

Planning Board Public Hearing and Meeting Minutes

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Group: For which it stands, one nation under God, indivisible, with liberty and justice for all.

David Walker: Thank you very much. All right, Jeffrey. Roll call, please.

Jeffrey Hinderliter: Okay. Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Mr. Winch?

Winthrop Winch: Here.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Christopher Hitchcock: Here.

Jeffrey Hinderliter: And Chair Walker.

David Walker: And so his services will not be needed, but they will be missed. All right. Onward to public hearings. If you speak during a public hearing, please speak clearly into the microphone. State your name and address clearly for the record. So public hearing number one, which will begin in exactly 6:30 PM is conditional use surely and nonconformity. Remove, rebuild 30% expansion, single family dwelling. African is Northeast Civil Solutions. The location is 18 Tioga Ave MBL321-26-3 zoning in the R3, RA and HAT districts. So is there anybody who wants to speak for or against this application tonight? Come forward, please. Good evening.

Robert Pease: Good evening. My name is Robert Pease. I'm at 127 Roanoke Avenue. And I have submitted written, comments to the board.

David Walker: I do have it, Robert. And I will read it into the record.

Robert Pease: Okay. Very good. So I have nothing to expand on those comments.

David Walker: Okay.

Robert Pease: Except that I have met with the engineer. We just had a meeting out in the parking lot. And his comments satisfied many of my concerns relative to stormwater.

David Walker: Mm-hm.

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Robert Pease: And to the placement of heat pumps and other utilities. So really, I have one issue remaining and that's about the placement of the building itself. And I'm not ready to change my mind on that at the present time. But I don't know. We may enter into some other conversations.

David Walker: Sure. I understand that. Thank you. Anybody else?

Charlene Campisi: My name is Charlene Campisi. And I live at 44 Seaside.

David Walker: Good evening, Charlene.

Charlene Campisi: Good evening. I wish my neighbors good luck with their project. As they work through the process, I hope they and everyone involved with the approval process will consider the effects of their actions on the neighborhood. Flooding in our area is obviously increasing and needs more attention from the old Orchard Beach Town Council as well as the planning board to pursue remedial actions in the area designated as Ocean Park. It is not just flooding. There is obviously a drainage problem also. I just wanted to get all that on the record.

David Walker: Okay. Thank you very much. We appreciate it.

Charlene Campisi: Do you need a copy of this?

David Walker: If you would like to hand it to Jeffrey, he can add it to the record. Thank you, Charlene.

Jeffrey Hinderliter: Thank you. You're welcome.

David Walker: Anybody else? All right. I'm going to read Mr. Pease's letter into the record. It's dated July 1 to the members of the Old Orchard Planning Beach, Old Orchard Beach Planning Board. Reconditional use permit application 18 Tioga. Dear members of the board. Introduction. I am the property owner of 127 Roanoke property, which butts 18 Tioga Ave Tioga property. The two properties share 100 feet of rear property line as shown on the plans titled topographical plan and standard boundary survey provided by Northeast Civil Solutions. The plans identified two notions, an easement area and a boundary line per agreement.

The background of these notations is as follows. When a Tioga property was purchased by the applicant, a portion of the rear wall of his house was located over the property line and the remainder of the rear wall skim the property line. My late wife and I subsequently agreed to, one, deed a small portion of the Roanoke property to the applicant such that his house was wholly within the boundaries bounds of the Tioga property. And two, grant the applicant an easement area so he could maintain his property without having to obtain permission every time maintenance was required.

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Additionally, as a condition to these properties, line adjustments, certain encroachments created by the applicant were either eliminated or allowed. I am sorry that the applicant is family suffered such severe damage to their house as a result of the flooding and are forced to expand considerable resources to tear down the current house and construct a new one. I am also supportive of their desire to build a new building from the ground up, which with an expanded footprint and additional amenities.

However, I also would like to ensure that my property line be respected during the work and that there will be no impact on my property as a result of these new structures. In light of this, I have identified the following concerns and request their mitigation. One, building close to property line.

The applicant has not only rebuilding his house, but he's expanding the footprint of the structure by 30% and the volume of the structure 35%, the latter of which will require a variance to town building ordinances. As seen in the proposed site plan in the application, the base of the house will be located between two and four feet from our common property line. This in my opinion is insufficient space to construct activities and it appears the applicant is relying on use of my property, specifically the easement area for the construction process.

However, the allowable use of the easement area is narrowly restricted to only certain and specific activities and in particular, does not include not ever contemplated its use for construction of a new building. This is shown in the following text of the easement D.

Quote, the foregoing easement conveyed by Roanoke Properties LLC to chassis is for the expressed and limited purpose of, one, maintenance of the northeast east side of the dwelling situated on the chassis lot. Two, maintenance of the existing crushed stone at the foundation of the chassis dwelling. And three, maintenance of their heat pump and propane tank situated within the easement area and their respectively associated servicing lines in their current location, uses of the easement areas described here in for the purposes beyond those identified above is prohibited.

The term maintenance is an activity that pertains only to the care and upkeep of an existing building or item and does not include the construction of a new building or item. Just as the proposed construction is an opportunity for the applicant to construct a larger home of his own design. It is also an opportunity for him to eliminate the need to access Roanoke property and construct the home and utilities in a manner such that it is independent of the Roanoke property for the construction and maintenance. The easement was granted to the applicant at the time when no available alternative was present for the exterior maintenance of this house.

However, now that alternative not only exists, but it should be implemented. For reasons that need not be discussed here, I will not allow construction access to the easement area. Because of this, it appears the construction of the house is currently situated where construction of the house as currently situated would be extremely difficult, if not impossible.

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Therefore, I request that the planning board either require, one, written statements from the applicant and the engineer that no access to the Roanoke property will be required for any aspect of the planned construction. Or two, require the rear wall of the proposed building to be set back from the property line, a sufficient distance to allow for construction maintenance access wholly from the Tioga property without the need to access the Roanoke property.

Water management is the next area of concern. The grade at the Tioga property was raised by the applicant after it was purchased resulting in rainwater flowing onto the Roanoke property. This situation was discussed between the parties at the same time as the property line adjustment discussions and the applicant agreed to certain mitigation features on his property.

However, because of this stormwater management has been an ongoing concern of mine. With regard to the current application, there is no description related to the management of rainwater along the rear wall of the building. And it appears that an uncontrolled flow will exist off the roof lines of particular concern is the second story roof, which is shown in the proposed site plan to discharge rainwater directly on the property line and that's onto Roanoke property.

Because of the proximity of the building to the property, rainwater should be managed such that there is no flow in the direction of the Roanoke property. And I request that the applicant be required to address this concern. The elevated patio is another source of off-site rainwater flow since it was located on the property line and raised approximately four and a half feet above my land elevation.

I requested that it be designed and constructed to encourage water flow toward the steps and driveway, and also to construct the top of the Techno block wall at the property edge of the patio higher than the remainder of the patio surface, sufficient to similarly direct rainwater away from the property line.

The final concern was exterior utilities. No exterior utilities such as heat pump, condensers, or propane tanks are shown on the plans. This is of concern because these are some of the items that the applicant formally is installed at the current house, which encroached on the Roanoke property. So in summary, the following is a summary of my request to the planning board pursuant to its review of the application.

One, require the engineering applicant to state that the Roanoke property is not required for the planned construction, require that the building be set back sufficient distance from the rear property line such that it is independent of the role of property. Two, require a description of rainwater management at the rear of the building such that there is no increased flow onto the Roanoke property. Three, require that rain water at the patio be directed toward the stairs and driveway or otherwise be managed.

