



Planning Board - Minutes

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April 13th, 2023, 6:30 pm

Council Chambers - 1 Portland Avenue

My name is Dave Walker. I'll be your Chairman tonight. And we'll start by having a pledge of allegiance to the flag. Please join in.

Group: I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

David Walker: Thanks. Jeff, you want to do the roll call, please?

Jeffrey Hinderliter: Sure. Mr. Kelley?

Jay Kelley: Here.

Jeffrey Hinderliter: Mr. Dupuis?

Samuel Dupuis: Here.

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Here.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Present.

Jeffrey Hinderliter: Mr. Winch?

1 Winthrop Winch: Here.

2

3 Jeffrey Hinderliter: Vice Chair Hitchcock?

4

5 Chris Hitchcock: Here.

6

7 Jeffrey Hinderliter: And Chair Walker?

8

9 David Walker: Here. So we have a full house tonight. Sam Dupuis and Jay Kelley will be
10 alternate members and I'm looking forward to hearing what they have to say on the items
11 that we will be covering tonight.

12

13 Our first item of business is a public hearing for Ordinance Amendments: Chapter 78,
14 Article VI, Sections 78-518, 717, 747, 803, 833, 869, 993, 1023, 1134, and Article VII, Section 78-
15 1281 (Lodging Condominium Ordinance). The applicant is the Town of Old Orchard. And if
16 you wish to speak on this at this time, please approach the podium, give your name and
17 address. Thank you. And this hearing starts at 06:32. Are you here for the ordinance
18 amendment?

19

20 Female Speaker-1: I'm sorry.

21

22 David Walker: Are you here for the ordinance amendment?

23

24 Female Speaker-1: No.

25

26 David Walker: Okay. Public hearing? Okay. Good. All right. Then I'll close this public hearing
27 at 06:33 hearing no one coming forward, and we'll move on to regular business.

28

29 Item 1 which is the same Ordinance Amendment, Chapter 78, Article VI, Sections 78-518, 717,
30 747, 803, 833, 869, 993, 1023, 1134, and Article VII, Section 78-1281 (Lodging Condominium
31 Ordinance). This is a discussion from Council Recommendation, and again, the applicant is
32 the Town of Old Orchard. Jeffrey?

33

34 Jeffrey Hinderliter: Sure. Thank you. So this proposal is for the adoption of a new use and
35 conditional use ordinance for the purpose of regulating lodging establishments, which are
36 hotels, motels, B&Bs and inns that convert into condominiums.

1
2 So the reason we are proposing the lodging condo ordinance amendments is because the
3 town basically has zero standards to review these proposals and to apply to these
4 proposals. Because of that, there's a real potential negative, short and long term impacts,
5 real potential for negative short and long term impacts to abutting property owners to the
6 town and to – also to those who purchased the units inside the converted lodging
7 establishments.

8
9 Due to these concerns, council enacted a moratorium to prevent the conversions until the
10 town takes action and decides what we want to do with these. So staff considered our
11 options and it really became clear that new ordinances would be the best way to regulate
12 these lodging condominiums, as they're now called, or proposed to be called.

13
14 So we revised two ordinances or we created two ordinances, really. One ordinance is a
15 conditional use ordinance that applies specific regulations to lodging condominiums. And
16 the other ordinance is actually multiple amendments within the same article that allows
17 lodging condominiums in all the same locations that lodging establishments are allowed
18 and all the same zoning districts, actually.

19
20 So one of the guiding principles I used when I was creating these new standards was to
21 ensure that lodging condominiums continue to operate in a manner similar to lodging
22 establishments, while also providing a mechanism that would grant more than staff review,
23 which we don't even have now, by the way, which we have nothing now, but where we
24 would have grant authority to review to a body such as the planning board.

25
26 And also, another part of the guiding principles I used was to create regulations that were
27 relatively strict, but also fair with the goal in mind to protect the town, abutting property
28 owners, and the future owners of these converted lodging establishments.

29
30 So a couple of important points to – associated with these new ordinances is, one, all
31 lodging establishments that are converting to condominiums will now require a planning
32 board review. Currently, there's no review. Another one, lodging condos are allowed in the
33 same zoning districts that lodging establishments are allowed.

34
35 Another very important one is unit owners are required to rent their unit or to make their
36 unit available to rent for 305 days out of a calendar year. So that is with the intent to keep

1 these lodging establishments. The unit owners can use these for personal use no more than
2 60 days out of the calendar year.

3
4 David Walker: Rentals are just 30 days minimum – maximum.

5
6 Jeffrey Hinderliter: Max. Yep, which was my next point. Thank you.

7
8 David Walker: Okay.

9
10 Jeffrey Hinderliter: All unit owners must secure rental licenses within 60 days of closing on
11 that property. License renewals require each unit owner to demonstrate that they do rent
12 their unit out and to provide that documentation in order to have a successful renewal. A
13 condominium association must be established. Also, because unit owners have specific
14 requirements that restrict the use of their units, I normally don't get involved with this and
15 don't recommend that the planning board get involved with regulating associations,
16 whether they'd be condo or homeowners associations. But in this particular case, it was
17 necessary, because it was very important to ensure that the condo association documents
18 include specific language for their declaration that supports what we're trying to do, that
19 supports the language within this ordinance including those restrictions for how often a
20 unit owner can occupy, the structure, the rental and so on.

21
22 These condo association must enter a contract with a management company and the
23 lodging condominium must operate as a lodging condominium 365 days, seven days a week,
24 and offer the following services at a minimum. Front desk and lobby operations, room
25 service, housekeeping, and short term rental reservation services. There must be two on-
26 site spaces for each unit. An association and management must have a contact that's
27 available 24 hours a day, seven days a week. So, to date, the board began consideration at
28 our meeting last month. This month, last week, the board held a very good workshop on
29 this. There was very good discussion. And we just held a public hearing.

30
31 The next step is a recommendation on the ordinance to council. Council will begin the
32 review of this ordinance next week. And I'd just like to remind the board that we are under
33 a moratorium. So, right now, we have until June 4th, we being the town, that includes
34 planning board and council to make a decision. That can be renewed, but I suspect that the
35 council will want to continue to move this forward.

