities; lampposts; lighting electricity costs; street trees; lawn and yard maintenance within the right of way; lawn irrigation systems within the right of way; storm water drainage systems outside of the right of way; non-traffic control signage such as the development sign. As described in the Warranty Deed from Atlantic Developers to the Town of Old Orchard Beach, Maine, dated, _____.

Chair: Shawn O'Neill

Public Hearing #3

Shall the Town amend the Code of Ordinances, Chapter 54, Section 114, Milliken Street Parking Lot; Section 115, Memorial Park Parking Lot; Section 142, Parking at expired meters and overtime parking; Section 160, Motorcycles; Section 187, Restrictions and prohibitions, Town Hall, amending the effective date for parking permits and parking meters/kiosks from May 1st through September 30th to May 1st through Labor Day, and amending the \$300 overnight parking permit for the Milliken Street Parking Lot from May 1st through September 30th, to May 1st through October 31st.

Chair: Shawn O'Neill

The \$300 permit is the permit that allows the holder to park their vehicle in the Milliken Street parking lot overnight. It begins and ends at the same date the other permits do, which is currently September 30th. The Town Council is considering amending the parking to run from May 1st to Labor Day. All the permits will expire on the same day. We have received several calls from the \$300 parking permit holders that they can stay in their housing unit until the end of October, or even November or all winter. The location they are renting does not have any parking. The Town Clerk's Office recommends moving the end date of the \$300 permit to October 31st. It gives the permit holder additional time to use the Milliken Street parking lot, but does not extend into the winter season where the Town will be responsible for plowing the lot if we allow permit holders to park through the winter.

PUBLIC HEARING – BUSINESS LICENSE & APPROVALS:

Baird Holding LLC, Jerry Baird, (311-25-4), 111 Saco Ave, One (1) year round short term rental.

Whitney Ryan, (304-5-7), 2 Traynor St., Two (2) year round short term rentals.

Whitney Ryan, (304-5-6), 4 Traynor St., Two (2) year round short term rentals.

Adam Moon, (320-6-3), 43 Winona Ave, One (1) seasonal short term rental.

Sarabjeet Singh Chhatwal & Jaspreet Bhatta, (310-6-1-53), 39 West Grand Ave #53, One (1) year round short term rental.

Grey Tower LLC, Sam Wercinski, (319-4-10), 4 Hampton Ave, One (1) seasonal short term rental.

Christian Beltran, (205-1-15), 9 B Street Extension, One (1) year round short term rental.

Nulbelcy Grajales, (304-7-1-19), 98 East Grand Ave unit 207, One (1) year round short term rental.

Eber Weinstein, (206-27-5-1), 5 Sunset Drive unit 1, One (1) year round rental.

Leigh Pulford, (205-6-6-7), 6 Imperial Street unit 7, One (1) year round short term rental.

Colonial Motor Court LLC, Craig Millet, (210-10-3), 15 Ocean Park Road, Rental of merchandise including self-storage.

1031 Portland Rd, LLC, Steven Hanscom, (316-13-11), 14 Union Ave, two (2) year round, short-term rentals. (Tabled from 10/17/23 meeting).

Chair: Shawn O'Neill

TOWN MANAGER REPORT

TABLED ITEMS:

AGENDA ITEM #8010

Discussion with Action: Shall the Council 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), 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 6-unit residential condominium building.

Chair: Shawn O'Neill

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**
FROM: Planning Department
SUBJECT: Contract Zoning Proposal at 60 Saco Ave, Final Vote
DATE: 21 November 2023

Beginning late 2021 and through spring 2022, the Planning Board (PB) reviewed a proposed contract zone for an 8-unit residential condominium building located at 60 Saco Ave., applicant Land Matters LLC. The PB voted to recommend Council approve the contract zone as proposed.

After PB's vote, Council considered the 8-unit contract zone. After several meetings and workshops during 2022, Council voted to refer the applicant back to the PB for site plan and subdivision review before Council issues a final decision. Also, Council highly encouraged the applicant to reduce the unit count by indicating they are more open to supporting a 6-unit building.

During 2023 the applicant returned to the PB with a 15-unit apartment building then a 14-unit age-restricted apartment building. The PB was not receptive to either proposal. Seeing a positive recommendation from the PB was unlikely, the applicant changed the proposal to a 6-unit condominium. During the summer of 2023, the applicant presented the revised 6-unit contract zone which the Board unanimously voted to recommend that Council approve. Site plan and subdivision approvals were not secured.

The applicant returned to Council during Sept 2023 with the revised 6-unit condo contract zone proposal. A public hearing was held during September. The contract zone is now scheduled for final vote.

Site Plan and Subdivision Review

After several meetings, workshops, and a public hearing held by Council during 2022, Council concluded review by unanimously voting to remove the contract zone without prejudice to allow the applicant to go back to the Planning Board for site plan and subdivision approval. During 2023, the applicant went back to the PB and secured a favorable recommendation for a revised contract zone proposal but did not move forward with site plan and subdivision review.

Why require site plan and subdivision approval before a decision is made on the contract zone agreement? I believe Council is considering this because securing those approvals means the applicant must comply with standards that are more stringent than those in the contract zoning ordinance. Also, the applicant must prepare the technical plans and supporting documentation required by site plan and subdivision ordinances. These plans and documents will provide Council with more information which in turn helps Council make a more informed decision.

Sec. 78-2137 (Town Council Action) of the contract zoning ordinance states: "The decision whether or not to rezone remains committed to the town council exercising its sole and exclusive judgment as the elected legislative body of the Town of Old Orchard Beach and will not be made until the council takes its final vote on the contract zoning amendment." This standard tells me Council, by exercising its sole and exclusive judgement, has the authority to require the applicant to secure site plan and subdivision approvals before the Council issues their final vote.

I do understand the applicant's hesitancy moving forward with the investment in site plan and subdivision permitting without knowing if the contract zone will be approved. There's certainly a risk.

Contract Zoning Review

Contract zoning proposals require Planning Board and Council review. Similar to the zoning ordinance amendment process, the PB reviews, holds a public hearing and votes on a recommendation to the Council. The Council reviews the proposal, holds a public hearing, and issues a final decision. Council has sole jurisdiction of approval or denial.

The Council acts on contract zoning requests in accordance with the procedures in Section 410 of the OOB Town Charter. Section 410 requires the Council to review a contract zone with the same procedure as an ordinance amendment- schedule a public hearing, hold a public hearing, issue a decision.

Council has the option to add conditions to the contract zone agreement or alter in a way they feel is necessary to meet the contract zoning ordinance standards. As stated in the contract zoning ordinance: “The decision whether or not to rezone remains committed to the town council exercising its sole and exclusive judgment as the elected legislative body of the Town of Old Orchard Beach.”

Ultimately, a contract zoning proposal must meet all three primary factors identified in Sec. 78-2136 in order to be approved. The applicant must show the contract zone:

1. Is consistent with the comprehensive plan;
2. Is consistent with, but not limited to, the existing uses and allowed uses within the original zone; and
3. Is subject to conditions sufficient to achieve the purposes described in Sec. 78-2131 of the Contract Zoning Ordinance

Remaining Comments, Questions, and Concerns

Below are remaining comments, questions, and concerns from Council and from the public.

- Should the applicant securing subdivision and site plan approvals before Council issues a decision on the contract zone?
- Number of bedrooms. When last reviewed some units had 5 bedrooms. In the November submission, the contract zoning agreement and draft floor plans are revised to reflect 3 bedrooms.
- Additional Traffic, including potential impacts at the Saco/Fern Park intersection.
- Parking lot size- can it accommodate all vehicles associated with the proposed use.
- What happens to the contract zone agreement if Land Matters does not secure ownership to the property or secures ownership and sells to another? The agreement runs with the land and binds all successors and assigns. It will still be in effect unless repealed by Council. Council can repeal the agreement if the property owner fails to develop or operate the property in accordance with the agreement.
- Can Council include a condition that allows reconsideration or termination of the contract zone agreement if the property is transferred to another before subdivision site plan and other permits are approved? According to our Town Attorney, he thinks Council could include such a condition; however, a condition like this could affect ability to finance a project if approval can be revoked upon sale.
- Is the purchase and sale agreement valid? According to our Town Attorney, “I see no reason to question the validity of this P&S, except that the P&S contains a contingency that required the Purchaser to submit applications for approvals for a mixed use facility containing at least 6 residential units no later than June 30, 2021. I am not sure if that condition was satisfied, and if not, if there was an agreement by the parties to extend that deadline. Under the Addendum, the closing shall take place within 60 days after approval for the development from the Town.”

Council Final Vote

The applicant is seeking a final vote on the contract zone agreement. Council has several options: 1. Approve as submitted (no changes to agreement); 2. Approve with added changes/conditions/restrictions to the agreement; 3. Deny; or 4. Table. Motions for each option below:

1. Approve as submitted (no changes to agreement). Council can make a motion to approve the contract zone as proposed with no changes. Motion to approve:

I make a motion 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 Chapter 78, Article IX of the Old Orchard Beach Code of Ordinances to allow the establishment of a 6-unit residential condominium building.

2. Approve with changes/conditions/restrictions to the agreement. Council can make a motion to approve the contract zone with changes/conditions/restrictions to the agreement language; although, it's important to note the conditions and restrictions shall relate only to the physical development and operation of the property (Sec. 78-2135). If changes/conditions/restrictions are needed, Council should include in the motion. Motion to approve with changes/conditions/restrictions:

I make a motion 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 Chapter 78, Article IX of the Old Orchard Beach Code of Ordinances to allow the establishment of a 6-unit residential condominium building with the following conditions: (Add changes/conditions/restrictions here)

3. Deny. If Council choose to make a motion to deny, I recommend Council provide a finding based on why it does not meet contract zoning ordinance standards. This could be based on one or more of the three primary factors identified in Sec. 78-2136 (see above). A motion for denial could state:

I make a motion to deny the 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 Chapter 78, Article IX of the Old Orchard Beach Code of Ordinances proposing the establishment of a 6-unit residential condominium building by finding:

Without site plan and subdivision approvals as requested by the Council, we cannot affirm the conditions in Land Matters LLC contract zoning agreement are sufficient to achieve the purposes described in Sec. 78-2131 of the Contract Zoning Ordinance.

Due to the above, we find the contract zone agreement will not protect the best interests of the surrounding property owners and the neighborhood.

4. Table. If the Council prefers the applicant secure site plan and subdivision approvals or should submit or address something else before a final vote on the contract zone, Council can table the final vote until the applicant receives these approvals. Possible motion below:

I make a motion to table a vote on the 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 proposing the establishment of a 6-unit residential condominium building until: (add Council request here)

Barbara I. Belik
Gregory P. Braun
Milda A. Castner
Scott M. Edmunds
William J. Gallitto, III
Jeffrey R. Gnecco



Julia M. Keenan
Jana L. Kenney
Michael W. Macleod-Ball
Thomas R. Miscio
Sarah B. Neault
Durward W. Parkinson

November 13, 2023

Diana Asanza, Town Manager
Tim Fleury, Executive Assistant
Old Orchard Beach Town Council
Town of Old Orchard Beach
42 Park Avenue
Old Orchard Beach, ME 04064

Via email: dasanza@oobmaine.com, tfleury@oobmaine.com

**Re: The Franklin Contract Zone
 60 Saco Avenue, Tax Map 206, Block 10, Lot 1**

Dear Ms. Asanza and Members of the Council:

Pursuant to our appearance before you on September 5, 2023, please find attached with this cover letter the updated Franklin Contract Zone, Agreement, and accompanying documents which take into account the feedback provided by the Council at that meeting. ***In short summary, the applicant has amended the Contract Zone to create a restriction of six (6) units with a maximum of three (3) bedrooms in each.*** Further, it is my understanding that the Franklin Contract Zone and Agreement have been reviewed by Town Staff and the Town Attorney and that no concerns or “red flags” exist.

We look forward to the Town Council’s further consideration on November 21st and are hopeful that this proposal will receive approval at that time. I thank you for your consideration and I look forward to presenting this plan and answering any outstanding questions at that meeting.

Very truly yours,

/s/ Gregory P. Braun, Esq. (#004636)
Attorney for Land Matters, LLC

Enclosure(s)

THE FRANKLIN CONTRACT ZONE

CONTRACT ZONING AGREEMENT
BETWEEN LAND MATTERS, LLC and THE TOWN OF OLD ORCHARD BEACH

This Contract Zoning Agreement is made this _____ day of _____, 2023 by and between the **TOWN OF OLD ORCHARD BEACH**, a body corporate and politic located in the County of York and State of Maine (hereinafter the “Town”) and **LAND MATTERS, LLC**, a Maine limited liability company with a principle place of business in Saco, Maine, (hereinafter “Property Owner”).

WHEREAS, pursuant to a certain Purchase & Sale Agreement dated April 9, 2021, Property Owner has a right and interest in a parcel of real estate located at 60 Saco Avenue, Town of Old Orchard Beach, Maine (Tax Map 206, Block 10, Lot 1) and which address shall be changed to 9 Fern Park Avenue, Town of Old Orchard Beach, Maine, as depicted on the ***Trillium Engineering Group boundary survey (the “Boundary Survey”)*** and attached hereto as **Exhibit A** and incorporated herewith (hereinafter the “Property”).

WHEREAS, the Property is currently located in the General Business District 2 (GB-2) (“GB-2”), under the Old Orchard Beach Zoning Ordinance (“OOBZO”).

WHEREAS, the Property consists of approximately **0.325 acres (14,176 sq/ft)** and is located at the corner of Saco Avenue and Fern Park Avenue.

WHEREAS, the Property is not currently in use having previously housed a branch of the U.S. Post Office and is built in the style of a commercial office building.

WHEREAS, Property Owner wishes to further develop and make use of the Property as a six (6) unit residential condominium so as to revitalize the Property and make use of it in conformity with the Town of Old Orchard Beach Comprehensive Plan (“OOB Comp Plan”).

WHEREAS, Property Owner and the Town wish to create a separate zone known as The Franklin Contract Zone which will enable above-described uses to exist on the Property.

WHEREAS, the Town has the authority to enter into a contract re-zoning for the Property pursuant to 30-A M.R.S.A. §4352 and Article IX “Contract Zoning”, et seq., of the OOBZO.

WHEREAS, after notice and hearing and due deliberation on the re-zoning phase, the Old Orchard Beach Planning Board recommended re-zoning of the Property.

WHEREAS, pursuant to Section 78-2138 and 30-A M.R.S.A. § 4352(8), the Planning Board and the Town Council have determined that: the re-zoning is consistent with the Town’s Comprehensive Plan; and, that the re-zoning is consistent with existing uses and allowed uses

within the original zone; and, that the conditions described in this Agreement and in the Franklin Contract Zone are sufficient to achieve the purposes described in Section 78-2131.

WHEREAS, the re-zoning has been adopted by the Town Council.

NOW THEREFORE, in consideration of the mutual promises made to each other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Ordinance and map to create and make reference to this Agreement and the The Franklin Contract Zone as depicted on Exhibit A.

2. Subject to final Planning Board approval and after public hearing, of the Site Plan, the Property Owner and/or its heirs, successors and assigns shall be authorized to use the Property for any of the uses set forth in the description of The Franklin Contract Zone attached hereto as **Exhibit B** and incorporated herewith.

3. In reviewing the Site Plan, the Planning Board will apply the standards set forth in the Old Orchard Beach Ordinance except as modified by the description of the Franklin Contract Zone attached hereto as Exhibit B and incorporated herewith. The project shall be developed substantially conforming with the layout shown on the Site Plan, Exhibit A. The Planning Board may make modifications of the Site Plan without amendment of this Agreement.

4. Property Owner shall record the Contract Zoning Amendment in the York County Registry of Deeds and shall submit proof of recording to the Town's Code Enforcement Officer and Planner.

5. 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 Property Owner and/or its heirs, successors and assigns to the Property.

6. The above restrictions, provisions and conditions are an essential part of the re-zoning, shall run with the Property and shall bind Property Owner 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.

7. 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.

8. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Town of Old Orchard Beach Zoning Ordinance.

9. 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 Property Owner 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 shall also have the ability to 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.

(Signature Blocks on Next Page.)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the ____ day of _____ 2023.

TOWN OF OLD ORCHARD BEACH

Witness

By: _____
Connor Rague, Town Council

Witness

By: _____
Michael Tousignant, Town Council

Witness

By: _____
Shaw O'Neill, Town Council

Witness

By: _____
V. Louise Reid, Town Council

Witness

By: _____
Kenneth Blow, Town Council

LAND MATTERS, LLC

Witness

By: _____
Tom Gillis, Member & Manager
Thereunto duly authorized

STATE OF MAINE
YORK, ss.

_____, 2023

Personally appeared the above-named Connor Rague, Councilor, Michael Tousignant, Councilor, Shawn O'Neill, Councilor, V. Louise Reid, Councilor, Kenneth Blow, Councilor, of the Town of Old Orchard Beach and acknowledged the foregoing instrument to be their free act and deed in said capacity on behalf of said Town.

Before me, _____
Notary Public

STATE OF MAINE
YORK, ss.

_____, 2023

Personally appeared the above-named Tom Gillis as Member & Manager of Land Matters, LLC, and acknowledged the foregoing instrument to be his free act and deed in said capacity on behalf of said Land Matters, LLC.

Before me, _____
Notary Public



TRILLIUM
ENGINEERING GROUP
100 MAIN STREET SUITE 200
YARMOUTH, ME 04096



THE FRANKLIN
60 SACO AVENUE
OLD ORCHARD BEACH MAINE
PROPOSED RENOVATION

NO	ISSUED	DESCRIPTION	BY	DATE
1	ISSUED FOR PLANNING PERMIT			
2				
3				
4				
5				
6				
7				
8				
9				
10				

PROPOSED SITE PLAN

DESIGNED: ED
DRAWN: ED
DATE: 07-19-22
PROJECT NUMBER: 22-231

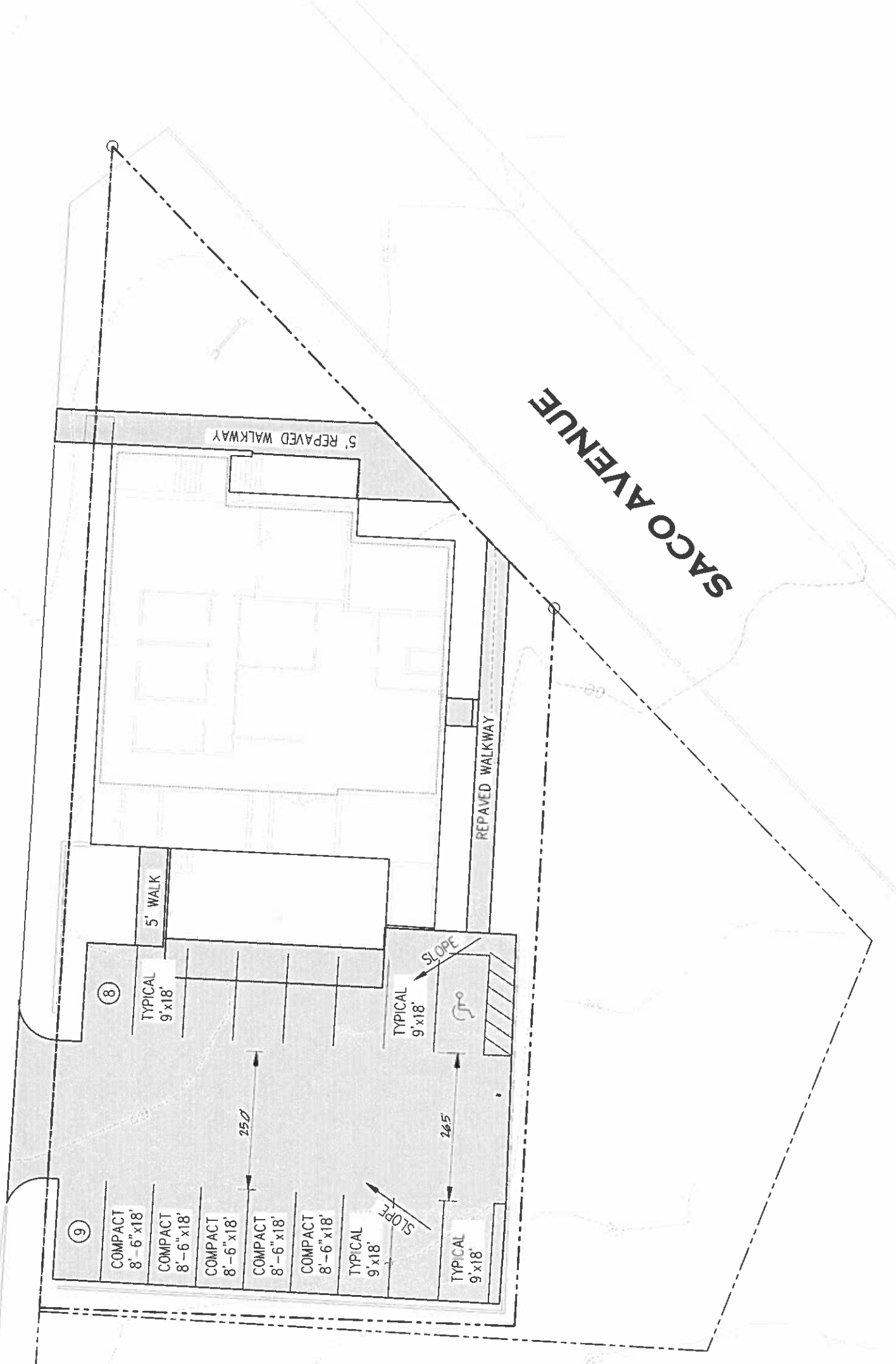
C101

RECORDED	PROPOSED
60'	115.0'
5,000	14,331
15'	3.23'
10'	18.32'
15'	60.0'
50%	35.68%

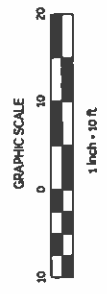
- NOTES:**
- 1 THE PROPOSED SITE RENOVATION IS APPROVED AS A CHANGING ZONE PARKING PROVIDED FOR THE PROPOSED BUILDING = 17 SPACES.
 - 2