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Four, require the techno block wall at the patio along the property line be elevated above patio surface to prevent rainwater runoff from being directed toward the Roanoke property. And finally, five, provide the locations of exterior utilities such as heat pumps and propane tanks. Respectfully submitted, Robert Pease, president Roanoke properties, LLC.

Okay. All right. Since there was nobody else that wanted to speak on this particular item, I will close this public hearing out at 6:43. And we will move on to item 2. Proposal, conditional use shoreland nonconformity remove, rebuild 30% expansion, single family dwelling. The applicant is in vivid architecture. The location is 127 West Grand Avenue, MBL 319-12-4, zoning in the R3, RA and HAT district. We will open this public hearing at 6:43. And just as in the past, please identify your first name, last name, and address if you plan to speak for or against this request. Don't all rush to the mic at once.

Okay. All right. I will close this hearing no testimony. I'll close this at 6:44. We'll move on to item 3. I bet there'll be a lot of speakers at this one. And we'll open this public hearing for item 3 at 6:44. It's a contract zoning application, establish a contract zone named contract zone 6 to allow development of an 18-unit single family condominium project. The applicant is salon development Inc. Location is 4 New Colony Drive, MBL 103-1-59, Zoning in the RD Rural District. So anybody wishing to speak on that and come forward and state your name and address, please. And thank you for coming tonight.

Sue Bellavance: I'm Sue Bellavance, and I live at 2 New Colony Drive. Do you need my new unit number?

David Walker: Okay. So...

Sue Bellavance: Do you need my unit number?

David Walker: Yeah. Sure.

Sue Bellavance: It is number 15.

David Walker: Yeah. Whatever you're going to get mail at, your mailing address.

Sue Bellavance: Okay. All right. I'm writing on a few issues, and I'm really kind of going to go through my notes here. It should be fairly quick. We got a letter from the board of directors last September on 16th saying that they're going to grant easement to Ceylan, and only the board of directors needed to vote. The unit owners didn't need to vote. I've been involved with this for years because I was also on the board.

And I know that the unit owners had to vote. Ceylan Development was aware of it, and the lawyers were aware of it.

David Walker: Sue?

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Sue Bellavance: Yes.

David Walker: Just move that mic a little closer to your mouth for me, please. Thank you.

Sue Bellavance: Do I need to start again?

David Walker: No. You don't have to start.

Sue Bellavance: Okay. Okay. Thank you. So in Ceylan RMA, it actually states, and I'd like to read it. It's on page 4, number 14. And it says on the last sentence of the paragraph, Ceylan shall provide a copy of the declaration page for said policy within 14 days of approval of this agreement by the unit owners. So the unit owners did have to vote on this, and we were denied voting. So the board voted for this, and I really want this documented in the file because it's wrong. So that's the first section.

The next section is when we got this letter that was dated 9/16, we didn't get it emailed to us till 9/21. That's six days that we didn't get this. And I wrote a letter that day to the board, the property manager and the lawyers, Brendan Riley and Charlie Katz Levy. And this was at Jensen Baird, their agency, their law firm. And actually, nobody got back in touch with me. So I did state that the unit owners had to vote for this. And of course, they, you know, we were denied that.

So then on – Ceylan signed this on 9/11. And of course, I just read that piece to you. And I asked myself, why is it they wrote it on the 16th. They gave it to us on the 21st. And then lo and behold, the president of the association signed this agreement on the 26th September. Remember, I sent a letter to them on the 21st. So six days later, they brought it in here, and it was signed and executed in the Town Hall on 9/26, commissioned by a notary public.

And let's see. So I want that piece acknowledged. And I will be speaking out with all the unit owners about this. And one of my questions, and I don't know if this can be answered here or at a later time. I would like to know being a condo owner and knowing that these bylaws are not being followed as well as other pieces, I would like to know who I can speak to in the state about the board not adhering to the bylaws. And is that something that somebody can give me some information at a later time? Or can you give me some suggestions on who I would reach out to? Because I really don't know.

David Walker: That's not what we're here for tonight.

Sue Bellavance: Okay. Okay.

David Walker: All right. I apologize for that.

Sue Bellavance: That's okay.

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David Walker: You can reach out to the planning office.

Sue Bellavance: Okay. I'll reach out to Jeffrey.

David Walker: Okay. Yeah.

Sue Bellavance: Okay.

David Walker: Or the town clerk for that reason.

Sue Bellavance: And you helped me. So thank you.

David Walker: Okay.

Sue Bellavance: I appreciate that. Okay. And then the next thing is, I do have a concern about the water that is going to be involved here. We have private water. Is this going to turn into public water because of the amount of condos that are being built. And I know when I met with Ceylan. I'm sorry, it would be Gary Salamaki.

I know when I met with him outside, one day, and I have a picture of this. He was outside tearing down our trees and I went out to speak to him when I was on the board. And I said, what's going on? He said, well, we're going to clear the easement. I said, well, we haven't even agreed that you're going to get this easement. And I said, have you notified the unit owners? And he said, no, I haven't. And I said, but you know, you stated that whatever ever we do here, the unit owners have to be informed. And he apologized. And he said, I know. I probably should have done that.

So I called the town office and I spoke with the planning office. I spoke to Rod and he came up to inspect what they were doing. And he said, they could go ahead and keep doing this. And I feel like the town let us down. And I feel like, of course, Ceylan let us down by not communicating with us. And I was just really very disappointed in those two pieces.

So the other piece is the stormwater, the storm drain. A couple of years ago, I read in your files here that we had a civil engineer come in and check our stormwater drain, and that was an issue if any more units were being built. And my question is, what is happening with this stormwater if we're going to have 18 units, which would be at least 18 cars and maybe double that on the road? So that's a question I have, is, how is that going to be handled? Because if the stormwater drain doesn't hold, we get flooded down below this property. And let's see what else I have.

David Walker: I think we all got flooded the night of the sidewalk. So when we're all out there. I don't know what the *[overlapping conversation]* [00:22:34].

Sue Bellavance: Oh, you are. Yeah. Oh, so you – yeah. So you've seen the property. Yeah.

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David Walker: Yeah.

Sue Bellavance: I didn't make it that nice.

David Walker: You're smart.

Sue Bellavance: I'm sorry you had to go through that.

David Walker: Yeah.

Sue Bellavance: Okay. So the stormwater is what I'm concerned about, and I'm concerned about the water. I don't know if it's town water or public water at this time. And is that something that you can state? Or how do I find that information out? And then the sewer. I don't know anything about the sewer. So I would look to all of you for what's going to happen there. So those are my concerns.

David Walker: Okay.

Sue Bellavance: All right.

David Walker: Yeah.

Sue Bellavance: Any questions?

David Walker: No. Appreciate it. Thank you.

Sue Bellavance: All right. Thank you.

David Walker: I would just encourage you to stay involved with the process as it goes forward.

Sue Bellavance: Okay.

David Walker: Because there's many steps to this. So, you'll have an opportunity to speak in front of counsel as well.

Sue Bellavance: I will.

David Walker: Okay?

Sue Bellavance: Okay. Thank you very much.

David Walker: You're welcome. Yes, sir.

Dustin Thompson: My name is Dustin Thompson. I live at 3 New Valley Drive.

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David Walker: Microphone, microphone, microphone.

Dustin Thompson: Microphone, microphone, microphone.

David Walker: Raise it up.