1 And finally, I'd like to note is and emphasize that this is for folks who are converting lodging
2 establishments, your motel, hotels in to a different form of ownership, into a condominium
3 form of ownership. And what they're doing is they're taking advantage, rightfully so, there's
4 nothing that says they can't, of a loophole in our ordinance that allows them to avoid the
5 typical review that a multifamily, which is what these are really becoming a multifamily is
6 and also the typical standards of what a multifamily requires, such as the density
7 requirement, the parking standards, the association, and so on. Right now, there's nothing.
8

9 So we're looking to close that loophole by allowing a specific type of use, a lodging
10 establishment use, but understanding that they still need to operate that or a lodging
11 condominium use, but understanding that they still need to operate that as in a manner
12 very similar to a lodging establishment.
13

14 Now, there's nothing that says that the developers can't go for multifamily and avoid this
15 altogether. But one of the reasons they're not is because they're not – they don't want to
16 have those multifamily standards. So they're trying to take advantage, again, they have the
17 right to, of a loophole. And with this ordinance, we're looking to close that loophole.
18

19 David Walker: Well, thank you, Jeffrey.
20

21 Jeffrey Hinderliter: Thank you.
22

23 David Walker: And based on our workshop last week, I think you've closed that loophole
24 and it's our responsibility now to move that forward to council unless any of the board
25 members have anything they want to add or say.
26

27 Winthrop Winch: I thought the workshop was excellent. Jeff did an excellent job at
28 answering the questions.
29

30 David Walker: Okay.
31

32 Winthrop Winch: Very satisfied.
33

34 David Walker: Great.
35

36 Jeffrey Hinderliter: Thank you.

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David Walker: So with that, anybody have a motion? I can make it. I recommend the council approve amendments to the Old Orchard Beach code of ordinances, Chapter 78, Article VI, Sections 78-518, 717, 777, 803, 833, 869, 993, 1023, 1134 and Chapter 78, Article VII, Section 78-1281. Motion by Dave Walker.

Chris Hitchcock: Second.

David Walker: Second by Chris Hitchcock. One call for the vote, please?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: No.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Mr. Winch? Mr. Winch?

Winthrop Winch: Oh, yes.

Jeffrey Hinderliter: You had said. Sorry. Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. Robin, did you say no?

Robin Dube: Mm-hm.

David Walker: Okay. So that motion carries four to one.

Jeffrey Hinderliter: Thank you.

1 David Walker: You're welcome. All right. Moving on Item 2. Proposed Ordinance
2 Amendment, Chapter 78, Article VI, Sections 78-869 (b) (2), Chapter 78-870 (b), Chapter 78-
3 871 (c) (1), (2) and renumber existing (2) and (3) (NC setback, multifamily, parking
4 amendments). Action is a discussion, set a public hearing date and the applicant is NERG
5 Realty LLC. Jeffrey?

6
7 Jeffrey Hinderliter: Sure. Thank you. So these are ordinance amendments, three ordinance
8 amendments to the NC3 zoning district. And where the NC3 zoning district is, it's probably
9 the smallest or one of the smallest zoning districts in the entire town. It consists of
10 approximately 11 properties right - really right at the intersection of Washington Ave and
11 Union, right there, where the local is. We have a number of multifamilies, convenience
12 stores. So it's just - maybe it's nine, nine or 11 properties right there. That information you
13 have in your packet too, that shows you where these properties are located.

14
15 So what the amendments propose, there's three. So the first one is to allow multifamily
16 buildings to have units on the sidewalk level. Currently, the ordinance allows multifamily
17 buildings, but you cannot have a unit on the sidewalk level.

18
19 The second change is - proposed change is to reduce the principal and accessory building
20 setbacks. Currently, the - and I should say - and specifically, we're talking not the front
21 setbacks, we're talking about the side and rear setbacks. So the proposed side setbacks are
22 five feet for both principal and accessory structures. Currently, the side setbacks are 15 feet
23 for principal, and 10 feet for accessory structures. And the other change is a rear setback
24 reduction to 10 feet. We're currently 20 feet for principal structures, and 15 feet for
25 accessory structures.

26
27 Then the third change is to exempt on-site off street parking for residential and
28 nonresidential uses. So basically what this standard would do is exempt applicants who can
29 demonstrate that they do not have off street parking on their site. It would exempt them
30 from meeting the parking requirements for on - off street parking. There is right -
31 currently, we have a standard that exempts nonresidential uses for - from off street
32 parking as long as the lot has frontage in an area that has public parking available.

33
34 So those are the three changes, allowing multifamily with units on the sidewalk, reducing
35 principal and accessory building setbacks and accepting on-site off street parking.
36

1 So when reviewing zoning amendments, we consider how the amendment is consistent
2 with the current zoning, existing land use, and the comprehensive plan. This analysis is
3 provided in your memo. But to summarize, with – quickly, I found that the amendments are
4 consistent with all. So in my opinion, I believe all the amendments make sense as most if
5 not all of the properties in this zoning district already don't conform to what those existing
6 zoning standards are that we're looking to amend.

7
8 And, I think one of the principles of the neighborhood commercial district when we think of
9 the sidewalk level, multi-unit piece, all's you have to do is drive down there and see all the
10 multi-units that have sidewalk level units. It's – I don't know how, but it's just – they exist.
11 It's a fact. You look at the setbacks out there and some structures are right up against the
12 property lines.

13
14 The one part that I had a little trouble with was the restriction on the residential off street
15 parking requirement. And it's one of the reasons why I put a standard in there that says that
16 the applicant needs to demonstrate that they don't have that off street parking. So if we
17 think that this is going to come back to that neighborhood, like, in the 1950s or 1960s where
18 you wanted those sidewalk level business operations, I think, it's – I think the town's been
19 trying to do that for 30 – ever since they left and changed the district to try to promote
20 that, but obviously it hasn't happened.

21
22 So do we want the area to continue to remain stagnant or to basically allow these standards
23 to – and I should say this isn't a proposal from the town. I did work with the applicants, I
24 helped them out with the language on this, and the applicants do have two properties that
25 they're interested in doing this stuff. But – and I know the applicant has been working very
26 hard in doing this in a good faith effort to try to make something work out here both –
27 especially businesses. They've really been trying. And, unfortunately, they've just haven't
28 been successful. So we're hoping that these rules will help them, but also, we're pretty
29 confident that these rules are drastic enough where they completely will change the
30 character of that area, because it's already changed.