FERN PARK AVENUE

SACO AVENUE



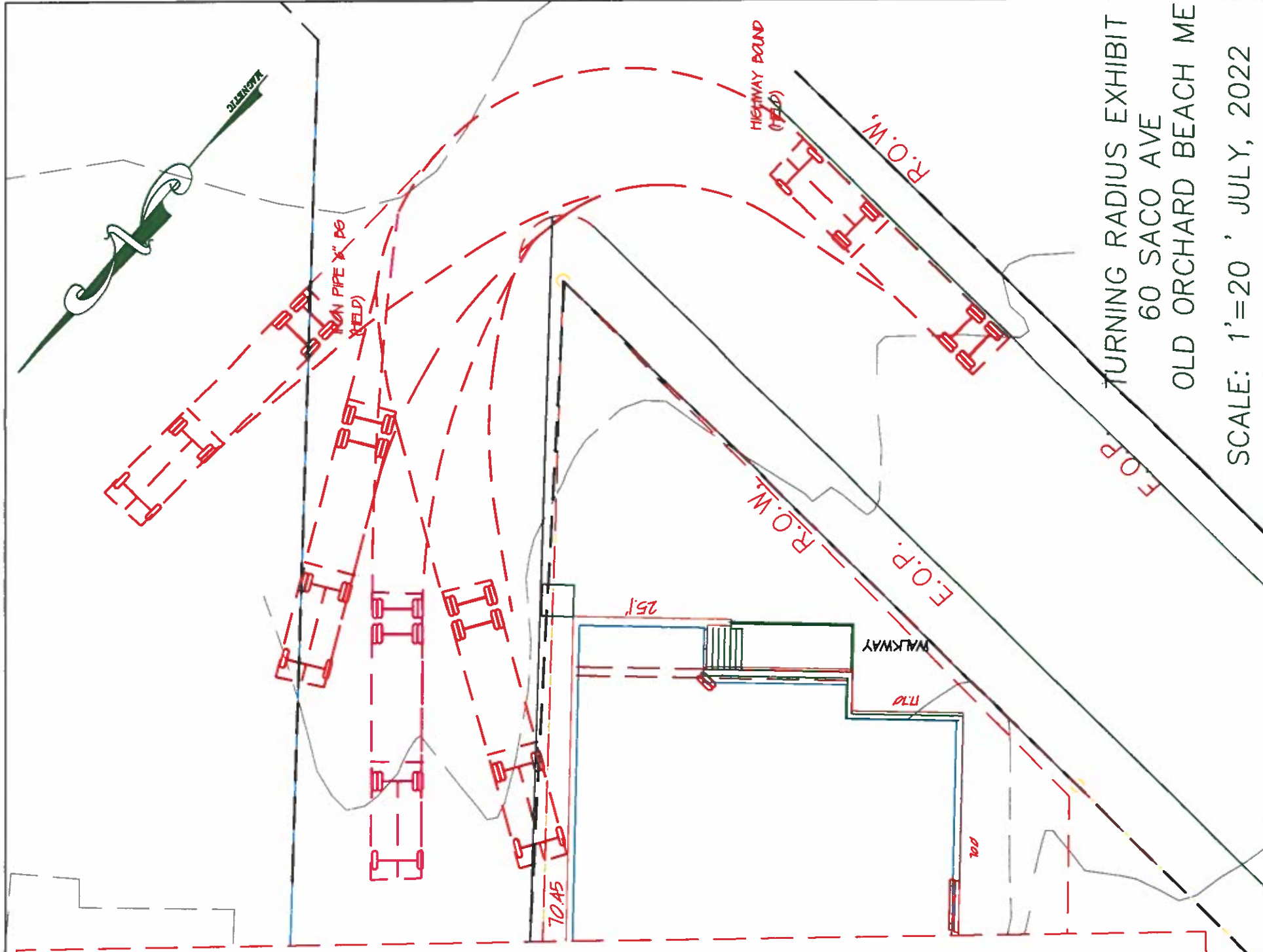
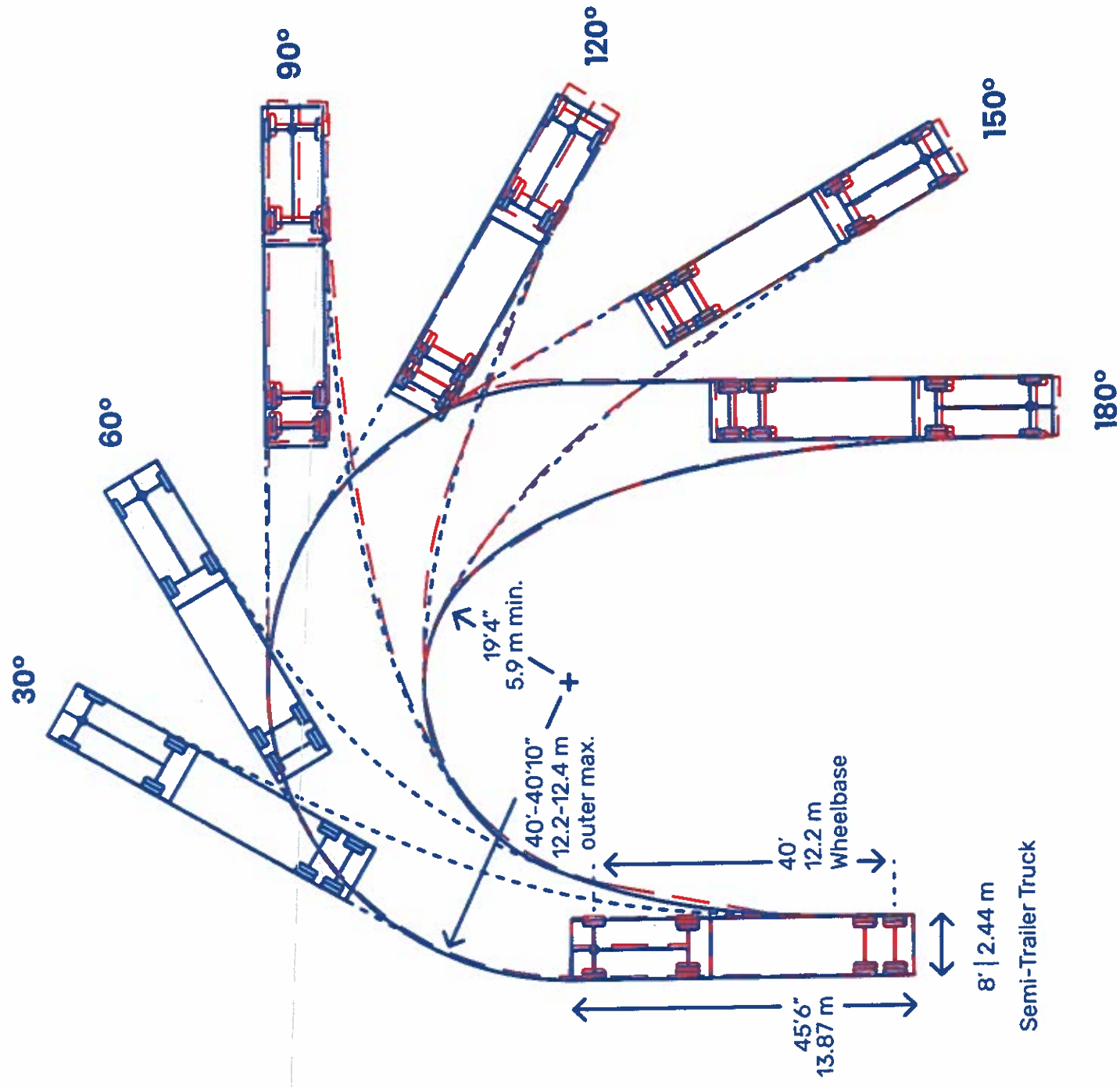
EXISTING	DESCRIPTION	PROPOSED
□	DRIVE MONUMENT - 5' OTHER	□
○	IRON PIN FOUND/SET	○
○	IRON ROD FOUND	○
○	CAPED IRON ROD FOUND	○
○	ON-LL WALK FOUND	○
○	CONCRETE FOUNDMENT/FOUNDATION	○
---	STREET LINE	---
---	UTILITY SERVICES	---
---	PROPERTY LINE	---
---	HAZARDOUS LINE	---
---	1/4" CUT BUTTER	---
---	WETLANDS	---
---	EDGE OF ROAD/TRUNKLED WAY	---
---	SOIL TEST PIT	---
---	CONTOUR	---
---	SPOT GRADE	---
---	GAS SHUT-OFF	---
---	UTILITY POLE	---
---	OVERHEAD ELECTRICAL	---
---	UNDERGROUND ELECTRICAL	---
---	ELECTRICAL TRANSFORMER	---
---	FIRE HYDRANT	---
---	WATER LINE	---
---	WATER GATE	---
---	SEWER LINE	---
---	SEWER MANHOLE	---
---	SEWER MANHOLE	---
---	CATCH BASIN	---
---	UNDERGROUND/UNDERPASS	---
---	UNDERPASS	---
---	SKI TRIDGE	---
---	TRAP STOP CHOCK BAN	---
---	GRADING AND FLOOR DIRECTION	---
---	HOT WALKS	---
---	EDISON CONTROL BUCKET	---
---	STORMWATER BOUNDARY	---
---	STORMWATER FLOW (1)	---
---	FACE OF LODGE OUTWASH	---
---	BRUSH	---
---	WALK	---
---	WET LINE (BASED FUTURE)	---
---	STONE WALL	---



PROPOSED SITE PLAN

SCALE 1" = 10'-0"

Dimensions.Guide Semi-Trailer Truck (40' WB) Turning Paths



TURNING RADIUS EXHIBIT
60 SACO AVE
OLD ORCHARD BEACH ME

SCALE: 1"=20' JULY, 2022

ROOF PEAK
1 & 3 FERN PARK

P2 ZONE HEIGHT LIMIT

P2 ZONE HEIGHT LIMIT ELEV = 98.0

+95

ELEV = 97.5

+90

SECOND FLOOR ELEV = 88.0

+10

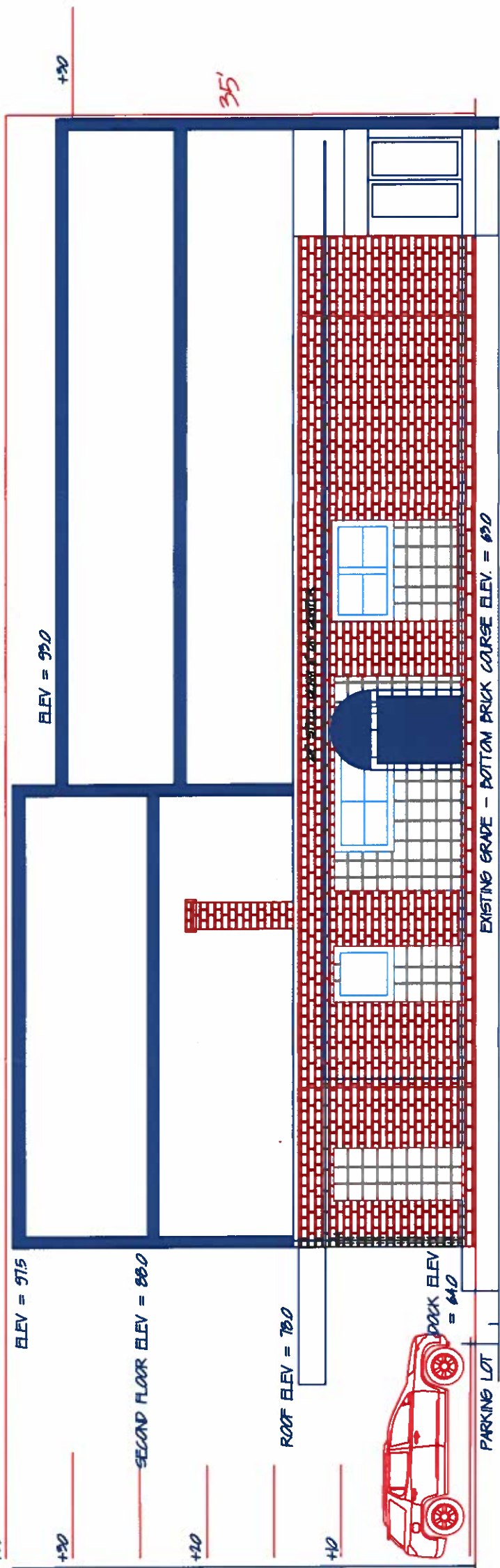
ROOF ELEV = 78.0

+10

25

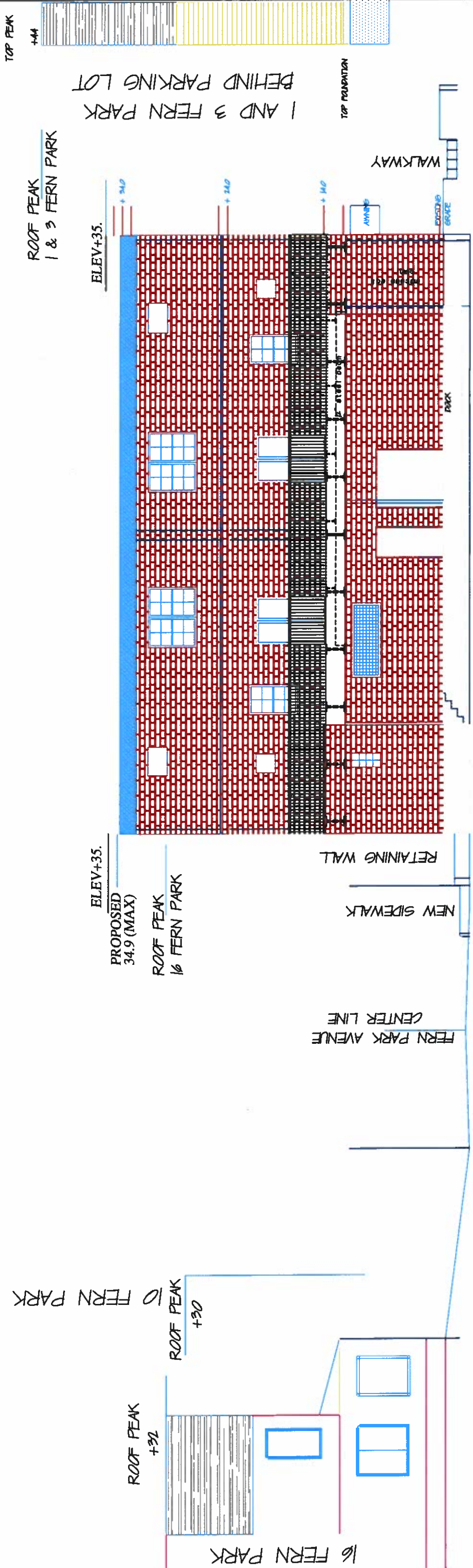
+90

35'



SKETCH OF SIDE ELEVATION
AND PARKING AND CENTER LANE

SCALE 1" = 10' JULY, 2022



SKETCH OF REAR ELEVATION
 SHOWING ABUTTER BUILDING HEIGHTS

SCALE 1" = 10' MAY, 2012

EXHIBIT B

THE FRANKLIN CONTRACT ZONE

A. Purpose

The Franklin Contract Zone (“FCZ”) shall be located at 9 Fern Park Avenue, Town of Old Orchard Beach, Maine (Tax Map 206, Block 10, Lot 1)(the “Property”).

The purpose of the FCZ is to allow for current structure(s) located on the Property to be developed and used as a residential condominium with up to six (6) units, each unit to have a maximum of three (3) bedrooms.

The Franklin Contract Zone is consistent with the Old Orchard Beach Comprehensive Plan (“Comprehensive Plan”) Policy A.40 in that it seeks to sustainably maintain and preserve the existing structure, said structure being the former U.S. Post Office. 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 A.26 of the Comprehensive Plan. The footprint of the existing structure shall not be enlarged and the building height will be less than thirty-five (35’) feet.

Consistent with the Comprehensive Plan, The Franklin Contract Zone includes the installation of an additional five (5’) foot wide sidewalk, landscaping, and seating, along the southwesterly side of Fern Park Avenue, which shall improve pedestrian safety.

Consistent with the Comprehensive Plan, Policy A.3, The Franklin Contract Zone conforms to the predominately residential nature of the GB-2 District and the surrounding neighborhood and will add up to six (6) moderately priced residential condominium units, with rental term(s) of less than thirty (30) days prohibited, to the Town’s housing stock, which is in conformity with the Comprehensive Plan Policy A.3 to assure opportunities for affordable housing while allowing the proper workings of the real estate marketplace.

Consistent with the Comprehensive Plan, The Franklin Contract Zone 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.

Consistent with the Comprehensive Plan, the Franklin Contract Zone will not place additional burden upon the Town to provide municipal services as electric, telecommunication, water and sewer services already exist upon the Property; and, The

Franklin Contract Zone shall provide private carting services for trash removal and the removal of waste. Snow removal within the Franklin Contract Zone will be effectuated by private contractor.

Consistent with the Comprehensive Plan, Policy A.42, ample on-site parking will be provided for residents and guests consistent with Policy A 42 and in conformity with the existing on- site requirements of the Town.

B. Permitted Uses

The following uses shall be permitted in The Franklin Contract Zone (FCZ):

- (1) Single-family detached, two-family, and multifamily dwellings.
- (2) Accessory buildings, structures, or uses.
- (3) Business, professional, and governmental offices.
- (4) Retail uses of less than 5,000 square feet of gross leasable area.
- (5) Artist and craftsman studios.
- (6) Lodges and fraternal organizations.
- (7) Lodging establishments.
- (8) Municipal uses.
- (9) Community living arrangements.
- (10) Residential Condominium. For purposes of the FCZ “Residential Condominium” shall mean a residential condominium project, which units are individually owned, one hundred (100%) percent of which are used for residential purposes and not for transient use as short-term rentals.

C. Conditional Uses

The planning board may authorize the following uses in the FCZ provided that the conditions of Article VII, Chapter 78, OOBZO are met:

- (1) Automotive service and/or repair.
- (2) Retail uses in excess of 5,000 square feet of gross leasable area.
- (3) Public/private utility facility.
- (4) Wireless telecommunication facilities: architectural siting only.
- (5) Home occupations.
- (6) Cafes.

D. **Prohibited Uses**

Prohibited uses in the FCZ are as follows:

- (1) Truck terminals/motor freight business.
- (2) Drinking establishments.
- (3) Mobile homes.
- (4) Contractor storage yard 1 and 2.

E. **Space and Bulk Requirements**

Space and bulk requirements for the FCZ are as follows:

Standard	Residential Uses	Nonresidential Uses
Minimum lot area	2,300 sq. ft. NDD*	5,000 sq. ft. NDD*
Minimum lot area per unit	2,300 sq. ft.	5,000 sq. ft.
Minimum lot frontage	60 feet	60 feet
Minimum lot width	50 feet	50 feet
Minimum front yard setback, all structures	15 feet	15 feet
Minimum side yard setback, all structures	10 feet	10 feet
Minimum rear yard setback, all structures	15 feet	15 feet
Commercial use abutting a residential property	NA	25 feet
Maximum building coverage	35%	50%
Maximum building height	35 feet	35 feet

*NDD = Net development density

F. **Performance Standards**

(a) *Parking*. In addition to parking standards specified in Division 4, Article VIII, Chapter 78, OOBZO, all uses in the FCZ shall conform to the following parking requirements:

- (1) Where the town establishes parallel parking on Saco Avenue, properties fronting such facilities may reduce the required amount of on-site parking, specified under Division 4, Article VIII, Chapter, OOBZO, in the following manner:

Use Size	Required Off-Street Parking
<500 square feet net leasable area	None
500—1,500 square feet net leasable area	50% of required
1,500+ square feet net leasable area	100% of required

- (2) All required off-street parking shall be located in the side or rear yards of a property and not in the front yard fronting Saco Avenue.
- (b) *Driveway locations.* Notwithstanding driveway location standards specified in Division 4, Article VIII, Chapter 78, OOBZO, corner lots with less than 100 feet of frontage on Saco Avenue shall establish driveways on side streets and not access Saco Avenue directly. The combined frontage of two adjacent parcels shall be applied to the 100-foot frontage requirement, provided that the parcels share a single curb cut and driveway.
- (c) *Site improvements.* Site improvements are as follows:
 - (1) *Curbs and sidewalks.* Where nonresidential development or multifamily residential development or apartment houses in excess of five units fronts a public street, the property owner shall construct a public sidewalk and street curb within the street right-of-way for the length of the property frontage. All sidewalks and curb designs shall conform to specifications as established by the Planning Board.
 - (2) *Lighting.* Notwithstanding the standards for parking lot lighting specified in Division 4, Article VIII, Chapter 78, OOBZO, all freestanding site lighting shall:
 - a. Not exceed the height of the principal building or 14 feet, whichever is less.
 - b. From a nonresidential use, not shed more than 0.5 footcandle onto surrounding residential or nonresidential properties.
 - c. Be shielded to prevent point source glare.
 - (3) *Street trees.* Where nonresidential development or multifamily residential development in excess of five units fronts a public street, the property owner shall install street trees within the highway right-of-way or within a conservation easement fronting the property as specified by the planning board.
- (d) *Signage.* All signs in the FCA must conform to the following standards in addition to those of Division 5, Article VIII, Chapter 78, OOBZO:
 - (1) *Materials.* All proposed signage shall be constructed of either wood, metal, or fabric.
 - (2) *Lighting.* All proposed signs may be illuminated by one or more shielded external light fixtures affixed to the building, the sign, or uprights emanating from the ground. Internally illuminated signs shall be permitted.
 - (3) *Area and dimensions.* Area and dimensions are as follows:
 - a. Total aggregate signage located on the site, displayed on retractable awnings, affixed to the building, and displayed in the windows shall not exceed one square foot of signage for every two linear feet of building or storefront frontage on a public street.
 - b. Maximum aggregate signage for any business shall not exceed 40 square feet.

- c. Freestanding signs shall not exceed 15 feet in height and shall not exceed the allowable square footage. Square footage of signage allocated for the freestanding sign shall be subtracted from the maximum allowable square footage.
- d. Permitted sign area is not transferable between sides of the building located on a corner lot.

G. **Flood Plains**

Any construction or development within a flood plain, as defined by the Old Orchard Beach Flood Plain Management Ordinance, shall additionally comply with the terms of that Ordinance.

H. **Site Plan Review**

Any proposals as described in Chapter 78, Article IV (Site Plans), of the OOBZO shall be subject to site plan review and approval by the Planning Board prior to receipt of a building permit or plumbing permit.

NEW BUSINESS:

AGENDA ITEM #8039

Discussion with Action: To accept the donation in the amount of \$5,000.00 from the Paul T. Landry Foundation account # 30170-51028 for the Old Orchard Beach Public Safety Social Services Department to be distributed in emergency situations to help promote self-sufficiency and dignity for Old Orchard Beach residents.

Chair: Shawn O'Neill

AGENDA ITEM #8040

Discussion with Action: Set the date of December 5, 2023 to hold a public hearing to amend the Code of Ordinances, Chapter 78, Article I, Sec. 78-1; Article VI, Sections:

- 78-487 (6);
- 78-488 (1);
- 78-517 (8);
- 78-518 (9);
- 78-547 (7);
- 78-548 (1);
- 78- 577 (7);
- 78-578 (8);
- 78-607 (6);
- 78-608 (1);
- 78-717 (1) (p), (3) (d);
- 78-747 (1) (t), (3) (d);
- 78-802 (14);
- 78-803 (10);
- 78-832 (10);
- 78-833 (8);
- 78-868 (a) (1) (e), (2) (e), (3) (e), (4) (d);
- 78-869 (a) (1), (b) (1), (c) (1);
- 78-902 (10);
- 78-903 (7) (a), (b);
- 78-962 (9);
- 78-963 (1);
- 78-992 (1);
- 78-993 (1);

Continued on next page

- 78-1002 (7);
- 78-1003 (1);
- 78-1022 (2);
- 78-1023 (21);
- 78-1133 (4);
- 78-1134 (11);
- Article VII, Sec. 78-1272;
- Article VIII, Sec. 78-1383,

by adding the underscored language and deleting the strikethrough language. These amendments propose changes to comply with the state housing opportunity program law (LD 2003) to allow for additional density for affordable housing developments in certain areas, multiple dwelling units on lots designated for housing, and one accessory dwelling unit located on the same lot as a single-family dwelling unit in any area housing is permitted.