Dustin Thompson: Raise it up.

David Walker: Speak right into it. Your name is Michael Thompson, you said?

Dustin Thompson: Dustin Thompson.

David Walker: Dustin Thompson.

Dustin Thompson: You hear me okay?

David Walker: Yeah. Perfect.

Dustin Thompson: Perfect. I wasn't sure of the format of the meeting, so I just have questions at this point, which I think I'll formalize in a letter and send to the planning board. I have a lot of questions about what's proposed. My first question is, what is the variance that's being requested? What is the baseline and what is Gary requesting for a variance?

David Walker: We're not going to answer any questions, but you can state...

Dustin Thompson: I'll roll it out.

David Walker: As soon as it will all come out.

Dustin Thompson: Perfect. Yeah. Sounds good.

David Walker: All right?

Dustin Thompson: More specific question for Gary himself is what is the market for these homes? Kind of an ambiguous thing. Not really sure, like, how they situate or how they fit. House configuration question. What is his proposed lot size? I'd like to know if he's planning on public water or if these are going to be unwell. I'm assuming he's trying to connect to the public water as sewage had mentioned. And then are these going to be connected to public sewage or will they have septic systems? And then stormwater management is definitely a piece.

In our lot, we were for years classified as a special flood hazard area, and we paid an exorbitant premium for insurance being in that area. I just wanted to know if that applied to him or if he's out of that variance. Is there an HOA structure to these? In terms of the

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development itself, will there be a green space requirements? It seems like a lot of newer developments will require some green space. I don't know if that would be the case here or not. I don't know if he's planning any infrastructure improvements. Like, is he going to repave the road, continue the sidewalk, fully add additional pedestrian lighting, street lighting?

What are the long-term plans for this development? Is there a consideration that he wants to connect to the adjacent road K POC off of Cascade Road. So it's definitely a question of ours. What are they going to be priced at, the homes themselves? Are sprinkler systems required for these homes? Fire safety and life safety for that dead end. It seems like he's got a turnaround incorporated in the prints. I don't know if there's a fire pawn required, if that turnaround is adequate for the increased capacity.

A couple of just miscellaneous questions are like, what are the overall environmental impacts? That's kind of a footnote. This really increases traffic through what was for many years a dead end. So that's definitely a concern for us considering, you know, we built our house in 2006 and sort of rural districts, and we never really anticipated that we'd see this, which I 100% understand that it's his property. And, you know, I feel like people should largely be allowed to do what they want with their property within reason.

Aside from that, the only other concerns I have really at this point are, I mean, I guess noise with the increased traffic. And if you'll have any tack on any of the vernal pools in the area, because it is a fairly nice quiet spot in Old Georgia, which we're primarily known for a tourist destination and it can be pretty noisy. And so we have our little nook that we like.

So anyhow, that's pretty much all I have. Yeah. I'd just like to say again, like, I think we'd be a lot more amenable to this if it was five or six single family homes as opposed to these really pretty tight. I just don't understand the concept. So anyhow, that's all I have.

David Walker: Okay. Well, all very good questions, Dustin. Most of those will be answered during the design review process.

Dustin Thompson: Perfect.

David Walker: And as well for you. So, but right now we're just entertaining the idea of a contract zone, which is, really what's an issue here. But as I said to Sue, if you just follow the process, you'll get answers to them and most other questions...

Dustin Thompson: Excellent.

David Walker: That'll bother you.

Dustin Thompson: Is there any way in the near future I could find out what the variance of the contract zone will be?

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David Walker: Find out what?

Dustin Thompson: What is he applying for? Like, how is what he's asking for different than what the RFP?

David Walker: Sure. Yeah. It's what he needs to do units and the density is an issue. He doesn't meet the density requirements, so he's looking for a pass on there.

Dustin Thompson: So what are his proposed density requirements, and what is our standard for the zone we're in?

David Walker: Jeffrey, you recall?

Jeffrey Hinderliter: Sure. Yeah. What's actually allowed under the base zoning district without the contract zone is two units and the density he's looking for is 18 units.

Dustin Thompson: Very well.

Jeffrey Hinderliter: So, Dustin, if you'd like to look at any of this information, just email me. And I'll send you the entire proposal packet. I think that'll answer some of your questions too.

Dustin Thompson: Jeffrey, what's your last name?

Jeffrey Hinderliter: Hinderliter.

Dustin Thompson: Hinderliter.

Jeffrey Hinderliter: Yep.

Dustin Thompson: Thank you.

Jeffrey Hinderliter: You're welcome.

Dustin Thompson: Appreciate it.

Jeffrey Thompson: I could start off by telling you what we had to go through to get the permits there. Setbacks and they were there to make sure that the building wasn't beyond those setbacks, front, back. But I won't waste my time.

David Walker: No. We know who you are, but the public doesn't know. So name it out.

Jeffrey Thompson: Obviously, this contract zone is a real rip up. I can't believe that these things are happening. However, I read the report, and I just want...

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David Walker: Time out. Name and address, please.

Jeffrey Thompson: Oh, I'm sorry. Jeffrey Thompson. 3 New Colony Drive. Right next to 4 New Colony Drive.

David Walker: Perfect. Now we know who you are.

Jeffrey Thompson: I'm getting a little anxious up here.

David Walker: Yeah.

Jeffrey Thompson: Okay? Now I read the report. Okay? And as I understand it, as it stands right now, there are three basic requirements that they have taken care of the first two, but the third one, they have not. And based on that third one, you will not approve this project. Is that true?

David Walker: Well, we don't approve. We make a recommendation to counsel.

Jeffrey Thompson: Are you making a recommendation that you're trying to decide?

David Walker: We will tonight. Yeah. So hang around, and you'll be able to hear what the recommendation is. Its five independent votes.

Jeffrey Thompson: Yeah.

David Walker: So we'll know at the end of that vote, and that's coming up.

Jeffrey Thompson: Yeah.

David Walker: Six. Item six. And we're on item three right now.

Jeffrey Thompson: Okay. Oh, okay.

David Walker: All right?

Jeffrey Thompson: All right. I know most of you. Thank you for listening.

David Walker: Thank you very much. Anyone else? Wow. Sue?

Sue Bellavance: I *[inaudible]* [00:31:41].

David Walker: Absolutely. Yeah. We enjoy you. So you can spend all night there if you want.

Sue Bellavance: I have documentation. Should I give that to Jeffrey?

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David Walker: Please. Yes.

Sue Bellavance: Okay.

David Walker: For the record.

Sue Bellavance: That's all.

David Walker: Perfect. Anybody else? Perfect. I'm going to close this public hearing. It's 7:01. And to the board, we had minutes for January 12/23. No. Yeah. March 14/24 and May 9/24.

Winthrop Winch: I will approve.

David Walker: Motion by Winch, who approved.

Robin Dube: Second.

David Walker: Second by Robin. Any comments by anybody?

Winthrop Winch: First, are we sure that's '23? That's not...

David Walker: That's why I hesitated.

Winthrop Winch: I'm pretty sure that was 2024 because I read most of it. And those are recent discussions.

David Walker: Yeah.

Winthrop Winch: I will make a proposal to correction. On page 4, Robin Dube said something that's misquoted. She says, I'm going to stay another year via, it says thorn in your side...

Robin Dube: *[Inaudible]* [00:33:05]. Yeah.

Winthrop Winch: She said thorn in your side.

Robin Dube: Thorn, *[inaudible]* [00:33:08].

David Walker: She hasn't succeeded yet.