31
32 David Walker: So, thank you Jeffrey. Is this an all or nothing recommendation, because
33 there's really three components to it?

34
35 Jeffrey Hinderliter: I'd have to ask – I know there might be someone from the – okay. So I
36 would say that it's very – there's probably some that are – of these standards, that are

1 preferable, because I know one of the primary focuses that the local or the restaurant down
2 there, something they really wanted to do is expand that building. This is just my opinion. I
3 would say that they're all extremely important. But I think the local, having the ability to
4 expand the local, which really involves two of these amendments, the parking one and the
5 setback one are – is most important.

6
7 David Walker: So I've been down there at the restaurant and it's almost impossible to find
8 parking in the evening. And we're going to exacerbate that by adding residential parking
9 down there. I don't know if the applicant understands that. But if the applicant's here and
10 wants to speak, we'd love to hear from you. Come up to the podium. Identify yourself,
11 name.

12
13 Dana DiFronzo: Hi. I'm Dana DiFronzo. I'm one of the co-owners of the local and the
14 property at 20 Washington Ave. I'm here to present the case, although my brother's the one
15 that's been working with him on a lot of this stuff. So I don't know a lot of the issues going
16 on. So I don't know that I could be very helpful as far as the parking and how we would
17 handle that.

18
19 David Walker: Okay.

20
21 Dana DiFronzo: But what I can say is that we've invested a lot of time and money to
22 revitalize that neighborhood. We own another property there as well and we kind of got hit
23 pretty bad because of COVID. So things didn't start the way we would have liked it to have.
24 And where everybody loves the outside seating, we thought that it would be a nice addition
25 to the restaurant.

26
27 And as far as making the commercial space a residential, we've tried several times and
28 actually been to the planning board to try to make that a commercial space, but we've had
29 no success whatsoever. So we just thought it would be a nice alternative to make it
30 residential, because nobody's come forward wanting to put a business there.

31
32 David Walker: Okay. Any council members, I mean, any planning board members?

33
34 Robin Dube: So Mr. Chair?

35
36 David Walker: Yep.

1
2 Robin Dube: Jay and I both grew up down in that neighborhood...

3
4 David Walker: Yep.

5
6 Robin Dube: Where it was all ground floor businesses. But once they all left and these
7 apartment buildings started to take it over on every one of these places, which none of
8 these have on-site parking. The parking has always been off-site, which all of those streets
9 are all available to be parked on. There's none that say no parking.

10
11 Dana DiFronzo: Mm-hm.

12
13 Robin Dube: The local actually is a small venue. So the parking you do see there or what is
14 there is probably filling the place up. A couple of us are walk-ins when we go there. I see
15 absolutely no reason why they shouldn't be allowed for her to do her bottom floor, which it
16 looks like, hell, right now, it's been trash...

17
18 Dana DiFronzo: Yeah. It has. Yes.

19
20 Robin Dube: And they have...

21
22 Dana DiFronzo: And...

23
24 Robin Dube: As far as just putting in another apartment down there, because every other
25 building right there has that capability. They all – they already have it.

26
27 David Walker: Yep.

28
29 Robin Dube: I mean...

30
31 Dana DiFronzo: Yes. Thank you. Yeah.

32
33 Samuel Dupuis: I have a question too, Chair. Basically, why aren't we looking at just doing
34 the local in that one spot versus the ordinance of that district?

35
36 Jeffrey Hinderliter: It is – the ordinance is for the entire district.

1
2 Samuel Dupuis: Yeah. But why are we not looking at just doing their spot and the two, if
3 those are the only issues where we go to change it all?
4

5 Robin Dube: Because their building is on the other side of the street.
6

7 Samuel Dupuis: Correct. I mean, there are two structures that we could look at individually
8 and could present them as in we approve a rental unit where there's a commercial space.
9 There's already no off street parking. Okay? We exempt it from that. The local wants an
10 expansion of the property closer to the thing.
11

12 Robin Dube: And they don't want to enlarge the building...
13

14 Samuel Dupuis: No, exactly. They just want to put up...
15

16 Robin Dube: They just want to put a little seating area in front of the [overlapping
17 conversation] [00:26:26]...
18

19 Dana DiFronzo: Yeah. I have a picture if anybody wants to see what we're proposing.
20

21 Samuel Dupuis: That's great. I don't even think that would even be an issue as in – do you...
22

23 Robin Dube: It's not a snap setback.
24

25 Samuel Dupuis: Downtown we allow setbacks on the sidewalk, but...
26

27 Robin Dube: Yep. Nope. I understand that.
28

29 Samuel Dupuis: Well, why would we change the whole ordinance first just individually to
30 these two? When we just voted two seconds ago to have two parking spaces per
31 condominium when we already don't have two parking spots per any condominium or
32 motel unit to be honest, sometimes – some motels AKA the one that just sold for \$3.8
33 million, I don't know if it was your family members, they didn't even have 20 parking spots
34 for 30 units. They have to rent the other 10.
35

36 Robin Dube: Exactly. [Inaudible] [00:27:10] they really don't.

1
2 Samuel Dupuis: Okay. But anyways, so if we're going to move forward with things, we
3 should look at moving forward with just certain things. We're going to change the whole
4 ordinance of this block that already doesn't make sense and make it worse in my opinion.
5
6 Robin Dube: One more question to the Chair. Jeffrey, how wide is this district right there on
7 Washington Avenue? What does it consist of?
8
9 Jeffrey Hinderliter: How wide? If you look at your packet, I think it'll be...
10
11 Robin Dube: It's just a small area.
12
13 Samuel Dupuis: We're just going back on what we just did. That's all I'm saying in my
14 opinion.
15
16 Jeffrey Hinderliter: Yes. If you look at the packet...
17
18 Robin Dube: Yeah. I know what. Chris just showed me just that [indiscernible] [00:27:54] I
19 guess there...
20
21 Jeffrey Hinderliter: Yeah. You'll...
22
23 Chris Hitchcock: Can you pull those?
24
25 Jeffrey Hinderliter: You'll see this right here.
26
27 David Walker: She's got it. She's [overlapping conversation] [00:28:02] found it.
28
29 Jeffrey Hinderliter: Yeah.
30
31 Robin Dube: I just haven't found it.
32
33 Jeffrey Hinderliter: Yeah. That gives you a pretty good idea. It's very small. It's – how wide?
34 It really depends on what you – if you see, you could...
35
36 Robin Dube: Well, it looks like it only takes care of those pictured buildings that we have

1 here. There's nothing other than those building that would be...

