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[Music Playing 00:00:01 - 00:09:41]

[Off the Record Conversation] [00:09:43 - 00:10:10]

David Walker: Thank you very much. So, Jeffrey, you don't need to repeat that, right?

Jeffrey Hinderliter: Right?

David Walker: Okay. Good. So is the applicant here?

Male Speaker-1: There it is.

David Walker: Okay. So we – if everybody on the board recalls, you should have – in your packet, you should have received a letter from Attorney Ordway on this. Okay? And he has his opinion about the purpose. My opinion is a little differing from both Jeffrey and his in that I believe the 100 foot setback was established for new campgrounds and consequently to protect the sanctity of existing campgrounds that were built with 35 foot buffers. They wanted to keep that into play should they want to expand where they've already built with a 35 foot buffer and the 100 foot buffer really was intended for new campgrounds.

So I have a remedy for this if the applicant is open to compromise. And what I'd like to suggest is what these campgrounds do is they increase the population significantly during the summer months. Our town has had a hard time hiring summer help, public safety help, because they had nowhere to house them. So I'd like to suggest that we go with a 35 foot buffer if you would provide us with seven housing units for our public service temporary employees.

Bill Thompson: I – yeah, I'm Bill Thompson.

David Walker: Hi, Bill.

Bill Thompson: I'm here to help Archie and Tammy Ahearn navigate through the approval process. As you know, BH2M is the engineers. I certainly couldn't speak for Archie or Tammy on that. What I'd like to do is just go down through some of the details like that Jeffrey outlined and also Dave Woodway's letter.

David Walker: Could you just move that mic up a little bit, please? I don't know. Yeah.

Bill Thompson: Okay. Crazy. I'll talk louder. Okay. We presented this concept February in a 100 sites. The design, we believe, conforms to the Old Orchard Beach Campground Overlay District. Space and bulk requirements outlined 30 foot setback from a property line in any building's 50 feet. That's in the regulations for space and bulk.

Performance standards, talk about buffering. It's buffering, not unit setbacks. And it references a 100 foot only if you are rebutting residential property. There are no

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residential properties anywhere near this. So we don't believe that that is an issue or that is part of the case that we need to adhere to. We will have a buffer, 30 foot buffer, which includes the – which is part of the setback for any unit.

This design follows the design that we used and approved for Seacoast RV Resort. BH2M was the same engineer on it. They received approvals by the planning board. Plans were signed and recorded in the registry of deeds. And a note was on the Seacoast RV plan stating 30 foot wooded buffer, which is what we would propose for this project here. We don't believe with the conflict of...

David Walker: Wait. I didn't think you were going to agree with us. But yeah, I get it.

Bill Thompson: Yeah.

David Walker: Yeah.

Bill Thompson: I mean, it's – buffer and setback are two different...

David Walker: Right.

Bill Thompson: Items. And as Jeffrey indicated, there's some confusion and where do we go with it? And we believe that this project, it may not be a 100 units once we do the hard design, but the 30 foot buffer, just like we did for Seacoast RV and that project was built out and I think it works real well.

David Walker: So we could mitigate the confusion and we could supply you with public safety employees living on your property, which would probably benefit the property and benefit the town.

Bill Thompson: Yeah. I don't know where it would go with as far as ownership and...

David Walker: So do you want to take that back then?

Bill Thompson: Take what?

David Walker: You want to take that consideration back?

Bill Thompson: Take what back? I'm sorry. What consideration?

David Walker: The ability to provide us with 70 or something...

Bill Thompson: Well, yeah. I didn't agree to any of that and I couldn't.

David Walker: No. I know.

Bill Thompson: Yeah.

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David Walker: But you – somebody has to be able to agree to it, right?

Bill Thompson: Not tonight, probably.

David Walker: Not tonight. So we can continue this till next month.

Bill Thompson: Can we continue debating the recommendation, I guess, of Jeffrey?

David Walker: Well, we can. But if we make a vote tonight...

Robin Dube: Through the chair...

Marianne Hubert: Yeah.

David Walker: If we – I'm talking.

Robin Dube: Yeah.

David Walker: If we make a vote tonight, then we have to stick with that vote, Bill. So if that's what you want to do, we'll make a vote.

Bill Thompson: Well, I guess we'd like to finish with – hear from the other board members. And the confusion, if you will, to try to clarify it with the memos and get a vote so that we could...

David Walker: Okay.

Bill Thompson: Move forward.

David Walker: Happy to vote. Robin, what do you want to say?

Marianne Hubert: I *[overlapping conversation]* [00:15:31].

Robin Dube: I spoke first, Marianne.

Marianne Hubert: Okay.

Robin Dube: But through the chair, we did not require this for Seacoast. We – everything went smoothly. They don't need to have security that – which they probably will, but nothing from public safety is what needs to be on this property. It's private.

David Walker: Thank you. Marianne?

Marianne Hubert: I made a comment that if we were to *[indiscernible]* [00:15:54] buffer to 35 foot buffer, it should be non-disturbance buffer that – it sounds like the 100 foot,

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you could place some sites in it. But a 35 – 30 foot buffer would be totally non-disturbance buffer.

Bill Thompson: I think whatever buffer we end with, it would be no disturbance. So 30 foot that we viewed in other projects totally...

Marianne Hubert: Non-disturbance.

Bill Thompson: Non – no disturbance. Yeah. But I don't see the 35 being necessary.

Robin Dube: Through the chair, we just approved the Seacoast. Why are we changing sizes now?

David Walker: When did we approve that for Seacoast?

Robin Dube: When did we approve that for Seacoast? When we – when they put in all of their titles on the Ross Road. They all went through us.

Bill Thompson: There were two amendments to that.

David Walker: Those were for additions. So those weren't for a new bill. And they were already approved as campgrounds with the 35 foot setback. So it's different than a new campground.

Robin Dube: But there was a campground there, David. That was a whole new campground. Ross Road never had campground.

Bill Thompson: Well, through the chair, could...

David Walker: Yep.

Bill Thompson: Could I have Dave Ordway have a few comments?

David Walker: Sure. Yeah.

Bill Thompson: The attorney?

David Walker: Attorney Ordway, you want to speak?

Dave Ordway: Yeah. Good to see you.

Bill Thompson: Thank you.

Dave Ordway: Hi, Mr. Chairman.

David Walker: Yes.

Dave Ordway: Members of the board, Mr. Winch.

Winthrop Winch: Hi.

Dave Ordway: It's been a while since I've been here. And Mr. Winch might remember that I used to be a frequent visitor.

Winthrop Winch: That's right.

Dave Ordway: For reasons we won't get into. I feel a bit like the – has been baseball player who gets wheeled out to the pitchers mound to throw out the first pitch and see if I can get it over the plate.

As Jeffrey has indicated in his memo, I've been intimately involved with the campground overlay ordinance for a number of years now. In 2002, I was the original author of this particular section of the ordinance. And it went through, at least, and I've been able to resurrect the – some of the file from way back then. And I actually have with me, at least, the first 13 versions that went back and forth over a period of some six months in the drafting, redrafting process. I actually showed them to Jeffrey. And at least through 13 versions, there was no section having to do with a 100 foot buffer that was in any of the discussion. I don't know where it came from, but I don't dispute that it is there.

Nevertheless, the buffer that's referred to is in a section that follows the bulk and space requirements that we all are familiar with in zoning ordinances. The bulk and space requirements are very clear. They refer to setbacks, not to buffers. And in fact, through the first 13 versions of the ordinance, and I'm happy to show it to you, but take my word for it that the buffering section says where campgrounds abut a residential property. The boundary uses along the campground perimeter shall be visually buffered in accordance with the Standards OF Section 5.6 of the zoning ordinance. That's – that was it.

Now, I'm suggesting that might be an appropriate standard to follow here in the case of the ambiguity, but the ambiguity is not quite as great as it may first appear in that we start by referring to setbacks, a clear, definite standard. And then, we refer to buffers along residential property lines. And I defy anyone to tell me what a residential property line is. It's an undefined term as far as the ordinance is concerned. So I think you have to accept residential property line to describe a condition that exists as of this time, as of your review of the ordinance. But the use of buffering and a visual buffer is common practice. Certainly would be acceptable. I don't think that needs to be decided here tonight. The plans are still in the process of being developed, reviewed. The applicant is seeking input, seek from the board. And we'll refine the plan as it goes along. But we're talking about a very straightforward issue question here tonight is to whether we are talking about a 35 foot setback or some are extending that to be a 100 foot setback if you're talking about buffer being the same as a setback. In legal parlance, they certainly are not, that they have two different meanings, two different purposes.

With respect to the Seacoast applications, let me just point out to you that at the time the campground overlay provisions were adopted, there were 11 campgrounds in the Town of Old Orchard Beach. Only one of those campgrounds, Powder Horn, was at that time a lawful conforming use. The other 10 campgrounds were considered nonconforming uses. And that is what led to the adoption or the creation of the overlay to start with. At that time, 2002, the Old Orchards' Campground Ordinance still referred to camper trailers, and truck campers, and tents. And that was the extent of camping in those days. And so the council, the planning department, campground owners were all unanimously in favor of bringing the campground ordinance into the 21st Century.

The only campground – since the adoption in 2003 of the campground overlay district, the only campground that has gone through the process, “New campground.” One created after, I think by definition in the ordinance, it says after 2000 was Seacoast RV. And the plans that I refer to in my letter I think are in your packet. There were actually three of them that this planning board, and not necessarily you, probably the – we could try to read the signatures on the recorded plans, but I think Mr. Winch was on the planning board at the time. But the first one was in 2013. That plan – and again, it's in the package. I apologize for the quality, but it's hard to get a large plan and a reduced copy. But that plan, the one I'm holding, it says here, 30 foot setback line per zoning. And the board approved these sites along this line all – actually within 40 feet of the property line.

Seacoast came back again in 2019 and they wanted to put in a maintenance building.

Winthrop Winch: That's right.

Dave Ordway: Right here.

David Walker: I remember that. Yeah.

Dave Ordway: And that maintenance building was identified as 50 feet from the property line. And indeed, this was a residential property.

David Walker: Property. Yeah.

Dave Ordway: That building was approved within 50 feet of the property line. The third time Seacoast came back was in 2021 and it was for the addition of sites right here. This note down here says 30 foot wooded buffer. And these sites were setback 30 feet from this property line. In legal terms that's called precedent. The board not once, not twice, but three times has approved plans accepting 30 feet as the setback from the property line. Not confusing it with buffering. There was a requirement in 2021 plan to include buffering with these new sites. But not a 100 foot buffer from these sites, a reasonable and responsible distance from the property law.

When you've established a precedent and I understand that perhaps this board was not sitting on these approvals. Some members may have been, but as a board, no. But you act as a board. There is an institutional memory that goes with actions of the board. And

people have a right to rely upon the actions previously taken by the board, the way other applicants were treated, the way other applications were treated. And so for at least 10 years, the precedent set by this board consistently has to recognize the clear Balkan space standard of a setback. And then you can do what you will within the requirements of the ordinance to deal with buffering as this plan gets developed and fleshed out. But I think that the setback is unambiguous and clear both historically and consistently through this day.

David Walker: Thank you, Attorney Ordway. Thank you.

Dave Ordway: Thank you.

David Walker: So what you're saying is, we got it wrong three times. We may as well get it wrong a fourth.

Chris Hitchcock: No. Can I make a comment on that?

David Walker: Chris, go ahead.