Winthrop Winch: No, it's just for the record.

Robin Dube: Just for the spelling of the word. That's all.

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Winthrop Winch: Yeah. You probably want a throne, but you're going to get a thorn instead.

David Walker: All right. That correction is noted.

Robin Dube: It wasn't even *[inaudible]* [00:33:22].

Jeffrey Hinderliter: And was that the January 12th, 2023 minutes?

David Walker: Yeah.

Jeffrey Hinderliter: Okay. I'm trying to...

David Walker: I'm pretty sure that's the 24th January, 2024. You can tell by the date.

Jeffrey Hinderliter: Oh, okay. I see. Thank you. Yeah.

Winthrop Winch: 12th is a Thursday.

David Walker: So we have a motion with a correction by Winch and a second by Robin and correction by Chris. You want to call for the vote?

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?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 5-0. Regular business. Item 4, regular business. Proposal, conditional use shoreland nonconformity, remove, rebuild 30% expansion, Single family dwelling action is a final ruling. Applicant is Northeast Civil Solutions location 18 Tioga Ave, MBL 321-26-3, zoning in the R3, RA and HAT district. And, Jeffrey, you're up.

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Jeffrey Hinderliter: Yep. So the board will recall this agenda item is for tear down a new construction of a single-family structure. The structure was significantly damaged by flooding earlier this year. You'll all see in the pictures that the applicant provided in the applicant submission. Last month, the proposal was introduced to board and the board determined that the application was complete.

We had a few comments at the June meeting, which included ensuring that the designing of the structure will conform to the soon to be adopted floodplain development rules, amend the site plan to show the highest annual tide location, DEP permitting status, and clarification on the loop driveway that has access to both Tioga and to West Grand Ave. The applicant addressed each of these items to our satisfaction, and we recommend that the planning board approve with two conditions. Number one is secure applicable flood hazard development permits before construction begins. And number two is to secure DEP permit approval before construction begins.

This motion is on page 3 of your memo. And just a few notes on the butter letter that we received. He does raise some very good points, and I'd just like to mention a couple things is we too, at the very beginning before an engineer was even involved when I met with the homeowner and we were trying to figure out what he could do with this property. We did have concerns about stormwater, rainwater. So one of the reasons that we highly encourage that he hires an engineer is to consider those items as part of the construction.

As you know, engineers aren't required, architects aren't required to move forward with these proposals, but we really thought that it needed a higher level of professional view, and work on it, and the applicant followed through with our recommendation. The 35, the comment about volume, one of the early submissions, the proposed structure volume did exceed the 30%. But that was amended with subsequent with following submissions and it's now, like, I think a couple cubic feet below 30%, but it is below 30% right now.

Then one of the primary about our concerns is about the use of property for construction access and some questions about the property line. I highly recommend that the planning board does not get involved with those matters. That is something for the applicant, the owner, and the abutting property owners to figure out that becomes more of a civil issue and it's not your jurisdiction to figure out property disputes.

David Walker: Okay, Jeffrey. Thank you.

Jeffrey Hinderliter: You're welcome.

David Walker: Jim?

Jim Fisher: Okay. Yes. Good evening, Mr. Chairman, members of the board. I'm Jim Fisher with Northeast Civil Solutions. As Jeffrey probably pointed out, we are engineers, surveyors, perimeters, and what have you, and we're working with the Chassis. Ms.

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Chassis is actually with us this evening to present this to the board as we did a little bit last month.

I'd like to go into just a little bit more detail in the interest of brevity. I'll try to keep this short given the things that you've got on your plate. But you see before you a rendition of essentially the property and the other side of this, I've got the actual boundary survey if you have any questions toward that end. But this is the overall area of the survey and the architectural proposal as far as the existing house and the new house.

Essentially, what we're looking at is a very lovely home that was originally built over 125 years ago. There was a small but very applicable house to the neighborhood at the time. It serves as the Chassis principal residents. They're obviously no longer living there right now. As the pictures, the photos in your package show, with these latest set of storms that we had back in January, you'll see that the propane tanks were floating, that their cushions in living or cushions inside the house were floating.

Obviously, it's a house that is lower than it needs to be given the propensity for flooding in the area that we're getting seeing more and more of as the years pass. We'll note too that, we've done a lot of work. I've had the pleasure of being before this board quite a number of times on behalf of clients in Ocean Park and other areas of Old Orchard. But in Ocean Park, in particular, there are quite a number of people who are elevating their homes because of the flood hazard areas.

This is one that was improved without elevation because of the age of it being over a hundred and quarter century old. And most of the rest of the houses in that area are elevated. So that doesn't alleviate the flood hazards, but most of the other houses don't have the problem that this one did. Well, now this one had the problem. So we are now here to assist the chassis in alleviating, addressing that and alleviating addressing that and alleviating the actual hazard by elevating this particular house above that new flood plain, the new flood plain, which goes into effect here shortly.

So, essentially, what we're looking at is a house that has been redesigned to the point where the square footage and the volume are actually less than the existing structure, including for the 30% expansion. The hat line is the highest annual tide line. The hat line is shown on the plan. This particular property at 18 Tioga is right on West Grand, and the marsh is right across West Grand, obviously. So the hat line does intersect a portion of this property. We are moving the house further away from that hat line.

As far as the flood elevation is concerned, the house is going to be elevated significantly higher than it is now and above the existing floodplain that's going into effect as far as FEMA standards are concerned here very shortly. So he's doing everything in the right direction as it were both up and out and smaller as far as the foundation is concerned in the footprint.

One of the things that we did want to point out and we thank Mr. Pease and anybody else who's interested in any of the comments that they have regarding any of the projects in

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which we're involved. We did have the opportunity, as he had mentioned, to be able to meet with him. I'll be shortly a little bit earlier. And I think we addressed all of his concerns or many of his concerns. As Jeffrey mentioned, there are, maybe some other issues between neighbors that can be dealt with between neighbors. Those are civil issues, typically not the purview of a government body, whether planning board, zoning board, council, what have you.

But I did want to point out that there is no variance that's needed here. We're actually getting small. We're reducing the footprint and the impact. There's no expansion proposed. We're reducing that expansion as well. No volume increase. No portion of the house or the utilities will actually be over the property line. I state that because this house was actually built before the subdivision of which it was a part was created. So the house was there first, which is why one of the reasons why the portion of the house and its footprint right now is as close to the property line as it is.

So it's not only grandfathered. It's very grandfathered. But we are still reducing that footprint. So, no portion of the house and nor the any utilities, the propane tanks, the heat pumps, air conditioning units, nothing will be actually over the property line, which is what precipitated the easement that's in place now between our clients, the homeowners, the chassis and, Mr. Pease.

One of the things really quickly I wanted to mention, as Jeffrey mentioned, this isn't really a huge concern, but as engineers, this is why one of the reasons we were brought into this project to begin with, and that is storm water. As civil engineers, we deal with storm water all the time. It's not particularly difficult to be able to deal with stormwater on a project of this size and magnitude. The lot is only 6,000 square feet. A little bit more than 6,000 square feet. It is one of that area of Tioga is one the lowest areas in that whole area. Everything goes up as it goes toward the ocean, it goes up toward the ridge before it drops to the dunes. And West Bend itself is a little bit elevated with the marsh on the other side.