Chair: Shawn O'Neill

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**
FROM: Planning Department
SUBJECT: Housing Opportunity Program Ordinance Amendments Workshop
DATE: 28 November 2023

I. The law and why we need to amend our ordinances:

What does the state law say?

- The law sets forth the provisions that require municipalities to create or amend local ordinances to allow for the following:
 - (1) Additional units on lots zoned for single-family homes.
 - (2) At least one accessory dwelling unit on lots with existing single-family homes; and
 - (3) Allow 2 1/2 times the currently allowed housing units, for developments where most of the units meet standard affordability definitions.
- The goal of the law is to alleviate housing affordability issues in Maine by increasing housing opportunities.
- If a municipality does not adopt ordinances to comply with the law, this legislation will preempt municipal home rule authority.

Why is this before us? What is the Town required to do?

- Since this is signed into state law we need to amend our ordinances to meet the requirements of the law.
- The implementation date is January 1, 2024 for municipalities that enact ordinances without approval of voters of the municipality.

II. History summary:

- State
 - LD 2003 was passed by the State Legislature and signed by the Governor in April 2022, and went into effect July 27, 2022. The original required implementation date was July 1, 2023
- Amendments/law changes
 - LD 1706, An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units, became effective on June 16, 2023.
 - This legislation amended LD 2003 by extending the implementation date of July 1, 2023, to January 1, 2024, for municipalities that enact ordinances by municipal officer without further action, and July 1, 2024, for all other municipalities.
- PB process
 - This was first introduced to the PB at the May 11, 2023 meeting.
 - The PB had two workshops in June 2023.
 - The PB held two public hearings on July 13, 2023 and October 12, 2023
 - The PB made a recommendation at their November 9, 2023 meeting that the Town Council adopt the ordinances.
- Council
 - The first draft ordinance was introduced to council at the June 6, 2023 meeting.

III. Summary of ordinance amendments:

Affordable Housing Density Bonus

- Density: 2.5 x what is allowed in the base district
- Setbacks: Same as underlying districts
- Parking: Minimum 2 spaces for every 3 dwelling units
- Key Points:
 1. Must meet affordable housing definition
 2. In designated growth area or served by public water and public sewer
 3. Must be in district that allows multifamily
 - Districts that allow multifamily are R2, R3, R4, DD1, DD2, GB1, GB2, NC1, NC2, NC3, ID, BRD, RBD, PMUD, and HO
 4. Complies with state minimum lot size requirements (lots served by septic system only, minimum lot size is 20,000 sq ft)
 5. Provide documentation unit(s) are connected to adequate water and wastewater systems

Dwelling Unit Increase Allowance (Non-Affordable Housing, market-rate)

- Density: Same as underlying district
- Increase allowance:
 1. If lot has no existing dwelling units:
 - 4 units max in growth areas (growth areas include all regular zoning districts except RD)
 - no more than one single-family structure allowed. The structure arrangement can include duplexes, a triplex, or a quadplex.
 - 2 units max in non-growth areas
 2. Lot with 1 unit existing: 2 units max
 3. Lot with 2 units existing: 0 units
- Setbacks: Same as underlying districts
- Parking: Same as underlying districts
- Key Points:
 1. Dwelling units created under this section cannot be used for short term rentals.
 2. More than 1 unit constructed on lot using the Dwelling Unit Increase Allowance, the lot is no longer eligible for additional units or increases in density.
 3. Dwelling removed and results in vacant lot after date of ordinance adoption, lot shall be treated as if the dwelling still exists for the purposes of the Dwelling Unit Increase Allowance under this ordinance, unless prior authorization for the demolition and dwelling unit increase is given by the PB.
 - Provide documentation unit(s) are connected to adequate water and wastewater systems

Accessory Dwelling Unit (ADU)

- Density: ADUs outside of a shoreland zone are not considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.
- An ADU can be located on the same lot where a single-family dwelling unit is the principal structure and only existing dwelling unit in any area in which housing is allowed
- Setbacks:
 1. If separate, stand-alone structure must meet accessory structure setbacks in underlying district
 2. If within or attached to existing structure must meet the principal structure setbacks for the underlying district
- Parking: Exempt from parking requirements
- Key Points:
 1. Does not allow an ADU to be permitted or licensed for short-term rentals
 2. ADU's can be within or attached to existing single family. Also, ADU's can be in a detached structure

3. Floor Area: Minimum 190 sq. ft., Maximum 1,000 sq. ft. or 50% of floor area of the existing single family
4. Height: Cannot exceed maximum principal building height of underlying district, and if detached, cannot exceed the maximum height allowed for an accessory structure.
5. If there is more than one dwelling unit on a lot, an ADU is not permitted
6. ADU cannot contain more than two bedrooms
7. Cannot be separately owned; single family and ADU must be in common ownership
8. Owner must reside (seasonal allowed) in ADU or single family
9. Built so design and orientation is compatible with neighborhood
10. Provide documentation unit(s) are connected to adequate water and wastewater systems
11. Does not require Planning Board review

IV. QA:

- **What happens if we don't comply?**
 - *This legislation will preempt municipal home rule authority, which means that any ordinance or regulation that is not consistent with the law may be challenged as invalid.*
- **Examples of how this works in districts w/ smaller lots (R2, Ocean Park, Homewood Park)**
 - **R2 District (Union Ave, Washington Ave areas)**
 - *Single-family and two-family are currently permitted in this district.*
 - *Multifamily is currently a conditional use so it is considered allowed.*
 - *Accessory Dwelling Units are not currently allowed.*
 - *Minimum lot size is 20,000 sq. ft. Minimum net lot area per family unit is 10,000 sq. ft.*
 - *Under the affordable housing density bonus a 20,000 sq. ft. lot could have 5 units*
 - *The dwelling unit increase allowance references underlying district density so units created under this allowance couldn't exceed what is currently allowed.*
 - *A lot with only a single-family dwelling could potentially add an ADU.*
 - **R3 District (Ocean Park area)**
 - *Single-family and two-family are currently permitted in this district.*
 - *Multifamily is currently a conditional use so it is considered allowed.*
 - *Accessory Dwelling Units are currently allowed as a conditional use.*
 - *Minimum lot size is 9,000 sq. ft., and minimum net lot area per family unit requirement is 5,000 sq. ft.*
 - *Under the affordable housing density bonus a 10,000 sq. ft. lot could have 5 units*
 - *The dwelling unit increase allowance references underlying district density so units created under this allowance couldn't exceed what is currently allowed.*
 - *A lot with only a single-family dwelling could potentially add an ADU.*
 - **R5 District (Homewood Park)**
 - *R5 District is currently considered a single-family private dwelling district.*
 - *Multifamily is not currently allowed in R5 so the affordable housing bonus density couldn't be used in this district.*
 - *Accessory Dwelling Units are currently allowed as a conditional use.*
 - *Minimum lot size is 20,000 sq. ft., and minimum net lot area per family unit requirement is 20,000 sq. ft.*

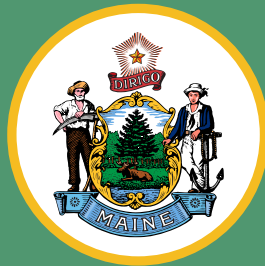
- *Many lots are 20,000 sq. ft. and couldn't use the dwelling unit increase allowance to add additional dwellings because the underlying district density still needs to be met.*
 - *A 40,000 sq. ft. lot with a single-family dwelling could add a second dwelling unit under this new ordinance, provided other requirements are met. Our current ordinance wouldn't allow a second dwelling unit in this district.*
 - *A lot with only a single-family dwelling could potentially add an ADU.*
- **How does proposed ADU differ from what exists?**
 - *Our current ordinance doesn't allow for the single-family dwelling or accessory dwelling unit to be rented.*
 - *This draft ADU ordinance prohibits the single-family dwelling or accessory dwelling unit from being used as a short-term rental.*
 - *There is still an owner occupancy requirement to occupy either the single-family dwelling or accessory dwelling unit.*
 - *The draft ordinance eliminates the family relation restriction for the ADU.*
 - *It also eliminates the requirement for a primary entrance via primary structure.*
 - *The minimal square footage requirement was reduced down to 190 square feet from the 500 square feet, to match the law (unless the Technical Building Code and Standards Board adopts a different minimum standard).*
 - *The requirement for additional parking is eliminated because the state law doesn't allow us to require additional parking for an ADU.*
- **Has this been reviewed by Town Attorney?**
 - *This has not been reviewed by the Town Attorney. During the drafting of the ordinance I did use the State guidance document, and reviewed legal presentations on the law.*
- **PB comments/concerns**
 - *There was some confusion early on over the dwelling unit increase allowance and how it worked in regards to density since it doesn't allow a greater density than the underlying district.*
 - *This was clarified by explaining that the law is essentially eliminating single family only zoning.*
 - *There was some discussion on short term rentals (STRs).*
 - *One concern with STRs was with the affordable housing density bonus and rental of those units' short term.*
 - *A restrictive covenant needs to be filed with the registry of deeds with specific affordability requirements, and restrictions on STRs could be included in the covenant if needed.*
 - *Another concern was maintaining the affordability, and the restrictive covenant is required to ensure that for at least 30 years after completion of construction the affordability guidelines are met.*
 - *The PB had some concerns on the 2.5 times density bonus for affordable housing, but most of the concern had to do with the parking reduction from the current standards.*
- **Which districts will allow Affordable Housing Density Bonus, Dwelling Unit Increase Allowance, and ADUs?**
 - Affordable Housing Density Bonus:
 - *Allowed in all districts where multifamily is allowed, that are either in a growth area, or area served by public water and sewer.*

- *Districts that allow multifamily are R2, R3, R4, DD1, DD2, GB1, GB2, NC1, NC2, NC3, ID, BRD, RBD, PMUD, and HO*
 - *Dwelling Unit Increase Allowance:*
 - *There are only four districts that currently restrict residential to single family only that would now need allow more than a single family.*
 - *R1, R5, NC4, and RD*
 - *R1, R5, and NC4 are growth areas.*
 - *RD is not a growth area.*
 - *ADUs*
 - *ADUs would be allowed on a lot containing one single family dwelling unit in any area residential uses are permitted. This essentially includes all zoning districts.*
- **Difference between requirements for affordable versus market rate?**
 - *A 3.7-acre lot in GB1 / R4 with a 5,000 sq. ft. per unit density requirement would allow the following:*
 - *Current density: 32 units and require 64 parking spaces.*
 - *Density under the affordable housing density bonus: 80 units and require 54 parking spaces.*
- **How do these changes handle parking?**
 - *Affordable Housing Density Bonus: requires two off-street parking spaces for every three dwelling units.*
 - *Dwelling Unit Increase Allowance: No changes; requires minimum number of off-street parking spaces as currently required by Ch. 78 (for residential in most cases it is two spaces per dwelling.*
 - *ADU: No additional parking can be required.*
- **Can approved subdivisions put in more units?**
 - *It depends if there are covenants, deed restrictions, or other agreements which would limit use of the lot to single family residential.*

V. Deadline / Next steps

- *Schedule a public hearing*
- *Adopt draft ordinances by January 1, 2024*

PL 2021, Ch. 672 (LD 2003) Guidance



MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT

PL 2021, Ch. 672 Guidance

PL 2021, Ch. 672, “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions,” generally referred to by its legislative tracking name of LD 2003, was signed into law by Governor Mills on April 27, 2022. This law is designed to remove unnecessary regulatory barriers to housing

production in Maine, while preserving local ability to create land use plans and protect sensitive environmental resources. LD 2003 is based on the recommendations of the legislative commission named in the title, though not all those recommendations are included in the enacted legislation.

In June 2023, Governor Mills signed into law, LD 1706, An Act to Clarify Statewide Laws Regarding Affordable Housing and Accessory Dwelling Units. This legislation amended LD 2003 by extending the compliance date for municipalities, as well as making minor changes for clarity.

This guidance is the result of a collaborative effort by the Department of Economic and Community Development, the Governor’s Office of Policy Innovation and the Future, the Department of Agriculture, Conservation and Forestry; legislative staff, and several municipal lawyers and community planners. It is intended to provide information for local authorities to use in determining how LD 2003 affects their local zoning and land use codes, as well as what steps they can take if they wish to tailor their ordinances to avoid conflicts with state laws. This guidance is not legally binding or intended to serve as a substitute for the statutory language or the rule, 19-100 CMR Ch. 5, Housing Opportunity Program: Municipal Land Use and Zoning Ordinance Rule. It represents the interpretation of LD 2003 and LD 1706 and the rule, as well as its requirements by the state agencies that are responsible for its implementation.





PL 2021, ch. 672 has the following sections that are relevant to municipal government. The amended sections of state law are shown in the chart below. Among other things:

1. Section 4 allows for additional density for “affordable housing developments” in certain areas.
2. Section 5 generally requires that municipalities allow between two and four housing units per lot where residential uses are permitted.
3. Section 6 requires that municipalities allow accessory dwelling units to be located on the same lot as a single-family home, under certain conditions.
4. Sections 3 and 7 require that the state establish statewide and regional housing production goals and set forth ways in which local governments can coordinate with that goal.

WHILE PL 2021, CH. 672 WENT INTO EFFECT ON AUGUST 8, 2022, SOME ELEMENTS OF THE LAW ARE NOT REQUIRED TO BE APPLIED UNTIL JANUARY 1, 2024 OR JULY 1, 2024

<p>Effective Aug. 8, 2022 Statewide Housing Production Goals (5 M RSA §13056, sub-§9)</p>	<p>Effective Aug. 8, 2022 Municipal Role in Fair Housing/ Short Term Rentals (30-A M RSA §4364-C)</p>	<p>Effective Jan. 1, 2024 or July 1, 2024 Accessory Dwelling Units (30 A M RSA §4364-B)</p>
<p>Effective January 1, 2024 or July 1, 2024 Affordable Housing Density in Growth Areas Bonus (4 30-A M RSA §4364)</p>	<p>Effective January 1, 2024 or July 1, 2024 Two to Four Units (30-A M RSA §4364-A)</p>	
<p>January 1, 2024: Compliance date for municipalities for which ordinances may be enacted by the municipal officers without further action or approval by the voters of the municipality. July 1, 2024: Compliance date for all other municipalities.</p>		

IN GENERAL, AS LONG AS THESE ACTIONS ARE CONSISTENT WITH PL 2021, CH. 672, MUNICIPALITIES MAY:

CONTINUE to develop Growth Management programs, including comprehensive plans and zoning consistent with those plans

ENFORCE local shoreland zoning ordinances consistent with state shoreland zoning law

REGULATE how many square feet of land are needed for each dwelling unit (other than accessory dwelling units)

CONDUCT site plan review, if authorized by local ordinances, of any residential development

REGULATE the maximum size of accessory dwelling units

REGULATE short-term rentals in their community

CREATE rate of growth ordinances so long as they do not limit the number of accessory dwelling units outlined in Section 6

CREATE local ordinances that are more permissive for residential housing development than the requirements of LD 2003

REGULATE housing development based on documented water and wastewater capacity constraints

IN GENERAL, UNDER THIS LAW, LOCAL GOVERNMENTS MAY NOT:

ENACT local ordinances that allow housing but limit it to one unit per lot

PROHIBIT one accessory dwelling unit per lot or count those units towards a rate of growth ordinance

LIMIT the affordable housing density bonuses allowed in LD 2003 in growth areas as defined in state law

Affordable Housing Density Bonus

30-A MRS § 4364

This section requires municipalities to allow an automatic density bonus for certain affordable housing developments. This section only applies to lots in zoning districts that have adopted density requirements. To qualify for this bonus, the development must:

1. Be approved after a municipality's implementation date
2. Include a certain number of rent or sales price restricted affordable housing units
3. Be in a growth area under section 4349-A, subsection 1, paragraph A or B, or served by water and sewer
4. Be in an area in which multifamily dwellings are allowed
5. Meet shoreland zoning requirements, meet minimum lot sizes if using subsurface waste disposal, and verify that water and sewer capacity is adequate for the development

BONUSES FOR AN AFFORDABLE HOUSING DEVELOPMENT

To take advantage of this density bonus, a development must qualify as "affordable" (as defined below). If eligible, the affordable housing development qualifies for the following exceptions to the zoning requirements in the community:

1. The number of units allowed will be 2.5 times the number allowed for a development not designated affordable
2. The off-street parking requirements may not exceed two spaces for every three units

So, for example, if a developer can build up to six units on a site under local rules, and designates the development as affordable, the developer would be eligible to build 15 units (6×2.5). The local off-street parking requirement for this development could not exceed ten spaces ($15 \times \frac{2}{3}$). In cases of fractional results, the number of units would generally be rounded down, but the municipality has discretion to round the number of parking spaces either up or down to the nearest whole number.



WHAT REQUIREMENTS DO AFFORDABLE HOUSING DEVELOPMENTS HAVE TO MEET TO RECEIVE THE DENSITY BONUS?

For rentals, a household with an income at no more than 80% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford 51% or more of the units in the development. That means that rent and certain other housing expenses will not require more than 30% of the household's income.

For homeownership projects, a household with an income at no more than 120% of the area median income for the community, as defined by the U.S. Department of Housing & Urban Development, must be able to afford 51% or more of the units in the development. That means that mortgage payments (including mortgage insurance) and certain other housing expenses will not require more than 30% of the household's income.

The units that will be affordable at these levels must be restricted through a restrictive covenant that is enforceable by a party acceptable to the municipality (which could be the municipality) for at least 30 years, and that states that the units must be restricted in rent or sales prices accordingly. Often these developments will be getting funding through MaineHousing, which typically requires a comparable covenant.

Information on Area Median Incomes is updated annually by the U.S. Department of Housing & Urban Development. For reference, MaineHousing maintains updated 80% of area median income and 120% of area median income data on their website.

[View AMI data on MaineHousing.org](#)

QUESTIONS AND ANSWERS ON AFFORDABLE HOUSING DENSITY BONUS

What is meant by “multifamily dwellings?”

“Multifamily dwellings” is defined in rule.

What is a “base density that is otherwise allowed?”

Under a local zoning code, the “base density that is otherwise allowed” is the maximum number of units allowed based on dimensional requirements, such as lot area per dwelling unit. This is defined in rule.

If lot area per dwelling unit can be used as a measure of number of units permitted, do the limits on lot area per dwelling unit requirements in Section 5 apply?

No, Section 5’s provision about “lot area per dwelling unit,” 30-A M.R.S. § 4364-A(3), does not apply to Section 4. Therefore, municipalities have the discretion to designate lot area per dwelling unit when approving “affordable housing developments.” Municipalities, however, must comply with the minimum lot size requirements stated in Title 12, chapter 423- A, as applicable.

Does LD 2003 apply to municipalities that do not use the term “designated growth area,” but instead use a different term for growth districts in comprehensive plans.

Yes. LD 2003 applies to a municipality that has adopted a different term to mean a “designated growth area” in its comprehensive plan.

What if a household exceeds the maximum income after living in the unit?

LD 2003 specifies that the income eligibility is based on household income “at the time of initial occupancy,” meaning that a household could be allowed to remain in an “affordable” unit if their income goes up after they occupy the unit. MaineHousing has experience with this issue, as do communities that manage their own affordable housing programs, so there may be best practices that can be adopted locally. The restrictive covenants should outline how this would work.

What happens when a restricted affordable home ownership unit is sold?

The restrictive covenants should outline how this would work. MaineHousing has experience with this issue, as do communities that manage their own affordable housing programs, so there may be best practices that can be adopted locally.

How does this density bonus interact with any local density bonus that might exist?

A municipality may apply its local density bonus to “affordable housing developments” instead of the density bonus stated in 30-A M.R.S § 4364, as long as the municipality’s local density bonus is equally or more permissive. More permissive, for purposes of this comparison, means that a local density bonus must be more generous and permissive in regard to each of the requirements described in the LD 2003 density bonus.



Residential Areas, Generally; Up to 4 Dwelling Units

30-A MRS § 4364-A

This section requires municipalities to allow multiple dwelling units on parcels where residential uses are allowed, including conditional uses, provided evidence of sufficient water and wastewater capacity exists, beginning on the municipality's implementation date. Municipalities may not apply different dimensional requirements, including but not limited to setback requirements, to lots with more than one dwelling unit on them than they would to a lot with one dwelling unit, with the exception that they may require a minimum lot area per dwelling unit. However, if the municipality chooses to require a minimum lot area per dwelling unit, the lot area required may not be less for the first unit than for subsequent units.

The number of units allowed under this section depends on a few factors:

- A lot without a dwelling unit already on it can have two units if it is not within a designated growth area under section 4349-A, subsection 1, paragraph A or B, served by water system and sewer in a municipality without a comprehensive plan.
- A lot with an existing dwelling unit may have up to two additional dwelling units, either one additional attached dwelling unit, one additional

detached dwelling unit, or one of each.

- A lot without a dwelling unit already on it can have four units if it is either:
 - Within a designated growth area under section 4349-A, subsection 1, paragraph A or B, or
 - Served by water system and sewer in a municipality without a comprehensive plan.

Municipalities may allow more than the minimum number required to be allowed on all lots that allow residential uses, if they wish. In addition, private parties are permitted to restrict the number of housing units on a lot in a private easement, covenant, deed restriction or other agreement provided the agreement does not violate State or Federal rights such as equal protection.

Finally, a municipality may determine in local ordinance that if a property owner tears down an existing dwelling unit, the lot may be treated under this section as if the dwelling unit were still in existence.



Lot Area per Dwelling Unit

Additional units may not require more land area per unit than the first unit

NOT PERMITTED



One Unit Requires
10,000 sq ft



Two Units Require
30,000 sq ft



Three Units Require
50,000 sq ft

PERMITTED



One Unit
Requires
10,000 sq ft



Two Units
May Require Up
To 20,000 sq ft



Three Units
May Require Up
To 30,000 sq ft

QUESTIONS AND ANSWERS ON RESIDENTIAL AREAS, GENERALLY UP TO 4 DWELLING UNITS

Subsection 2 (“Zoning Requirements”) says that municipal zoning ordinances “must” comply with certain conditions, but subsection B. says that they “may” regulate how this section applies to a lot where a dwelling unit is torn down. Is this a “must” or a “may”?

Municipalities have the option of taking the actions in subsection B but do not have to do so, in which case a lot where a dwelling unit was torn down would be viewed as a vacant lot.

Subsection 4 says that verification must be provided to “the municipality” of water and wastewater services. Who should that verification be provided to?

These capacity issues should be reviewed by the municipal staff or board that would normally review these issues as part of any housing development.

Does LD 2003 establish minimum dimensional requirements for dwelling units under this section?