Chris Hitchcock: So these three plans, though, they're hard to read, the one that was for the original Seacoast RV has signatures approving it dated 1/10/19. So it looks to me, if I just pick a few clear facts here, that there's been no new campground to include Seacoast RV.

David Walker: The signature is on the back...

Dave Ordway: Right.

David Walker: By board members.

Chris Hitchcock: It was signed off on...

David Walker: In 2019.

Dave Ordway: Yeah.

Chris Hitchcock: 2019.

Dave Ordway: Right. That wasn't the original plan. That was the third – the 2000 – the first plan in your packet is from 2013. That was when some plan...

Chris Hitchcock: Can you explain that? What – can you explain the third – the oldest one?

Dave Ordway: Pardon me?

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Chris Hitchcock: Tell me about the oldest one in your package.

David Walker: That's *[overlapping conversation]* [00:30:06].

Dave Ordway: The oldest one in the packet?

Chris Hitchcock: Yeah.

Dave Ordway: Is...

David Walker: I get it right here. It's June 2013.

Robin Dube: That's the regional...

Chris Hitchcock: No. I want him to...

David Walker: Oh, go ahead.

Chris Hitchcock: The third one that was attached to your memo, what do you think that was?

Dave Ordway: Which...

Robin Dube: It...

Dave Ordway: This is the 2013 one.

David Walker: Right. But that's after the new...

Chris Hitchcock: Okay. I got it now. Thank you.

Dave Ordway: The ordinance was adopted in 2003.

Chris Hitchcock: Yeah. I got it now. I just misread something, so.

Robin Dube: Thank you.

David Walker: Thank you. Any other board members?

Winthrop Winch: I would just like to say I could concur with what was presented.

David Walker: Okay.

Winthrop Winch: I mean, absolutely, it makes the case. And that has been the – that's what we've done in the past. And if you don't like it, you'll take us to court. You want

the bottom line? And we don't negotiate on the contents of any campground that I know of. And so I – a 100% concur with what was presented.

David Walker: So Jeffrey, there's no recommendation here for us to make, right?

Jeffrey Hinderliter: I would – there's no formal vote for you to make...

David Walker: Okay.

Jeffrey Hinderliter: Because there's no mechanism for that vote in our ordinance. But it was an important enough matter to see if you would give a head nod, say, we're likely – if you move forward, we're likely to agree. You could do that individually. But I do recommend don't – I would not take a vote on it, because...

David Walker: Okay.

Jeffrey Hinderliter: Yeah.

David Walker: All right.

Male Speaker-1: On agenda item.

David Walker: All right. Does anybody want to make any further comments? Robin, you're in favor of 30 foot setback.

Robin Dube: We did a – well, was on the first one, so way back when. I was on the next three, so.

David Walker: And Chris, how do you feel?

Chris Hitchcock: Well, I guess what I don't – it's not clear to me when Seacoast started from all the splits...

Robin Dube: 2003 he said, right?

Chris Hitchcock: I don't care what he says. I would like to know the fact...

Robin Dube: It's confusing. It's on the paper *[inaudible]* [00:32:36]...

Chris Hitchcock: I would like to know fact for sure when – it looks to me like if I had to guess and this is not what I should be doing, but if I had to guess, I'd say somebody maybe in a butter didn't like Seacoast, not that it's not a wonderful place, and said, okay, but in the future, especially if you're trying to shoehorn it into a residential area, there should be more buffer – buffering provided. That ordinance language means something and just because we had precedent, it doesn't mean we should continue to ignore an ordinance.

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Jeffrey Hinderliter: Yeah. That that's how...

David Walker: So that's Chris's...

Chris Hitchcock: Okay.

David Walker: Slant. Marianne, do you have a feeling?

Marianne Hubert: Yeah. I'm waffling both ways.

David Walker: Okay.

Marianne Hubert: That's a problem...

David Walker: So you run the fence?

Marianne Hubert: That – I think that the – I wonder if the 100 foot setback – buffer setback is different than a buffer came from the phosphorus calculation that it's kind of crept into the rules. Phosphorus for lake *[phonetic]* [00:33:53], the DEP is very concerned about phosphorus in lakes systems. And they talk a lot about buffers, big buffers, because the campground in the *[indiscernible]* [00:34:07] go in the woods and pick up the dead branches and set branches to their firework – I mean, the fires. And I'm wondering, if that's where it came from. But I think 30 foot is pretty big already, personally, when it's for residential buffer height. I don't know.

David Walker: So Marianne is on the fence. Win?

Winthrop Winch: You heard me say, I don't...

David Walker: You're in favor of 30 foot?

Winthrop Winch: Yeah.

David Walker: And honestly, I haven't made my mind up yet either. I could go either way.

Chris Hitchcock: Can I say one more thing?

David Walker: Yes, absolutely.

Chris Hitchcock: We have another applicant who's been struggling with a 100 foot setback issue.

David Walker: Yes, we do. Yeah.

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Chris Hitchcock: For the better part of the year.

David Walker: Yeah.

Chris Hitchcock: And it's not resolved in their favor yet.

David Walker: No. Different matter.

Robin Dube: This is coming over the campground now. Overruled?

Chris Hitchcock: No, just a 100 foot setback for some property that somebody thought – DEP in that case thought that that was the right distance you should have this large development from other properties. So I like to know what that 100 foot was meant for and why and where is it going to apply if it doesn't apply here?

Jeffrey Hinderliter: I tried to find that answer. I couldn't. I – it's – I really – I wish I had a better answer for you, Chris, but I couldn't find notes. I couldn't find any justification. I looked through hard copy files. I looked through electronic files. And I couldn't find anything. Yeah. It's an odd one.

Bill Thompson: It's an odd one? Again, we're just trying to work on the ordinance and *[overlapping conversation]* [00:36:13]...

David Walker: We wouldn't spend this much time with it if it wasn't odd.

Bill Thompson: Yep. It's important for the applicant to move forward and...

David Walker: Yep.

Bill Thompson: We feel like we've followed the ordinance and this indicates what can be done out there.

David Walker: Do what you have to do, Bill. Yeah, absolutely. Appreciate it.

Bill Thompson: Okay.

David Walker: I mean, the idea was for us to give you a feeling about where we were and I think you've heard from every board member so far, so.

Robin Dube: Keep moving forward.

Bill Thompson: That's where we'll take it tonight.

David Walker: Yeah. Take your direction from Robin. Okay?

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Jeffrey Hinderliter: And Bill, I think one of the keys to is, from what I hear from Marianne, one of the – if you are moving forward with the 30 foot buffer setback, whatever we're going to call it, just make sure that in notes, in whatever document you – documentation you have, that is specifically undisturbed buffer except unless there is like an imminent danger...

Bill Thompson: Sure.

Jeffrey Hinderliter: Something like that.

Bill Thompson: Yep. That's pretty standard.

Jeffrey Hinderliter: Yep.

Bill Thompson: We'll follow that. All right. Thank you. Thank you, board.

David Walker: Thank you, Bill. Appreciate it. Like I said, just because there's four items, it doesn't mean it's going to be a quick night tonight. All right. One moment while I get set. All right. Item 2: Conditional Use: Adult Use Marijuana Store. Applicant and Proposal Introduction. Theory of Wellness is the applicant of Maine 4 LLC. And their location is 11 Ocean Park Road, MBL: 210-10-2; Zoning in the GBI District. So is this you, Jeffrey?

Jeffrey Hinderliter: Mm-hm.

David Walker: Yep.

Jeffrey Hinderliter: So thank you.

David Walker: You're welcome.

Jeffrey Hinderliter: So this proposal is for an adult use marijuana store to be located within an existing building at 11 Ocean Park Road. And just to kind of orient you all, if you remember where Dave's sub-shop was located, there's a small building tucked into the corner of that, the rear corner of that lot. That's the location for the proposed marijuana store.

And in your March memo, I discussed a number of different things, the conditional use process, planning board responsibilities, the ordinances applicable to the proposal. I offered some general comments. I assume you read these comments. I'm not going to get into all the history and everything tonight, because this is just an introduction. So I really want to keep these – my opening comments on a short as this meeting's really for the, I don't know, I think the applicants here, for the applicant to explain the proposal and then to – for the planning board to offer their initial comments and questions.

One piece that I would like to and it's a very important piece that I'd like to touch on is that I know that there are questions regarding several matters. Traffic will certainly be a question. One of the big questions will be right, title and interest. So the applicant provided what they believe, doesn't mean that we agree with it or not, but it's just what the applicant believes meets right, title and interest standard. And the board can rule on that particular right, title and interest at the appropriate time in accordance with the conditional use process and with advisement from our town attorney.

We certainly can consider other opinions. It's very important to get other perspectives on this. But one thing I'd like to note, it's just important to remember that these perspectives are other interests. The applicant has their perspective about the – whether they feel they meet the right, title and interest question. And it's completely understandable. If I was in that position, I would do the same to protect my interests. But I really want to let the board know and it's very important that it's the town attorney that advises the board, no one else. Not even me in this case. I'm relinquishing all of my guidance for this right to the town attorney. The only guidance that I'm saying is listen to our – read other perspectives, take them into consideration, but it's really the town attorney that you want to see.

And an example that I have is, if someone was suing you, would you follow the advisement of their attorney or would you follow the advisement of your attorney? So it's just important to remember that rightfully so, applicants, attorneys, everyone else has people protecting their interests. Our town attorney is hired to protect the board's interest and the town's interest.

So documentations and questions that need legal review and comment will be forwarded to the town attorney. We received a letter that I believe that Dave has. I think you all have too. And this will absolutely be forwarded to the town attorney, so the town attorney can comment. Again, it's a perspective that needs to be considered through this process.

So tonight, there are no formal decisions scheduled, but the board can certainly ask questions of staff and of the applicant. And it's very important for the board to follow the conditional use procedure to ensure this remains a fair and orderly process. The reason I say that is no matter what the planning board does, there is a decent chance that your intent and I know it's good, but there is a good chance that it will be appealed whatever you decide. So part of my responsibility and part of the – our town attorney's responsibility is to prepare for that appeal now. And that involves making sure that you follow the guidance from our town attorney and the guidance in our ordinances. So there are certain times where you make decisions and it's important that you follow those times. Tonight isn't one of those times. I set this meeting up really as an information session for the applicant to educate you and for you to ask any questions.

David Walker: So Jeffrey?

Jeffrey Hinderliter: Mm-hm.

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David Walker: Under general comments, planning staff identified a bunch of concerns that we probably had as well and you summarized them. Does the applicant get a copy of those? Or do...

Jeffrey Hinderliter: Yes.

David Walker: Okay.

Jeffrey Hinderliter: Yep.

David Walker: All right.

Jeffrey Hinderliter: Yeah. And there are a lot of concerns. The...

David Walker: Right.

Jeffrey Hinderliter: The applicant, if they choose to continue with this proposal, there's quite a bit of work that needs to be done on top of the right, title and interest, all of that. So, it's something that the – that I'm recommending. I'm not the board. I don't decide. I only advise. But these are items that I certainly feel more comfortable advising the board with. And there is information that the board needs in this proposal if the applicant wants to increase their chances for a successful vote.

David Walker: So we don't have to repeat any of those?

Jeffrey Hinderliter: Correct.

David Walker: Okay. Good. Thank you.

Jeffrey Hinderliter: Mm-hm.

David Walker: Is the applicant here? Hi. Would you like to speak? Come on down. State your name, address please.