There are catch basins there, public catch basins in the street. They work very effectively, except in the kind of storm that we had several months ago. In that case, all bets are off anyway because with that kind of flooding, it's the houses now, and this house in particular, will be elevated above that flood. So we won't see this kind of thing coming back to the board, but stormwater is stormwater. We can certainly take care of any concerns as far as the minor stormwater events that might shut or wash the stormwater off the property by keeping it on the property and directing it to the lowest portion of that area and then eventually those catch basins.

Jeffrey was correct as far as the conditions of approval is concerned. We do need a flood hazard development permit that is typically submitted in conjunction with the building permit. Ricky would take the codes officer will take a look at that. And then as far as the PBR is going to be perfect by rules through the DEP, we did submit that to the DEP. As you're probably aware, the whole essence of a PBR is to not have to return permits.

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But we do have, and we did submit to the town evidence that we did submit it. If the GDP typically does have an issue with anything like that, they get back to us or the town within 14 calendar days. It's been well over a month. We haven't heard from them. We don't expect to. When they get around to it, they're very busy, obviously, as we all are. They will end up sending their criteria to other result to the town. That could be another couple of months. Suffice it to say, we passed the state where they would have any issues. So the DEP permit, you certainly as a condition, but the DDP work has already been submitted.

Given that, I'm happy to address any questions or answer any questions or comments and we'll go from there.

David Walker: Anybody on the board have a question for Jim?

Robin Dube: No.

David Walker: Jim, I would just urge you to continue to work with Chassis and Mr. Pease to mitigate any and all concerns that neighbors have. One thing about Ocean Park is that we're all our neighbors, and we all are very, very concerned for one another. So, as an ocean parker, I urge you to do the same. Okay? And we appreciate the hard work that you've put in so thus far. So thank you. All right. Anybody want to make a motion?

Christopher Hitchcock: I'll make a motion.

David Walker: Thank God.

Christopher Hitchcock: I'll make a motion to conditionally approve applicant Northeast Civil Solutions Shoreland Zoning conditional use application proposing a tear down, new construction, and 30% expansion of a nonconforming single-family structure in the shoreland zone located at 18 Tioga Avenue, MBL 321-26-3. Conditions. One, secure applicable flood hazard development permits before construction begins, and two, secure DEP permit approval before construction begins.

Marianne Hubert: I'll second.

David Walker: Recommendation by Chris. Second by Marianne. You want to call for the vote, please, Jeffrey?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

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Jeffrey Hinderliter: Mr. Winch?

Winthrop Winch: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. So that motion carries 5-0. Congratulations. Good luck.

Jim Fisher: Thank you all for your time.

David Walker: Thank you. By the way, Jeffrey, I just would like to note that the packet designed this month is exceptional. It really is.

Jeffrey Hinderliter: Seriously?

David Walker: Yeah. Really. It's laid out very well. Thank you.

Jeffrey Hinderliter: Oh, you're welcome. Thank you. Yeah.

David Walker: I don't know if anybody else sees that, but I certainly do.

Jeffrey Hinderliter: We always try to make it as easy as possible for the planning board too.

David Walker: Yeah. Sometimes we're going to, it's motion's not there or the conditions aren't there. You really nailed everything.

Jeffrey Hinderliter: Well, thank you.

David Walker: Thank you. Okay. Item 5. Proposal, conditional use, shoreland nonconformity. Remove, rebuild 30% expansion, single-family dwelling. Action, final ruling. The applicant is in vivid architecture. The location is 127 West Grant. MBL 319-12-4, zoning in the R3, RA and HAT districts. Jeffrey, by the way, their application was outstanding.

Jeffrey Hinderliter: Yes. Yeah.

David Walker: So with their conditional use application. Very good.

Jeffrey Hinderliter: Yeah. We had two great shoreland zoning applications just this month.

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David Walker: Okay. You're up.

Jeffrey Hinderliter: So this proposal is really similar to 18 Tioga and relatively close to where the property owner experienced a devastating flood over December and January, earlier this year. And pretty much the only option that they have is to tear down and rebuild. It's a single-family structure, nonconforming for shoreland purposes, just like the last one. And it may look okay if you drive by it, but the problems are often in the areas that you don't see when that water comes in.

So this proposal was introduced at the June meeting, determined complete with a couple of conditions. One is at the HAT shown on the plan and responses to conditional use and shoreland zoning criteria ensuring that was included with the next submission, which it has been.

One particular item that was discussed at the June meeting was the pergola. And we were wrestling with that a bit. And ultimately, what we, the board and myself, agreed upon was if the pergola was not attached to the main house, it was a freestanding structure. Then it did not need to meet the setback requirements. I did check with code enforcement on that, and they agreed. So the applicant submission this month, I think, clearly shows that it's not attached. So that's why it remains in the submission packet for your final review.

Really, that's all. We recommend planning board approval with the same two conditions that the last proposal had, the 18 Tioga. And you'll find a motion and those conditions on page 7 of your memo.

David Walker: So, Jeffrey, their conditional use standards and shoreland conditional use standards were outstanding. I'd just like to make known of that because I know they put some work into it and asked that they'd be added to the record. I know they are, but rather than reading them all.

Jeffrey Hinderliter: Oh, yeah. Yeah. Mm-hm.

David Walker: Okay. That's on there. Anybody here for the applicant that wants to speak? Don't fight each other over. You both can have a turn.

Female Speaker: I'm presenting the project. I'm not sure if I need to add anything. I feel like everything was fine.

David Walker: Just in case somebody has some questions. That's all. We did, most of us did drive by just to take a look and familiarize ourselves with the project. So, you know, we didn't come knocking on your door or anything. But, yeah, it looks like a great project. Any questions from board members? Yeah. Will be. Okay. Anybody want to make a motion?

Christopher Hitchcock: I'll make a motion.

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David Walker: Oh, good. Thanks, Chris.

Christopher Hitchcock: I make a motion to conditionally approve in vivid architectures, shoreland zoning, conditional use application, proposing a tear down new construction and 30% expansion of a nonconforming single-family structure in the shoreland zone located at 127 West Grand, MBL 319-12-4. Conditions. One, secure applicable flood hazard development permits before construction begins, and two, secure DEP permit approval before construction begins.

David Walker: Motion by Chris.

Marianne Hubert: I'll second.

David Walker: Second by Marianne. Jeffrey 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?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 5-0. You're on your way. Thank you. Item 6. Proposal, contract zone application, establish a contract zone name, contract zone 6 to allow development of an 18-unit single-family condominium project. The action for us is a council recommendation. The applicant is Saland Development Inc. The location is 4 Colony Drive, MBL 103-1-59, zoning in the RD district. Jeffrey.

Jeffrey Hinderliter: Sure. Thank you. And you're all familiar with this now. You've seen the proposal a couple of times. And I think you're familiar with contract zones too. This is the fifth one that you've seen. And if you go back in time, there was only one, which was the Grand Vic, that happened over span of a long time, 20 plus years. So you're used to that. So I'm not going to get super involved with all the details. I've discussed that

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before in previous meetings and there's certainly a discussion in your memo. But if you'd like me to, I'm prepared to do that too. So we'll go...

David Walker: So, Jeffrey. Oh, I'm sorry. So we're familiar with it, but I'm not sure that the attendees in the audience and at home are. So would you mind just go through the process again so they understand?

Jeffrey Hinderliter: Yeah. Sure. Sure. Mm-hm.

David Walker: Thanks.