2
3 Samuel Dupuis: It's not the only ones...

4
5 Jeffrey Hinderliter: There's correct. Yeah. Because that – those are the only buildings in the
6 NC3.

7
8 Robin Dube: That's why [overlapping conversation] [00:28:35] zoning. Yeah.

9
10 Jeffrey Hinderliter: Yeah.

11
12 Robin Dube: I mean, how far beyond this does that district go?

13
14 Jeffrey Hinderliter: It – the NC3 district is...

15
16 Robin Dube: Yep.

17
18 Jeffrey Hinderliter: Only that...

19
20 Robin Dube: That's it.

21
22 Jeffrey Hinderliter: That's it.

23
24 Robin Dube: Okay.

25
26 Jeffrey Hinderliter: Yeah.

27
28 Marianne Hubert: I have an issue also with the parking. And I think that two grandfathered
29 issues maybe, say, using street parking is okay. But if any building is redeveloping, they
30 need to provide off street parking.

31
32 Samuel Dupuis: I agree.

33
34 Robin Dube: I – the same – yeah, same thing as to Sam said, but [overlapping conversation]
35 [00:29:13].
36

1 Samuel Dupuis: It was the same thing we just did with the condos.
2
3 Robin Dube: I didn't.
4
5 Marianne Hubert: We asked for two parking spaces at lodging condominiums. But then
6 here, we would say you can park on the street. That's not okay. It's maybe grandfathered
7 issues. We'll have a slide.
8
9 David Walker: So that – yeah, that's a good point that this should be for existing buildings
10 only, not...
11
12 Marianne Hubert: Yeah.
13
14 David Walker: [Overlapping conversation] [00:29:34] not...
15
16 Marianne Hubert: They need to provide us [inaudible] [00:29:37].
17
18 Robin Dube: You're in trouble.
19
20 David Walker: Sorry.
21
22 Robin Dube: I mean, I would say that to be fine too because your building is the only one
23 that's looking to put a ground apartment in, because the rest all have them.
24
25 Dana DiFronzo: Right.
26
27 Samuel Dupuis: That's why I'm saying why don't we just focus on the one project instead of
28 doing it as an overlay?
29
30 Robin Dube: Because they use all of those as examples? Can you do that?
31
32 Samuel Dupuis: Or like Marianne just said, unless we move there...
33
34 David Walker: So Jeffrey, can we modify this for existing properties only and not new or
35 redeveloped properties?
36

1 Jeffrey Hinderliter: I certainly can. I don't know how the applicant will feel.

2

3 David Walker: Okay.

4

5 Jeffrey Hinderliter: I don't want to speak for...

6

7 David Walker: All right. So the applicant's here, they know that that's a concern...

8

9 Jeffrey Hinderliter: Yeah.

10

11 David Walker: Of the board right now. So they have time before the public hearing...

12

13 Jeffrey Hinderliter: Yep.

14

15 David Walker: And the vote for final recommendation to make a modification based on our
16 concerns. Anybody else here have anything to say?

17

18 Robin Dube: Can you do that for one building or two? Can you do something for just two, or
19 is it got to be the whole district?

20

21 Jeffrey Hinderliter: That becomes more of a spot zoning issue...

22

23 Robin Dube: All right.

24

25 Jeffrey Hinderliter: When you do it for one or two, because...

26

27 David Walker: That's not what I'm asking them to do. I'm...

28

29 Jeffrey Hinderliter: Yeah.

30

31 David Walker: I'm asking them to put it in place for the whole NC3 district, but any new
32 buildings or tear downs or rentals are right...

33

34 Robin Dube: Okay.

35

36 Jeffrey Hinderliter: Yeah.

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David Walker: Are exempt.

Male Speaker-1: She's building a different form though.

David Walker: Yeah. I understand. Yeah. All right. Anything else? All right then. I'll schedule a public hearing for May 11th on this item and we'll have all butters in and see what they have to say. So thank you very much, Dana.

Dana DiFronzo: Very good. Thank you so much.

David Walker: Okay.

Robin Dube: Bring your brother with you.

Dana DiFronzo: I'm sorry?

Robin Dube: Or your partner.

Dana DiFronzo: Well, no. He has to come for that. Yeah. Not me. Thank you so much.

David Walker: You're welcome. All right. Item 3, Proposal: Conditional Use: Shoreland Zoning nonconforming structure removal, rebuild and 30% expansion. Action: Determination of completeness, scheduled site walk, scheduled public hearing. Applicant: Doyle Enterprises. And the location is 9 Randall Ave, MBL: 324-13-1; R3, RA Shoreland, EA Flood Zone. Okay. I guess it's you again, Jeffrey.

Jeffrey Hinderliter: Yeah. So this proposal is for the removal, reconstruction and 30% expansion of a single family located at 9 Randall. Planning board, I think, is very familiar with these at this point.

The reason this is before the planning board is because the structure is considered nonconforming due to its location being within 100 feet of the highest annual tide. Those types of structures are allowed to expand. And - but they must - they have a number of different standards to meet. And those - the primary standards the proposals must meet are conformance with the standard conditions in the Shoreland zone, conformance with

1 the conditional use criteria, proposed structures must be relocated away from the HAT to
2 the greatest practical extent. Proposed structures nonconformity cannot be increased. For
3 example, they can't go closer to the highest annual tie to that. They can't encroach into that
4 setback any more than what exists. And the proposed structure expansion cannot exceed
5 30% of the existing structure's volume and square footage. So this entire structure is
6 nonconforming and they can expand in both square footage and volume up to 30% of the
7 existing structure square footage and volume. So think of it as a third more than what you
8 look at when you see it.

9
10 So, after review, I do believe that this proposal will likely conform, but we do need more
11 information to verify this. And we need more information to verify this. And what
12 information includes is to show on a plan the distance the existing and proposed structure
13 will be to the closest point of the HAT. So the plan needs to show the location of the HAT
14 and we need to see what that distance is.