Brandon Pollock: Sure. Yeah. Good evening Mr. Chairman...

David Walker: Good evening.

Brandon Pollock: And to the board, thanks for having me tonight. My name is Brandon Pollock. The address of our corporate office is 38 Montvale Avenue in Stoneham, Massachusetts, but as mentioned, this is for 11 Ocean Park Road.

David Walker: By the way, I grew up in Stoneham, Massachusetts.

Brandon Pollock: Really?

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David Walker: Yeah. I was a kid. I used to play down in back of Montvale Ave all the time. But that was before you were even born, so.

Brandon Pollock: Fair enough.

David Walker: Yeah. Is that just your office location? You guys aren't from Stoneham, right?

Brandon Pollock: Correct. No, we're not...

David Walker: Okay.

Brandon Pollock: From Stoneham, unfortunately.

David Walker: I wanted to make sure we didn't have a conflict. That's why.

Brandon Pollock: No conflict there, sir.

David Walker: Okay.

Chris Hitchcock: I can add to that. I get my haircut in Stoneham, Massachusetts as recent...

Brandon Pollock: Really?

Chris Hitchcock: As recent as yesterday.

Brandon Pollock: Well, that's...

David Walker: I should have gone with you.

Brandon Pollock: Yeah. So yeah, so essentially, I appreciate the opportunity just to introduce myself, our organization. We – our company, Theory Wellness, we were started in 2017 working in the marijuana business and we operate in – currently five stores in Maine, in Bangor, Waterville, South Portland, down the Old Port, and we're also the only store that operates in Kittery. So we have a lot of experience working with towns. My job is to educate and make sure that there are no unanswered questions. We certainly always look forward to working with every department from public safety, to public health, planning, of course, and anyone else who has questions about our plans and we always appreciate input.

This has been a bit of a process to get to this point. We applied about a year ago in March, under the application process that town set forth. And we were selected about four months ago to move forward with a conditional use permit, which is now before this board. It's extremely unique, the scarcity of compliant sites in Old Orchard. So we are on one of the few parcels that are permitted by the current ordinance as it stands now with

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the various setbacks and site restrictions. So the site does pose unique challenges and we look forward to sort of working with the board on suggestions on how to create the dispensary there that best can serve the town while minimizing any potential adverse impacts on traffic.

I think, traffic's probably going to be the number one issue, especially if there ends up being only a single store for recreational cannabis in the town during certain peak times, it will be busy. So our...

Robin Dube: Excuse me?

Brandon Pollock: Yeah.

Robin Dube: So you just said traffic's going to be a problem?

Brandon Pollock: I think traffic will be the biggest issue to consider that – thus you need to put strong and smart plans in place to minimize and mitigate.

Robin Dube: *[Inaudible]* [00:49:10].

Brandon Pollock: Yeah. Well, I think Jeffrey's memo was sound in having – we've done a traffic analysis that we feel puts forth, findings that show that the impact will be minimal. But I think that's good to have that as part of the conversation that we acknowledge that traffic is going to be a concern. We're not trying to sugarcoat anything or hide anything. We think we want to work with the board to discuss the best ways to mitigate that and how to make it work. We've done this before in other communities. It can involve – for example, we have in the past at certain sites if they become busy, require customers to use an online appointment system where they book time slots so we can throttle the exact number of people that come every 15 minutes to the site. So that's one of the different levers you can pull to minimize that risk.

Chris Hitchcock: Through the chair, may I ask about that real quick?

Brandon Pollock: Sure.

Chris Hitchcock: I know when this all first started in Massachusetts that reservation system was the lifesaver, because the traffic was horrendous...

Brandon Pollock: Yeah. We...

Chris Hitchcock: Everywhere.

Brandon Pollock: Yep.

Chris Hitchcock: And how would you expect to use that if you had to use it? Would you do it starting day one just in case or would you do it on day two how bad – depending on how bad day one was?

Brandon Pollock: Yeah. We could start from day one. I mean, we were one of the pioneers of that system in Massachusetts. We opened one of the first stores down there, the closest one in New York City. We were seeing sometimes almost 2,000 people a day and we had to work with the local town, with the police department to mitigate that. Now, those numbers are extraordinary. That's never going to happen again anywhere in the country probably, sort of a onetime event. But basically, you put out all the media you can to essentially let your customers know that they have to order through the website and they have to reserve a time slot. It's technology that we used before. We can turn it on, we can turn it off, and again we can literally set. We say we only want to see five people an hour, we can set that, and once that's booked, no one can come.

Chris Hitchcock: Okay.

Brandon Pollock: We have an employee outside, just turn people away if necessary. That's the extreme.

Chris Hitchcock: Yeah.

Brandon Pollock: Probably not necessary, but that just shows the levers that we have pulled before and we can pull if necessary, because if any of our neighbors have issues, if any of our neighboring businesses have issues, we're going to have to deal with it one way or another. So our job is to be smart about it and do our best to minimize that ahead of time.

Chris Hitchcock: Okay. Thank you.

Brandon Pollock: Yep.

Winthrop Winch: I have a question. How long is a typical visit mean? A customer walks in, what do they typically do? They – looks like they do a little bit of discussing over the...

Brandon Pollock: Yep.

Winthrop Winch: What the product is and will make a selection or how long does that process take?

Brandon Pollock: Yeah, it's a good question. So about – the majority of our customers, about 60% of all of our customers actually order online first. So they go on to our website...

Winthrop Winch: Okay.

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Brandon Pollock: They pick out what they want, they hit yes, they can't pay for it yet, but we can package it up and have it ready for them so they come in, and that's about a one, one and a half minute transaction.

Winthrop Winch: Okay.

Brandon Pollock: The other 40% of customers, they're going to have questions and that's okay. They'll come in, ask questions, get some recommendations, what might work for them. So all things considered, the average customer spends about four and a half minutes in one of our stores.

Winthrop Winch: Got you. Yeah. Helpful.

David Walker: So I'd imagine that on day one, it's going to be a crazy day. Would you consider having a police detail available to...

Brandon Pollock: Yeah. We'll...

David Walker: Mitigate any traffic congestion?

Brandon Pollock: We'll talk with the chief of police about that. I – we opened in South Portland. We were the first store in the state to open for recreational. We did have a police detail there that day. Just – yeah, they left after a few hours, because they weren't needed. But it's better to be safe than sorry in that respect.

Marianne Hubert: Mr. Chair, I have a question. What is the other business going to be in the facility, because it will create traffic also? Is it like, if it's a restaurant? So what is – I don't *[overlapping conversation]* [00:53:56]...

Brandon Pollock: So – yeah, so our site – the – building there is a standalone building just for dispensary. The other building on-site, I believe, is leased out to a real estate agent or something.

Marianne Hubert: It's *[overlapping conversation]* [00:54:11] stating.

Brandon Pollock: It's not like a – not a retail. Yeah.

Marianne Hubert: Okay.

Brandon Pollock: Yeah.

Marianne Hubert: Okay. Thank you.

Brandon Pollock: Yeah.

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David Walker: Were you going to go through the packet that you submitted to us, or you just given us an overview, I mean, there's just...

Brandon Pollock: If that's the board's pleasure, I can. I mean, otherwise – I mean, there's a lot of information, so I don't want to unnecessarily just read something that you may already address.

Marianne Hubert: I have another question based on the packet.

Brandon Pollock: Yep.

David Walker: Yeah.

Marianne Hubert: The sign that you say that you're seeking an application for a sign that is 120 square foot – feet. That's a billboard?

Brandon Pollock: No. I believe our sign proposal and maybe there was a typo on the square footage, but it was simply using the existing sign putting our logo on the freestanding sign.

Marianne Hubert: Okay.

Brandon Pollock: The large size may just had been letters above the building itself.

David Walker: There was a diagram in the packet.

Winthrop Winch: I have a picture of that.

David Walker: *[Overlapping conversation]* [00:55:08]...

Marianne Hubert: Yeah. But it's on the building. So that's including the 120.

Brandon Pollock: That might – yeah, that might take up with a...

David Walker: And then we did this one here, but...

Marianne Hubert: Yeah.

David Walker: That's too close to the road and there was some concern about...

Marianne Hubert: So...

David Walker: Line of sight.

Winthrop Winch: You saw that, right?

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Marianne Hubert: Yes. I saw that.

Winthrop Winch: Okay.

Marianne Hubert: But I was wondering how big.

Winthrop Winch: Yeah.

David Walker: And I think that you should take a look at that in terms of its liability, because it could be blocking the line of sight.

Brandon Pollock: Yeah. And I think the comments we received was that that sign is either on the property or something, so...

David Walker: Yeah.

Brandon Pollock: Yeah. We – yeah. We've noticed she was moving that. It's physically there already, so we figured just change the name, but with no issues...

David Walker: Yeah. And when you had your traffic study done, you used Jeannette Avenue instead of Melvin. Is there a reason why where Melvin is abutting your property? Is it because there's more traffic at Jeannette Ave?

Brandon Pollock: I'll – the traffic engineer did the study...

David Walker: Yeah.

Brandon Pollock: Diane. So I would have to ask that question to her.

David Walker: Okay.

Brandon Pollock: She was the engineer that did that study.

David Walker: So Jeffrey, I'd like, if we could have an independent study done by the town just to confirm their findings.

Jeffrey Hinderliter: Sure.

David Walker: Okay?

Jeffrey Hinderliter: Mm-hm.

David Walker: If we could?

Jeffrey Hinderliter: Yeah.

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David Walker: Thank you.

Robin Dube: Maybe just one thing through the chair?

David Walker: Yeah, go ahead, ma'am.

Robin Dube: You've got it listed that you're putting a fence along also where that sign is. We can't have a fence right off to the road, because people coming in and wanting to turn don't see people trying to come.

Brandon Pollock: For, like, the line of sight?

Robin Dube: And I believe I saw that here somewhere.

Brandon Pollock: I think the intent was to just call out an existing fence. That might have been already on the – more on the property.

David Walker: That is an existing fence. Yes.

Robin Dube: Isn't that one, like, falling down there or something? Like a *[overlapping conversation]* [00:57:01]...

David Walker: They were going to shore it up.

Robin Dube: To me, still, I don't think it needs a fence right to the road, because it's going to cut...

Brandon Pollock: Yeah. I think...

Robin Dube: View of the driveway.

Brandon Pollock: I don't – yeah. From my view, we don't necessarily want a fence. I believe there was something in the ordinance about a buffer – a site buffer...

Robin Dube: Yep.

Brandon Pollock: Around...

Robin Dube: The fence is okay. Just not – that little bit of end....

Brandon Pollock: Yeah. That makes sense.

Robin Dube: *[Overlapping conversation]* [00:57:22] could see...

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Brandon Pollock: Yeah. I think the fence was to more adhere to – like, a visual buffer from a budding property. It's not certainly nothing we wanted. Like, we don't need to put up the fence.

Robin Dube: All right. Thank you to chair. Because the traffic...

David Walker: Go ahead. Get them all out now while you can.

Robin Dube: I feel *[inaudible]* [00:57:45].

David Walker: All right. I'm ready.

Robin Dube: Is the entrance and the exit going to come up onto Saco Avenue or you're going to exit on to Melvin and come out to Saco? You know what I mean? Is it...

Brandon Pollock: Right.

Robin Dube: In and out?

Brandon Pollock: The plan was in and out as it currently kind of works on site.

Robin Dube: Okay. Thank you.

Brandon Pollock: Yeah.