Yes, a municipality cannot establish dimensional requirements for additional dwelling units on a lot that are more restrictive than dimensional requirements for a single-family unit, except that a municipal ordinance may establish requirements for a lot area per dwelling unit as long as the required lot area for subsequent units on a lot is not greater than the required lot area for the first unit.

Section 5 requires a municipality to allow up to two dwelling units per lot if that lot contains an “existing dwelling unit.” What does “existing dwelling unit” mean?

“Existing dwelling unit” means a dwelling unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

What is meant by “potable” water?

This is addressed in rule.

What if residential uses are allowed in an area but only as a conditional use?

LD 1706 amended LD 2003 to clarify that dwelling units are allowed in any area in which residential uses are allowed, including as a conditional use.

What does “attached to an existing structure” mean?

The rule defines the word “attached.” Municipalities are not required to adopt this definition in local ordinance, but must adopt a definition that is consistent with, and no more restrictive, than the definition in rule.

Does the language in subsection 1 mean that if a lot is served by water and sewer in a municipality without a comprehensive plan that it does not need to be vacant to allow up to 4 units?

No, that language still requires the lot not “contain an existing dwelling unit.”

Does LD 2003 apply to municipalities with comprehensive plans that have expired findings?

Yes. An expired finding does not invalidate a locally adopted comprehensive plan or invalidate ordinances, but it could provide an opening for a party to challenge the ordinance in court. Consultation with legal counsel is recommended.

Do the provisions of LD 2003 that mention “designated growth areas” apply to a municipality that does not use the term “designated growth area,” but instead uses a related term for growth districts in its comprehensive plan?

Yes. LD 2003’s provisions apply to a municipality that does not use the term “designated growth area” but instead uses a related term to mean growth districts in its comprehensive plan.

Residential Areas

Empty Lot Where Housing Is Already Allowed

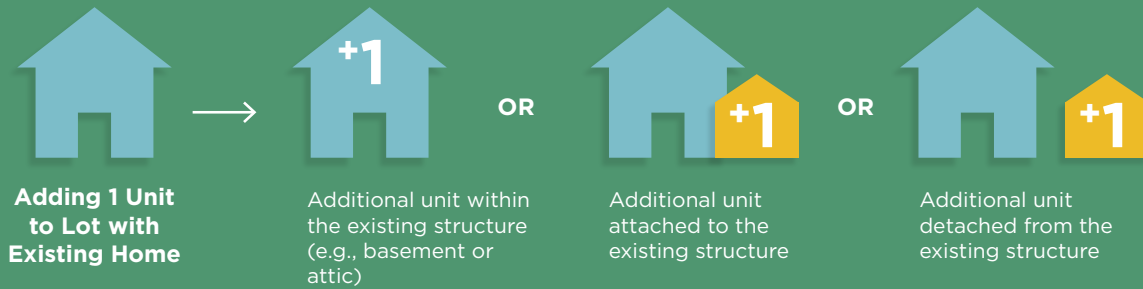


NOTE: The three and four units can be within one structure or multiple structures.

THREE AND FOUR UNITS ALLOWED IF:

- Located in "growth area" consistent with section 4349-A, subsection 1, paragraph A or B.
- Located in area with existing water/sewer capabilities in towns without comprehensive plans.

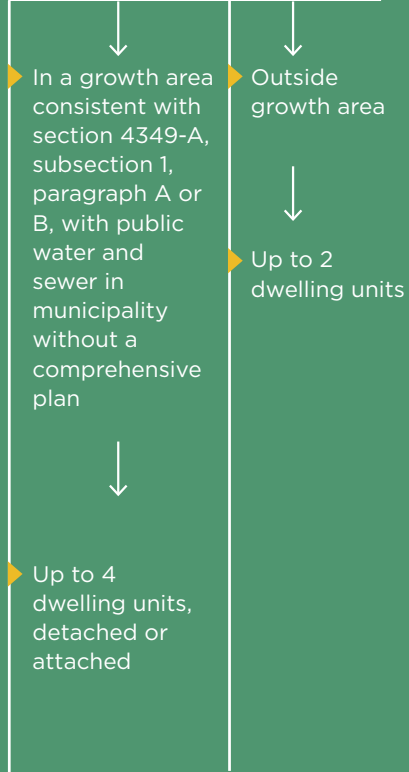
Existing Home



The additional units depicted in orange in this diagram are dwelling units, not accessory dwelling units.

What Can Be Built On This Lot?

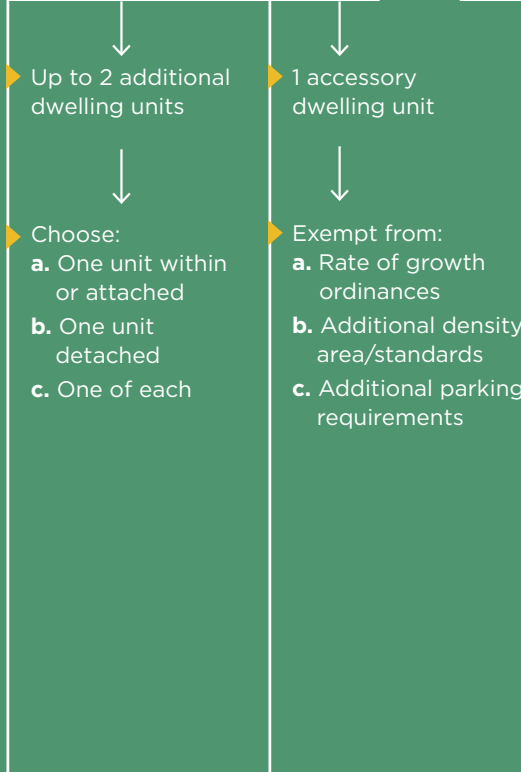
ON LAND WITH **ZERO** EXISTING UNITS



PRIVATE, STATE OR LOCAL STANDARDS SUCH AS THESE MAY APPLY:

- Home Owners Association regulations
- Deed restrictions
- Lot size, set back, density (not greater than single family)
- Septic requirements
- Minimum Lot Size
- Additional Parking requirement
- Growth ordinance permits
- Shoreland Zoning
- Subdivision Law

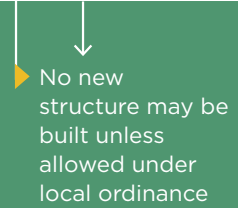
ON LAND WITH **ONE** EXISTING UNIT



PRIVATE, STATE OR LOCAL STANDARDS SUCH AS THESE MAY APPLY:

- Home Owners Association regulations
- Deed restrictions
- Lot size or set back requirements (not greater than single family/existing accessory structure)
- Septic requirements
- Shoreland Zoning
- Other locally determined ADU standards (e.g. maximum size, rules regarding short term rental, etc.)

ON LAND WITH **TWO** EXISTING UNITS



Accessory Dwelling Units

30-A MRSA §4364-B

This section allows any lot with a single-family dwelling in an area where residential uses are permitted, including as a conditional use, to have one accessory dwelling unit (ADU) as well, effective on a municipality's implementation date. That ADU can be within the existing home, attached to it, or in a new structure. Municipalities may also allow existing accessory structures to be converted into an ADU.

An ADU allowed under this law is exempt from zoning density requirements. In reviewing an ADU, the dimensional requirements, excluding lot area, for a single-family home continue to apply unless the municipality makes them more permissive for an ADU. For ADUs in an accessory structure, the dimensional requirements including setback requirements for such a structure apply.

ACCESSORY DWELLING UNIT PARKING

Additional parking requirements for the ADU beyond those required for the single-family dwelling are not permitted.

ACCESSORY DWELLING UNIT SIZE

ADUs must be at least 190 square feet in size. Municipalities may set a maximum size for ADUs in local ordinance.

SHORELAND ZONING

An ADU must comply with state and municipal shoreland zoning requirements, except that a municipality may not categorically prohibit ADUs in the shoreland zone that would otherwise meet state and municipal shoreland zoning requirements.

OTHER MUNICIPAL POWERS

Municipalities may establish an application and permitting process for ADUs that does not require planning board approval, provided it is consistent with in this section. Municipalities may also define ADUs, as long as the definition is consistent with state law in Title 30-A, §4301. 1-C. In addition, municipalities may establish requirements for ADUs that are less restrictive than those in this section, such as allowing more than one ADU on a lot or allowing an ADU for two-family or multifamily dwellings.

SIMILARITIES AND DIFFERENCES FROM OTHER SECTIONS

LIKE SECTIONS 4 AND 5, municipal requirements to verify adequate water and wastewater capacity still apply.

LIKE SECTION 5, private parties are permitted to restrict the number of housing units on a lot, including ADUs, in a private easement, covenant, deed restriction or other agreement provided the agreement does not violate State or Federal rights such as equal protection.

UNLIKE SECTION 5, one ADU for each single-family dwelling does not count towards any rate of growth ordinance as described in §4360.

UNLIKE SECTIONS 4 & 5, additional parking cannot be required for an ADU.

UNLIKE SECTION 5, a municipality may not establish requirements for minimum lot area for the addition of an ADU on a lot with an existing single-family home.

QUESTIONS AND ANSWERS ON ACCESSORY DWELLING UNITS

How is an ADU defined?

LD 2003 does not define ADUs. There is a definition in 30-A MRSA §4301 and many communities define them in local ordinances. This is addressed in rule.

Can an ADU be larger than a primary structure?

Yes, unless the municipality limits the maximum size of an ADU.

Can a previously illegal ADU be legalized under this section?

LD 1706 amended LD 2003 to clarify that an illegal accessory dwelling unit must be allowed by the municipality if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units in municipal ordinance and state law.

If a pre-existing single-family dwelling is on a non-conforming lot (with respect to size, frontage, or similar characteristics) can an ADU be built on that lot?

LD 1706 amended LD 2003 to clarify that an accessory dwelling unit is allowed on a lot that does not conform to the municipal zoning ordinance if the accessory dwelling unit does not further increase the nonconformity, meaning the accessory dwelling unit does not further cause deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

Subsection 7 says that verification must be provided to “the municipality” of water and wastewater services. Who should that verification be provided to?

These capacity issues should be reviewed by the municipal staff or board that would normally review these issues as part of any housing development.

What is meant by “potable” water?

This is addressed in rule.

What if housing is allowed in an area but only as a conditional use?

LD 1706 amended LD 2003 to clarify that dwelling units are allowed in any area in which residential uses are allowed, including as a conditional use.

What does “attached to an existing structure” mean?

The rule defines the word “attached.” Municipalities are not required to adopt this definition in local ordinance, but must adopt a definition that is consistent with, and no more restrictive, than the definition in rule.

If a parcel has an existing two-unit structure, does subsection 1 allow an ADU to be built?

No, though a municipality would have the ability to allow that.

LD 2003 allows an ADU to be built that is “a new structure on the lot for the primary purpose of creating an accessory dwelling unit.” What does this mean?

This provision allows a new structure to be built on a lot with an existing single-family dwelling unit, as long as the main reason for building the structure is to support human habitation. Local ordinance can define primary purpose further.

Can a municipality require lot area requirements for the addition of an ADU on a lot with an existing single-family home?

No. A municipality must exempt an ADU from density and lot area requirements. The setback and other dimensional requirements, however, continue to apply unless the municipality makes this more permissive for an ADU.

Section 6 allows for the construction of an ADU within an “existing dwelling unit.” What does “existing dwelling unit” mean?

“Existing dwelling unit” means a dwelling unit in existence on a lot at the time of submission of a permit application to build an additional unit on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for an additional unit on a lot.

Parking for ADUs

Example Parking Requirement

NOT PERMITTED



Single Family Home
2 spaces minimum



Single Family Home + ADU
3 spaces minimum



PERMITTED



Single Family Home
2 spaces minimum



Single Family Home + ADU
2 spaces minimum



This example applies to towns with minimum parking requirements.
For towns without parking restrictions, no additional restrictions would be imposed.

Housing Goals & Fair Housing

5 MRS §13056, sub-§9 AND 30-A MRS §4364-C

Section 3 directs the Department of Economic & Community Development, in coordination with Maine-Housing, to develop a statewide housing production goal and regional production goals based on that statewide goal. In doing so, the section instructs the Department to set benchmarks for meeting those goals, as well as to consider information provided by municipalities on current and potential housing development and permits.

Section 7 outlines ways municipalities can play a role in achieving those state and regional goals. It states that municipalities must ensure that local ordinances and regulations are designed to affirmatively further the purposes of the Federal Fair Housing Act, as well as the Maine Human Rights Act, as part of meeting the housing goals. It also explicitly authorizes municipalities to establish and enforce regulations related to short-term rentals to help meet those goals.

For more information on the statewide housing goals, please contact housing.decd@maine.gov

QUESTIONS AND ANSWERS ON SECTIONS 3 & 7

What obligations do the affirmatively furthering fair housing provisions put on municipalities that didn't already exist before LD 2003 passed?

Until recently, the link between land use regulation and fair housing was often not recognized. Section 7 clarifies that municipalities must ensure that zoning and land use ordinances and regulations are designed to affirmatively further the purposes of these state and federal laws.

What happens if local, regional or statewide housing goals are not met?

These sections do not set forth any specific penalties for not meeting these goals.

How does this relate to local Growth Management programs and comprehensive plans?

Local comprehensive plans, while not regulatory documents, should not conflict with these sections. The regulations for comprehensive plans under Chapter 208 state that communities should “[s]eek to achieve a level of at least 10% of new residential development built or placed during the next decade be affordable.”

Do municipalities have to regulate short term rentals?

No.



GENERAL QUESTIONS

What happens if a municipality does not act to update local ordinances, or tries to act and the updates are not approved by the local legislative body?

LD 2003 is an express preemption on municipal home rule authority. Therefore, any ordinance or regulation that is not consistent with the law may be challenged as invalid. Municipalities are encouraged to contact legal counsel to discuss how the law will affect the enforcement of existing ordinances and regulations.

If a town does not have growth areas as defined by section 4349-A, subsection 1, paragraph A or B, and does not have any areas served by water or sewer, does it need to comply with LD 2003?

These communities would not be subject to the affordable housing density provisions in Section 4, and would not have areas that are required to allow up to four units on a residential lot as per Section 5. Other provisions of LD 2003 would apply.

How do LD 2003's requirements relate to municipal comprehensive plans?

Comprehensive plans seeking a finding of consistency under the regulations in Chapter 208 should meet those requirements. Since a comprehensive plan is not a regulatory document, LD 2003 would not create any additional requirements. However, zoning ordinances adopted in a municipality would have to be consistent with both a local comprehensive plan and LD 2003.

Is LD 2003 a model ordinance for use in local zoning?

LD 2003 is not a model ordinance. Communities will be able to seek funding from the Housing Opportunity Program to develop new ordinances.

Can developers “double count” bonuses from various sections?

This issue is outlined in §4364-A Section 2.A. and §4364-B Section 3.B. Developers may only “double count” bonuses from various sections on a lot if this is permitted by the municipality in which the lot is located.

Sections 4, 5, and 6 require written verification of “adequate water and wastewater services.” What about a municipal concern that while a specific housing development may not immediately threaten water quality, the cumulative impact of new development may do so in a way that it did not prior to LD 2003?

As was true prior to the passage of LD 2003, communities are free to take regulatory actions as appropriate for protection of natural resources or existing water systems. These can include changes to zoning districts to limit where housing is permitted; changes to lot size requirements; or the creation of an impact fee system consistent with state law to fund environmental or water quality protection.

What does section 4349-A, subsection 1, paragraph A or B say?

It directs the State to make growth-related capital investments only in:

A. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified under section 4347A;

or

B. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated place or a compact area of an urban compact municipality as defined by Title 23, section 754; or [PL 1999, c. 776, §10 (NEW).]

Growth areas are defined in section 4301, subsection 6-C as:

An area that is designated in a municipality’s or multi-municipal region’s comprehensive plan as suitable for orderly residential, commercial or industrial development, or any combinations of those types of development, and into which most development projected over 10 years is directed.



RULEMAKING PROCESSES

Sections 4, 5 and 6 authorize rulemaking to be led by the Department of Economic & Community Development, in consultation with the Department of Agriculture, Conservation & Forestry. These rules are considered “routine technical” – meaning they “establish standards of practice or procedure for the conduct of business with or before an agency” and can be approved administratively. The Department’s adopted rule, 19-100 CMR Chapter 5, can be found on the Department’s website.

FUNDING FOR TECHNICAL ASSISTANCE

While not part of LD 2003, the supplemental budget for Fiscal Years 2022 and 2023 included Section U-1. 5 MRS §13056-J, providing funding for a new “Housing Opportunity Program.” That program will “encourage and support the development of additional housing units in Maine, including housing units that are affordable for low and moderate income people and housing units targeted to community workforce housing needs” by supporting “regional approaches, municipal model ordinance development, and ... policy that supports increased housing density where feasible to protect working and natural lands.”

The Housing Opportunity Program has a variety of funding opportunities for municipalities and service providers to encourage and support the development of additional housing units in Maine.

1. **Service Provider Grants:** These grants will provide eligible service providers with funding to support municipalities with technical assistance, ordinance development, and community housing planning services
2. **Municipal Payments:** The Department has funding for municipalities for the costs associated with complying with PL 2021, ch. 672
3. **Municipal Grants:** These grants will provide municipalities with funding to support ordinance development and community housing planning services.

For more information about these funding opportunities, please contact housing.decd@maine.gov.

ADDITIONAL FREQUENTLY ASKED QUESTIONS

GENERAL

My town uses “net lot area” in its zoning ordinances to determine lot size. Can my municipality continue to do that under PL 2012, ch. 672?

A municipality may continue to define lot size in terms of “net lot area.”

My town has an out-of-date comprehensive plan that does not accurately reflect designated growth areas. If this is the case, does PL 2021, ch. 672 still apply to my municipality? Also, what if my town’s comprehensive plan does not align with PL 2021, ch. 672?

PL 2021, ch. 672 still applies to municipalities with outdated comprehensive plans. The Department encourages municipalities to use their best judgment when determining where growth areas are. The Department also encourages municipalities to update comprehensive plans to better reflect housing goals for the future.

Can a municipality adopt definitions that are different from the definitions adopted in the Department’s rule?

The Department recognizes that municipalities have their own adopted definitions for common land use planning terms. To comply with P.L. 2021, ch. 672 municipalities need not adopt the rule language or the statutory language verbatim. The Department encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the need of a particular community. Municipalities may wish to adopt definitions that are more permissive, provided that such ordinances are equally or more effective in achieving the goal of increasing housing opportunities.

Is a municipality required to allow development on nonconforming lots or nonconforming uses?

LD 1706 amended 30-A M.R.S. § 4364-B to clarify that a municipality must allow an accessory dwelling unit on a lot that does not conform to the municipal zoning ordinance only if the accessory dwelling unit does not further increase the nonconformity, meaning the accessory dwelling unit does not cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

For 30-A MRS §§ 4364 and 4364-A, a municipality may allow development: on nonconforming lots; within nonconforming structures; or on lots/structures with nonconforming uses.

What happens if a municipality is unable to pass ordinances to comply with PL 2021, ch. 672 or does not have ordinances?

If a municipality is unable to pass ordinances to comply, the legislation preempts municipal home rule authority. The Department encourages that municipalities instead work to create ordinances that meet their own needs. Municipalities may be more permissive with ordinance language, as long as those ordinances meet the goals of P.L. 2021, ch. 672. Furthermore, the Department strongly encourages municipalities to speak with legal counsel with concerns about compliance to avoid potential litigation.

My municipality is concerned about the impact of increased development on local water supplies. Does PL 2021, ch. 672 allow municipalities to restrict development based on this concern?

PL 2021, ch. 672 requires that the owner of a housing structure or development provide written verification to the municipality that each unit or structure is connected to “adequate water and wastewater services” prior to certifying for occupancy (or equivalent

procedure). 30-A M.R.S. §§ 4364(5), 4364-A(4), 4364-B(7). Shoreland zoning, subsurface wastewater disposal rules, and state plumbing codes all still apply to developments. The Department encourages a municipality to work with their Code Enforcement Officer, if applicable, to determine that water and wastewater services meet all applicable state and local regulations for the proposed housing unit(s).

AFFORDABLE HOUSING DEVELOPMENT (30-A M.R.S. § 4364)

How does a municipality ensure long-term affordability of an affordable housing development?

PL 2021, ch. 672 states that “[b]efore granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the benefit of and enforceable by a party acceptable to the municipality . . .” 30-A M.R.S. § 4364(3). A municipality may enforce the restrictive covenant to ensure long-term affordability, but it is not a requirement for a municipality to do so. The Department encourages municipalities to reach out to legal counsel or MaineHousing with questions about maintaining long-term affordability and restrictive covenants.

What if a municipality does not issue certificates of occupancy?

LD 1706 amended LD 2003 to clarify that certificates of occupancy are one way to approve an affordable housing development. However, a municipality does not have to issue certificates of occupancy to comply with 30-A MRS § 4364. Municipalities have discretion to determine how best to grant final approval for an affordable housing development.

Does the Affordable Housing Density section (30-A M.R.S. § 4364), apply only to municipalities that have adopted density requirements? What about municipalities that have adopted form-based codes?

The density bonus in 30-A M.R.S. §4364(2) only applies to lots in zoning districts that have density requirements. Lots in zoning districts that do not have density requirements, including lots in zoning districts that utilize a form-based code, are not subject to 30-A M.R.S. § 4364(2).

Does a municipality have to comply with parking requirements for an affordable housing development?

If a municipality is subject to the requirements listed in 30-A M.R.S. § 4364, it must comply with the parking requirements for an affordable housing development.

“UP TO 4 DWELLING UNITS” (30-A M.R.S. § 4364-A)

Does 30-A M.R.S. § 4364-A apply to small lots?

The applicability of this section is dependent upon a variety of factors. A municipality generally must allow between 2-4 units on a lot where housing is permitted. However, private, state or local standards such as homeowners’ association regulation, deed restrictions, lot size, set back, density, septic requirements, minimum lot size, additional parking requirements, growth ordinance permits, shoreland zoning and subdivision law, may apply resulting in a municipality prohibiting the addition of units on a lot. The Department recommends lot owners speak with their municipal code enforcement officer or municipal planner with specific questions about their lot.



30-A M.R.S. § 4364-A(2) allows the addition of “up to 4 dwelling units per lot if that lot does not contain an existing dwelling unit.” Does this mean that the lot must be vacant or can a commercial unit exist on the lot?

A lot does not have to be vacant for 30-A M.R.S. § 4364-A(2) to apply. A lot could contain a commercial unit or another type of structure and be eligible for additional units subject to the requirements of 30-A M.R.S. § 4364-A(2).

What is the difference between an ADU and dwelling unit? How can a municipality differentiate between constructing one ADU on a lot versus allowing an individual to build multiple dwelling units on a lot?

PL 2021, ch. 672 allows municipalities the discretion to determine the difference between an ADU and a dwelling unit, for the purposes of determining which statutory provisions of PL 2021, ch. 672 apply to a particular lot. Municipalities have the discretion to determine whether a proposed housing structure is an ADU or a dwelling unit.