15
16 Responses to the standard conditions in any Shoreland zone, and it looks like Diane, our
17 applicant just provided some information here. So responses to the standard conditions in
18 any Shoreland zone, the breakdown of the proposed structure volume calculations, I don't
19 think that – again, I don't think there's going to be a problem with this. We just need that
20 information to determine it's complete. You need to actually see it. It's a bit of a different
21 standard, because you have that determination of completeness standard. Show flood plain
22 on the plan and how building design will meet flood plain standards, DEP permitting status,
23 and also the new driveway dimensions.

24
25 So those are the more important things in order to determine. It's complete in my opinion.
26 Also, we have a few additional comments just for the board to consider. One is vegetation
27 removal. And then the second one, and I know, Diana, she does very good work. I'm sure
28 that she's thought of this. But it's worth saying that this particular lot is really right there in
29 the heart of Ocean Park. So I think it'll be important to consider building design. And it's
30 positioning too on the watch just to make sure that that works within that ocean – that
31 heart of Ocean Park's character.

32
33 So one note, I did receive a revised plan after the writing of this memo and I had a couple of
34 comments in the memo on setbacks. Setbacks for a west facing stair and also there was a
35 rear setback that was originally identified at 15 feet. Diane changed that plan, so it now
36 shows the correct one, 20. Corner lots are a little weird. You have that – those updated

1 plans in your packets, but...

2
3 David Walker: No. We don't have the updated ones here.

4
5 Jeffrey Hinderliter: Okay.

6
7 David Walker: Yeah.

8
9 Jeffrey Hinderliter: Just know that that has been addressed.

10
11 David Walker: Okay.

12
13 Jeffrey Hinderliter: And, so I – it's entirely up to the planning board, but because before you
14 schedule a public hearing, you need a complete application. I recommend that you hold off
15 on scheduling the public hearing until you have that. You always have the option to
16 condition to get this information. You can schedule a sidewalk if you wish or you can drive
17 by there individually. And that's all.

18
19 David Walker: Okay. Does the applicant have anything to add or say?

20
21 Diane: Yeah. [Indiscernible] [00:37:59].

22
23 David Walker: Thank you.

24
25 Diane: I'm Diane Doyle, the builder. I'm also representing the Meltonians on this
26 application. So the couple of things that I'm just passing out right now, the response to
27 Jeffrey's comments. It just will take me a minute if you wanted to – if you don't mind, we
28 just went through that real quick.

29
30 So number two says the site plan should identify the local HAT and distance existing
31 proposed structure. And on – in your packet, there is a – it's a – there is a enlarged section
32 of the Shoreland zone map, and it shows the HAT zone on that map and that – in your
33 packet, not on here. And it's – but it's in white, it's not in blue, but it says HAT zone. And you
34 can see that the only place that the – that this property is adjacent to the HAT zone is on
35 the west side, which is on the Randall Avenue side. That is the one side that is only 2.7 feet
36 from the setback and we've moved that back, so it's 15 feet from the setback, which is what

1 the appropriate is.

2
3 So – and right now, the rear side or the rear of the house is 15 feet and we’ve moved that to
4 20 feet. So the new proposed structure meets all the setbacks and it is conforming as far as
5 to setback. We did increase it almost 30%. We were limited by the volume, because if
6 you’ve seen that house, it has a very flat roof, so there wasn’t a lot of volume to expand to.
7 So it’s not beating up against the 35 foot high mark. I think its 26 or 27. And so we’ve met all
8 those requirements.

9
10 The entire property is in the flood plain. If you look on the map, it shows that the elevation
11 is 6.6 and we raised that lower ground six feet. So it’s above the elevation required, which is
12 10. It’s up at 12. So it will meet that. That’s item number four.

13
14 And item number five, if it is in the back dune, and we don’t typically go for the back dune
15 permit until we’ve got the approval from the board for the structure and where it is. So
16 that’s a two week permit by rule. I did not put the west side stairs, but I will show that in
17 the packet on the back side. The proposal – the architects gave me the volume for the new
18 structure, and so I don’t have the breakdown. She’s on vacation, but I will get that to you.
19 It’s just one thing you don’t have.

20
21 The responses to the standard conditions are included in your packet. It is the last page of
22 the application. I did response each one of those. The driveway is as it on the plan, 24 feet
23 wide and 20 feet deep, which it moves the driveway from the corner back, away from the
24 corner and 24 feet is the maximum width, but that’s what we have just to provide the
25 parking we need.

26
27 The question about the vegetation, just the shrubs that are right around the house will be
28 removed, but any of the mature trees will stay there. And as Jeffrey said, the rear setback is
29 now 20 feet, not 15 feet, which might be on your plan.

30
31 So hopefully, if you have any questions, I can answer it. We’re very aware of the
32 prominence to this – to the square and we really appreciate the bandstand and trying to
33 make it look more older looking. It’s not going to be a modern house at all. So we’re trying
34 to be – we are very aware of that, so.

35
36 David Walker: All your homes are attractive, so...

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Diane: Thank you.

David Walker: Yeah.

Diane: Thank you.

Jeffrey Hinderliter: If I may real quick, Diane, I – you said a couple of things that the – information that was submitted to me definitely was not included.

Diane: Okay. I'll look and see what you've got as of now. I'm not [overlapping conversation] [00:41:38]. It might be that you came up with the responses as to [inaudible] [00:41:43] those things to you [inaudible] [00:41:47] or something...

Jeffrey Hinderliter: Yeah.

Diane: They would call me to [overlapping conversation] [00:41:51].

Jeffrey Hinderliter: You have the conditional use responses, but you...

Diane: Yeah.

Jeffrey Hinderliter: It didn't include the – at least my packet didn't include the standard condition for the Shoreland zone...

Diane: Okay.

Jeffrey Hinderliter: Which are different standards.

Diane: You're right [indiscernible] [00:42:04].

Jeffrey Hinderliter: Yep. No problem.

Diane: Okay.

David Walker: Diane, when did you plan on starting construction?

1
2 Diane: Well, as soon as we get the approval, we'd like to probably take it down before the
3 season and get the foundation in and then we won't be disturbing people. Do you think we
4 should wait, we can wait, but...