Jeffrey Hinderliter: So contract zones are a special type of zoning that is allowed anywhere in Old Orchard Beach. And typically what contract zones, when they come about is because a proposal does not meet the current zoning standards that are for a particular area or particular property. And an applicant can propose a contract zone, but that doesn't mean that you could just propose a contract zone. What's very important with contract zones is that they must meet certain conditions and requirements of the contract zone ordinance. And there are three factors associated with that.

So one factor is consistency with the comprehensive plan. The second factor is ensuring that the contract zone meets is consistent with the existing units for the base zoning district, the zoning district that exists today, and also the existing uses in the neighborhood. So, the third factor is to ensure that the contract zone meets the purposes of what contract zoning is about. And that one's a pretty big broad one.

And often an important part of the purposes is ensuring that there are adequate conditions to protect the neighbors, to protect the neighborhood, to protect other property owners, to provide something back to the town, to the neighbors, and the general public.

So contract zones aren't your typical zoning change. You actually enter into a contract with the town by demonstrating you'll do certain things and you have to prove that you can do certain things to enter that contract. And that's kind of the very, very basics of what contract zoning is. Anyone can propose it, but getting through is a bit of a challenge as we've seen with some contract zones in the past that were two plus years getting through just the contract zone piece.

And it's also important to note, as our chair noted, when Sue, when I believe it was Sue or Dustin speaking, that contract zone isn't approval of the project. What the contract zone actually does, it approves the zoning for the project, but the project itself and the real detailed review for the project is a whole different level of review. That involves, in this particular case, it would be a site plan and subdivision application, all kinds of questions that you had. Stormwater is a huge part of that. It gets into much more detailed review.

But with the contract zone to present a contract zone itself, in some respects, it's an advantage over traditional zoning changes. Because with traditional zoning changes, what

you only get is an idea of what uses could go on that property. With a contract zone, you know exactly what the use is that goes on that property. So that kind of helps you understand the proposal more. But during the contract zone piece you often don't get into those real important details, the stormwater, traffic counts. Sometimes you do. Planning board council has the option to request that, but you don't always get into those real details. But you do get into those details later on during project review. So that's kind of contract zoning. And onto this?

David Walker: Yeah.

Jeffrey Hinderliter: Yeah. Yeah? Okay.

David Walker: Thank you.

Jeffrey Hinderliter: So at the June meeting in your memo, I had several comments, including that this would not meet all three of those factors, those three factors that I mentioned. First being the comprehensive plan conformance with existing and proposed uses, and consistency conformance with the purposes of contract zoning. And as the board knows, a contract zone, and as Jeffrey Thompson pointed out, you need to meet all three criteria in order to provide the council with a favorable recommendation.

And in my opinion, the contract zone does not demonstrate that it is subject to conditions to achieve the purposes of the contract zone, which is factor three. One of the principal purposes of contract zoning is to impose certain conditions on the use or the development of the property as part of the contract zone agreement. So basically, the contract zone must provide some kind of benefit to the neighborhood, to the town, to the general public while ensuring that there's no negative impact.

So what the applicant did was they identified, he identified what he believes are three benefits. One benefit, being extending the public water to the project. And the other benefit was, I forget what that second benefit.

David Walker: Moderately priced units.

Jeffrey Hinderliter: I'm sorry?

David Walker: Moderately priced units.

Jeffrey Hinderliter: Yes. Which was actually the big one. Oh, and the third was public sidewalks along, or that was one of the things we were proposing. Let me go back to that. So it was moderately priced homes. And moderately priced being homes that are below the median cost of a home according to 2023 data for Old Orchard Beach, which is just unbelievably high. So 18 of these units were going to, and are proposed to be under that, at least 10% I believe, under that median price of Old Orchard Home Sales in Old Orchard Beach, which during 2023 is \$523,000. The problem with the benefits in, again,

this is in my opinion, that they either will not be realized or we don't know if they'll be realized, or they're realistically short term.

David Walker: Right. No long-term benefit.

Jeffrey Hinderliter: Yeah. No long-term benefit. If we take the water, it's great. Great to bring the water up there, but that water doesn't benefit anyone other than this project. The benefit would be if they actually construct loop the water so they can get higher water pressure in that area. They're providing a means to loop, but they're not actually doing the looping. Again, this is a special type of zoning. You know, we're giving some, you got to give some back to us. And when I say us, I don't just mean that that me as a municipal official. I mean, the town and the neighborhood, the people who are part of Old Orchard Beach.

With the affordable housing piece, a more affordable housing piece, the applicant is proposing more affordable housing, and we certainly commend him on that. He understands the need for that. But the problem is it doesn't go beyond the first sale. I don't think I need to explain much more to you all about what the potential reality is, as I've seen through real estate sales throughout Old Orchard Beach, is what was once a relatively affordable home has switched quickly to a completely unaffordable home.

And these homes could literally be turned around within weeks of a sale and suddenly go even beyond that medium income price. There's no guarantee that the applicant places for the town to actually realize the benefit. So I'm not convinced. We gave the applicant an opportunity to address these items. There were other items in the memo that, you know, some of the concerns we have, the water, they're all come out during engineering, but we still thought they were important concerns to at least address. We didn't get anything back this month.

David Walker: The fire department had concerns as well.

Jeffrey Hinderliter: The fire department has concerns. So I can't recommend approval. Or I can't recommend a positive recommendation, and you know that. And I tried to work with the applicant. The applicant has very good points, and I certainly, on a personal level, I certainly understand some of them. I'm not in his shoes, but I can understand them. But I have to look at this in my level where I am in my responsibility for the town. And I can't in good faith recommend that you provide a favorable recommendation to the council.

So you'll see in the memo on pages 11 and 12 that the board must first vote on each of the three factors. If you a negative recommendation, then you have to provide a positive recommendation. If you do not vote in favor of one or more, then it has to be a negative recommendation.

David Walker: Well, thank you. Thank you for contract zone 101.

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Jeffrey Hinderliter: Yeah. You're welcome.

David Walker: I'm sure everybody appreciates that. Is the applicant here tonight?

Male Speaker: Yes.

David Walker: Good evening.

Male Speaker: Hi. How are you?

David Walker: All right.

Male Speaker: All right. I guess I want to start with a little history of Pilgrim Place. It was around 1988. Mr. Thompson was one of the investors. And he sold his land to some developers, which got in trouble. And then I bought it at auction. There were two buildings, 16 units, well actually 24, that I could build on. So I built the last 16 units there. And in that auction I got the back land also. Pilgrim place was a 70-unit condominium project. 40 of the units were built, six were not, and the remaining on the property we're talking about was approved for 24 units. Then they rezoned it, and I lost the, you know? Now I got two houses.

But that infrastructure in Pilgrim Place was designed for 70 units. The water, the sewer, was all designed infrastructure was designed for 70 units, which were all approved. They didn't get built, but they were approved. The other part Jeff talks about benefit. The pump station down at Portland Ave and Ross Road, that corner, I turned that over to the city. Last thing I had to do was put shrubs around it, and the city took it.

They were supposed to give me a \$1,000 every time somebody hooked up. You know what I got? Zero. You can go back in the minutes in 1988 to probably 1990. So that pump station that the town enjoys, I've been able to put 16 units in there. I don't know. That's a pretty big benefit. So on this, I've kind of been dragged, I've dragged my feet a little bit because Jeff's proposing to control the price of a house. I talked to some people in Saco and said, would you buy a house that you don't know what you can get for it, and its town's going to tell you what you can sell it for. I just have a real hard time. So I've been dragging my feet. A hard time.