David Walker: So one of the things you talked about was you're going to have security cameras outside and you were going to meet with public safety to develop the placement of those.

Brandon Pollock: Yep.

David Walker: And you talked about there would be no smoking on the premises.

Brandon Pollock: Yep.

David Walker: How do you control that? If your employees are inside, someone comes out and they light up at their car and they start smoking, who's watching them to make sure that that doesn't go on?

Brandon Pollock: Yeah, so a couple of things. First – yeah, first and foremost, educating customers. You can tell them there's no consumption on-site.

David Walker: Yep. And that's done.

Brandon Pollock: Our...

David Walker: So if I walk into one of your stores, that's what they're going to say to me?

Brandon Pollock: They should. I mean, you train employees on...

David Walker: Did you pack my parachute?

Brandon Pollock: I would. Yes. So essentially, are the person who's going to be checking IDs and so forth as well, they have video monitors so they can see the parking lot looking for loitering activity. If there's any nuisance complaints from a neighbor or something like that...

David Walker: Yeah, I don't want to see it get to that point.

Brandon Pollock: Sure. Yeah.

David Walker: That's what I'm saying to you.

Brandon Pollock: Yeah. No, I understand. We take that seriously. We have served literally millions of people in our different stores throughout New England. It's not an issue. There have been sporadic issues here and there where we do see something and then we say something right away and tell them to get out of there. It's not legal. It's not permitted on our site. It's just something you have to be proactive about.

David Walker: We talked about in a little bit – you talked about in your presentation odor mitigation not being a requirement in the retail store, because everything is prepackaged?

Brandon Pollock: Correct.

David Walker: So there's no odors at all when I walk into that store?

Brandon Pollock: Correct. Yes. It's – we don't have samples out that you can smell. Everything comes from either our cultivation facility in Auburn or from another vendor in airtight, prepackaged, sort of sealed bags or jars. So in our experience, we haven't had any issues with odor mitigation. This was something we went through with the Town of Kittery. They at first were looking to have like some sort of like extensive HVAC system installed. We said, "Hey, let's like not do that yet. Let's see how it goes." And there haven't been any issues with odor.

There are portable carbon scrubbing machines you can set up in your inventory room or on your sales floor if it becomes an issue. But everything being airtight sealed packages, odor hasn't been a concern in our experience at retail.

Robin Dube: Chair?

David Walker: Yeah. Go ahead.

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Robin Dube: Well, didn't you say you have a cut off room or bag where the packaging is done? Are you growing any plants back there?

Brandon Pollock: Nope. And that's a good question. So when we say packaging, it's not packaging sort of the marijuana into a package. It's taking prepackaged goods and putting them in a...

Robin Dube: Everything's coming prepackaged?

Brandon Pollock: Yeah. Everything's coming prepackaged. So someone might want a bag of gummies and a bag of marijuana, you take those two...

Robin Dube: You *[overlapping conversation]* [01:01:21]...

Brandon Pollock: Put them in a bag for a customer and that's sort of – that's part of that preordering system online where someone can select what they want so then we put it in a bag for them so they can come in and just pay, get in and out.

Robin Dube: Well, that seem a little...

Brandon Pollock: Yep.

Robin Dube: *[Inaudible]* [01:01:35].

Brandon Pollock: Right.

David Walker: Brandon, edibles.

Brandon Pollock: Yep.

David Walker: Are they going to be made on-site, elsewhere?

Brandon Pollock: No. I think...

David Walker: What kind of standards are used for edibles?

Brandon Pollock: Yes, so good questions. So first, this is just a retail dispensary, so there's no manufacturing of anything on-site. So they're coming from either our facility in Waterville or they're coming from another vendor in the State of Maine. And in Maine to produce the edible marijuana products, you have to have a food license to do so. That's through the agriculture department of the state. And even just to sell the edible products, you need a food license at your retail store. So they'll come in before we open the state agriculture department. They do – they look for things like if there's any perishable goods, you have the right refrigerator and processes to make sure nothing goes bad. They make sure you're not storing anything. I think you can't store anything more than six

inches from the floor in case a pest or like a mouse could touch it. So there's a variety of rules surrounding edible products regulated by the state that we would have the proper licensing and sort of go through those steps.

David Walker: You went into a lot of detail about return to damaged product and how you would store it and eliminate it.

Brandon Pollock: Yep.

David Walker: I guess there's a certain kind of container that you're going to use...

Brandon Pollock: Yeah.

David Walker: Inside the store.

Brandon Pollock: Yep.

David Walker: But what about regular trash, rubbish? Where are you going to store that? How are you going to get rid of that? What is your plan for that?

Brandon Pollock: Yeah. So our plan would be to contract with a solid waste provider, have a – it's not tremendous trash generation. It's going to be the garbage coming out – come...

David Walker: So there'll be a dumpster?

Brandon Pollock: Our plan was to not use a full dumpster, just was to use like a plastic trash receptacle bin, picked up once a week.

Robin Dube: I don't think it's allowed with the business if you have to have a dumpster.

David Walker: I have to look at the ordinance for that. We'll check that.

Brandon Pollock: Okay. Yeah.

David Walker: Yeah.

Brandon Pollock: Yeah. I mean, we're – a dumpster. Yeah. Take...

Robin Dube: I mean, they make them big small *[overlapping conversation]* *[01:03:50]* look for?

David Walker: Mike, do you want to make note of that for me, buddy, while you're writing over there, Michael? Thank you.

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Brandon Pollock: Yeah. I mean, the key is there's no marijuana that's going in this. So it doesn't need to be like a very secure. It's just trash. So whatever any retail business would use that's appropriate, we would like to use similar strategy.

Robin Dube: Any of the stuff being trucked up from Massachusetts?

Brandon Pollock: No, it's one of the fun things we have to deal with is, because the federal government doesn't believe in what we do.

David Walker: We can't traffic over state lines.

Brandon Pollock: Yeah, nothing over state lines. So every...

Robin Dube: So the answer is no?

Brandon Pollock: The answer is no.

Robin Dube: Or you have to deal with...

Brandon Pollock: What's that? No, nothing – yeah, no. And so all the state has us track everything in a computer database actually from...

Robin Dube: *[Inaudible]* [01:04:32].

Brandon Pollock: Yeah. From the plants all the way to the sale, it's all tracked in a system that the state can look at too.

David Walker: So I'll explain to you the reason I wanted a backup study on the traffic.

Brandon Pollock: Sure. Yeah.

David Walker: The concern I have is that the data that that's used, the criteria that's used by the state is crash data. And so unless you have crashes, it's a safe use of the word.

Brandon Pollock: Interesting. Yeah.

David Walker: And I don't see that as being true. I don't – in other words, I don't want to wait until the bond was broken before I repair the hinges. You know what I mean?

Brandon Pollock: Sure.

David Walker: So that's why I think I want to have us do our own study and I want to take a look at volume as well as crashes.

Brandon Pollock: Yeah, makes sense.

David Walker: Yeah.

Brandon Pollock: Yep.

David Walker: All right. Anybody else with any questions for Brandon?

Robin Dube: I just have one quick question. Do we already have a crash data right here? Is this last year's? When did they do a last traffic study? Not that I don't agree with you, Dave. I'm just curious as when this...

David Walker: Well, they did – we did a traffic study for the storage units when they went. And I don't believe you took – this is your own study that you did or this is an...

Robin Dube: *[Overlapping conversation]* *[01:06:03]* pretty easy.

Brandon Pollock: So what our – yeah, what our engineer did is she pulled data. It was either a main state DOT data or a previous study's data that was still current enough. And that's what – because the study was done in the winter, so we couldn't have...

David Walker: Yeah.

Brandon Pollock: We couldn't have set up the actual traffic counts, and they wouldn't have lost...

Robin Dube: You said from DOT, *[inaudible]* *[01:06:25]*...

Brandon Pollock: Yeah. So she pulled some data that was, yeah, technically new enough.

David Walker: And then conditional use criteria, I have some questions. In number five, response was applicant will monitor the parking lot to ensure consumption of cannabis curves off property. And I already asked you that question and I got an answer. They're looking at monitors and that person will manage it and your sales reps are going to tell...

Brandon Pollock: I – yeah, educate...

David Walker: Are going to tell everybody, "Hey, no smoking. You need to get outside the door. Wait till you get."

Brandon Pollock: Right.

Robin Dube: David, one thing on that.

David Walker: Yeah.

Robin Dube: It's got to say no smoking marijuana on premises, because the art was in the *[inaudible]* *[01:07:16]* the real stage downstairs. Different rules for them and you can't

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tell the tenant they can't get down and smoke cigarette or smoke *[inaudible]* *[01:07:27]*...

David Walker: I'm talking to him. I'm not talking to the tenant, the realtor, or anyone. Yeah.

Robin Dube: I understand. But it's all one parking lot. They all use the same spot.

Brandon Pollock: Yes. So you're saying if we put up a sign...

Robin Dube: Specific.

Brandon Pollock: Be precise about what we're...

David Walker: So you're saying that realtor can go outside and smoke a joint and it'll be okay?

Robin Dube: I'm not saying. I didn't say. I said cigarettes.

David Walker: Okay.

Robin Dube: I didn't say anything...

David Walker: You didn't say cigarette, but okay.

Robin Dube: I did say cigarette twice.

David Walker: Let me look at and see what other notations I made in here. You said plastic container. I see here a trash container will contain metal lid and be locked at all times.

Brandon Pollock: Yeah. We're – yeah, maybe it's small dumpster. I think, I've seen some before that are, like, plastic, but they are a little more sturdy.

David Walker: And you'll have a separate container for the recyclable container?

Brandon Pollock: Recycle – yeah, like – yeah. It's a balance. I mean, it's a pretty small site, so we don't want to – if – to the extent we can get away with smaller container, receptacles, that will be preferable.

David Walker: All right. That's pretty much all I had Brandon for now. I'm not sure. Anybody else on the board?

Winthrop Winch: *[Inaudible]* *[01:08:47]*.

David Walker: So thank you for coming out. We appreciate it.

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Brandon Pollock: Okay.

David Walker: And we'll see you next month.

Brandon Pollock: All right.

David Walker: All right. Thank you.

Brandon Pollock: Thank you all. Have a good evening.

David Walker: All right. Item 3. Major Subdivision: 61 unit single family condominium development. Sketch Plan Review. Applicant is Atlantic Resource Consultants. Location is 63-91 East Emerson Cummings Boulevard, MBL: 207-1-2; Zoning: Contract Zone, PMUD. Hey, Jason. Is this you, Michael?

Jeffrey Hinderliter: It's me.

David Walker: You again?

Jeffrey Hinderliter: Yeah.

David Walker: You're getting them all tonight there.

Jeffrey Hinderliter: I'll get them all tonight, except the last one. That's Mike. So the board may recall this one not too long ago there was a contract zone proposal for a 61 unit single family condo development for this property. And the contract zone review began, I think it was the summer of last year. It was a very smooth process. We had a very good applicant to work with. Our requests were addressed quickly and it made the process very smooth through the planning board and also through the council. So they secured approval of the contract zone agreement and are now moving forward with this development.

And what this development includes is 61 single family units in a condo type of ownership. It's located off of E Emerson Cummings on a vacant lot that's right across from the high school. It's next to Cider Hill and also our elementary and middle school property.