Can a municipality allow a lot owner to take advantage of both the ADU section and the “Up to 4 Dwelling Unit” section on one lot?

A municipality may allow a lot owner to “double-dip” and build both an ADU and additional dwelling units on a lot. However, this is not a requirement.



ACCESSORY DWELLING UNIT (30-A M.R.S. § 4364-B)

Some towns have “Accessory Apartments” or other terminology similar to “Accessory Dwelling Unit”. Is this difference in terminology acceptable?

Municipalities need not adopt the definition of “Accessory Dwelling Unit” in rule verbatim. The Department encourages municipalities to consider local planning documents and other special local considerations, and to modify language into one that meets the need of a particular community and the minimum requirements of the statutes. Municipalities may wish to adopt definitions and terms that are more permissive, provided that such ordinance and definitions are equally or more effective in achieving the goals of this legislation of increasing housing opportunities. If a municipality does not adopt terms and definitions to comply with P.L. 2021, ch. 672, this legislation and rule will preempt municipal home rule authority.

How does recent “tiny home” legislation, LD 1530 (30-A M.R.S. § 4363), relate to PL 2021, ch. 672?

Municipalities can regulate tiny homes when creating or updating ordinances to comply with PL 2021, ch. 672. The Department encourages municipalities interested in regulating “tiny homes”, to create a separate provision for the regulation of “tiny homes” to differentiate “accessory dwelling unit” from “tiny homes” as defined in LD 1530. The Department encourages municipalities to reach out to legal counsel to better understand the state law requirements for tiny homes.

Can my municipality impose owner-occupancy requirements for ADUs?

PL 2021, ch. 672 does not establish an owner-occupancy requirement for accessory dwelling units but municipalities have discretion to establish owner-occupancy requirements. The Department encourages municipalities to think about regulating short-term rentals in a separate ordinance, however, to avoid restricting the development of accessory dwelling units on permitted lots.

Does a municipality have to comply with the parking requirements for the addition of an ADU?

30-A M.R.S. § 4364-B prohibits a municipality from establishing additional parking requirements for an ADU beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located. A municipality cannot require additional parking requirements for the addition of an ADU. If a municipality has a current ADU ordinance in place that has parking requirements, those parking requirements must be updated.

Does the ADU allowance only apply to a lot that already contains a single-family dwelling or can a town permit ADUs on vacant lots, lots with commercial structures or lots with multi-family units?

At a minimum, Section 4364-B requires municipalities to allow one ADU on the same lot as a single-family dwelling unit. Municipalities, however, can be more permissive by allowing, for example, multiple ADUs on one lot, an ADU on a lot with an existing multifamily structure, or an ADU on a lot with an existing duplex.

What is the difference between an ADU and dwelling unit? How can a municipality differentiate between constructing one ADU on a lot versus allowing an individual to build multiple dwelling units on a lot?

PL 2021, ch. 672 allows municipalities the discretion to determine the difference between an ADU and a dwelling unit, for the purposes of determining which statutory provisions apply to a particular lot. Municipalities have the discretion to determine whether a proposed housing structure is an ADU or a dwelling unit.

Can a municipality allow a lot owner to take advantage of or “double dip” on the ADU section and the “Up to 4 Dwelling Unit” section on one lot?

A municipality may allow a lot owner to “double-dip” and take advantage of both the ADU section and dwelling unit section. This is not a requirement.

Does a municipality have to allow all three placements of ADUs (within, attached to, or a new structure) to be built in its ADU ordinance per the language in 30-A M.R.S. 4364-B(2)?

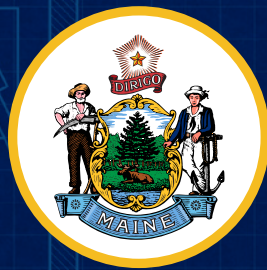
A municipality must allow an ADU to be built on a lot with an existing single-family unit. A municipality must allow a developer/homeowner the following three options for placement of this ADU regardless of density requirements: (1) within an existing structure; (2) attached or sharing a wall with an existing structure; or (3) as a new structure on a lot. A municipality, may, but is not required to, allow an accessory structure (such as a garage, shed, or barn) to be remodeled to include an ADU.



**Still have questions?
Need more information?**



VISIT: [MAINE.GOV/DECD/HOUSINGOPPORTUNITYPROGRAM](https://www.maine.gov/decd/housingopportunityprogram)



**MAINE DEPARTMENT OF
ECONOMIC AND COMMUNITY
DEVELOPMENT**

864
2700
324
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1242
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2970

918 1027 701 1350 2160 2484

Ch 78 Amendments for Housing Opportunity Program - LD2003 (10/23)

Ordinance additions are underlined

Ordinance deletions are ~~struck through~~

Sec. 78-487. - Permitted uses. The following uses are permitted uses in the residential 1 district (R-1):

(6) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-488. - Conditional uses. The planning board may authorize the following conditional uses in the residential 1 district (R-1) provided that the conditions and requirements of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-517. - Permitted uses. The following uses are permitted uses in the residential 2 district (R-2):

(8) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-518. - Conditional uses. The planning board may authorize the following conditional uses in the residential 2 district (R-2), provided that the conditions and requirements of article VII of this chapter are met:

(9) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-547. - Permitted uses. The following uses are permitted uses in the residential 3 district (R-3):

(7) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-548. - Conditional uses. The planning board may authorize the following conditional uses in the residential 3 district (R-3) provided that the conditions and requirements of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-577. - Permitted uses. The following uses are permitted in the residential 4 district (R-4):

(7) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-578. - Conditional uses. The planning board may authorize the following conditional uses in the residential 4 district (R-4) provided that the conditions and requirements of article VII of this chapter are met:

(8) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-607. - Permitted uses. The following categories of use are permitted in the single-family private dwelling district (R-5):

(6) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-608. - Conditional uses. The planning board may authorize the following conditional uses in the single-family private dwelling district (R-5) provided that the conditions and requirements of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-717. - Permitted uses. Permitted uses in the downtown district 1 (DD-1) shall be classified as follows:

(1) Primary uses. Primary uses are as follows:
p. Accessory dwelling unit (see Sec. 78-1383).

(3) Conditional uses. Conditional uses are as follows:
d. Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-747. - Permitted uses. Permitted uses in the downtown district 2 (DD-2) shall be classified as follows:

(1) Primary uses. Primary uses are as follows:
t. Accessory dwelling unit (see Sec. 78-1383).

(3) Conditional uses. Conditional uses are as follows:
d. Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-802. - Permitted uses. The following uses shall be permitted in the general business district 1 (GB-1):

(14) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-803. - Conditional uses. The planning board may authorize the following uses in the general business district 1 (GB-1) provided that the conditions of article VII of this chapter are met:

(10) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-832. - Permitted uses. The following uses shall be permitted in the general business district 2 (GB-2):

(10) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-833. - Conditional uses. The planning board may authorize the following uses in the general business district 2 (GB-2), provided the conditions of article VII of this chapter are met:

(8) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-868. - Permitted uses.

(a) Permitted residential uses. Permitted residential uses in the neighborhood commercial districts are as follows:

(1) NC-1 Ocean Park neighborhood commercial district. The following residential uses shall be permitted within the NC-1 district:
e. Accessory dwelling unit (see Sec. 78-1383).

(2) NC-2 Union Avenue/West Grand neighborhood commercial district. The following residential uses are permitted within the NC-2 district:
e. Accessory dwelling unit (see Sec. 78-1383).

(3) NC-3 Washington Ave./campground neighborhood commercial district. The following residential uses are permitted within the NC-3 district:
e. Accessory dwelling unit (see Sec. 78-1383).

(4) NC-4 Cascade Road commercial district. The following residential uses are permitted within the NC-4 district:

d. Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-869. - Conditional uses.

(a) NC-1 and NC-2 district conditional uses. The planning board may authorize the following conditional uses within the NC-1 and NC-2 districts:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

(b) NC-3 district conditional uses. The planning board may authorize the following conditional uses within the NC-3 district:

~~(1) Accessory dwelling unit.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

(c) NC-4 district conditional uses. The planning board may authorize the following conditional uses within the NC-4 district:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-902. - Permitted uses. The following uses in the industrial district (ID) are permitted, providing that the uses meet all applicable performance standards in this division and conform to all applicable state and federal regulations regarding the storage, handling, processing of materials and the disposal of solid, liquid, gaseous, and radiation waste:

(10) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-903. - Conditional uses. The planning board may authorize the following conditional uses in the industrial district (ID):

(7) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance, provided the following:

a. The planning board determines that site constraints, vehicle access, or character of the surrounding neighborhood precludes the use of the site for industrial uses as permitted in this zone;

b. Residential density shall be no less than one unit per 75,000 square feet of net residential area

Sec. 78-962. - Permitted uses. The following categories of uses are permitted in the rural district (RD):

(9) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-963. - Conditional uses. The planning board may authorize the following uses in the rural district (RD), provided that the conditions of article VII are met:

~~(1) Accessory dwelling units~~

(1) Housing Opportunity Program (see Sec. 78-1272): Dwelling Unit Increase Allowance.

Sec. 78-992. - Permitted uses. The following uses are permitted in the beachfront resort district (BRD):

(10) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-993. - Conditional uses. The planning board may authorize the following uses in the beachfront resort district (BRD) provided that the conditions of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1002. - Permitted uses. The following uses are permitted in the residential beachfront district (RBD):

(7) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-1003. - Conditional uses.

The planning board may authorize the following uses in the residential beachfront district (RBD) provided that the conditions of article VII of this chapter are met:

~~(1) Accessory dwelling units.~~

(1) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1022. - Permitted uses.

(2) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-1023. - Conditional uses. Notwithstanding article VII of this chapter, the following conditional uses may be permitted in the planned mixed use development (PMUD) zone:

(21) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1133. - Permitted uses. The following uses shall be permitted in the historic overlay district (HO):

(4) Accessory dwelling unit (see Sec. 78-1383).

Sec. 78-1134. - Conditional uses. The planning board may authorize the following uses in the historic overlay district (HO), provided that the conditions of article VII of this chapter are met:

(11) Housing Opportunity Program (see Sec. 78-1272): Affordable Housing Density Bonus or Dwelling Unit Increase Allowance.

Sec. 78-1272. Accessory dwelling unit. (Being replaced by Housing Opportunity Program)

- ~~(1) Purpose. The purpose of the sections concerning accessory dwelling units is to provide a diversity of housing for residents while protecting the single family character of residential neighborhoods. Accessory dwelling units are permissible as conditional uses provided they meet the performance standards described in this section.~~
- ~~(2) Performance standards.~~
 - ~~(a) The owner of the lot on which the principal structure is located must reside in the principal structure or the accessory dwelling unit, either of which residence may be seasonal. An accessory dwelling unit may be located on a lot which the owner occupies as a seasonal residence, however, neither the accessory dwelling unit nor the single family dwelling shall be rented.~~
 - ~~(b) The person occupying the accessory dwelling unit shall be a first, second, or third degree relation (parent, child, stepchild, sibling, aunt, uncle, niece, nephew, or grandparent) of the principal occupant of the single family dwelling by blood or by marriage and the burden of proof of this relationship shall be on the homeowner.~~
 - ~~(c) To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the town that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling unit or principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section. Violations of the terms of this covenant shall result in the loss of the accessory dwelling unit permit. Said covenant shall be provided to the town prior to the issuance of an occupancy permit for the accessory dwelling unit.~~
 - ~~(d) The primary entrance into the accessory dwelling unit shall be via the living area of the primary structure. A secondary entrance may be permitted to the accessory dwelling unit provided it is not visible from the street view of the principal or accessory dwelling. The accessory dwelling units stairways shall not be constructed on the front or side of the principal or accessory dwelling unit.~~
 - ~~(e) To improve compatibility with single family neighborhoods, new accessory dwelling units shall be built with an orientation, scale, and architectural style that reflects the predominant pattern existing in the neighborhood, preserves privacy for neighbors and for the occupants of the primary and accessory dwelling units.~~
 - ~~(f) The accessory dwelling unit shall have at least 500 square feet of floor area but shall not exceed 50 percent of the floor area of the main dwelling unit. Floor area measurements shall not include unfinished attic, basement or cellar spaces nor public hallways or other common areas. The floor area of the accessory dwelling unit shall not exceed 1,000 square feet and the unit shall not contain more than two bedrooms. Total floor area of an accessory dwelling unit shall be measured from the interior faces of the inside walls.~~
 - ~~(g) Provisions for one additional off street parking space shall be made, however, no additional curb cuts or driveways may be created to facilitate the creation of the accessory dwelling unit. Any expanded driveway entrance curb cut on the property shall not exceed 24 feet in width.~~
 - ~~(h) The dwelling shall be served by a single electrical and water service meter, if served by public water.~~
 - ~~(i) All accessory dwelling units on properties with private sewer shall comply with the State of Maine Subsurface Wastewater Disposal Rules for new or expanded systems, as applicable.~~

- ~~(j) Only one accessory dwelling unit shall be permitted per lot. It shall be made part of the primary dwelling.~~
- ~~(k) Accessory dwelling units shall not be permitted for any nonconforming use.~~
- ~~(3) Definitions. As used in this section, the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as section 78-1 of this chapter.~~
 - ~~(a) Accessory dwelling unit means a separate dwelling unit which is contained entirely within the confines of a building which otherwise retains the design and appearance of a detached, single-family home. The accessory dwelling unit shall have separate living, sleeping, sanitary and kitchen facilities for the exclusive use of the unit occupants. The accessory dwelling unit shall not be rented.~~
 - ~~(b) Living area means the interior habitable area of a dwelling unit including finished basements but does not include a garage or any accessory structure.~~
 - ~~(c) Owner-occupied means that either the principal dwelling unit or the accessory dwelling unit is occupied by a person who has the primary or residuary title to property.~~
 - ~~(d) Seasonal use means any three consecutive months during a twelve month period.~~

AMENDMENTS TO CHAPTER 78, ARTICLE VII, DIV. 2 – CONDITIONS, SEC. 78-1272
Housing Opportunity Program (D2 – 11/2023)
All new language (*removed ADU to new section*)

Sec. 78-1272 Housing Opportunity Program

1. Purpose

The purpose of this section is to meet the requirements of the State of Maine Housing Opportunity Program to allow for the following:

- A. Additional density for affordable housing developments in certain areas (Affordable Housing Density Bonus);
- B. Multiple dwelling units on lots designated for housing (Dwelling Unit Increase Allowance); and
- C. Dwelling units created under this section shall not be used for short-term rentals.

2. Applicability

The regulations in this ordinance apply to any affordable housing development or dwelling unit proposed to be developed under the Housing Opportunity Program, except as otherwise outlined in this section.

- A. Affordable housing developments and dwelling units proposed under this section shall not be allowed to be developed on nonconforming lots, within nonconforming structures, or on lots/structures with nonconforming uses.
- B. Affordable housing developments and dwelling units created under this section must meet all other applicable federal, state, and local, laws, codes, ordinances, and regulations.
- C. This section does not:
 - 1) Abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in the State rule, as long as the agreement does not abrogate rights pursuant to the United States Constitution or the Constitution of Maine;
 - 2) Exempt a subdivider from the requirements in Title 30-A, Chapter 187, subchapter 4;
 - 3) Exempt an affordable housing development or dwelling units from the shoreland zoning requirements established by the Department of Environmental Protection pursuant to Title 38, Chapter 3 and local shoreland zoning ordinances; or
 - 4) Abrogate or annul minimum lot size requirements under Title 12, Chapter 423-A.

3. Definitions exclusive to the Housing Opportunity Program

As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

Accessory dwelling unit: a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

Affordable housing development:

1. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
2. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.
3. For purposes of this definition, “housing costs” include, but are not limited to:
 - a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and
 - b) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.

Area median income: The midpoint of a region’s income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

Attached: Connected by a shared wall to the principal structure or having physically connected finished spaces.

Base density: The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

Centrally managed water system: A water system that provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a year as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This water system may be privately owned.

Certificate of occupancy: The municipal approval for occupancy granted pursuant to 25 M.R.S. § 2357-A or the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103. Certificate of occupancy may also be referred to as issuance of certificate of occupancy or other terms with a similar intent.

Comparable sewer system: Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules.

Comprehensive plan: A document or interrelated documents consistent with 30-A M.R.S. § 4326(1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A, Chapter 187, Subchapter II.

Density requirements: The maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

Designated growth area: The area that is designated in a comprehensive plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed.

Dimensional requirements: Numerical standards relating to spatial relationships, including but not limited to setback, lot area, shore frontage, road frontage, building coverage, lot coverage and height.

Duplex: a structure containing two (2) dwelling units.

Dwelling unit: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments.

Existing dwelling unit: A dwelling unit in existence on a lot at the time of submission of a permit application to build an additional unit on that lot

Housing: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments. For purposes of this section, this does not include dormitories, boarding houses or other similar types of housing units. This also does not include transient housing or short-term rentals, unless these uses are otherwise allowed in local ordinance.

Land use ordinance: An ordinance or regulation of general application adopted by the municipal legislative body which controls, directs, or delineates allowable uses of land and the standards for those uses.

Lot: A single parcel of developed or undeveloped land.

Multifamily dwelling: A building containing three (3) or more dwelling units.

Potable: Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.

Principal structure: A structure in which the main or primary use of the lot is conducted. For purposes of this rule, principal structure does not include commercial buildings.

Quadplex: a structure containing 4 (four) dwelling units.

Restrictive covenant: A provision in a deed, or other covenant conveying real property, restricting the use of the land.

Setback requirements: The minimum horizontal distance from a lot line to the nearest point of a structure.

Short-Term Rental: Any building or structure, or portion thereof, that is offered or provided to a guest or guests to be used for living or sleeping for a fee for less than thirty (30) consecutive days, with the exception of motels, hotels, bed and breakfast, inn's, overnight cabins, and campgrounds. Short-term rental units may be

whole house, duplexes, multifamily, apartments, condominiums, condominium hotels/motels, and individual rooms or individual units in homes, duplexes, multifamily, apartments, condominiums, and condominium hotels/motels.

Single-family dwelling unit: A detached residence designed for or occupied by one family only. Only one such single-family dwelling shall be permitted per lot.

Structure: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons as defined in 38 M.R.S. § 436-A(12).

Triplex: A structure containing three (3) dwelling units.

Zoning ordinance: A type of land use ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.

4. Housing Opportunity Program Performance Standards

The Housing Opportunity Program Performance Standards below apply to any dwelling units created under Section 78-1272:

A. Water and Wastewater Requirements

The owner of a proposed affordable housing development or dwelling units shall provide written verification that the affordable housing development or dwelling units are connected to adequate water and wastewater services prior to certification of the structure for occupancy. Written verification must include the following:

1. If an affordable housing development or dwelling unit is connected to a public sewer system, proof of adequate service to support any additional flow created by the unit(s) and proof of payment for the connection to the sewer system;
2. If an affordable housing development or dwelling unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. ch. 241, *Subsurface Wastewater Disposal Rules*.
3. If an affordable housing development or dwelling unit is connected to a public water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
4. If an affordable housing development or dwelling unit is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. ch. 10, section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

B. Parking

Parking shall be provided as follows for units created under the Housing Opportunity Program:

Housing Opportunity Program unit type

Parking requirement

Affordable Housing Development	Minimum of two (2) off-street parking spaces for every three (3) dwelling units. The number of parking spaces required shall be rounded up to the nearest whole number.
Dwelling unit increase allowance	Minimum number of off-street parking spaces as required by Ch. 78 Zoning.

C. Addressing

The applicant shall show the road name(s) and address on the plan after consultation and approval by the town assessor, prior to any approval. The road name(s) and address shall be used for the purpose of E-911 addressing.

5. Affordable Housing Density Bonus

The Affordable Housing Density Bonus allows a density bonus for certain affordable housing developments approved on or after January 1, 2024, as outlined below:

A. Eligibility for Affordable Housing Density Bonus

For purposes of the Affordable Housing Density Bonus an applicant/owner shall demonstrate that the development:

- 1) Is an affordable housing development as defined in this section, which includes the requirement that a majority of the units are affordable;
- 2) Is in a designated growth area pursuant to 30-A M.R.S. § 4349-A(1)(A) or (B) or served by a public or other centrally managed water system and a public or other comparable sewer system;
- 3) Is located in an area in which multifamily dwellings are allowed, as described in Chapter 78, Article VI - Districts;
- 4) Complies with minimum lot size requirements in accordance with Title 12, chapter 423-A.
- 5) Meets the zoning district space and bulk requirements, except for the density bonus provided pursuant to this section.

B. Long-Term Affordability

Prior to granting a certificate of occupancy or other final approval of an affordable housing development, the owner of the affordable housing development shall execute a restrictive covenant that is enforceable by a party acceptable to the Town, to be decided at the time of planning board approval; and record the restrictive covenant in the appropriate registry of deeds to ensure that for at least thirty (30) years after completion of construction:

- 1) For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

- 2) For owned housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

C. Density Bonus for Affordable Housing

If the requirements for eligibility for density bonus outlined under the Affordable Housing Density Bonus above are met, the following density bonuses are allowed:

- 1) An affordable housing development can have a dwelling unit density of 2.5 times the base density of the zoning district in which the lot is located; and
- 2) If fractional results occur when calculating this density bonus, the number of units is rounded down to the nearest whole number.

6. Dwelling unit increase allowance

The Dwelling unit increase allowance allows for multiple dwelling units on lots where housing is allowed beginning on January 1, 2024, subject to the requirements below:

A. Applicability

- 1) If more than one dwelling unit has been constructed on a lot as a result of this allowance pursuant to Section 78-1272, the lot is not eligible for any additional units or increases in density. The planning board will determine if a dwelling unit or accessory dwelling unit has been constructed on the lot.
- 2) If a dwelling unit(s) in existence as of January 1, 2024 is torn down, resulting in an empty lot, for the purpose of the dwelling unit increase allowance in this section, the lot shall be treated as if the unit still existed, unless prior authorization for the demolition and dwelling unit increase allowance is given by the planning board, in which the board will determine the maximum number of dwelling units allowed, not to exceed the allowances in this section.
- 3) Dwelling units proposed under this section need to meet the Ch. 78, Article VIII, Performance Standards for Multifamily housing which includes access standards, landscaping, and buffering requirements.

B. Dimensional and setback requirements

Proposed dwelling units pursuant to Section 78-1272 shall meet the space and bulk requirements for the zoning district in which the lot is located.

- 1) The number of units allowed under the Dwelling Unit Increase Allowance are listed in the table below:

Number of existing dwelling units on lot in area in which housing is allowed	Max number of dwelling units	
	Lot in designated growth area	Lot outside designated growth area
0	Up to Four (4), with no more than one single-	Up to Two (2) within one structure

	family structure allowed. Under this section the structure arrangement can include duplexes, a triplex, or a quadplex.	or as two separate structures
1	Up to Two (2): one within or attached to existing structure, one detached from existing structure, or one of each	
2	Zero (0)	

Sec. 78-1383 Accessory Dwelling Unit

1. Purpose

The purpose of this section is to meet the requirements of the State of Maine Housing Opportunity Program to allow for the following:

- A. One accessory dwelling unit to be located on a lot containing one single-family dwelling unit in any area where housing is permitted (Accessory Dwelling Unit - ADU).
- B. The ADU shall not be used for short-term rentals.