5
6 David Walker: All right. Thank you. Any other board members? Do you – does the board
7 think they want to have a site visit or do you want to do a drive by? These are pretty
8 normal.

9
10 Diane: Drive by.

11
12 David Walker: I don't see any willingness, so it'll be a drive by and...

13
14 Diane: Okay.

15
16 David Walker: We'll be good. All right. I'll just walk by.

17
18 Diane: Okay.

19
20 David Walker: All right. Thank you, Diane. All right. Item 4, Proposal: Contract Zoning
21 Application: Establish a Contract Zone, named Contract Zon-4 in accordance with the
22 Town of Old Orchard Beach Code of Ordinances Chapter 78, Article IX (Contract Zoning)
23 for the property located at 60 Saco Ave, MBL: 206-10-1. The purpose of the contract zone is
24 to allow the establishment of a 15-unit residential condominium building. Action is
25 discussion, scheduled public hearing. The applicant is Land Matters, LLC. And again the
26 location is 60 Saco Ave, MBL: 206-10-1, zoning in the GB2, and I think we've had this a
27 number of times. So, Jeffrey?

28
29 Jeffrey Hinderliter: Sure. Okay. Thank you. So the planning board will recall the proposed
30 contract zone for the property located at 60 Saco Ave during – which is the former post
31 office location. And during 2022, the planning board reviewed a contract zone for an eight
32 unit proposal. The planning board provided a recommendation to council to approve the
33 contract zone.

34
35 After planning board reviewed the applicant's – or after planning board reviewed the
36 proposal, the applicant brought the contract zone, the same one, the same proposal to

1 council. After several meetings and workshops throughout a good part of last year, pretty
2 much every month, council's final decision on this was to refer the eight unit proposal back
3 to the planning board to secure site plan and subdivision approvals before council issued a
4 final decision on the contract zone. Also, the council indicated that they are more likely to
5 support a six unit rather than an eight unit. So the – so no decision was made by the
6 council. No final decision to approve or not approve the eight unit contract zone. What
7 they didn't said, they referred the applicant to go back to the planning board, to secure a
8 site plan and subdivision review approval, and highly encouraged that the unit count is
9 reduced to six.

10
11 So as of today, the eight unit contract zone, that's where it stands, really. It has not
12 received council approval. It still has planning board's favorable recommendation. And
13 planning board has not approved site plan and subdivision applications.

14
15 So the applicant now returns to the board with a revised proposal. The primary revisions
16 include increasing the units to 15. The units are now age restricted. And there are some
17 building floor plan and facade changes.

18
19 David Walker: So Jeffrey, just to interrupt for a minute, this is not really a revised proposal,
20 because in the applicant's words, they aren't pulling the eight unit proposal off the board.
21 They're not retracting that. So this is an additional proposal.

22
23 Jeffrey Hinderliter: An additional proposal? Okay.

24
25 Male Speaker-1: Yes, [inaudible] [00:46:52] time.

26
27 Jeffrey Hinderliter: Okay. There are – okay. The units are age restricted and building floor
28 plans and facade changes. So you all have the memo. There are a number of comments I
29 provide in the memo which include a concern about meeting one of the three criteria. And
30 those three criteria are really important. All the standards in conditional or contract zoning
31 are important. But it's those three criteria that the planning board and the council
32 ultimately used to rule on it. And I think one of the criteria that was border line met before
33 will no longer be met with this proposal.

34
35 But, really, what's most important here aside and I identified this right upfront in the
36 comments. It's clear to me that the council wants a six unit – will more than likely support a

1 six unit contract zone agreement. And they want the applicant to secure subdivision and
2 site plan approval before he goes back to the council with that six unit, with the revised or
3 new six unit. And this step is the applicant doesn't fulfill that request in my opinion. The -
4 one of the changes is age restricted and there are more lenient parking standards for age
5 restriction. And the floor design is changed to accommodate kind of like a Milliken Heights
6 sort of proposal. But what I think ultimately is the council will see this as a 15 unit proposal
7 that does not have subdivision and site plan review approval. And next time it goes to the
8 council, it may not be so kind and reject it and deny it.

9
10 So - and as I've said to Tom, I like Tom, Tom and I - Tom's been working at really trying for
11 a while on this. But I've been trying to do what I can to guide Tom, the applicant, in a
12 direction where I think he has a better chance at securing approval. But Tom certainly has
13 the right to do what he feels is best for him and his property and his future. But I also have
14 to throw that cold water of life on some people. And I think that's what it comes down to is
15 that.

16
17 But, nonetheless, I think, it's a different proposal. The planning board can go through the
18 steps, schedule a public hearing, hear from the public, and make a recommendation to
19 council. And...

20
21 David Walker: Is it appropriate to have two proposals for the same piece of property?

22
23 Jeffrey Hinderliter: There's nothing that says you can't.

24
25 David Walker: Okay. That's all I need to know.

26
27 Jeffrey Hinderliter: Yeah.

28
29 David Walker: Is it consistent with the comprehensive plan?

30
31 Jeffrey Hinderliter: I found standards that make it consistent with the comprehensive plan.
32 I believe it is. Yeah.

33
34 David Walker: Okay.

35
36 Robin Dube: To the Chair.

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David Walker: Yes. Go ahead.

Robin Dube: A question to Jeffrey. Why was it never sent to the council under the six unit? He's been asking for months and months to actually go there...

David Walker: No.

Jeffrey Hinderliter: No.

Robin Dube: This is between me and Jeffrey. Why is it not been sent to council under the six units?

Jeffrey Hinderliter: Because it was never revised to show a six unit proposal. That's one thing. And two, the council also said that they wanted him to secure subdivision and site plan review. This is most importantly, approvals from the planning board first.

Robin Dube: Okay.

Jeffrey Hinderliter: I'd say that's the primary reason. I know Tom has talked about sending a six unit, but – and I am a little foggy on that, I admit it. I thought that the last proposal that went formally to the council that they actually reviewed was that eight unit. And they said...

Robin Dube: Six. I remember that.

Jeffrey Hinderliter: Okay. I thought it was eight. And they wanted – it was at that time – and Tom was certainly talking about, yeah, it can go down to six. But it was at that time, they didn't have a contract zone that said six units. They had a contract zone that said eight units agreement. But more importantly for the council is, they wanted the applicant to secure subdivision and site plan review before he went back to them with anything.