So the proposal includes public water and public sewer. The roads will be private and will be 24 foot wide with a four foot dedicated to a pedestrian lane. There will be visitor parking available off of these roads. One of the reason is because there will be a public trail system created on the property. And also a benefit is seven of these units will be dedicated not just for a onetime thing, but subsequent sales dedicated to affordable housing. So that is definitely a good thing.

A couple of things, we've reviewed a number of contract zones, but seldom do they – well, occasionally, they get to this step. But certainly nothing as large as this has got to your step in – at least in regards to a contract zone piece. So when I say, like, 24 foot wide with a four foot sidewalk, maybe that doesn't meet our ordinance. Well, it doesn't. And the – and they're – but they're allowed to do that because that was negotiated through the contract zone process. When you go through the contract zone process, you're allowed to secure modifications and waivers of certain standards. And certainly, one of the big modifications is the density requirement.

If we use the traditional zoning calculations, density calculations for this particular lot, you'd come away with about 19 units. The contract zone capped it at 61. In your plans, you'll see that there are 63 units, but two of those units will be removed. So it is capped at 61. They can't do anything about that unless they amend the contract zone.

Also, what the PMUD does – or I'm sorry, what the contract zone does is it reduces setback requirements, makes modifications to the street design standards, as I said, road width, right of way width, curving, sidewalk width, sidewalk construction. So that was all approved in the contract zone. And those are really the big pieces.

What the applicant agreed to as part of the contract zone was to create public trails throughout the open space to have parking spaces available in what is essentially a private site available to the public so they could park and use these trails prohibiting short term rentals. A, for the crossing of E Emerson Cummings by the school, they're going – there's two access points and they're going to put the flashing beacons, the more high-tech road calming or road safety measures for pedestrians.

Also, the roadway will remain private and so that means the maintenance, snow removal, all that will be the responsibility of the condo association. And seven of these units will be affordable housing and remain affordable housing.

So in the staff memo, I offered a bunch of comments. This is just an introduction tonight really to bring the planning board up to speed, see if the planning board would like to schedule a site walk yet. Planning board has the option to do it now or wait till a later time. It's clearly a major subdivision. It's what we know. It's more than four units. And so there's not much else tonight. It's an opportunity for the applicant to speak and hear any of your questions too. So that's all.

David Walker: So it – would we be able to get them to show the paths, the private paths in their maps subsequently to this, because right now the only thing I know is where you're going to run in the sewer line and I'd like to see where the other paths will be. So – and I think we were going to use that sewer line as one of the paths, one of the access. Is that right, Jason?

Jason Vafiades: Yeah. So Jason Vafiades, Atlantic Resource Consultants. Happy to see everyone again. You all look tired. Sorry. Yeah. So we'll certainly – given the paths, we'll show – I imagine we do, like, we work in a loop trail. And where we have to cross

wetlands, those may be, we have to negotiate that with DEP. And so that's – Jeffrey did a good job bringing you up-to-date. I don't have to do much. But there were a few tweaks that'll lay it out if you compare the old plan to the last plan. We reviewed the contract zone language and we – there was nothing specifying that we were tied to that layout, which I think is good, because going through this process and permitting, things get tweaked. And we did – we were able to actually reduce wetland impacts by, like, 18,000 square feet based on this, what you see before you now, even with the two extra units, which we think we know we haven't been able to have our pre-app with DEP yet. So they're going to pick the two units that get to come out, basically. But yes. So we'll certainly add a trail for the next submission. And then, if you do choose to schedule a site walk, we're going to get that loaded into the site as well.

David Walker: Are you going to designate certain units to be those seven units, affordable units or are they going to be on one location or are they going to be spread out throughout the complex?

Jason Vafiades: That's a good question.

David Walker: Yeah.

Jason Vafiades: I can't answer that, but Mr. Dave probably can.

Dave: Yeah, *[inaudible]* *[01:18:03]* land acquisitions. We talked about this before. I don't know if it was with you. I believe it was you. And we kind of thought maybe we kind of spread them in so people really doesn't know.

David Walker: Right.

Dave: I think that was kind of, like, a thing that we thought that it'd be easier just to...

David Walker: Okay.

Dave: Kind of put them in just so that is the...

David Walker: Yeah. When we talked, it was five units, so.

Dave: Yeah. They got it to the seven. That's – they wanted 10%, and I said, "Well, that's 6.1." So.

David Walker: Well, it's appreciated. Thank you.

Dave: *[Indiscernible]* *[01:18:39]* kind of go with the most we could get, so.

David Walker: Okay, great.

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Dave: So we agreed with the seven. It is in the deed, what Jeffrey was talking about that if you bought one of the new qualifiers and purchased one of the affordable housing...

David Walker: It remains affordable.

Dave: It's got a -- in the deed, it states that it has to remain. Yeah.

David Walker: Yeah.

Dave: *[Overlapping conversation]* [01:19:03]...

David Walker: So when they sell it, they...

Dave: Right.

David Walker: Sell it as an affordable...

Dave: So if they sold it again, they can't make X amount more money.

David Walker: Right.

Dave: They have to go by the state guideline.

David Walker: Yep.

Marianne Hubert: Mr. Chair, I have a comment.

David Walker: Yes, Mary.

Marianne Hubert: It looks like setbacks. We were talking about setbacks earlier. It doesn't look like we have 25 feet there in the -- on the side of the -- I don't know, where that west side I guess it is.

Dave: On the side, that's where that road is, Jason? That's where the road is?

Marianne Hubert: Some of those condos are closer than 25 feet or 30 feet.

Jeffrey Hinderliter: If I may on that that was actually reduced. They can go to 15 feet on the side.

Marianne Hubert: Really?

Jeffrey Hinderliter: That was reduced as part of the contract zone agreement. And you'll see, there is -- you'll see on the plan, I think, it kind of pops up like there's an old abandoned road which kind of serves as a bit more land that is a buffer. But one of my concerns about that 15 feet and just knowing human nature and contractors too is, is the

contractor going to go in there and just excavate and cut down the trees just where that footprint is? No. They're going to go beyond that foot print. And once the homeowners get in there, they may go beyond that footprint. So I think the – one of the most important items with this will be the buffering from Cider Hill and that's something that really needs to be carefully considered.

Dave: Right. And with that old road, it's – we own...

Jason Vafiades: Yeah. I – so...

Dave: You want to get into that?

Jason Vafiades: Yeah. So...

Dave: Okay.

Jason Vafiades: So the – well, we're really getting the weeds here. So we're actually updating our boundary survey, because in reviewing the boundary survey that was prepared for the applicant. Doing the – digging back to the deed research, whenever the town abandons a right of way, which is what happened, there was a road between this parcel and Cider Hill, possession of that right of way goes 50%. From the center line of the right of way, it goes to the abutters on either side. The boundary survey that we have does not designate that correctly. It shows that it all went to Cider Hill and there seems to be no agreement or deed agreement where – so it basically was done improperly and it might have been. So we're doing the title work all the way back. We'll get a new boundary survey, which I think Jeffrey at that point will probably want to run that up the flagpole through legal, I think, just to get probably a second opinion on it.

But we – the applicant's opinion is, is that there's another 25 feet of buffer built in. That land is actually going to revert back to our property in which case you'd have well in excess of...

David Walker: Okay.

Jason Vafiades: Most of it.

David Walker: Good for you. Good research.

Jason Vafiades: Yeah. Well, I can't take credit for it, so.

David Walker: Okay.

Jeffrey Hinderliter: Go ahead.

Jason Vafiades: As we all know, I seldom get things right, so.

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Chris Hitchcock: Can I ask you – either of you two? The flashing lights to cross the street, is that – whose idea is that? Is that something new for...

David Walker: No, it's council.

Jeffrey Hinderliter: Yeah. It was council's idea. They specifically requested the flashing beacons. Yeah.

Jason Vafiades: And they don't flash all the time. It's just when you cross, it's the – you hit the button, and it says, wait. And then the lights start blinking. And then...

Chris Hitchcock: Yeah. Does Cider Hill have such a thing?

Jeffrey Hinderliter: No.

David Walker: No.

Chris Hitchcock: I bet they'd want one. They're bigger than this.

Jeffrey Hinderliter: Yeah.

David Walker: Yeah. You know where they cross, right, at Dirigo, there's nothing there.

Robin Dube: That's *[inaudible]* [01:23:12].

David Walker: *[Overlapping conversation]* [01:23:13].

Jason Vafiades: Well, that's my point.

David Walker: Yeah, fine.

Jason Vafiades: I mean, maybe the town want to think about...

David Walker: There was somebody else on the planning board when Cider Hill was developed, not...

Jason Vafiades: Well, that was back in when...

David Walker: Never mind.

Jason Vafiades: When there wasn't that much traffic on E Cummings probably. That might be a thing for the town to look into.

Robin Dube: Is there a crosswalk that's going to be put across? That *[overlapping conversation]* [01:23:37]...

Jason Vafiades: Yes. So where the beacons are, there'll be a crosswalk, painted crosswalk as well and...

Robin Dube: *[Inaudible]* [01:23:41] that question.

David Walker: I think I should.

Jeffrey Hinderliter: Right, Chris. Yeah.

Robin Dube: can I ask one quick question? I think, you might be there. I don't remember your name and title.

Dave: Dave *[inaudible]* [01:23:53].

Jason Vafiades: Dave.

Robin Dube: Dave? When you go out – when you guys talk about affordable housing, what price you're going to use for this affordable housing suppose the – I mean, I'm not holding your right to it.

David Walker: He – I can answer that for you if you don't have the answer off the top of your head.

Dave: Go right ahead, Dave.

David Walker: So the developer said at the council meeting somewhere between 450,000 500,000. He wanted to keep the cost down and depending on the cost of product.

Dave: Right. And that would be for all of us.

Robin Dube: That's affordable housing? It's *[overlapping conversation]* [01:24:24].

Dave: It's affordable housing now – right now. Yes.

David Walker: Sure.

Robin Dube: Yeah. If you moved from a lot of state here, *[indiscernible]* [01:24:30].

Chris Hitchcock: That's where the seven property is?

Jeffrey Hinderliter: So I got a bit a bit of information on that.

David Walker: No, the seven is determined by states.

Chris Hitchcock: You're asking for the seven.

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Robin Dube: I'm asking – yeah. The seven that's close to the...

David Walker: For the seven units?

Robin Dube: *[Overlapping conversation]* [01:24:44]...

David Walker: Isn't that defined by state?

Dave: That's defined by the state.

David Walker: Yeah.

Jeffrey Hinderliter: Yeah. If you want to kind of get right down to OOB statistics, because I was recently looking at this, it's about 205,000.

Robin Dube: I'd go with 250. That's...

Jeffrey Hinderliter: But what's interesting...

David Walker: Nobody wants you.

Jeffrey Hinderliter: The mean price – sale price in Old Orchard Beach for – they just updated, Maine State Housing Authority just updated 525,000. And 100% of the homes sold were at that level, which means that the median income to afford that and qualify is like a 158,000.

Robin Dube: Exactly.

Jeffrey Hinderliter: Isn't that insane?

Robin Dube: Yes. It is.

Jeffrey Hinderliter: Yeah. And when you look at the charts from – you see that incredible jump from 2020 to 2023, it's unbelievable when you look at the numbers.

Robin Dube: Yes. A family of four can't – that's just the reason that family can't afford something like that.

Chris Hitchcock: It should all work.

Robin Dube: Well, they do work. You know? You need to get a degree in something.

David Walker: All right...

Robin Dube: Maybe they're...

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David Walker: Point of order. Is there a recommendation on this folks? There we go.