2. Applicability and Application Requirements

This ordinance applies to any ADU proposed to be developed after the date in which this ordinance is adopted.

- A. ADUs approved by the town of Old Orchard Beach and constructed before the adoption of this ordinance shall be allowed to continue.
- B. An ADU can be located on the same lot where a single-family dwelling unit is the principal structure and only existing dwelling unit in any area in which housing is allowed, provided the ADU requirements and performance standards outlined in this section are met, and shall be constructed only:
 - 1) Within the existing single-family dwelling unit or accessory structure on the lot;
 - 2) Attached to the single-family dwelling unit; or
 - 3) As a new structure on the lot for the primary purpose of creating an ADU

C. This section does not:

- 1) Abrogate or annul the validity or enforceability of any valid and enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in the State rule, as long as the agreement does not abrogate rights pursuant to the United States Constitution or the Constitution of Maine;
- 2) Exempt a subdivider from the requirements in Title 30-A, Chapter 187, subchapter 4;
- 3) Exempt an ADU from the shoreland zoning requirements established by the Department of Environmental Protection pursuant to Title 38, Chapter 3 and the Town of Old Orchard Beach shoreland zoning ordinance; or
- 4) Abrogate or annul minimum lot size requirements under Title 12, Chapter 423-A.
- 5) Allow an ADU to further increase a lot nonconformity, meaning the ADU cannot cause further deviation from the dimensional standard(s) creating the nonconformity, excluding lot area.

D. Applications for ADUs will be reviewed by the Code Enforcement Officer through building permit review and must contain the following in addition to meeting the requirements and standards in this section:

- 1) A mortgage loan inspection plan prepared by a Maine licensed land surveyor and drawn to scale showing the boundaries of the lot; any existing improvements on the lot, including buildings, structures, and paving; and any existing easements. This requirement may be waived by the Code Enforcement Officer if the proposed construction is entirely internal to the principal dwelling structure on the subject property.
- 2) A separate copy of the mortgage loan inspection plan prepared by a Maine licensed land surveyor that is marked up to scale by either the applicant or the surveyor to include the following additional

information: the proposed improvements to the lot, including buildings, structures, paving, landscaping, easements, and utilities; a safe path of travel for access to the ADU; a title block with the property address approved by the assessor and map, block, and lot identification; the name of the record owner of the property; north arrow; date; total square footage of the principal dwelling; total square footage of the ADU; percentage of the ADU total square footage in relation to the principal dwelling total square footage; and the number and location of parking spaces provided.

- 3) For any ADU involving new construction (interior or exterior), a set of building plans, photographs or drawings that show the following: existing and proposed principal and accessory buildings; the floor plan of the principal building and the ADU; elevations for all sides of the existing and proposed buildings; and the architectural treatment of the principal building and the ADU.

3. Definitions exclusive to the Accessory Dwelling Unit

As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

Accessory Dwelling Unit (ADU): a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

Attached: means connected by a shared wall to the principal structure or having physically connected finished spaces.

Certificate of occupancy: The municipal approval for occupancy granted pursuant to 25 M.R.S. § 2357-A or the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

Short-Term Rental: Any building or structure, or portion thereof, that is offered or provided to a guest or guests to be used for living or sleeping for a fee for less than thirty (30) consecutive days, with the exception of motels, hotels, bed and breakfast, inn's, overnight cabins, and campgrounds. Short-term rental units may be whole house, duplexes, multifamily, apartments, condominiums, condominium hotels/motels, and individual rooms or individual units in homes, duplexes, multifamily, apartments, condominiums, and condominium hotels/motels.

Single-family dwelling unit: A detached residence designed for or occupied by one family only. Only one such single-family dwelling shall be permitted per lot.

4. Standards and Requirements for Accessory Dwelling Units

A. Water and Wastewater

The owner of an ADU shall provide written verification that the ADU is connected to adequate water and wastewater services prior to certification of the ADU for occupancy. Written verification must include the following:

- 1) If the lot is served by public sewer, both the single-family dwelling and the ADU must be connected to the public sewer system. If being connected to a public sewer system, proof of adequate service to

support any additional flow created by the ADU and proof of payment for the connection to the sewer system;

- 2) If the lot is served by subsurface sewage disposal, the owner must demonstrate that the use conforms to the State of Maine Minimum Lot Size law and that the sewage disposal system(s) for both the single-family dwelling and the ADU complies with the Maine Subsurface Wastewater Disposal rules. If an ADU is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A M.R.S. § 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 C.M.R. ch. 241, *Subsurface Wastewater Disposal Rules*.
- 3) If an ADU is connected to a public water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
- 4) If an ADU is connected to a well, proof of access to potable water, including the standards outlined in 01-672 C.M.R. ch. 10, section 10.25(J), *Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

B. Parking

An ADU is not subject to any additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the ADU is located.

C. Addressing

The applicant shall show the road name(s) and address on a plan after consultation and approval by the town assessor, prior to any approval. This will be used for the purpose of E-911 addressing.

D. Space and Bulk

- 1) Any new accessory structure constructed on the lot to be an ADU shall meet the setback requirements as required for an accessory structure in that zoning district.
- 2) An ADU located within the same structure as a single-family dwelling or attached to a single-family dwelling, shall meet the setback requirements and not exceed the maximum height, as required for a single-family dwelling in that zoning district;
- 3) A detached ADU shall not exceed the maximum height allowed for an accessory building.
- 4) For an ADU permitted in an existing accessory structure or garage as of January 1, 2024, the setback requirements of the existing accessory structure or garage shall apply.
- 5) For the purposes of this section, ADUs outside of a shoreland zone shall not be considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.
- 6) The ADU and single-family dwelling shall not exceed the maximum building coverage allowed for the zoning district in which the lot is located.

E. Size

- 1) An ADU must be a minimum of 190 square feet and shall not exceed 50 percent of the floor area of the single-family dwelling unit, up to a maximum total floor area of 1,000 square feet, or whichever is less.

- 2) The ADU shall not contain more than two bedrooms.
- 3) Floor area measurements of the single-family dwelling shall not include unfinished attic, basement or cellar spaces.
- 4) Total floor area of an ADU shall be measured from the interior faces of the inside walls.

F. Performance standards

- 1) ADUs established under this section must meet the performance standards below, as part of the permitting requirements, and the applicant must provide a narrative describing conformance with each:
 - (a) The construction of any ADU must be in conformity with all applicable federal, state and local laws, codes, ordinances, and regulations.
 - (b) The ADU cannot be permitted or licensed for short-term rentals.
 - (c) Only one ADU is permitted per lot.
 - (d) If there is more than one dwelling unit on a lot, an ADU is not permitted.
 - (e) An ADU must remain in common ownership with the single-family dwelling unit.
 - (f) An ADU must not be sold separately from the single-family dwelling.
 - (g) The owner of the lot on which the ADU is located must reside in that unit or the single-family dwelling, either of which residence may be seasonal, or occupied seasonally by the owner.
 - (h) To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the town that the existence of the ADU is predicated upon the occupancy of either the ADU or principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section. Violations of the terms of this covenant shall result in the loss of the ADU permit. Said covenant shall be provided to the town prior to the issuance of an occupancy permit for the ADU.
 - (i) If an owner is unable or unwilling to fulfill the owner occupancy requirement, the owner must remove the features of the ADU that make it a dwelling.
 - (j) A safe path of travel shall be provided from the ADU to the nearest public sidewalk or right-of-way. The path must be a minimum of three (3) feet wide and remain clear and passable at all times.
 - (k) Above-ground exterior mechanical and utility equipment associated with the accessory dwelling unit should not be located within any required structure setbacks and shall be shielded to protect neighboring properties.
 - (l) A detached ADU is not permitted to have a rooftop deck.
 - (m) To improve compatibility with neighborhoods, ADUs must be built with an orientation, scale, and architectural style that reflects the predominant pattern existing in the neighborhood, preserves privacy for neighbors and for the occupants of the single-family dwelling.

Deletions struck through, and new language is underlined

Accessory dwelling unit means a ~~separate dwelling unit which is contained entirely within the confines of a building which otherwise retains the design and appearance of a detached, single-family dwelling~~ self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.

~~*Dwelling, accessory,* means a separate dwelling unit which is contained entirely within the confines of a building which otherwise retains the design and appearance of a detached, single-family dwelling.~~

AGENDA ITEM #8041

Discussion with Action: Approve the quote from Jordan Equipment Company for an 84” sweeper bucket attachment for the Bobcat Skid Steer in the net amount of \$5,845.00 to be paid from account # 20151-50452 Public Works Operating Equipment Repair with a balance of \$111,403.68. This quote includes a trade-in of an unused snow blower attachment.

Chair: Shawn O’Neill

Council Information

Department: Public Works

Meeting date: November 21, 2023

Subject: Replace 48" sweeper bucket attachment for Bobcat Skid steer

Commentary: The sweeper attachment was purchased in 2011. PW staff attempted to patch the bucket two years ago, but those patches are now gone, and the bucket has rotted through. Newer sweeper buckets are no longer chain driven. The manufacturer has adopted a hydrostatic (hydraulic) drive which is a more reliable and less maintenance intensive operation. About four years ago the department purchased a snow blower attachment for the Bobcat. The attachment was intended for use on the sidewalks but was found to be ineffective. This is an older model snow blower and has limited adoptability. Bobcat has offered a \$1,500 trade in value towards the sweeper bucket.

Information included: Quote from Bobcat for \$5,845.00 including trade in.

Recommendation: Approve the quote from Bobcat for \$5,845.00 including trade in.

Discussion with action:

Account #20151-50452

Balance \$116,081.72

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent



Product Quotation
 Quotation Number: **JE156450**
 Quote Sent Date: **Oct 25, 2023**
 Expiration Date: **Nov 24, 2023**

Prepared By
Josh Ernest
 Phone: 207-650-4010
 Email: jernest@jordanequipmentne.com

Customer
Old Orchard Beach Public Works
 1 PORTLAND AVE
 OLD ORCHARD BEACH, ME, 04064-
 2245
 Phone: +1 207 934 2250

Contact

Dealer
Jordan Equipment Company, Falmouth, ME
 18 BLACKSTRAP ROAD
 FALMOUTH, ME, 04105

Item Name	Item Number	Quantity	Price Each	Total
Sweeper Bucket 84"	7418178	1	7,345.40	7,345.40
Total for Sweeper Bucket 84"				7,345.40
Quote Total - USD				7,345.40
Discount				
<i>BOBCAT SNOWBLOWER TRADE IN</i>				-1,500.00
Sales total before Taxes				5,845.40
Taxes				0.00
Quote Total - USD				5,845.40

Customer Acceptance:

Quotation Number: **JE156450**

Purchase Order: _____

Authorized Signature:

Print: _____ Sign: _____

Date: _____ Email: _____ Tax Exempt: Y / N

AGENDA ITEM #8042

Discussion with Action: Approve the quote from Hayes Pump Inc. for a rebuild kit for the Moyno pump #2 in the amount of \$23,617.00 to be paid from account # 30181-50551 Sewer Reserve Fund Operating Equipment Capital with a balance of \$963,037.84.

Chair: Shawn O'Neill

Council Information

Department: Wastewater

Meeting date: November 21, 2023

Subject: Rebuild kit for Moyno pump #2

Commentary: The facility has two (2) Moyno progressive cavity pumps in service. These pumps were installed in 1996 and have been in service ever since. Moyno pump #1 was rebuilt about ten years ago. Moyno pump #2 has never been rebuilt and has been leaking. Both pumps will remain in service after the upgrade. The rebuild will be performed by OOBWW staff.

Information included: Quote from Hayes Pump for \$23,617.00.

Recommendation: Approve the quote from Hayes Pump for \$23,617.00.

Discussion with action:

Account #30181-50551

Balance \$963,037.84

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent

QUOTATION

00191968



Quote From:

Hayes Pump, Inc- (01-WC)
 66 Old Powder Mill Road
 Concord MA 01742
 US

Quote Date	Payment Terms	FOB	Freight Terms
10/26/2023	NET 30 DAYS	Shipping point	Prepaid & Add

Sell Loc: 01

Cust PO:

Mark #:

O
R
D
E
R
B
Y

OLD ORCHARD BEACH WTP
 1 PORTLAND AVE
 OLD ORCHARD BCH ME 04064
 US

S
H
I
P
T
O

OLD ORCHARD BEACH WTP
 1 PORTLAND AVE
 OLD ORCHARD BCH ME 04064
 US

Phone: 207-934-4416

LEAD TIME 7-9 WEEKS COMPLETE

LINE	ITEM / DESCRIPTION	QUANTITY UOM	UNIT PRICE DISCOUNT	NET UNIT PRICE EXTENDED PRICE
0010	4094000401 C310JQ STA,1STG,115,RR101-CBNSTL-K	1.00 EA	4,790.0000	4,790.0000 4,790.00
0020	4084004208 MO ROT 1H115,ALYSTL,HARD	1.00 EA	11,243.0000	11,243.0000 11,243.00
0030	81680838 JC SEAL ASSY, CARTRIDGE HSP-1003808	1.00 EA	7,584.0000	7,584.0000 7,584.00
			Total Price	23,617.00

Payment terms are subject to Credit Approval.

The parties agree that this quote and any order arising from it are expressly subject to and incorporate by reference Hayes' Terms of Sale which are available at <http://hayespump.com/Terms>. Customer's acceptance of this quotation is expressly conditional on Customer's assent to such incorporated Terms of Sale.

Please send a copy of your tax exempt certificate when placing your order. Email the tax certificate to tmackenzie@hayespump.com.

Sales Rep(s): Ian Lane

Questions? Phone: 978 369-8800 ALEX MOBASSALEH (978-318-4224) - amobassaleh@hayespump.com Fax:

AGENDA ITEM #8043

Discussion with Action: Approve the quote from Automatrix for spare PLC hardware in the amount of \$36,344.00 to be paid from account # 30181-50551 Sewer Reserve Fund Operating Equipment Capital with a balance of \$963,037.84.

Chair: Shawn O'Neill

Council Information

Department: Wastewater

Meeting date: November 21, 2023

Subject: Purchase spare PLC hardware

Commentary: This department has multiple failures in the control panels at the WWTF and pump stations. The panels at the facility were installed in 1996 and 2017. Much of the hardware in the 1996 panels have been replaced. Because this system is so old only used parts can be sourced at inflated prices. The panels at the WWTF installed in 2017 for the dewatering upgrade are also starting to have hardware failure. These parts are easier to find and come at a much lower cost. The control panels related to the pump stations installed in 2012 require ongoing hardware replacement. Failed hardware that are removed can be sent out for rebuild in most cases at a fraction of the price. This list was compiled by our control provider Automatrix with consultation from Woodard and Curran. The attempt was to keep in hand some of the most crucial parts for each of the panels. Panels installed in 2012 and 2017 will be kept in place after the upgrade. Panels installed in 1996 will be replaced as part of the upgrade.

Information included: Quote from Automatrix for \$36,344.00.

Recommendation: Approve the quote from Automatrix for \$36,344.00

Discussion with action:

Account #30181-50551

Balance \$963,037.84

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent



Automatrix

AUTOMATION ENGINEERS



November 10, 2023

P.O. Box 56
Winthrop, Maine 04364

Tel: 207-377-3487

Fax: 240-255-2367

e-mail: Info@AutomatrixInc.com

Mr. Christopher White
Mr. Jason LeBreton
Old Orchard Beach Wastewater

**Re: Spare PLC hardware
12039-R1**

Scope Summary:

This proposal is to purchase spare PLC CPU and all I/O cards for Allen Bradley SLC505 PLC range. Spare I/O cards for the Allen Bradley compactLogix range. Spare Allen Bradley Micrologix 1400 PLC for your existing remote pump station control and a spare data radio for halfway and remote pump Stations for communications. Automatrix will also supply an Allen Bradley PLC programing system to download and troubleshoot for Logix500 and Logix5000, This system can be used with SLC, CompactLogix and MicroLogix PLC's that Old Orchard Beach Wastewater currently uses.



Pricing Summary:

Hardware:

- 1747-L551C SLC PLC Processor
- 1746-IB16 SLC Digital Input Card
- 1746-OW16 SLC Digital Output Card
- 1746-NI4 SLC Analog Input Card
- 1746-NO4I SLC Analog Output Card

- 1769-L33ER CompactLogix PLC
- 1769-IQ16 CompactLogix 120vac Digital Input Card
- 1769-IA16 CompactLogix 24vdc Digital Input Card
- 1769-OB16 CompactLogix Digital Output Card
- 1769-OW16 CompactLogix Digital Relay Output Card
- 1769-IF4 CompactLogix 4 channel Analog Input Card
- 1769-IF8 CompactLogix 8 channel Analog Input Card
- 1769-OF8C CompactLogix 8 channel Analog Output Card
- 1769-PA4 CompactLogix Power Supply

- 1766-L32AWAA MicroLogix 1400 PLC
- 1762-IF4 MicroLogix Analog Input
- TBURQR4HH-F00E1L00 Remote Station Data Radio
- Allen Bradley PLC Programming System

Total: \$36,344



Actual time will be billed at \$159 per hour on-site and \$75 per hour during travel. Mileage is billed at \$0.70 per mile. Site visits will be billed at four hours minimum. All expenses will be billed as actual.

Terms

100% of project total upon completion.

Quote valid for 45 days.

I look forward to working with you. Please call with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Prickett', with a stylized flourish at the end.

Paul Prickett
Senior Automation & Controls Engineer
www.AutomatrixInc.com

AGENDA ITEM #8044

Discussion with Action: Approve the quote from Aerzen USA Corporation for a spare Aerzen compressor in the amount of \$38,856.12 with \$33,844.92 to be paid from account # 53002-50846 CIP Wastewater Treatment Plant Equipment with a balance of \$33,844.92 and \$5,011.20 from account # 20161-50330 WWTF Equipment Replacement with a balance of \$20,501.90

Chair: Shawn O'Neill

Council Information

Department: Wastewater

Meeting date: November 21, 2023

Subject: Purchase spare compressor for the Aerzen blowers

Commentary: This purchase is to keep a spare compressor for the three (3) Aerzen blowers used in the treatment process. The department always stocks a spare VFD, motor and other misc. parts. We use two blowers in the summer. The loss of a compressor would mean that the department would no longer have a spare blower. These blowers will be used after the upgrade is complete. This purchase was approved in the FY24 budget.

Information included: Quote from Aerzen for \$38,856.12.

Recommendation: Approve the quote from Aerzen for \$38,856.12.

Discussion with action:

Account #53002-50846

Balance \$40,000

Respectively submitted by,

Christopher White

Wastewater/Public Works Superintendent



AERZEN

Compressed air, gas
and vacuum solutions

Old Orchard Beach WWTP
Att.: Chris White
24 Manor Street
OCEAN PARK, ME 04063
USA

Aerzen USA Corporation
108 Independence Way
Coatesville, PA 19320-1653
USA

order-usa@aerzen.com
www.aerzenusa.com
Phone: 610-380-0244



Quotation

Page 1 / 2

Quote no. SEQ-23-000019/ 1
 Date: 01/03/23
 Quote Expiration date: 12/15/23
 Salesperson: Scott Trail
 Salesperson: Silke Melvin-Enz

Payment Terms: Net 30 days

Your account no.: 21-05414
 Phone number: +12079344416
 Fax No.: +12079347951
 E-Mail: cwhite@oobmaine.com
 Your Inquiry no.: REPLACEMENT BLOWER

53002-50846
\$40,000

Item No.: 2000044126, D 62 S Stage, P11.5 AWK CL FDA GJL R Z

Pos.	Item No. Description	Quantity	Unit of M.	Unit Price USD	Line Amount USD
	2000044126 D 62 S Stage -	1	each	36,677.81	36,677.81
	159875000 Gasket	1	each	32.01	32.01
	21-001385 Gasket Maker	1	each	32.32	32.32
	181314000 V-belt pulley	1	each	2,075.82	2,075.82
	158355000 Shaft nut	1	each	38.16	38.16
	FREIGHT tbd	1		0.00	0.00

Total USD Excl. TAX	38,856.12
Tax Amount	0.00
Total USD Incl. TAX	38,856.12

Bank USD Payments - ACH/Wire
 Routing JP Morgan Chase
 Account No 021000021
 SWIFT 350056393
 CHASUS33
 Remittance email remittance-usa@aerzen.com

USD Payments - Lockbox
 Aerzen USA Corp
 PO Box 21920
 New York, NY 10087-1920
 USA

EUR Payments - Wire
 Commerzbank AG
 Intermediary Bank: COBADEFF
 150113606800EUR
 COBAUS3X
 remittance-usa@aerzen.com



AERZEN

Compressed air, gas
and vacuum solutions

Quote no. SEQ-23-000019/ 1

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Ship-to Address:
Town of Old Orchard Beach WWTP
24 Manor Street
OCEAN PARK, ME 04063
USA

For questions on this order, please contact your Regional Service Coordinator.

Best regards,

Silke Melvin-Enz

Aerzen USA Corporation

Bank	USD Payments - ACH/Wire
Routing	JP Morgan Chase
Account No	021000021
SWIFT	350056393
Remittance email	CHASUS33
	remittance-usa@aerzen.com

USD Payments - Lockbox
Aerzen USA Corp
PO Box 21920
New York, NY 10087-1920
USA

EUR Payments - Wire
Commerzbank AG
Intermediary Bank: COBADEFF
150113606800EUR
COBAUS3X
remittance-usa@aerzen.com

AGENDA ITEM #8045

Discussion with Action: Shall the Town Council consider amendments to the Code of Ordinances, Section 54, Traffic and Vehicles, Section 187 (a), Restrictions and Prohibitions. This amendment proposes changes on Colby Avenue, by changing the time allowed to park on the southwest side (right side facing the ocean) from West Grand to Seaside Avenue from Five-minute parking to Fifteen-minute parking.

Chair: Shawn O'Neill

For Council Agenda to Set Public Hearing and Change parking time.

Sec. 54-187. - Restrictions and prohibitions.

Colby Avenue. ~~Five~~-Fifteen minute parking shall be allowed on the southwest side (right side facing the ocean) from West Grand Avenue to Seaside Avenue. No parking shall be allowed on either side of Colby Avenue from Clover Street (Fourth Street) to West Grand Avenue except in four designated spaces on the right side of Colby Avenue (facing the Ocean) just west of the intersection of Clover Street (Fourth Street) before the tennis courts.

We would like to propose the **five minute parking** on Colby Avenue be changed to **fifteen minute parking**. The current signage is for fifteen Minute parking which has been in place for some time and is not consistent with current ordinance which states five minutes. Fifteen minutes appears to be a sufficient amount of time based on the location of the Post Office and other area businesses in proximity to the existing spaces. This discrepancy was discovered during a recent review of a GIS Parking Overlay that is being created through CAI.