Marianne Hubert: And I thought you had done that, but you hadn't turned it in. Is that the answer?

Tom: Yeah. [Inaudible] [00:52:39] with that. I shouldn't be speaking, I'm sorry.

1 David Walker: Any anyone else with questions for Jeffrey right now? Tom, you want to
2 come to the podium and...

3
4 Tom: Yes. I'd love...

5
6 David Walker: Address the board? Thank you.

7
8 Tom: First, happy anniversary. Tomorrow is the one year anniversary of your approval for
9 the eight units.

10
11 David Walker: It was...

12
13 Tom: Jeffrey's having wine and cheese at his house to celebrate that.

14
15 David Walker: It was a recommendation to the contract zone.

16
17 Tom: Yes, I – the recommendation for the council. I did go back to them for six. You have a
18 letter from Bergen Parkinson that is stating...

19
20 David Walker: Yeah. I saw the letter, but you got to understand that they wanted you to
21 come to us with a site plan and a subdivision approval...

22
23 Tom: And...

24
25 David Walker: Before returning to them with a six.

26
27 Tom: I came back to you, if you remember, asking if you'd reduce it to six, and you said we
28 think eight is appropriate. That's in your minutes.

29
30 Male Speaker-3: He did.

31
32 David Walker: We already approved an eight.

33
34 Tom: Correct.

35
36 David Walker: But essentially, they didn't deny it. But what they were telling you was six

1 would be more...

2

3 Tom: Correct. They wanted to start...

4

5 David Walker: Advantageous, but you...

6

7 Tom: They wanted to start all over again.

8

9 David Walker: Needed a site plan with you and you came to us and said we have an eight for
10 a contract zone. If you have a site plan and a subdivision that would be reviewed and then
11 we would modify the recommendation for council, so.

12

13 Tom: And I think what I had said at the time and this is the fact that if I was going to come
14 back and start all over again, I was going to come in with a different proposal.

15

16 David Walker: Which is what you're coming with, right?

17

18 Tom: Which is what I'm doing now after four times asking them to modify. Now the council
19 has the power to modify the agreement. They could have just voted and said, "Six units is
20 what you're getting?" For some reason, they wouldn't do that. Four times, I asked to be
21 before the council, and they said no. And actually, just to go forward, we - at that meeting,
22 when I asked about the six, you had said, "Well, Milliken has sold out. That's the way to go."

23

24 David Walker: Yeah.

25

26 Tom: And that's what put the thought in my mind as well. I might as well do this. And after
27 reading Jeffrey's thing on the parking, it looks like I'd have to knock it down to 14 units to
28 meet the elderly parking requirements. I never did say this would be a condominium.
29 There's nothing in the contract zone. It was going to be just elderly housing rentals, which
30 is definitely needed in this town.

31

32 David Walker: Rental is not...

33

34 Tom: Rentals. There was no condos. It doesn't say it anywhere in that contract zone
35 agreement. So if I have to reduce it to 14 units to make it conform to the comprehensive
36 plan, the one thing that Jeffrey said would be a problem, you guys are the experts on

1 planning. I don't know why council decided to get involved in sidewalks and parking. All
2 they had to do was approve or modify. This could have been – they could have denied me. It
3 would have ended. I don't know why they kept pushing the other way, but the council.

4
5 David Walker: Well, they wanted you to do something there with six units. That's what my
6 thought...

7
8 Tom: Well, I understand that, but under their powers, they can approve and modify. They –
9 the way – and I think I know more about contract zones than I ever wanted to know. But in
10 it, they say you can approve or modify. That takes a little bit of, what do I want to say, their
11 input from you guys. You guys are the experts on planning. I know that. I mean, working
12 with you the last time was great. You did everything that you should have done. And then
13 we got to the council, and for some reason, they wanted to look at sidewalks. They wanted
14 to look at dumpsters. Everything that they wanted to look at was your job. And the way the
15 contract zone is set, and I'm sure you know, is you find out if it's going to work first,
16 planning reviews, all that stuff. Goes to the council, they have a legislative duty to either
17 approve, deny, or modify, which they could have done. They didn't. Four times I asked
18 them. Finally got an attorney involved and he's like, "Tom, you're right. They can modify. All
19 they had to do was vote to say six units," and I would have been stuck with six units.

20
21 I – and those packets, they just would not schedule and be on for the council. And they
22 were actually in violation, because in their duty, it says after the planning board makes a
23 recommendation, they shall act on it. Not they should, not they must, they shall act on it,
24 and they didn't.

25
26 So again, I think one of the earlier meetings, we decided or we talked about six units just
27 wasn't going to give a good product. Eight units will give a great product. So I decided if I'm
28 going to start again, and I don't know how Jeffrey can say the council is going to vote
29 against it. It's a whole new thing. It's elderly housing, which is necessary. I can see where
30 you could be not thrilled with eight new condos up there. But how can you say no to elderly
31 housing? I mean, if the board wants me to go down to 14 or lucky 13, I – that's something we
32 should be looking at, and that's why I welcome a public hearing, more discussion. Woah.
33 And let's get that dump fixed, because that's all it is. It's an eyesore. The public benefits that
34 we put in the contract zone, they all apply. If I can make the parking work, which I know I
35 can, I think, under your calcs, you were saying I was off by one guest log?

1 Jeffrey Hinderliter: It was pretty close. Yeah.

2
3 Tom: So I go down to four-two. That's an easy thing to revise. But I really – I made some
4 notes about the parking that if we had gone with the eight, you'd have three to four
5 bedroom units, 24 to 32 bedrooms total. If we did six units, you'd – we'd probably sneak in a
6 couple of five bedrooms, because they're not restricted, you'd be 24 to 30 bedrooms total. If
7 we do what I'm proposing, well, let's say for going forward we go 14 units, we're at 20 units,
8 so we're reducing that. We're reducing the congestion. We're reducing the impacts in
9 schools definitely. I don't know how many elderly are producing children now. You never
10 know. It's a – I love the eight unit project, but this is actually better for the town. And it was
11 your direction that threw me at it.

12
13 David Walker: So are you going to do any market rate or below market rate?