Marianne Hubert: I'll make a recommendation that we determine this is a major subdivision and that we schedule the site walk for next month or after preliminary claim submission.

David Walker: You want to – does the board want to do a site walk next month or would you rather wait one more month till it dries out?

Chris Hitchcock: No.

David Walker: Jason?

Jason Vafiades: Totally up to you. I think why we kind of really needed this meeting is that we are submitting the DEP imminently. Like, that's...

David Walker: Well, you haven't staked out for us that?

Jason Vafiades: So I mean, we – if you want to go before traffic gets bad and summer starts showing up, we can have it. Yeah. We can meet that schedule very easily. It's really up to you. We don't see this layout – the road layout, we don't see that changing. Just like I said, we lose a couple of units probably.

David Walker: Will it be cut in? Will the roadway be cut in next month? No?

Jason Vafiades: No. We'll do the best we can to make it possible. But...

David Walker: I'm – listen, I'm going to – I'm not going cross countries.

Robin Dube: Me either.

Jason Vafiades: You're going to get a workout next week.

David Walker: No.

Robin Dube: Next month.

David Walker: I think it'd probably be best if we – so next month is April.

Robin Dube: It's what? Next week probably?

David Walker: We can determine it complete next month followed by a site walk and then public hearing?

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Jeffrey Hinderliter: I – if the applicant thinks it will be though they're ready for determination of completeness next month. But you can schedule a site walk before you determine it's complete.

David Walker: I don't want to go traipsing out there in the mud and it's *[overlapping conversation]* [01:27:54]. I did that. I...

Jeffrey Hinderliter: Yeah. You can do the site walk in – whenever you want, really.

David Walker: Yes.

Marianne Hubert: Is it Preliminary?

Jeffrey Hinderliter: I would suggest it at least during – not during final review, at least during – no later than preliminary review.

Chris Hitchcock: We had a lot of people from Cider Hill here who were interested in this. I wouldn't put it off if it was me.

Jason Vafiades: Yeah. It helps us just to be...

David Walker: Fine. I'll wear my markers...

Chris Hitchcock: Well, you're wearing them next week and...

Winthrop Winch: Let me add a note of caution. I was on a site walk, that same site about 15 to 16 years ago in May. Everybody got covered with ticks.

Jason Vafiades: Yeah. I know.

Winthrop Winch: So just be very careful. Wear a cloth – be careful.

Jason Vafiades: We'll go in – well, let's go in April.

Winthrop Winch: That thing was unbelievable. Everybody's coming out. I mean, it was just a...

Jason Vafiades: We'll stake it out the morning before – because it goes a lot faster now with GPS. So we'll send...

Winthrop Winch: Yeah. The applicant...

Jason Vafiades: I'll send my guys in first.

Winthrop Winch: The applicant provided those little cups to pull the ticks out.

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Jason Vafiades: Yeah. I always bring spray with me too.

Winthrop Winch: Yeah.

David Walker: So, all right. Site walk, April 4th at 5:00 pm, guys. And we will meet – well, I’m going to park over at the high school. Actually, you know what? I’m going to park at that little league ball field where they are there. We’ll meet there and then walk the site. Okay? Got that, Jeffrey?

Jeffrey Hinderliter: Mm-hm.

David Walker: All right.

Robin Dube: Yeah. Let me know how it is. *[Inaudible]* *[01:29:35]* telling you, I’m not going.

David Walker: All the more reason to have it on April 4th.

Winthrop Winch: Did you hear it?

Robin Dube: Well, I heard it.

David Walker: Yeah. All right.

Robin Dube: I’m hearing one.

David Walker: Thank you very much. Appreciate it.

Male Speaker-2: Just one other thing.

David Walker: Yes.

Male Speaker-2: I used to live in Wilmington.

David Walker: Wilmington, Mass.

Male Speaker-2: Yeah.

David Walker: Nice.

Chris Hitchcock: See, what are we doing in Wilmington?

David Walker: We’re not doing anything in Wilmington. I used to date a couple of girls from there, but, again, that’s...

Chris Hitchcock: I have a son-in-law lives here.

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Robin Dube: Yeah. They didn't know each other.

David Walker: My wife is home listening to this.

Robin Dube: Good luck Dave.

David Walker: It was before I was married. All right. Item 4. Proposal: Subdivision Amendment: Two additional infill lots with a shared driveway access from Ross Road. Action: Final Review and Rolling. Applicant: Atlantic Resource Consultants. Owner: Dominator Golf LLC, Ross Road, MBL: 105A-1-200; zoning in the PMUD. Dominic, when did you get back from your trip?

Dominic: Monday.

David Walker: Monday.

Dominic: Yeah.

David Walker: Okay. Good to have you.

Dominic: Thank you.

David Walker: Is this you, Michael?

Michael: Yes. Thank you.

David Walker: Yep.

Michael: So yeah, on the DEP permit update, last month, the planning board tabled this proposal, because the termination of completeness in January was subject to receiving the DEP permit approval and outstanding responses to staff in Wright-Pierce comments.

As of the writing of this memo, a DEP permit has not been provided. The applicant provided an update that the site location of development amendment is pending. We looked up the status online and the DEP permits table shows they received the application February 23, 2024.

The applicant indicated that they intend to ask the planning board for conditional approval on the state permits pending on the premise that other Dunegrass proposals have received conditional approval on state permits.

Planning staff use this a bit different than other Dunegrass proposals, as we have mentioned previously, where the proposed setback requires the DEP permit to confirm the 100 foot buffer can be reduced.

And then, as far as the reduced buffer and other Dunegrass approvals, using the example of previously referenced Section A, Sandy Meadows, and DEP approval, and looking at the findings of fact, the permit for buffer reduction was provided prior to the amendment approval. So what are...

David Walker: Why DEP?

Michael: Huh?

David Walker: Why DEP?

Michael: Yeah. They had the DEP permit before the approval it looks like on that one. And so what are the planning board's thoughts on this? And then just other updates for this month where we did get the responses to subdivision criteria. They did address fire comments with the addition of a fire hydrant and the chapter 71 post-construction stormwater management plan was also submitted. And there were just some other plan note comments in there.

So for our recommendations, planning staff recommends that the planning board discuss the previous determination and tabling requiring the DEP permit. If for some reason, this proposed buffer reduction isn't approved by DEP, the proposed setback would need to be changed. So we provided a few options in your packet for motions. And as previously recommended, we recommend you postpone deciding until the DP permits provided since you had previously requested that permit.

David Walker: Yeah. All right. So I guess last month, I wasn't here luckily because...

Jason Vafiades: Yeah, so...

David Walker: It didn't go well for us. And here we are again, so...

Jason Vafiades: So – right. So what we did was we resubmitted a response to Wright-Pierce's comments. We got them all squared away. And I think Mike had asked me, he said, "Well, do you want to be on the agenda? Do you think of a DEP permit?" And I know that they're close to issuing that. That date, it must be a mistake or something. I'll have to go ask Alex about that, because they've had this for quite a while. I don't know why they wouldn't put the processing date to that, especially where it's an amendment that doesn't count. There's no time limit. They could take two years to do this.

So – and that was our response. If we knew that there was a time limit, we could plan if we knew that they had a 150 day turnaround on this. I could plan when to resubmit. So let's say the permit comes in a day after we need to get on the agenda, that delays Dominic six weeks versus – and my understanding is in the past, most Dunegrass projects get conditional approval based on MDEP approval. And if there's no MDEP approval, there's just no project. We can't – if for some reason they go – they revert back to

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precedent, as David Ordway was talking about earlier, and not grant us a reduction in setback, then the project's just dead. It won't go anywhere.

David Walker: So as a boy, we were shocked to see a February 23rd date for application.

Jason Vafiades: Yeah. And I'll figure out why that is. Yep.

David Walker: Yeah. Well, we're kind of wondering the same thing, so.

Jason Vafiades: Yeah. They've certainly had it a long time. And I don't know if it's – because you'll recall, we had another project in and they were lumped together at DEP. And then we changed that out and we pulled Long Cove Road off that DEP permit, because we're reshuffling that. And I'm suspecting that that may have been the trigger too, because there was a refund of fee for that. So they certainly have had it quite...

David Walker: So you guys pulled the Long Cove Road out?

Jason Vafiades: Yes. Yeah.

David Walker: Okay.

Chris Hitchcock: *[Inaudible]* [01:35:50]?

Jason Vafiades: Well, yeah. We had to redesign it, so.

Chris Hitchcock: Okay.

Jason Vafiades: Okay.

David Walker: This is like a full-time job for us.

Michael: It's a complicated site.

David Walker: Yeah.

Jason Vafiades: So, I mean, we understand – yeah. So I – not knowing when that permit comes, it's a – we've been getting review comments back, questions back about it. So my guess is it's imminent. I just – I don't know when that's going to be. Even when they have a deadline, they're not hitting them, so.

David Walker: Any comments from board members?

Robin Dube: Yeah. Jason, you've been doing this for years. You know how the DEP works. You know what the rules and regulations of the town are.

Jason Vafiades: Yeah.

Robin Dube: And I'm not blaming you. Well, I know Jason a lot.

Jason Vafiades: Trust me, I get it. I'm just...

Robin Dube: Saying you don't know this and that...

Jason Vafiades: If...

Robin Dube: Too many years ago.

Jason Vafiades: Yeah. If – it really has changed and they've lost so much that happened...

Robin Dube: I know they got nothing...

Jason Vafiades: Yep.

Robin Dube: I knew it's...

Jason Vafiades: Yep. So I'm – I mean, I guess we're throwing yours on your mercy. I mean, I can say, I know Dominic is pretty motivated to just get this process out, because he's probably going to have me retrigger every agenda in the hopes that that permit comes in even the day of the meeting is all I need. And then I'd send it to Michael and say, hey, oh, we got it, so.

David Walker: Chris, you had a comment?

Chris Hitchcock: I do. I didn't.

David Walker: No? Okay.

Robin Dube: I've got one more thing. They were waiting for the sewer and where was it? Outstanding comments on sewer and stormwater. Have you come up with *[overlapping conversation]* [01:37:49]. What's that? I'm on page 22.

David Walker: He doesn't have you on pages. So that's an old...

Jason Vafiades: That's an old.

Robin Dube: *[Overlapping conversation]* [01:37:57].

Jason Vafiades: That's old. Yeah.

Chris Hitchcock: That's part of the history.

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Jason Vafiades: He adds literally as he goes along. There's the – God, you just gave me a heart attack, Robin. I just...

Michael: Yeah. The recommended motions start on page 16. And so there are – there is a postponed decision motion...

David Walker: Right.

Michael: A conditionally approved motion...

David Walker: Right.

Michael: And a denial motion.

David Walker: Yep.

Michael: We don't recommend denial, because we think there's no reason to deny it at this point.

David Walker: *[Overlapping conversation]* [01:38:24] gone for the rest of the year. No.

Michael: I will say on the conditional approval language, I did try to be very specific in the DEP permit language to ensure that everything's in place adequately before it does move forward.

David Walker: Yeah.

Michael: So I did try to add that in if the board was...

David Walker: Yeah. And we did a good job.

Michael: Leaning towards that.

David Walker: Yeah. Okay.

Dominic: So, Dominic, the owner.

David Walker: Free drinks at the bar...