I mean, how many investments will you take on in somebody in this room says you can only make X amount of dollars, or you buy a car. And it's worth \$30, but somebody says, nope, you can only get \$15. Too bad. I know when I bought a house, I was excited. It wasn't a perfect house. It wasn't a house I ended up with. But I put all my money in it. And I was hoping that house would go ahead and give me enough money to get a little bit better house and then a little bit better house.

But Jeff is proposing controls on what you can make on your house. Now it might be in the zoning, but if it is, it's a bad zoning. And I know you talked about it and said they can't do that. Well, I guess maybe they can. I don't know.

So that's where the, kind of, I don't know how to approach it because I just – I don't know if would you buy a house that somebody's telling you what you can make on it? You put up all the money you have in four years from now? They say, oh, no. You can't. You can't sell it for that. And I don't even know how you control it to be – I don't even know how you you're going to control it three, four years from now. I just don't. So that's, you know, it's just, you know, if we can get over that, that'd be fine.

I just don't know. I just – and it's risky. I don't know if I want to put up all my money. Would you buy a house that they're telling you what you can make on it? Would any of you?

Winthrop Winch: I would.

Male Speaker: You would?

Winthrop Winch: Yeah.

Male Speaker: Wow.

David Walker: Especially if it's...

Male Speaker: How many investments have you done that they tell you what you're going to make?

Winthrop Winch: I already answered the key questions you asked.

David Walker: So here's the thing. Okay?

Male Speaker: What?

David Walker: It isn't an investor. Hopefully, it's not an investor who's going to buy a piece of property that's below market rate. That's going to be a person who can't afford a market rate house, and that's the benefit to the town.

Male Speaker: Yeah.

David Walker: But an investor, knowing that, could buy all those units and then turn around and sell them above market rate and make a bundle of money. And that's the concern that we have.

Male Speaker: Anything could happen. I've been this business since 1982.

David Walker: Yeah. Anything can happen, but we're looking to protect anything from happening.

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Male Speaker: I just can't see getting into controlling prices on people's houses.

David Walker: Okay. All right. Well, that's okay. Because we're not going to approve or, not approve. We're just going to make a recommendation to counsel. And I think you should make your appeal to counsel and let them make suggestions to it.

Male Speaker: Yeah. I agree.

David Walker: Yeah.

Male Speaker: Maybe we can work this out because I just have a – I don't know. I just – it's risky to – I'll have \$2 million into this project at some point. And I've got a hope that somebody wants to put their money up and be controlled by the town on what they can make on their dollar.

Christopher Hitchcock: It's not controlled by town. It's controlled by the economics. So if there's a...

Male Speaker: That's how it should be.

Christopher Hitchcock: If there's an average price that you want to sell it originally for 10% less, that price will likely go up over time, and somebody could be selling it for what we'd like. I would recommend is that you agree that this continues to every buyer after that so that if he or she bought it for 10% less than the average, they'll be able to sell it for 10% less than the average. And the expectation that the average goes up and they can make some money.

Male Speaker: Yeah.

Christopher Hitchcock: You're hemming and hawing as if that couldn't play out.

Male Speaker: Well, that's right.

Christopher Hitchcock: And in less until you have a firm proposal and a business proposition for us to look at and be serious about, then this is going to go nowhere, I think. I mean, maybe the council will feel differently and you'll get a favorable reading from them. But I doubt it. So I would say if you buy deed, told the person they could get it for, you're going to get it for 10% less. But by deed, you have to sell it for 10% less going forward...

David Walker: Cover the market rate. Yeah.

Christopher Hitchcock: As the market rate shifts whichever way.

David Walker: The only way that...

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Christopher Hitchcock: And that's not unusual in town. We've got some units that are like that.

Male Speaker: You just approved the project like that.

David Walker: We did. Yeah.

Male Speaker: And how did that work? A contract zone?

Christopher Hitchcock: In that case, they've got a very large project.

Male Speaker: Yeah.

Christopher Hitchcock: And so they're wanting to sell for 10%, I think the same, 10% less.

Male Speaker: Wasn't 10% of the units were less or something?

Christopher Hitchcock: No. No. Wait. It's the same 10% you're talking about. 10% lower than the market than the average price of the house in Old Orchard Beach. They're going to do it on eight of the 80 or so. There's whatever it was.

Jeffrey Hinderliter: Yeah. If I may, Chris, it's actually it was 10% of the total number of units, but they're actually going based on the true affordable housing costs. So that was a big advantage. They obviously couldn't do that throughout the project. No one can do any sort of project.

Male Speaker: But then what is the true affordable number?

Jeffrey Hinderliter: I think it's around 250,000. I don't know it off the top of my head.

Christopher Hitchcock: And the owner, whoever buys it is, by deed, has that same obligation on them going forward if they sell. And that's a nice crisp business proposition that they made and, and we found favorable and it's moving ahead at this point. So I think in less than a two, you could get...

Male Speaker: So it's not on all the units?

Christopher Hitchcock: No. But I...

David Walker: Not on this one, but there was other benefits to the town. They deeded property to the town.

Christopher Hitchcock: Half the project.

David Walker: Yeah. Almost half of the acreage that they had, they gave.

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Male Speaker: It was all swamped.

David Walker: There's a cast.

Male Speaker: They can't use it anyways.

David Walker: No. But it was...

Male Speaker: There's a benefit.

David Walker: It was a benefit. You get some land you want to deed to the town as part of this?

Male Speaker: Some swamp? I've got some swamp. Anyways, we're talking about this 523, and I'm trying to build these houses for under \$400,000. So the 10%, I don't even kind of listen to too much. I don't know. I can try to work with Jeff. I just can't. I can't risk a lot of money based on every house controlled by a price.

David Walker: So your concern is that you're not going to be able to sell all your units?

Male Speaker: Correct. With this kind of price control.

David Walker: Really? Okay. Do you want to do some more research and reconsider, or do you want us to make a recommendation tonight?

Male Speaker: Yeah. Well, originally, I was only going to put my house there anyways.

David Walker: Okay.

Male Speaker: So...

David Walker: That doesn't answer the question.

Male Speaker: Or I can wait until the climate turns around because I've been here since 1972. So, and my land went from 24 units to two units.

David Walker: So the answer is you want us to make a recommendation tonight or not?

Male Speaker: Sure.

David Walker: Okay. Thank you very much. All right. So on factor one, all right, is the plan consistent with the comprehensive plan? Is there a motion?

Christopher Hitchcock: I have a motion.

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David Walker: Yeah.

Christopher Hitchcock: I make a motion to find a contract zone agreement between Saland Development Inc. and the Town of Old Orchard Beach for the property located 4 New Colony Drive is consistent with comprehensive plan.

David Walker: Motion by Chris.

Winthrop Winch: Second.

David Walker: Second by Winch. Jeffrey, vote.

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?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That finding is 5-0 with a very weak yes. Factor two is this contract zone consistent with, but not limited to the existing uses and allowable uses within the original zone? Motion.

Christopher Hitchcock: I make a motion to find the contract zone agreement between Saland Development Inc. and the Town of Old Orchard Beach for the property located at 4 New Colony Drive is consistent with the existing uses and allowed uses within the original zone.

David Walker: Motion by Chris.

Winthrop Winch: Second again.

David Walker: Second by Winch. Jeffrey, call for the vote, please.

Jeffrey Hinderliter: Ms. Dube?

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Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Mr. Winch?

Winthrop Winch: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 5-0. And the third factor is subject to conditions sufficient to achieve the purposes described in section 78-2131 of the contract zoning ordinance. Anybody want to make a recommendation besides Chris?