14
15 Tom: Well, I think we're exploring that. Unfortunately, my attorney was out. He's got an
16 injury to his back. He couldn't make it. As of 2 o'clock today, he was going to – I have a guy
17 that's – that I wanted represent. I had the financial backing. He's – yeah, he didn't make it.
18 And so my realtor has got a back injury too. But I said, "You better be there for the public
19 hearing." But, yeah, we'll do something, and we'll make it conform to very similar. I'm
20 actually studying what's up there, and I requested some stuff from Jeffrey yesterday. And
21 because of the size of the file, he couldn't get it to me.

22
23 David Walker: So this is just a request for a contract zone, not a site plan review or?

24
25 Tom: I don't know if we need a subdivision in this. It's going to be one building with 14 units.
26 I still don't know if we need a contract zone. It's kind of an awkward thing, though.

27
28 David Walker: Well, you're not going to meet density requirements, so you need a contract
29 zone on density.

30
31 Tom: Correct. Okay. So we need that.

32
33 David Walker: So...

34
35 Tom: But as far as...

1 David Walker: But what my fear is, is that council stated that they wanted a site plan,
2 subdivision.

3
4 Tom: Yeah. We're going to have a site plan. That's being worked on now.

5
6 David Walker: Okay.

7
8 Tom: In fact, he should have – the surveys were out there yesterday. I said, I was hoping
9 they'd get something. So we're going to have a complete survey, complete site plan.
10 Everything's going to be done. Oh, Jeffrey, that thing on the dumpster, did you get that
11 today?

12
13 Jeffrey Hinderliter: I know you emailed something to me, but I haven't looked at it.

14
15 Tom: Do you mind if I hand out this? This, it was a request to...

16
17 David Walker: We won't need it tonight, Tom.

18
19 Tom: We'll do it...

20
21 Jeffrey Hinderliter: Yeah. Wait till – please.

22
23 Tom: One of the things is where the dumpster location is on the site plan, which you should
24 have in there. It blocks the parking space. If I can move that, and I think I told you more
25 than a year ago, I wanted to put it where we had this nice little dumpster enclosed garbage
26 area. So that'll knock out the dumpster, and it'll give me another handicap spot. Then we
27 are still doing the sidewalk along Fern Park, and that's it. So I'm hoping you just advance us
28 to do public hearing.

29
30 David Walker: Do we want to hold for a site plan review? Or do we want to move forward
31 with a public hearing?

32
33 Jeffrey Hinderliter: I would move forward with the public hearing as there's no reason to
34 not hear that from the public on this proposal.

35
36 David Walker: Okay. Yep. All right. Yeah.

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Tom: Okay.

Robin Dube: I do recall last public hearing, there were only two people here and they were just concerned about their parking across their driveway like anybody's going to do that.

Tom: Yeah.

Robin Dube: But...

Tom: There'll be more people there.

Robin Dube: There will be [overlapping conversation] [01:03:03]...

David Walker: There were a lot more at the council meeting, and I'm not sure whether they'll show up here or not.

Tom: Yeah.

David Walker: About us. Yeah.

Tom: Well, it's funny, because the surveyors were out yesterday, and one guy came out. He goes, "Are you finally cleaning that mess up?" And he goes, "We're trying. We're trying to do it." So you might see some more in favor this time.

David Walker: Okay. All right.

Tom: Okay?

David Walker: Yeah. Thank you.

Tom: Great. Thanks.

David Walker: All right. So, Jeffrey, we'll schedule a public hearing from May 11th. And it's...

Jeffrey Hinderliter: Super.

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David Walker: Hopefully, we'll start the site review process at the same time.

Tom: Yeah. I should have that. The survey should be done the same...

David Walker: I appreciate it. Very much appreciated.

Robin Dube: Not should. You have to have it.

Tom: Okay.

Jeffrey Hinderliter: And, Tom, notice he's saying not just site plan, he's saying site review, just to be clear. So remember the packet of all that, the subdivision and site plan that I sent to you and your engineer, that's what they'll be looking for.

Tom: Okay.

Jeffrey Hinderliter: Yeah.

Tom: Well, I don't think we need a subdivision on this one just because it's going to be one building with multiple units.

Jeffrey Hinderliter: Well, what you're doing, part of the subdivision law, if you're creating three or more units within a building within five years, it's almost - the subdivision law looks at it very similar to as it's three or more lots.

Tom: Okay.

Jeffrey Hinderliter: So - but if you do site plan, you're basically doing subdivision 2.

Tom: Yeah.

Jeffrey Hinderliter: So it's the same sort of material of that.

Tom: It'll be done. I've got...

1 Jeffrey Hinderliter: That you'll...

2

3 Tom: Invested in this that. I'm not...

4

5 Jeffrey Hinderliter: Yeah.

6

7 Tom: Going backwards.

8

9 David Walker: That will be great. Thank you, Tom.

10

11 Tom: Great. Thank you. Very much appreciated.

12

13 David Walker: All right. Other business, is there any other business tonight? Anybody in the
14 audience? No?

15

16 Male Speaker-3: [Indiscernible] [01:04:53].

17

18 Robin Dube: I do have one quick question.

19

20 David Walker: Yeah.

21

22 Robin Dube: What is the theme of ocean park, because I have never seen the theme down
23 there? What is...

24

25 Jeffrey Hinderliter: The character?

26

27 Robin Dube: Yeah. It's...

28

29 Jeffrey Hinderliter: Yeah. Well, I think there's - the Ocean Park character is more of that
30 traditional single family beachfront community. And...

31

32 David Walker: But she is - it's New England?

33

34 Jeffrey Hinderliter: New England. Yeah.

35

36 Robin Dube: It isn't the one with the new construction.

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David Walker: Yeah. It is.

Robin Dube: I know.

David Walker: Yeah. It is.

Jeffrey Hinderliter: Yeah. With that – and in that heart, there's that really nice commercial type uses and that fit in really with the post office. It all fits right there. It's a nice place to congregate the whole thing.

Robin Dube: Just curious. It was so...

Chris Hitchcock: I second the motion.

Robin Dube: Yeah...

David Walker: All right. So a motion to adjourn made by Win and second by Chris. All in favor, looks like it's unanimous. Thank you. Good night.

Meeting adjourned at 7:41 pm

I attest the above are minutes approved by the Planning Board on 9 May 2024


Jeffrey Hinderliter, Town Planner