Dominic: Free drinks at the bar if we get this thing through tonight. Just kidding. So this is where I think I'm at. I mean, honestly, we're all tied in this process. This would – this is the most over-engineered two lots in – on the history of the planet, not even Old Orchard Beach. I think at this point, I think everyone here can agree, we've crossed every t, we dotted every i, it took forever. We're just waiting on the DEP. And, unfortunately, with the DEP, as you all know, since this is a change to an already accepted plan, they don't have a timeframe. So they could take a year from now. But what I'm asking for is

to just get it approved, conditional on DEP, because as we all know in this room, it doesn't matter. I can't go downtown. I can't go downstairs and get a building permit tomorrow morning if you approve it without the DEP approving it. So I just don't want to have to come back here again. Let's please...

David Walker: So you're saying you don't like us? Is that what you're saying?

Dominic: What's that?

Robin Dube: Don't answer.

Dominic: No. I probably won't answer that.

David Walker: No.

Dominic: I just – I mean, honestly, I think this is – we can all agree. We don't want to waste anybody's time anymore here. This is all done. All the t's are crossed. All the i's are dotted. We need to wait for the DEP. We get a conditional approval or hopefully, we'll vote for a conditional approval. And then when the DEP says it's okay, then we can go down stairs. We give it to Jeffrey. We give it to Michael. We'll get our permits. And we can get a shovel on the ground.

Robin Dube: What if they say no?

Dominic: If they say no, then we got to come...

David Walker: Then we don't get a permit.

Dominic: Then we don't get a permit.

Robin Dube: I know that.

Dominic: I...

Robin Dube: I mean, that's...

Dominic: I get it. We don't – if they say no, they say no. I get it. Then we go to plan B, whatever plan B may be. But right now, we don't really need a plan B. We need just to finish plan A.

David Walker: We get it. Thank you.

Dominic: Okay. Thank you.

David Walker: Yep. Anybody want to make a motion?

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Chris Hitchcock: I'll make one if I can make a comment first.

David Walker: Sure.

Chris Hitchcock: I was pretty disappointed to see that date in February and maybe there's good reason for it, but it didn't strike me that there was. I mean, I – this issue came up a long time ago. I mean, I don't even think it could pick a month when it first came up.

Jason Vafiades: Yeah. And...

Chris Hitchcock: I might even get wrong – I might get the wrong year, but...

Jason Vafiades: To be honest with you, yeah, I'm surprised to see that, because we've been – we've got multiple things on dune ground *[overlapping conversation]* [01:41:23].

Chris Hitchcock: It just felt like the issue was present and that one could have. Nice passive verb. One could have put this in right up front, because it's such a limiting factor.

Jason Vafiades: No, we did. We did with Long Cove Road...

David Walker: They put it in with Long Cove Road.

Jason Vafiades: And so we had to pull Long Cove Road out and that changed...

Chris Hitchcock: Yeah. But that was a long time ago too, right?

Jason Vafiades: Yeah.

Chris Hitchcock: Okay. Well, I...

Jason Vafiades: Yeah. Well, I...

David Walker: But it was in with Long Cove...

Chris Hitchcock: Okay. Well, I'll get my comment.

Jason Vafiades: Yeah.

Chris Hitchcock: I'm just going to give a motion. I make a motion to postpone a decision on the final ruling for subdivision amendment for Dunegrass for two single family dwelling units with shared driveway access from Ross Road MBL: 105A-1-200; Zoning, PMUD. Applicant: Atlantic Resource Consultants. Owner: Dominator Golf LLC. Until the next planning board meeting, the applicant qualifies for after the following is submitted. One, MDE permit approval confirming a reduced buffer from the 100 feet as required by the original DEP approval site location order down to the proposed 50 feet.

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Winthrop Winch: I'll second.

David Walker: Motion by Chris. Second by Win. You want to call for the vote, please?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Mr. Winch?

Winthrop Winch: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: No. Okay. Thank you.

Jason Vafiades: Thank you. Well, we'll see you when we see you.

David Walker: Uh-huh?

Jason Vafiades: Yeah. We'll see you when you see you.

David Walker: Yeah. Next month.

Jason Vafiades: Yeah.

David Walker: Hopefully. Okay.

Jeffrey Hinderliter: Yes. Yeah. Just a reminder, it's site walk 4:00 PM – I'm sorry. We're not there yet.

David Walker: No. We're not. All right. So other business. Do we have any other business?

Chris Hitchcock: I have one thing.

David Walker: Yes. Go ahead.

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Chris Hitchcock: Given your impassioned appeal, Jeffrey, about only listening to our attorney when it comes to issues and the right way to read ordinances. You mentioned both the importance of the lawyer and honoring ordinances. I'd like to go back to that item from the first agenda item and have our attorney look at that language and see if he can find some history that explains what this is intended to mean and what – when it applies. And in that, we could find out when – unless somebody knows off the top, when Seacoast got approved. And if...

Jeffrey Hinderliter: Sure.

Chris Hitchcock: If the Seacoast examples are bad examples because it was not – it was done before 2000, then it got in just ahead of the deadline and therefore anything they wanted to do in amendment could fall under the original rules. I didn't need to say all that. But I'd like our attorney to look at it, because I don't like language. It doesn't mean anything. I mean...

David Walker: Well, we do have to address the language in the ordinance and dress that up to however we want it to be.

Chris Hitchcock: Yeah. But it would be nice to know what the intent was. Somebody spent some time on that. They just missed a few words.

Winthrop Winch: Yeah. But the attorney laid out his case...

Robin Dube: Yes, he did.

Winthrop Winch: If you're ready...

Chris Hitchcock: He's not our attorney. That was his point.

Winthrop Winch: I know, but I'm saying, David Ordway wrote most of these ordinances.

Chris Hitchcock: He's not our attorney.

Winthrop Winch: Yeah. I – but I know. I'm just saying...

Robin Dube: He might have been their attorney.

Chris Hitchcock: Yeah.

Winthrop Winch: He's working – they've worked together.

Chris Hitchcock: And I'm saying he's not our attorney.

Winthrop Winch: But I'm...

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Chris Hitchcock: And I don't think...

Winthrop Winch: I'm not saying...

Chris Hitchcock: We know factually when Seacoast got approved.

Winthrop Winch: Yep. After that, he was in the set. That's correct. I was here.

Chris Hitchcock: Well, I'd like to know the date.

Winthrop Winch: So I got to go back and look it up.

Robin Dube: We did get...

David Walker: We didn't get that.

Jeffrey Hinderliter: Yeah. I'll – I would get that information.

Chris Hitchcock: But if nothing else, it would be good to clean that language up. If the attorney looks at it and says, yeah, everybody reads this right, but it doesn't read very well. It should read fill the blank.

Robin Dube: I would assume that we would have had to get council approval also, which they would have approved, they moved, but changing an ordinance from *[overlapping conversation]* [01:46:15]...

Chris Hitchcock: I mean, didn't we sort of have the consensus was that it means nothing.

Winthrop Winch: Yes.

Chris Hitchcock: And that's not a good place to be on the ordinance. It looks like somebody spent some time on it.

Jeffrey Hinderliter: Yeah. I totally agree. And as something is strange about that buffer, because as – when Dave was mentioning the ordinances and all those, the 13, 14 drafts, it – that buffer standard clearly was not in those drafts. And it was not in the information that I was researching. Now, I did a pretty solid research, but it wasn't exhausted. I had to consider time for other things. So how that popped up, it's odd. It's just an odd standard.

Chris Hitchcock: I mean yeah.

Jeffrey Hinderliter: But I'll look into that. Yep.

David Walker: Could it have been added by council when I went to council for approval?

Marianne Hubert: If we could comment...

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Chris Hitchcock: I think it seems like it could have.

Marianne Hubert: Could you look at other towns on what their audience say? Is that something that kept out from...

Jeffrey Hinderliter: I can do that, Marianne, but I don't think it will help this particular case, because whatever I find in other towns really would have no bearing on what our town council.

Marianne Hubert: Well, that's true too.

Jeffrey Hinderliter: Yeah.

Marianne Hubert: But I mean, it would give us maybe an understanding.

Jeffrey Hinderliter: But sure.

Marianne Hubert: *[Overlapping conversation]* [01:47:45].

Jeffrey Hinderliter: Yep.

Marianne Hubert: Meant. That's what I'm trying to say.

David Walker: All right. All good discussion.

Marianne Hubert: So...

David Walker: Yes.

Marianne Hubert: I have another comment.

David Walker: Yes.

Marianne Hubert: The 100 foot buffer for Dunegrass, I think that what that *[indiscernible]* [01:48:03] just in reference to the neighbors.

Robin Dube: We were looking for *[inaudible]* [01:48:08].

Marianne Hubert: Does it affect old projects that's *[indiscernible]* [01:48:13] on Dunegrass?

Jeffrey Hinderliter: It was written about Ross Road.

Marianne Hubert: Huh?

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David Walker: It was Ross Road.

Jeffrey Hinderliter: It was written about Ross Road.

Marianne Hubert: It's on Ross Road on there?

David Walker: Yeah.

Marianne Hubert: Never mind.

David Walker: Okay.

Marianne Hubert: That's right.

Robin Dube: And they're trying to cut it half. They want to just hopefully get it to the 50.

David Walker: Now a reminder, we have a site walk for D&E at Dunegrass next Thursday at 4:00 PM. We'll meet in the parking lot at the club house, Jeffrey?

Jeffrey Hinderliter: Yes.

David Walker: And Marianne has approached me and has concerns about the abutter list. So you want to talk to that a little bit, Marianne?

Marianne Hubert: Well, they – the abutters got to be invited. I'm not questioning whether I want to be there. But I do want to be present with the DEP when it's we need to go from my road to see the back where that's secondary access is going to be, because I think its vernacular. And I don't think that you have time to do everything. But if the DEP comes, that's what they need to be there for.

Jeffrey Hinderliter: Yeah. I haven't heard from DEP. So what I thought, we may need another site walk on this property.

Marianne Hubert: Okay.

Jeffrey Hinderliter: What's interesting Marianne is I just did the – I personally did the abutters list this week and I included everyone in your neighborhood. And where I get the addresses are right from our assessor's database. So there is certainly the chance that it is not up – 100% right up-to-date.

Marianne Hubert: Yeah. It...

Jeffrey Hinderliter: People may have moved in after that data was...

Marianne Hubert: No. They – all those people are not off.

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Jeffrey Hinderliter: But what was interesting, I – right at the end of today, I was handed a bunch of postcards that's indicated that was stamped by the post office. The abutter notices went out. I think it was Tuesday by postcards. I was handed a bunch of postcards that said inaccurate or there's a weird thing on the address. So I have to check those again. I don't know what happened with that. But there is a good chance that those people will not be notified by the postcard, because I just won't – if I do it without checking it, I'm just going to send it to the old – the same addresses that were brought back. And I just don't have the ability to get all that – check databases, check individual addresses by – and get notices out, so they'll get them in time by 21st. So I'm thinking that we're going to need another site walk out there. But if you happen to see anyone, Marianne, and if you just let folks know that would be great. But I have no idea. It's – and I looked at them real quick I left, and there's a couple of Birch Lane right on there.

Robin Dube: It goes all the way down to Birch Lane?

Marianne Hubert: No. Birkdale.

Jeffrey Hinderliter: Birkdale. Thank you.

Marianne Hubert: Birkdale Circle.

Jeffrey Hinderliter: Yeah. Thank you.

Robin Dube: It only goes so many feet though, right?

Jeffrey Hinderliter: A 100 feet. Yep.