AGENDA ITEM #8046

Discussion with Action: Shall the Town Council consider amendments to the Code of Ordinances, Section 54, Traffic and Vehicles, Section 187 (a), Restrictions and Prohibitions. This amendment proposes changes on Bay Avenue, by designating no parking on the parking space closest to 1 Bay Avenue (MBL 313-2-1) on the right side of the road.

Chair: Shawn O'Neill

For Council Agenda to Set Public Hearing to designate a No Parking Space on Bay Avenue

Sec. 54-187. - Restrictions and prohibitions.

Bay Avenue. No vehicle shall be parked on the northeasterly side of Bay Avenue (left side facing the ocean). **Added Language (There shall be one no parking space located on the Southwesterly side of Bay Avenue (right side facing the Ocean) in front of 1 Bay Avenue (MBL 313-2-1).**

The purpose of this requested change is due to a request from residents of 1 Bay Avenue (Golden Shores Condominium Association) who expressed concern regarding vehicles parking nearby the exit of the complex and the garage area located on the building. After checking the parking space in question we determined the space appears to be in a hazardous location for vehicles coming and going from the complex or the garage located in the main building.



1 Bay Avenue

Proposed No Parking Designation



September 11, 2023

1 inch = 22 Feet

www.cai-tech.com



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



Maine Condo Companies

September, 6, 2023

Chief Elise Chard
Old Orchard Police Department
16 E. Emerson Cummings Blvd.
Old Orchard Beach, ME 04064

Dear Chief Chard,

I am writing on behalf of the Golden Shores Condo Association at One Bay Avenue in Old Orchard Beach. I have met with Gregory Bunce, the Parking Supervisor and spoken with the Dept. of Public Works Deputy Director who encouraged me to follow up with you regarding a particular parking spot at One Bay Avenue that has created some issues for residents.

The parking spot is located by the opening of the garage door and creates obstruction of view from those exiting the garage. Additionally the senior citizen who parks in the parking lot spaces 9 and 28 is challenged with navigating the vehicles parked behind in the next building and the vehicles parking in the public parking spot on the side of the garage door. Senior citizens worry about visibility, obstruction from the vehicles parking along the garage and often some vehicles in the public spot and building behind overlap into the drive entry/exit. Exit from the garage is often obstructed by the public spot. This public parking spot for the last year has had many construction vehicles and oversized vehicles including min-van's, beach goers, etc. parked and creating challenges for the residents at 1 Bay Ave and especially the parking spot number 9. Some residents who are senior citizens are concerned that should they hit a vehicle due to their age, their insurance company or whomever would pursue license revocation or increase rates. These are legitimate concerns and it is a navigation nightmare at 1 Bay Avenue.

It would be appreciated if the Chief would consider making this a no parking spot. If that is not an option then a compact car spot only or any other suggestions are appreciated. Towing of a vehicle is not the answer as that comes challenges legally and also the owner of the vehicle becomes potentially hostile. See photo from google earth attached.

Thank you for your time and consideration.

Kind regards,

Jackie Aiken

Maine Condo Companies, LLC

Scarborough, ME 04074

207-831-7894

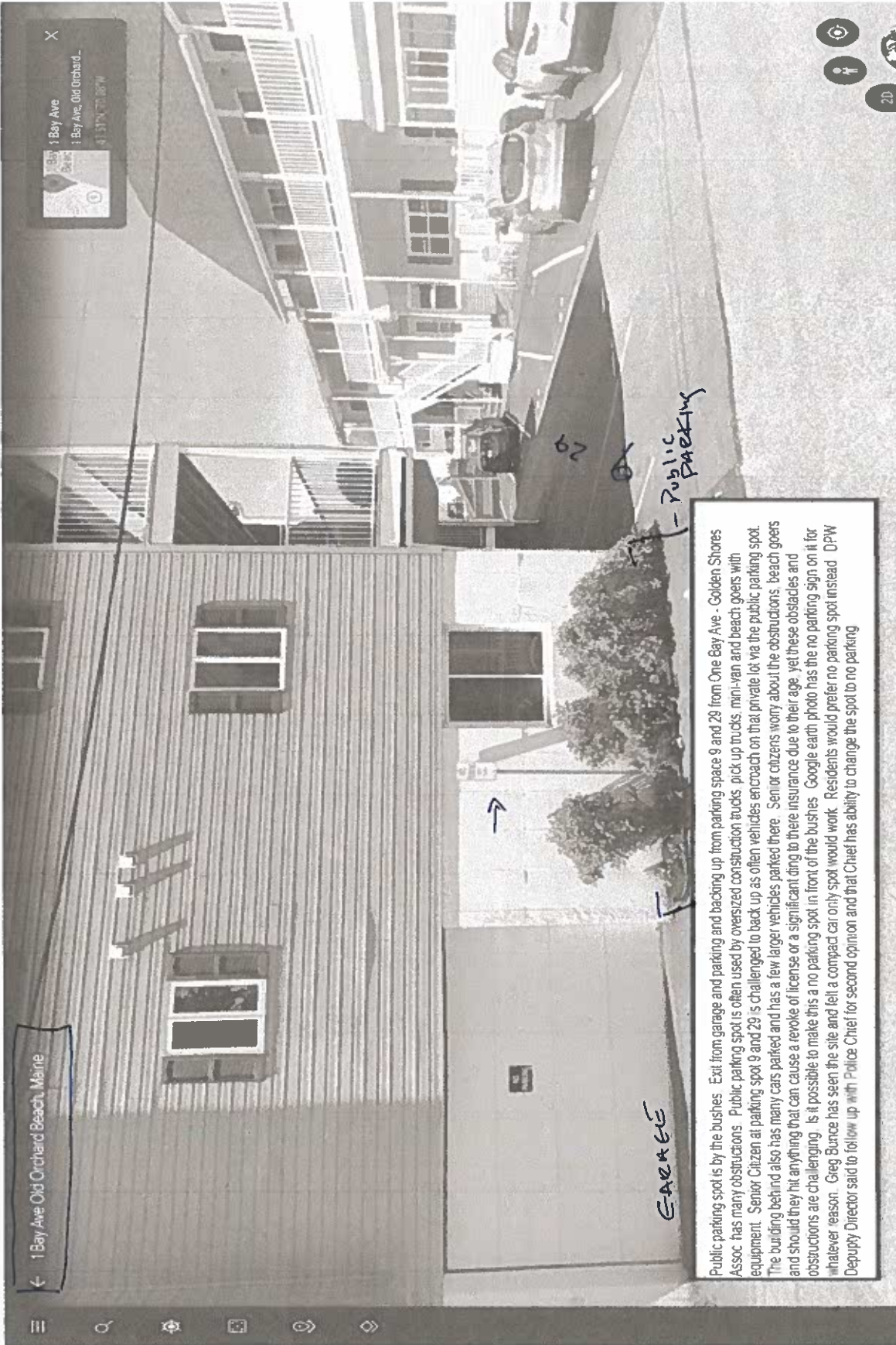
jaiken@mainecondocompanies.com

PS: Once you advise, I will follow up as requested with the DPW Deputy Director who asked me to consider to follow-up with Police Chief. Then DPW can perhaps make some changes.

www.mainecondocompanies.com



Maine Condo Companies



www.mainecondocompanies.com

Google Earth Photo - Shows No Park Sign
9/6/23

AGENDA ITEM #8047

Discussion with Action: Shall the Council consider amendments to the Code of Ordinances, Section 54 Traffic, sub-section 187, Old Orchard Street, by changing all of the two-hour parking spaces and free 15-minute spaces to free 30-minute parking spaces, and adding nine free one-hour handicap spaces.

Chair: Shawn O'Neill

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 October 17th, 2023, at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 54, Traffic and Vehicles, Section 54-187, Restrictions and Prohibitions, Old Orchard Street, by adding the underscored language and deleting the strikethrough language as follows:

~~Old Orchard Street. Two hour parking only shall be allowed on both sides of Old Orchard Street. There shall be one handicap parking space between Milliken Street and the railroad tracks on the left side (facing the ocean). See also [section 54-113](#) and Town Hall in this section. There shall be a free 15-minute parking space in front of the following five addresses: 17-21 Old Orchard Street (MBLU 206-31-1), 20-22 Old Orchard Street (MBLU 205-4-1), 33 Old Orchard Street (MBLU 206-31-6), [38](#) Old Orchard Street (MBLU 205-3-7), and 42-46 Old Orchard Street (MBLU 205-3-5).~~

Old Orchard Street. Free 30-minute parking only shall be allowed on both sides of Old Orchard Street, except one one-hour handicap parking space in front of the following addresses:

42-46 Old Orchard Street (MBLU 205-3-5)

40 Old Orchard Street (MBLU 205-3-6)

38 Old Orchard Street (MBLU 205-3-7)

33 Old Orchard Street (MBLU 206-31-6)

29 Old Orchard Street (MBLU 206-31-5)

24 Old Orchard Street (MBLU 205-4-5)

1 Saco Avenue, Old Orchard Street side (MBLU 206-31-10)

and 16 Old Orchard Street (MBLU 205-5-5)

See also section 54-113 and Town Hall in this section.

Per Order of the Municipal Officers this _____ day of October, 2023.

A True Copy
Attest:

Kim M. McLaughlin, Town Clerk

AGENDA ITEM #8048

Discussion with Action: Approve the Special Event Permit application for the Chamber of Commerce to hold their Celebration-by-the-Sea winter event. Set-up and takedown from 3:00 pm to 6:00 pm and the event from 3:00 pm-5:30 pm in Memorial Park on Sunday, December 3rd, 2023, to include a tree lighting in Memorial Park. Request to close First Street from the Memorial Park parking lot to Staples Street.

Chair: Shawn O'Neill

APPLICATION INFORMATION

PLEASE SUBMIT A **COMPLETE** APPLICATION A MINIMUM OF **30 CALENDAR DAYS** PRIOR TO THE EVENT.

1. Name of applicant Old Orchard Beach Chamber of Commerce
Address of applicant 11 First St, Old Orchard Beach, ME 04064
City State Zip
Phone number of applicant (207) 934-2500 Fax (207) 934-4994
Cell phone (318) 743-3605 E-mail kinh@oldorchardbeachmaine.com

On whose behalf is this event being conducted? (Organization, Firm, Corporation, if applicable)

Website address (if an Organization, Firm or Corporation) www.oldorchardbeachmaine.com

Type of Event:

- Festival/Fair
- Race/Walk/Bike Ride
- Concert
- Parade/March
- Other – Please specify

2. Event Description (name all vendors who will provide entertainment and the type of entertainment provided)

Holiday celebration with music, arts & crafts, tree/
park lighting in Memorial Park with a visit
from Santa & Mrs Claus, PW & Fire Dept Trucks
Will you be using tents? _____ YES NO Dressed Up for Holidays.

If yes, list size of tent and supplier, as well as what portion of the event will be taking place under the tent (i.e. cooking, sales, picnic tables, chairs, etc), and how the tent will be secured.

Will you be using staging? _____ YES NO

If yes, the following items will be used at the event (Please mark all that apply):

- Amplified Music Bleacher(s) Dance Floor(s) Live Entertainment
 Loud Speaker(s) Microphone(s) Stadium(s) Stage(s)

Other: _____

Note: If any of the above items will be used, please indicate their location on your attached Site Plan/Map. Use of the above items may require the Event Organizer to meet ADA regulations.

3. Chairperson and/or responsible party for the event, if other than above:
(Include information how this person may be contacted at any time during the event).

Name Kim Howard Work Phone (207) 934-2500

Address 11 First St, Old Orchard Beach, ME 04064
City State Zip

Cell phone (248) 743-3605 Fax (207) 934-4994

E-mail kinh@oldorchardbeachmaine.com

4. SET-UP Date for Event Sunday Day of Week 12/3 from 3 pm to 6 pm

Date of Event Sunday Day of Week 12/3 from 4 pm to 5:30 pm

Date of Event _____ Day of Week _____ from _____ to _____

Date of Event _____ Day of Week _____ from _____ to _____

Date of Event _____ Day of Week _____ from _____ to _____

TAKE-DOWN date _____ Day of Week _____ from _____ to _____

RAIN DATE(s) _____ Times _____

(if rain date listed, insurance must list rain date)

5. Location of the Event Memorial Park & Chamber of Commerce
(if applicable, a map or diagram showing the area to be used, or parade route)

6. The estimated number of participants in the event

0-150; _____ 150-500; _____ 500-1000; _____ 1,000+

7. If a parade or public gathering, will it occupy any or all of the roadway involved or to be traversed? (if yes, explain). Use extra sheet of paper to describe exact route of parade, including any water stops.

Close down First St between ~~Hotel~~^{Memorial Parking Lot} & Staples; trolley for Santa/Mrs Claus & to take kids on Scavenger Hunt; Police car for toy donations

8. Will the sale of food and/or beverages occur at the event? No If yes, describe the commodities to be sold.

- Alcoholic Beverages (only at Ballpark, using Ballpark Licensee) Pot Luck Items
- Professional Catering Non-Profit Food Vendors Retail Food Vendors

9. Will there be merchandise sold at the event? _____ YES NO

Description of merchandise _____

10. Is the event a Charitable event? ~~YES~~ YES NO

Is this event co-sponsored by the Town of Old Orchard Beach? _____ YES _____ NO

If this event a Regional School Unit #23 event? _____ Yes NO

(The request for a waiver can only be requested if the event is a RSU #23 event or sponsored or co-sponsored by the Town of Old Orchard Beach).

11. If the event is charitable, name the beneficiary of the proceeds from the event:

12. List any Event Sponsors:

Saco Biddeford Savings

Will admission be charged for the event? _____ YES NO

Will participants be charged for parking? _____ YES NO

13. Has this event been held previously in Old Orchard Beach?

YES (if yes, please list dates): 12/4/2022

NO

14. What is the applicant doing to ensure the event will not endanger the public safety or disturb the peace? Describe your plans for security at your event, including crowd control (attach additional sheets if necessary). Security plan will need final approval by the Old Orchard Beach Police Department and they have final say in appropriate number and type of security personnel required. Must include at least one Old Orchard Beach Police Officer, if security is required. Costs associated with security are the sole responsibility of the event organizer.

Please describe your security plan (including your plans for controlling ingress/egress of all persons, vehicles, equipment, and Emergency Medical Services) :

Volunteers as needed

Additional Uniformed presence provided by: Off-Duty Police Officers; Private Security; Volunteers

Times: _____ How many? _____

If you have already made contact with someone about security, provide the contact name and number:

Name: _____ Phone Number: _____

Please list any items that will be left overnight. If equipment will be left on-site overnight, provide details for personal property safety and security of site: (Note that the event organizer is solely responsible for items left on the property. The Town assumes no responsibility for items of personal property at the location at any time)

N/A

Will audible devices be used at this event? YES NO

If yes, what type of devices will be used? What time will they be used? (Decibel level limits are in Chapter 26 of the Code of Ordinances).

Sound system for music

Where will the event attendees/participants park? Memorial Parking Lots + nearby streets

Will a shuttle service be provided from parking areas to the event site? YES NO

If yes, please describe shuttle plan, and name of company provided service:

Will you require special parking (RV's, trailers, trucks)? YES NO

If yes, give details:

15. Describe your plans for waste disposal at your event. What arrangements have you made for removal and disposal of trash generated by your event? Please supply details of numbers and type of containers and supplier of containers that will be used. (Attach additional sheets if necessary) Costs associated with waste disposal are the sole responsibility of the event organizer. Disposal in Town trash receptacles is NOT an accepted means of disposal, and is prohibited.

2-3 Extra trash cans in Memorial Park (provided by PWD)

Is the use of barricades necessary/requested for this event? Yes

If yes, number needed and location 2 at corner of Staples & First and

2 at past entrance to Memorial Lot.

Will it be necessary to cover street and/or parking signs for this event, or place no parking signs?

YES NO If yes, please describe:

Is any other public works assistance needed? _____

If using First Street or Memorial Park Parking Lot, has the applicant reserved two spaces for Amtrak Parking? Yes

16. Will there be any use of fire (i.e. tiki torches, grills, barbecues, bonfires, etc?) For Bonfires, the pit/bonfire must be pre-approved for use by the Fire Department; the wood to be burned has no paint or nails; the portable pit or bonfire can be removed or filled in after the event leaving no residue or noticeable impact; a small water extinguisher and shovel are present; at least one adult be assigned to "keep fire watch" at all times. Note a burn permit must also be obtained from the Fire Department for the date specified on the date of the event. The Fire Department will issue a permit based on class day as listed by the Maine Forest Service. Permission may be refused or revoked if the Maine State Forestry Commission (governing body) declares a "Red Flag" day on which NO open fires may be allowed in our zone. A \$100 **cash** deposit is required for all fires to be returned to the applicant if the area is cleaned to the satisfaction of the public works department and/or fire department.

____ YES NO

If yes, explain: _____

17. Describe your plans for all signage and/or decorations for the event. Please include type of signage to be used, and description of verbiage being posted on signage.

Signage at Chamber Building; decoration at gazebo and around Memorial Park

Will this event be posting a banner on public property? ____ YES NO

If yes, please list requested dates, dimensions of banner, wording on banner, and location (no more than two weeks prior to the event):

18. Alcohol is not allowed on public property, except as outlined in the liquor license for the Ballpark. If this is a Ballpark event, will there be alcohol available for consumption? Note, if alcohol is being served, the Town requires additional Liquor Liability Insurance (minimum \$2,000,000, listing Town of Old Orchard Beach as additionally insured): ____ YES NO

Will the alcohol be: _____ Sold; _____ Given away; _____ Both

Describe the type of alcohol to be served, times consumption will be allowed, and plans for controlling consumption:

N/A

19. If this is a Ballpark Event, have you signed an agreement with the Ballpark Commission for use of the Ballpark? _____ Yes, it's attached _____ No

20. Will the event involve professional fireworks? _____ YES NO
Consumer Fireworks are prohibited. If professional fireworks are requested, what is the name of the Pyrotechnics Company? _____
(If fireworks are requested, the Fire Chief or his designee must approve of the site prior to the application being submitted to the Town Council for consideration. The Pyrotechnics Company must submit the approval the Maine State Fire Marshal's Office at least one week prior to the event, and the event sponsor's insurance must list that fireworks are occurring).

What time/date will the fireworks display occur? _____

21. Will there be any kind of animals at this event? (e.g. petting zoo, pony rides, etc.) ___ YES NO

If so, please indicate the location of the animals on the Site Plan/Map.

22. Piping Plovers are state and federally protected birds that nest on beaches. There are mandatory beach management guidelines from April 1st through August 31st of each year. Will this event occur on the beach? _____ YES NO

If yes, you must contact the Public Works Department at 207-934-2250, approximately one week prior to the event. In the event there are any active piping plover nests in the vicinity of your event, you may have to move your event farther down the beach, or request permission to change the date of your event.

Piping Plover Essential Habitat: The Maine Department of Inland Fisheries and Wildlife (MDIFW) has designated two areas on Old Orchard Beach as "Essential Habitat" for nesting piping plovers. By statute, a state agency or municipal government shall not permit, license, fund, or carry out projects that will significantly alter an Essential Habitat or violate protection guidelines adopted by MDIFW. This rule is not a prohibition of all projects within areas designated as Essential Habitat. *However, projects must be reviewed by MDIFW before Town approval.*

If the event is located partly or wholly within a mapped Essential Habitat the applicant will need to coordinate with municipal staff to submit a "Request for Project Evaluation" to MDIFW. MDIFW will evaluate the final project proposal per review standards established for Essential Habitats and determine if the project would significantly alter the habitat or violate protection guidelines.

The applicant is encouraged to obtain MDIFW guidance during project planning and design. Early involvement of MDIFW will help to minimize or avoid potential conflicts, facilitate cooperation between all parties, and enable quick turnarounds on project evaluations.

23. Certificate of Insurance and Additional Insured Endorsement page must be provided to the Town of Old Orchard Beach Town Clerk's Office 30 days prior to the event date. The applicant shall at its own cost and expense furnish a policy or policies for property damage or bodily injury in the amount of at least \$500,000. The Town of Old Orchard Beach **MUST** be listed as an Additional Named Insured.

_____ Yes, it has been provided with the application; No, it will be provided at least 30 days prior to the event.

24. Is the applicant requesting the use of the RSU #23 school property (schools, parking lots, playing fields)? _____ YES NO. If yes, has the applicant received approval from RSU #23 or the date the applicant will receive approval?

SPECIAL EVENT PERMIT AGREEMENT


I, Kim Howard on behalf of Old Orchard Beach Chamber of Commerce
(Print Applicant Contact Name) (Print Organization/Group Name)

Agree to abide by the following Special Event requirements:

1. All pre-event determined fees shall be paid at least two weeks prior to the event. I agree to pay any costs determined after the event immediately upon receipt of invoice.
2. Certificate of Insurance and Additional Insured Endorsement page must be provided to the Town Clerk's Office at least 30 days prior to the event date. The Town of Old Orchard Beach MUST be listed as an Additional Name Insured with the proper endorsement included. KH (initial)
3. To develop a comprehensive security plan in conjunction with the Old Orchard Beach Police Department.
4. Town property shall not be removed from the premises including but not limited to benches, trashcans, tables, chairs, fencing, signs, etc.
5. Premises will be left in as good a condition as received except for reasonable wear and tear. All trash will be disposed of properly within 12 hours of the end of the event. I accept responsibility for any damages that might occur during the period of use.
6. To comply will all laws, rules, and regulations of the federal, state, and Town governments governing operations and conduct on Town property.
7. This permit agreement may be terminated by the Town of Old Orchard Beach at any time upon finding a violation of any rule, ordinance, and/or condition of the permit or upon good cause shown.
8. For myself and any other persons, organizations, firms and corporations sponsoring the event, which is the subject of this permit application, jointly and severally, hereby contract and agree to pay all costs of services provided by the Town of Old Orchard Beach, in support of said event.
9. For myself and any other persons, organizations, firms, and corporations sponsoring the event which is the subject of this permit application, jointly and severally, hereby contract and agree to indemnify, defend and hold harmless the Town of Old Orchard beach, its officers and employees, against all claims, loss or liability from any claim or suit arising or alleged to have arisen from any act or omission of said applicant, its agents, invitees or other sponsor in connection with said event.

10. The facility/area is provided in an "as is" condition. The event organization assumes all responsibility for the security and safety of all participants and spectators of the event.
11. I understand that the Town of Old Orchard Beach has no responsibility for equipment and/or items of personal property at the location at any time.
12. Any misrepresentation or deviation from the final permit conditions will result in immediate revocation of the permit and halting of the event.
13. Events are considered rain/shine. Refunds are not issued if the event does not occur.
14. The permit does not authorize alcohol on any public property, including, but not limited to the beach, Memorial Park, streets and sidewalks.
15. Consumer Fireworks are illegal in Old Orchard Beach.

I have read and understand the Special Events Permit Agreement terms and conditions and I agree to be bound by said terms and conditions. I certify that the information I provided is accurate to the best of my knowledge.

Signature: 
(authorized representative)

Date: 10/10/2023

Print name: Kim Howard

Print Organization Name (if applicable): Old Orchard Beach Chamber of Commerce

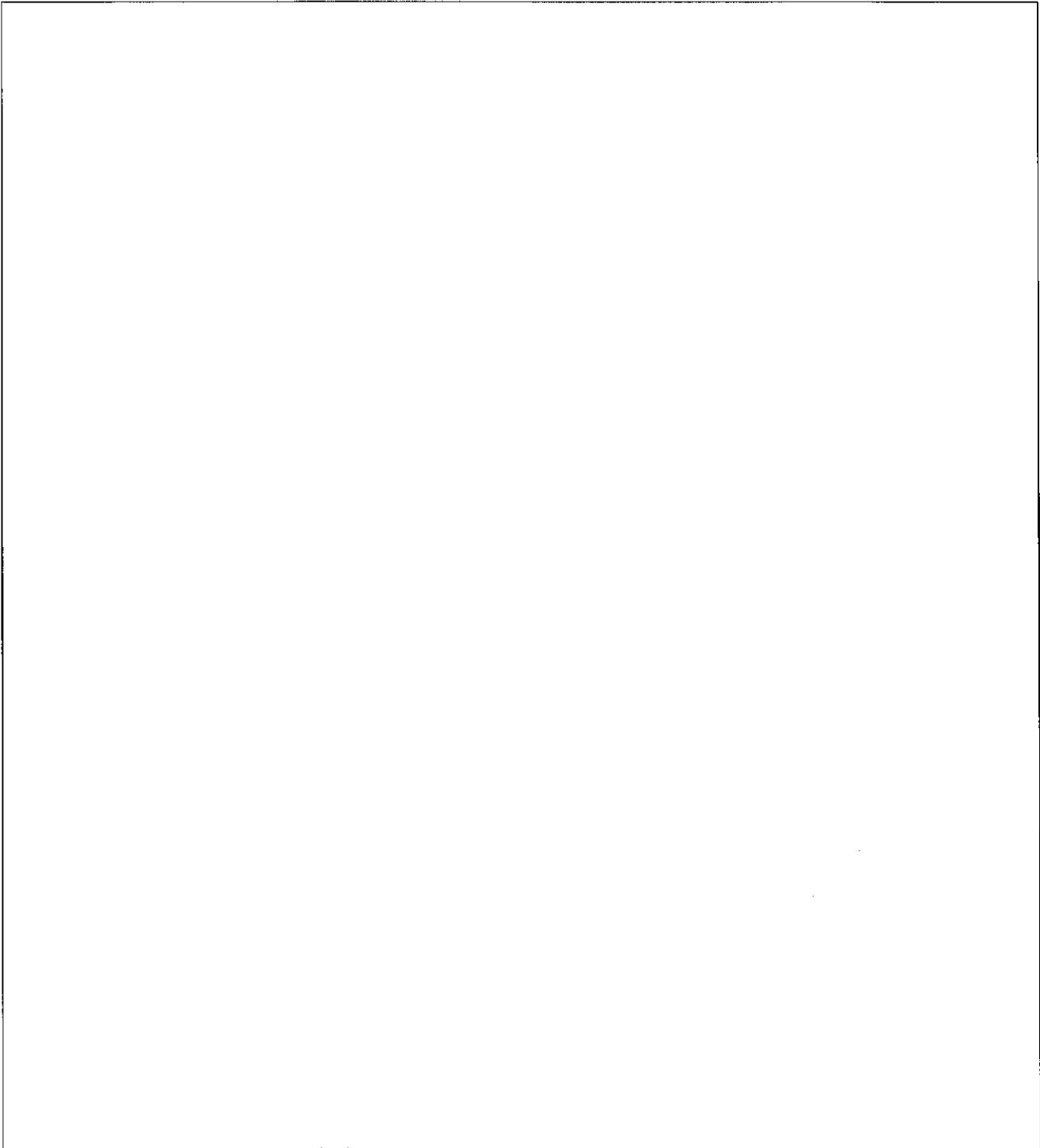
SITE PLAN SKETCH OF SPECIAL EVENT (Completed by Event Coordinator)

In the space below, please provide the following information. Attach a separate map if necessary.

General Map of Location
Event Coordinator's Booth
Tents/Stages/Grandstands
Porta Potties/Rest Rooms

Vendor Locations
Garbage Cans
Water Sources

Street Closures/Parking Information
Water/Electricity Sources
Loudspeakers



AGENDA ITEM #8049

Discussion with Action: Approve the FY 23 Line Item Transfer of \$93,241.70 from the following accounts with credit balances:

- \$67,437.97 from account 20118-50350 Contingency expense with a balance of \$87,387.06
- \$4,225.93 from account 20102-50549 Miscellaneous expense with a balance of \$4,225.93
- \$3,240 from account 20102-50525 Video Taping Expenses with a balance of \$3,240
- \$2,384.14 from account 20102-50402 Phone expense with a balance of \$2,384.14
- \$9,507 from account 20102-50300 Professional Engineering with a balance of \$9,507
- \$5,440.39 from account 20102-50315 User License Expense with a balance of \$5,440.39
- \$1,006.27 from account 20102-50251 Conferences/Training with a balance of \$2,308.23

Total Credit to be Transferred: \$93,241.70

-CONTINUED ON NEXT PAGE-

To the Following Accounts with Deficit Balances:

- \$18,588.44 to account 20102-50106 Full time Employee Expense with a balance of (\$18,588.44)
- \$12,671.25 to account 20102-50258 Employment Testing with a balance of (\$12,671.25)
- \$50,793.76 to account 20102-50301 General Legal Services with a balance of (\$50,793.76)
- \$11,188.25 to account 20102-50454 Computer Support with a balance of (11,188.25)

Total Deficit: \$93,241.17

Chair: Shawn O'Neill

AGENDA ITEM #8050

Discussion with Action: Approve the FY 23 Line Item Transfer of \$11,772.12 from the following accounts with credit balances:

- \$9,140.08 from account 20118-50350 Contingency Expense with a balance of \$19,949.09
- \$2,632.04 from account 20107-50501 Operating Supplies with a balance of \$5,273.76

Total Credit to be Transferred: \$11,772.12

To the following account with a deficit balance:

- \$11,772.12 to account 20107-50106 Part Time Employee expense with a balance of (\$11,772.12)

Total deficit: \$11,772.12

Chair: Shawn O'Neill

AGENDA ITEM #8051

Discussion with Action: Approve the FY 23 Line item transfer of \$42,403.63 from the following accounts with credit balances:

- \$22,126.96 from account 20196-50390 Tax Abatements/Overlay with a balance of \$42,827.40
- \$17,638.60 from account 20106-50107 Part time Employee Expense with a balance of \$17,638.60
- \$2,638.07 from account 20106-50300 Professional Engineering with a balance of \$6,000

Total Credit to be transferred: \$42,403.63

To the following accounts with deficit balances:

- \$32,367.05 to account 20106-50101 Department Head Salary with a balance of (\$32,367.05)
- \$10,036.58 to account 20106-50106 Full Time Employee Expense with a balance of (\$10,036.58)

Total deficit: \$42,403.63

Chair: Shawn O'Neill

AGENDA ITEM #8052

Discussion with Action: Approve the quote from Port2Port Construction for the replacement of the Harmon Museum Roof in the amount of \$32,250 to be paid from insurance proceeds and recoverable depreciation up to \$24,046.79 and the balance to be paid from account 51002-50901 CIP Town Building Reserve with a balance of \$258,300.42.

Chair: Shawn O'Neill



Memories Start *Here*

Town Of Old Orchard Beach
1 Portland Ave, Old Orchard Beach, ME 04064
207.937.5622
jmiles@oobmaine.com
www.oobmaine.com

Finance Office

The Harmon Museum received roof damage in the wind storm on 12/23/22. An insurance claim was filed, and the town received \$10,634.60 for the repair, with an option to get recoverable depreciation as well. If the roof is replaced, the total recoverable depreciation would be an additional \$13,412.19. The town received two quotes for repair, one from Mclaughlin Builders in the amount of \$52,400, and the other from Port2Port construction in the amount of \$32,250. Port2Port is a new vendor for the town, but provided references who all gave stellar reviews.

Respectfully,

Jordan C. Miles
Finance Director- Treasurer

Port2Port Construction
 10 B Street
 Old Orchard Beach, ME 04064
 US
 (207) 337-4818
 paul@port2portconstruction.com



Estimate

ADDRESS

Harmon Museum
 4 Portland Ave
 Old Orchard Beach, Maine
 04064

ESTIMATE # 1751
DATE 11/04/2023

ACTIVITY	QTY	RATE	AMOUNT
Roof Replacement Remove and replace roof as follows: Protect building and grounds with tarps. Remove all shingle and rubber membrane roofs to sheathing. Inspect roof deck and re-nail decking as needed. Replace any rotted or damaged sheathing at additional cost of time and material. Remove wood shingles to 3 dormers. Install ice and water shield at side and head wall 18 inches. Install new painted aluminum step and headwall flashing. Cover sidewalls with Hydro gap vapor barrier. Install #1 primed red cedar shingles with 7 inch exposure. Install eight white aluminum drip edge to all eaves. Install Certainteed ice and water shield to bottom six feet at eaves, valleys, sidewalls and penetrations. Cover remaining roof deck area with Certainteed Diamond Deck synthetic shingle vapor barrier. Install Certainteed starter to all eave and rake edges. Install Certainteed Landmark *PRO architect shingle roof system with 130 mph wind rating.(minimum 6	1	32,250.00	32,250.00

ACTIVITY	QTY	RATE	AMOUNT
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nails/shingle)
 Install new *copper flashing to all plumbing vents.
 Flat roofs:
 Mechanically fasten 4x8x1/2" high density polyisocyanurite to entire roof deck.
 Fully adhere Carlisle .060 rubber membrane roof with Cav-Grip adhesive suitable for cold weather application.
 Cut new lead flashing into chimney and mortar joint.
 Install painted aluminum drip cap and cover tape to perimeter edge.
 All work will be in compliance with manufactures specifications and OSHA safety regulations.
 Provide written warranty upon completion.

TOTAL **\$32,250.00**

Accepted By

Accepted Date

AGENDA ITEM #8053

Discussion with Action: To approve the proposal from Woodard & Curran for the Veterans Memorial Park Improvement Project in an amount not to exceed \$59,300.00 for design and engineering services to include construction documentation, permitting, and bidding services, from account # 50002-50812 Memorial Park Improvements with a balance of \$693,755.44.

Chair: Shawn O'Neill

ADJOURNMENT

Chair: Shawn O'Neill

Via Electronic Mail

November 15, 2023



Diana Asanza, Town Manager
Old Orchard Beach
1 Portland Avenue
Old Orchard Beach, ME 04064

Re: Proposal for Veterans Memorial Park Design, Permitting, and Bid Documents

Dear Diana:

Thank you for the opportunity to submit this proposal for improvements to Veterans Memorial Park (the Project). The park, a seven-acre parcel located on Staple, Heath, and First Streets in downtown Old Orchard Beach, is a highly used park that serves residents, tourists, and visitors through its green space and recreational amenities. Woodard & Curran understands that the Town has a budget of \$700,000 and is eager to implement improvements to select amenities throughout the park within that budget. This proposal is for design, bidding, and permitting services for site improvements as discussed during our meetings held with you to date.

EXISTING CONDITIONS

The following summarizes the existing conditions of Veterans Memorial Park:

- *Veterans Memorial* – The park has an existing veteran’s memorial monument atop a small hill. The memorial currently consists of granite stones with placards, at the top of a paved pathway, with a brick apron. Existing in-ground uplighting is no longer functional.
- *Stone Dust Paths* – The majority of existing paths within the park are constructed of stone dust. In some areas, the stone dust pathways are eroding.
- *Site Lighting* – There is existing site lighting throughout the park, including tall lampposts that remain from when a portion of the park was a parking lot. There is currently no site lighting for the stone dust paths throughout the Park.
- *Benches* – There are existing wooden benches of varying condition located throughout the park, some of which are located on concrete pads, and others that sit atop grass. Several benches throughout the park have dedication placards.
- *Gazebo* – There is an existing gazebo that was constructed in 2005, is constructed of pressure treated lumber, and is ready for replacement.
- *Sports Courts* – The park includes two tennis courts, two basketball courts, and an oversized batunk court.



- *Landscaping, Irrigation, and Signage* – Portions of the park are landscaped, and some sections of the park are irrigated. There is currently limited signage throughout the park, with a lack of prominent signage at the park's entrances.
- *Restroom Facilities* – The park has an existing public restroom facility building located at the park entrance on Heath Street.
- *Playground* – The park includes an existing playground, with swings and other playground equipment.
- *Lighthouse Statue* – There is an existing lighthouse statue located adjacent to the batunk courts, near the corner of 1st Street and Staples Street. The statue is painted with a mural and has stones surrounding the base.
- *Dog Park* – The park has a K9 Veteran's Memorial Dog Park, which is a fenced-in area at the southwest corner of the park.

PROPOSED IMPROVEMENTS

Woodard & Curran previously prepared a Veteran's Memorial Park Improvements Master Plan that identified elements of the park to be replaced or upgraded. The Engineer's Estimate of Probable Construction Cost for the Master Plan, which Woodard & Curran developed on June 27, 2022, estimated the total construction cost to be \$1,537,500.

Woodard & Curran understands that the Town has an available budget of \$700,000 to implement select improvements from the previously developed Master Plan. Based on recent conversations with the Town, Woodard & Curran understands the Town has identified the following improvements as priorities to be incorporated during this initial phase of construction.

- *Veterans Memorial* – Woodard & Curran understands that the Town is interested in expanding the existing memorial as part of the overall master planning for the park, however this work is anticipated to be designed and constructed during a later phase of the park improvements. As part of this Scope of Work, the existing uplighting at the memorial will be replaced, irrigation will be installed, and limited improvements to hardscape will be included such as replacing the existing path and providing seating. Woodard & Curran will work with the Town to brainstorm other potential memorial improvements that may fit within the Project budget.
- *Stone Dust Paths* – The existing stone dust paths are eroding in some locations and in need of replacement. The proposed Project will evaluate replacing the existing stone dust paths with another surface treatment, or installing improvements such as metal edging, to better define and maintain the paths. Woodard & Curran understands the Town would like to see a minimum of 10' wide paths throughout the park.
- *Site Lighting* – Woodard & Curran will work with the Town to select new light fixtures to provide better visibility throughout the park and will help the Town evaluate reuse or replacement of existing light poles and fixtures. As noted previously, it is anticipated that existing uplighting at the Veteran's Memorial will be replaced.



- *Benches* – Existing benches will be maintained or replaced, depending on their condition. Some benches may be replaced with sitting walls. Location of benches will be evaluated to optimize siting and use.
- *Gazebo* – Lighting may be installed at the existing gazebo to provide improved visibility and make the structure more pronounced.
- *Landscaping, Irrigation, and Signage* – Landscaping will be installed at the park entrances to highlight and better define the entrances. Irrigation will be installed as needed to supplement the existing irrigation system. Woodard & Curran will work with the Town to identify appropriate locations and types of signage to install at the park's entrances
- *Batunk Court* – The existing batunk court is oversized and will be reduced in size.
- *Miscellaneous Amenities* – Additional amenities such as trash receptacles and dog bags will be installed or replaced.
- *Sidewalk on Staples Street* – Existing concrete sidewalks within the Town right-of-way are present along the park's frontages on 1st Street and Heath Street, however there is not an existing sidewalk along the park's frontage on Staples Street. This Scope of Work includes design of new sidewalk along the southern side of Staples Street, between 1st Avenue and Saco Avenue. It is anticipated that the sidewalk scope will be included as an add alternate as part of the bid package for the Project.

SCOPE OF SERVICES

Woodard & Curran agrees to provide the following Services:

Phase 1 – Existing Conditions Plan

Woodard & Curran understands that an existing conditions survey was completed for the Project area by Wright-Pierce within the last several years, which includes topographic and planimetric information. Woodard & Curran assumes that the Town will provide a copy of the existing conditions survey in AutoCAD and PDF format for our use in developing the design drawings for the Project.

As part of this initial Phase, Woodard & Curran will review the previously completed survey, and supplement it as needed with publicly available information and information provided to us by the Town. For example, Woodard & Curran assumes that the park's groundskeeper will provide information on the locations of existing irrigation lines. Additionally, Woodard & Curran will download and incorporate existing utility information within the Project area from the Town's GIS and available record plans.

Phase 2 – Concept Design

Based upon the Existing Conditions Survey from Phase 1, Woodard & Curran will coordinate with the Town to develop a concept design for the park improvements. As part of this Phase, Woodard & Curran will develop a conceptual design plan and associated cost estimate for the anticipated park improvements.



This Phase includes two meetings with the Veterans Memorial Park Committee (Committee): an initial visioning meeting to go over the Town's goals and priorities for the Project, and a second meeting to review the concept design and cost estimate. Woodard & Curran will refine the conceptual design plan based on feedback from the Committee and the results of the cost estimate. A final concept plan will be shared with the Committee for their review and approval prior to moving onto Phase 3.

Phase 3 – Design Development

Upon Town approval of the concept design developed in Phase 2, Woodard & Curran will proceed into the design development phase. Woodard & Curran anticipates the following drawings will be developed during this Phase:

- Title Sheet with Index and Site Location Map
- General Notes, Legend, and Abbreviations
- Existing Conditions Plan
- Site Demolition Plan
- Layout and materials Plan
- Grading, Drainage, and Utilities Plan
- Erosion and Sediment Control Plan
- Landscape Plan
- Lighting Plan
- Details

In addition to the drawings, Woodard & Curran will prepare technical specifications in CSI Master Format for all site related elements.

Upon completion of the design development drawing package, Woodard & Curran will also prepare an updated opinion of probable construction cost. Woodard & Curran will attend one meeting with the Town to review the design development package and updated cost estimate.

Phase 4 – Construction Documents

Upon approval of the design development drawing set, Woodard & Curran's team will develop construction Contract Documents based upon the Engineers Joint Contract Documents Committee standard and the CSI Master Format. Contract documents will include the following front-end specifications suitable for bidding:

- Division 00 - Procurement and Contracting Requirements, Introductory Information, Procurement Requirements, Contracting Requirements
- Division 01 – General Requirements

Woodard & Curran will provide the Town with substantial (90%) design including drawings, contract documents, technical specifications, and opinion of probable construction cost for review.

Woodard & Curran will attend one Project meeting with the Town to review the 90% design submittal package. The team will accept comments for the design submittal, modify the design if necessary, and present the Town with final bid-ready construction Contract Documents, stamped by Licensed Professionals.



Phase 5 – Permitting

The Veterans Memorial Park is located within Downtown District-2 (DD-2), and therefore, proposed modifications to the park must comply with the Town’s Code of Ordinances. Based on Woodard & Curran’s review of the Town’s Code of Ordinances, and the anticipated Scope of Work, our understanding is that no formal permitting process is required at the local level. Although no formal permitting process is anticipated, Woodard & Curran has included attendance and presentation at one Public Meeting as part of this Phase, based on our understanding that there will be public interest in the Project and the Town may want to engage with the community for their input.

The following permits and approvals are not anticipated, based on Woodard & Curran’s interpretations described below:

- Town of Old Orchard Beach Administrative Design Review Certificate – Article V Design Review of the Town’s Code of Ordinances specifies that prior to issuance of a building permit in the DD-2 district, design review is required for any structural modifications of all or any exterior part of existing nonresidential structures (Sec. 78-426). No modifications to existing structures are anticipated as part of the Project, and therefore it is anticipated that Design Review will not be required.
- Town of Old Orchard Beach Site Plan Review Permit – Article IV Site Plans of the Town’s Code of Ordinances exempts any construction or modification to any municipal use constructed or operated by the Town from site plan review (Sec. 78-212(b)), and therefore, it is anticipated that a Site Plan Approval will not be required.
- Natural Resource Protection Act (NRPA) Permit – It is anticipated that the Project will not impact any wetlands, and therefore a NRPA Permit will not be required.
- Maine Stormwater Management Law – It is anticipated that the proposed Project will not create more than one acre of disturbance, and therefore a Stormwater Management Law Permit will not be required.

Phase 6 – Bidding Services Phase

Woodard & Curran understands the Project will be bid through a public procurement process. Woodard & Curran will act as the Plan Holder for the Project, provide construction Contract Documents to Contractors as requested, conduct a pre-bid meeting, answer technical RFIs, issue addendums, and attend the bid opening.

Upon completion of the bid opening, Woodard & Curran will review the bids and tabulate bids, review the qualifications of the apparent low bidder, develop a letter summarizing this information, and prepare the Contract Documents for acceptance by the successful bidder. Advertising costs are not included as we understand those fees will be billed directly to the Town.



ASSUMPTIONS AND CLARIFICATIONS

The following assumptions and understandings apply to the scope of work, schedule, and budget described herein.

1. Design of the following park improvement elements is not included in this Scope of Work, as the design and construction of these additional elements are anticipated to be completed as part of a future phase:
 - a. Replacement and expansion of the existing Veteran’s Memorial, above and beyond the limited improvements described herein.
 - b. Replacement of existing gazebo.
 - c. Upgrading of bathrooms.
 - d. Upgrading of playground.
 - e. Upgrading of lighthouse.
 - f. Upgrading of tennis and basketball courts.
2. Construction phase services are not included in this Scope of Work.

PROPOSED SCHEDULE

Woodard & Curran can initiate the work upon Authorization to Proceed. The work will be completed within 4 months of the Authorization to Proceed. Woodard & Curran anticipates attending an initial meeting with the Town on November 21st to review and brainstorm ideas for the park improvements.

PROPOSED BUDGET

Woodard & Curran proposes a lump sum budget of not-to-exceed \$59,300 to perform services described within this proposal, invoiced monthly. We will communicate with the Town on our efforts relative to this budget and work requested. We will not exceed this budget without the written authorization from the Town.

Phase 1: Existing Conditions Plan	\$2,800
Phase 2: Concept Design	\$9,500
Phase 3: Design Development	\$20,000
Phase 4: Construction Documentation	\$17,700
Phase 5: Permitting	\$1,500
Phase 6: Bidding	\$7,800
Total Budget	\$59,300

TERMS AND CONDITIONS

The Scope of Services will be completed in accordance with the terms and conditions of the Master Professional Services Agreement between Woodard & Curran, Inc. and The Town of Old Orchard Beach dated April 14, 2021.

CLOSING



We greatly appreciate this opportunity to offer our services. If you accept this proposal and wish to proceed with the Scope of Services, please sign the Authorization To Proceed below and return a copy for our files.

Please feel free to contact me at 207-558-3807 (bbridges@woodardcurran.com) or Caitlin Glass at 207-558-3707 (cglass@woodardcurran.com) if you have any questions regarding this proposal or require any further information.

Sincerely,

WOODARD & CURRAN, INC.

A handwritten signature in blue ink that reads "Brent M. Bridges".

Brent M. Bridges
Vice President

cc: Caitlin Glass, Woodard & Curran

**AUTHORIZATION TO PROCEED
TOWN OF OLD ORCHARD BEACH**

Signature Date

Name (printed)

Title