Robin Dube: So if you're at 101, you're not getting one.

Jeffrey Hinderliter: But it – based on the conversation that I – that – it sounded like people in the Birkdale area were particularly interested. So just as a courtesy, I thought I'd notify them too. But typically, it's a 100 feet from the property lines.

Robin Dube: *[Overlapping conversation]* [01:52:19] something like community board, Marianne. It must be a community type of a thing...

Marianne Hubert: Yeah. It's a subdivision and private.

Robin Dube: Yeah. *[Overlapping conversation]* [01:52:27] there might be some lots. So actually 100 feet, yeah, *[indiscernible]* [01:52:34] looking for a process here, maybe some process in, no, *[inaudible]* [01:52:39].

Jeffrey Hinderliter: Yeah. When I did a 100 feet, it didn't pull many...

Robin Dube: It didn't pull.

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Jeffrey Hinderliter: In many in the area of Birkdale.

Robin Dube: Yeah. It pulled just *[indiscernible]* *[01:52:45]* neighborhood on the line, it's about the...

Jeffrey Hinderliter: Just on the line, exactly.

Robin Dube: Six or seven people.

David Walker: All right. Any other business? Good and welfare? Yes, sir.

Jon Hodgkins: Jon Hodgkins, 73 Ross Road. So listening to that presentation from the applicant for Seacoast as they talk about buffers and some discrepancies and you guys kind of referred back to the attorney. I mean, our situation is pretty much the same type of thing. If anything, it's not just a verbiage. It actually shows on the map a 100 foot setback and it's the same thing. They're talking about a buffer. They talked about taking a planned mixed use district that's a heavily insulated use, and they applied this 100 foot buffer to separate it from the RD zone. That's why it got approved. So it doesn't say anything. I know everyone's talking about a DEP setback, but there's nothing on that plan that says DEP setback. It's just a setback. It's a 100 foot setback.

Robin Dube: It's *[overlapping conversation]* *[01:53:52]*...

Jon Hodgkins: From...

Robin Dube: They're trying to go down to 50 feet and Dave, he says, no, they didn't. That's what I'm saying.

Jon Hodgkins: What I'm saying or contending is that there – it's not cut and drop. There's not – and I know that the chair talked about having this sent to the attorney too to get some clarification. And for some reason everyone still thinks that this is a DEP setback and there's nothing on the plan for a PMUD that shows...

Chris Hitchcock: No. I think when I challenged it and asked the attorney to be brought into it, whoever did the research in your office, Jeffrey, I think came back and said that was – that came from the DEP, that number, and the original approval. Isn't that factual?

Jeffrey Hinderliter: So, yeah. The way I see it is there's two parts. There's the plan setback that was approved by the planning board and then the DP buffer. The planning board has already reduced other Dunegrass setbacks and...

Chris Hitchcock: Yeah.

Jeffrey Hinderliter: Has so far said they were willing to reduce this setback as long as DEP approves the buffer reduction. So kind of with the campground conversation, it's two different things. You have the buffer and the setback. The setback can be amended as

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with any other plan, as long as it meets the district setbacks. And then the DEP buffer is the other piece. But for them to get that setback, they have to have that buffer reduction approval. So that's why the two pieces work together, but they're two separate things really.

Jon Hodgkins: But the planning board has the authority to be able to amend that setback is what you're saying for the 100 foot setback to a 50 foot?

Jeffrey Hinderliter: Right. As they have with other areas of Dunegrass or other subdivision plans, site plans.

Chris Hitchcock: Now I'm more confused than I was before.

Jon Hodgkins: Well, if you're confused, I mean, what – like I said, why shouldn't...

Chris Hitchcock: Let me talk to him. I'm a slow learner.

Jon Hodgkins: Yeah. I mean, it seems like this kid should go to the attorney then if there's a conflict between...

Winthrop Winch: The original approval back in 1997 or 1998 was this huge development with a 100 foot buffer all around that.

Jeffrey Hinderliter: Yeah.

Winthrop Winch: And that, I suspect, it still stands as far as the DEP goes. He came along and tried to find some little bits and pieces where he can try to fit in a couple of wats. I think it overall violates the original approval of this big development with a 100 foot buffer all around it. So that's going to be interesting what the DEP does finally come down on it, what they do.

Jon Hodgkins: Well, this is – the attorney also talked about a precedent set...

Winthrop Winch: Mm-hm.

Jon Hodgkins: And that it's – should be the same precedent set forward for other people.

Winthrop Winch: Yeah.

Jon Hodgkins: And so we had to get our lot rezoned. So I will be fine with that if you had to do the same thing, the same process that he did. But he's a big developer. I'm just munging the clock here. He's talking about offering you guys drinks. I can't do that...

David Walker: No. He wasn't offering us drinks.

Robin Dube: That was a joke.

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David Walker: That was not.

Chris Hitchcock: That was an ale time suggestion.

David Walker: No.

Robin Dube: David's over to let me get him because he voted no.

David Walker: I'm going home for a drink.

Jon Hodgkins: Yes.

David Walker: I'm not going up there. Yeah.

Jon Hodgkins: That's the real problem I have with this. I mean, I was run through the ringer for a year, and he's a big developer and can – has a different opportunity than I did when we went through this. It doesn't make sense to me.

Robin Dube: You live right next door? Is that where you guys live, right next to...

Jon Hodgkins: Yeah.

Robin Dube: Yellow house *[overlapping conversation]* [01:57:36]...

David Walker: It's a beautiful home.

Chris Hitchcock: You have to know at this point it's getting well looked at...

Robin Dube: Yeah.

Chris Hitchcock: And it's not because he's big or Dom owns a big golf course.

Jon Hodgkins: Yeah. But why is he – he's allowed a different opportunity than what I was allowed.

Chris Hitchcock: Well, we know *[overlapping conversation]* [01:57:54] what's in front of us.

David Walker: I wasn't here when *[overlapping conversation]* [01:57:56]...

Jon Hodgkins: I understand. But what their attorney said is that...

Robin Dube: That you can't listen. That's not really...

Jon Hodgkins: Well, he...

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Robin Dube: *[Overlapping conversation]* [01:58:02]...

Jon Hodgkins: Well, I understand that, but he had a point, so.

Robin Dube: Perhaps the board wasn't that *[overlapping conversation]* [01:58:09]...

Marianne Hubert: But – and you have a neighbor next door on the other site...

Jon Hodgkins: Yeah.

Marianne Hubert: That does not have the 100 foot setback.

Jon Hodgkins: That's not what that says.

Marianne Hubert: That new house. There's a new house that is on – is it in Stockdale then?

David Walker: No. Those are different...

Chris Hitchcock: No. They're in the new yellow house that they *[overlapping conversation]* [01:58:25]...

Marianne Hubert: I know. And then...

David Walker: They're in the yellow house.

Chris Hitchcock: They had to rebuild.

Marianne Hubert: There's another house, like, beyond maybe a couple of houses towards Saco that is, like, right on the road that is brand new.

Robin Dube: You're talking about...

David Walker: Saco?

Robin Dube: *[Inaudible]* [01:58:38]...

David Walker: No. It's on Wild Dunes Way, the corner of Wild Dunes Way.

Jon Hodgkins: No, that's what you guys – sorry.

Marianne Hubert: No, *[overlapping conversation]* [01:58:42] you were on Ross Road.

Jon Hodgkins: Yeah. They are in RD zone, and they have a 25 foot setback.

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Marianne Hubert: Yeah.

Jon Hodgkins: Yeah.

Marianne Hubert: That's what I mean. He said you had to do a 100. That's basically *[overlapping conversation]* [01:58:53]...

Jon Hodgkins: No. I wasn't allowed to do any of that opportunity that they do about reduction in setback. I had to rezone my lot.

Marianne Hubert: Yeah. Okay.

Jon Hodgkins: To be able to build on it. I mean – and the only reason I wouldn't even bought that lot. But town in two different – three different apartments of the town told me misinformation about that lot. One of them was a board member of the town that told me that was in an RD zone when in fact it was a PMUD zone.

David Walker: You're in the PMUD?

Jon Hodgkins: No. I had to rezone it.

David Walker: Okay.

Jon Hodgkins: I had to rezone that lot to an RD zone and follow the RD's...

Female Speaker-1: *[Inaudible]* [01:59:29] and I just don't fully understand why? I mean, we have a personnel, but I don't understand why it is *[inaudible]* [01:59:37].

David Walker: So I just want people to have *[overlapping conversation]* [01:59:48]. So did it cost you money or just time in rezoning?

Jon Hodgkins: I mean, in time. I mean, time is money too.

David Walker: Yeah.

Jon Hodgkins: Yeah. If the comb forcing officer and the tax assessor both told us incorrectly that was an RD zone before purchase. And we purchased it, went to get a permit, and they said, you can't get a permit. It's a PMUD zone. I worked with the former planner, and they said, this is what you need to do. You need to rezone this lot. And it was – we had to notify every abutter to be able to do that. And it was a long process.

Female Speaker-1: I know there's a question about the February 23rd date. We got the letter from the *[inaudible]* [02:00:32] as an abutter saying that we were going to be *[inaudible]* [02:00:36] around February *[inaudible]* [02:00:39]...

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Marianne Hubert: Pertaining to which? To the two...

Jon Hodgkins: To this.

Female Speaker-1: Yeah. Saying that it was going to be out on – the intent is fine.

Marianne Hubert: Do you know who said that to you? Is it the town or was it the developer or?

Jon Hodgkins: I think *[overlapping conversation]* [02:00:52] or the other.

Michael: I think they usually come from the developer when they send those, attemptify all letters out.

Female Speaker-1: Okay, yeah. And then attemptify and let us *[inaudible]* [02:01:00].

Jon Hodgkins: I just want the same rules to apply to anyone no matter what. If they're a big developer, people are members of their club or if it's just some small guy like myself. I used to be a builder. I'm pro builder. I don't have a problem with that. It's – they should have to follow rules. And I don't think that's what's happening here, so.

David Walker: So I understand your concern. But the rules aren't the same for everybody no matter where you go or what you do. You should – you know that if you're a developer. It's depends on who you – who you know or *[overlapping conversation]* [02:01:39] you do, right?

Jon Hodgkins: That's *[overlapping conversation]* [02:01:42].

David Walker: It's just sad. If I get pulled up...

Robin Dube: *[Overlapping conversation]* [02:01:48] planning board next time, there's a...

David Walker: All right. That's good. There's a – there'll be an opening.

Chris Hitchcock: It might be two.

David Walker: Thank you. Have a good night. We appreciate it. Sir, did you want to speak tonight?

Male Speaker-3: No. I'm just listening.

David Walker: Well, your bins must be full then. Jeffrey, Michael, thank you very much.

Jeffrey Hinderliter: Thank you.

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David Walker: All right. Motion to adjourn?

Marianne Hubert: Motion to adjourn.

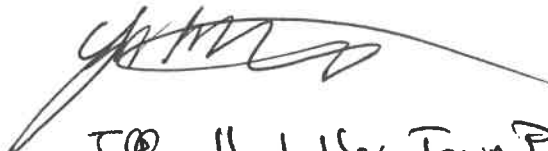
David Walker: Unanimous.

Robin Dube: I second.

David Walker: All right. I was expecting a lot more from...

[Music Playing 02:02:35 - 04:30:09]

I attest the above minutes were approved by the
Old Orchard Beach Planning Board on 11 July 2024



Jeffrey H. Anderson, Town Planner