Marianne Hubert: Before Chris.

Winthrop Winch: I would.

David Walker: Okay. I make a motion to find a contract zone agreement between Saland Development Inc. and the Town of Old Orchard for the property located at 4 Colony Drive is not subject to conditions sufficient to achieve the purposes described in section 78-2131 of the contract zone ordinance.

Winthrop Winch: I'll second that.

David Walker: Motion by Chair Walker. Second by Winch. Jeffrey, call for the vote, please.

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: No.

Jeffrey Hinderliter: Mr. Winch?

Winthrop Winch: Yes.

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Jeffrey Hinderliter: Vice Chair Hitchcock?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 4-1. Final vote. Recommendation. So that nobody is confused.

Christopher Hitchcock: I could make a motion.

David Walker: Go ahead, Chris?

Christopher Hitchcock: I make a motion to recommend the council not approve the contract zone agreement between Saland Development Inc. and the Town of Old Orchard Beach for the property located at 4 New Colony Drive, map 103, block 1, lot 59 in the RD district pursuant to 330 a MRSA. Section 4352 (8) and chapter 78, article 9 of the Old Orchard Beach code ordinance by finding the following.

The contract zone agreement is not subject to conditions sufficient to achieve the purposes described in section 78-2131 because the agreement does not include limitations or restrictions on the use of the property. These conditions include ensuring the more affordable housing opportunities extended beyond the first sale for each unit, and full public water looping is not accomplished by the applicant.

David Walker: Motion by Chris.

Robin Dube: All right. Mr. Chair, I'd like to discuss. It will go to the council still. Right?

David Walker: Yes. Yeah.

Robin Dube: Okay. Good.

Winthrop Winch: I'll second that.

David Walker: Second by Winch. Call for the vote, please.

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

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Jeffrey Hinderliter: Mr. Winch?

Winthrop Winch: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: That motion carries 5-0. Yes. Thank you very much.

Male Speaker: Thank you.

Robin Dube: Build yourself a big beautiful home out there.

David Walker: All right. Item 7. Subdivision amendment, Sandy Hollow Subdivision. Adjust shared lot line between abutting lots, action reviewed and ruling. Applicant James and Terry Nagel, location 9092 Ross Road, MBL 105-4-12, and 51 Zoning and RD District.

Jeffrey Hinderliter: All right. This is a pretty simple, subdivision amendment proposal, actually. It's Sandy Hollow Subdivision, which if you were to drive along Ross Road, you would never really guess that there was an approved subdivision. It's right across from Dune Grass on Ross Road. It's a five single-family lot. And what this amendment proposes is, basically a land swap between two lot owners. The land swap is of equal area.

I had one, I'll say concern. It wasn't really a concern. Just a question. I guess I should say, is if this land swap will end up being a create a nonconforming condition with both or one of the lots due to the width being reduced. And after looking through this, it's already nonconforming in places, and they're making some area bigger, some area smaller. So it's a nonissue. So I recommend approval. And we have the, if you do choose to approve, just so you know, we have some plans to sign at the end.

David Walker: Before we leave tonight. Okay.

Jeffrey Hinderliter: And page 20 is the motion of your memo.

David Walker: Okay. Okay. Is the applicant here? Do you wish to speak tonight? Come on up.

Jim Nagel: Okay.

David Walker: Introduce yourself.

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Jim Nagel: Good evening, Jim Nagel.

David Walker: Hey, Jim.

Jim Nagel: How are you?

David Walker: Good.

Jim Nagel: Basically what happen is we own both properties. The layout of the line separating the two properties a little awkward, and we're just hoping to swap 3,125 feet. On one side closer to Ross Road, the same model land on the backside. It makes a better layout for both locks.

David Walker: Yeah. Looks in on paper as well.

Jim Nagel: Okay. Thank you.

David Walker: Any board members have question?

Winthrop Winch: I'll make a motion.

David Walker: All right. Motion, Winch.

Winthrop Winch: I make a motion to approve James and Terry Nagel's subdivision amendment application, proposing an amendment to Sandy Hollow Subdivision for change to the property boundary line shared by the owners of 90 Ross Road, MBL 105-4-12 and 92 Ross Road MBL 105-4-51.

Marianne Hubert: I'll second. Oh, I'm sorry. Sorry.

David Walker: Dash 51, right, Winch?

Winthrop Winch: Dash 51. You got it.

David Walker: Okay. Motion by Winch. Second by Marianne. You want to call for the vote, please, Jeffrey.

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Mr. Winch?

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Winthrop Winch: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 5-0. Good thing you came up and spoke.

Jim Nagel: Thank you very much.

David Walker: Have a good night. All right. Talk about contract zones that have stuck around for two and a half years. You guys have the record. Welcome back. Item 8, proposal site plan, 6-unit condominium building, in proposed amended contract zone, action, determination of completeness, scheduled public hearings, scheduled site walk applicant is MAKA Builders LLC. Location is 60 Saco Ave, MBL 506-10-1, zoning in the GB2 proposed amended contract zone. Jeffrey, I did not see the council vote on this.

Jeffrey Hinderliter: Because the council has not voted on it, yet. They're scheduled to vote on it next Tuesday evening.

David Walker: Well, that would make sense then, wouldn't it?

Jeffrey Hinderliter: Mm-hm. Yeah.

David Walker: Okay. I am paying attention.

Christopher Hitchcock: At some level.

Jeffrey Hinderliter: Yeah. At some level. Yeah. What that level is? Yeah, Chris, we we're still trying to figure it out.

David Walker: All right. Go ahead.

Jeffrey Hinderliter: So you're all familiar with this. I won't, unless you would like me to go through some of the history, I won't get into it. Another contract zone, the three factors, all of that is similar. What's a little bit different with this one is there is actually a contract zone approved for this property. This one is just amending it because they're going to change a few things. And I think it's important to note two things.

First, this amendment requires site plan review and approval through recommendation from the board, which the board gave a favorable recommendation to council and then a vote to the council. So the board's responsibility at this point, your work's done in terms

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of the contract zone, but what you're reviewing now is the site plan proposal. So just to kind of clear that in your mind, you have the site plan proposal in front of you.

The second point to just to make sure you're all clear on is the council is reviewing the contract zone. Now there was some, at the June council meeting. There was some action taken by the, council meeting, there was some action taken by the council that changes what you're looking at. And they're fairly significant changes. Some you may have already thought were there, but they're pretty big changes and are really reflected on the plan.

The two big ones that are reflected on the plan is the Fern Park Ave sidewalk no longer exists. And you'll see a portion of the property where it connects to Fern Park Ave and Saco is being conveyed to the town. So why is that? Well, traffic concerns. There have been traffic concerns from Abutters and the council shared some of those same, same concerns. And what they had recommended is removal of the sidewalk. But what happened then was removing the sidewalk removed one of the benefits to the contract zone.

So what we had to do is, and the council hasn't seen, they'll get this information. I think it's submitted to counsel tomorrow, tonight or tomorrow. They're reviewing the contract zones separately. But what we came up with internally was we knew that traffic was a concern of the neighborhood and, so finding benefit and also further support in a comprehensive plan was critical for this.

So the best thing that we could kind of figure out was to improve that turning radius by seeing if the applicant was willing to convey property. And I have to say the applicants have been fantastic to work with on this. Literally, what we request, they've addressed. Yeah. It's been great. So those are really two of the big changes. So a benefit was lost and a benefit has been gained. So there's no it's, you know, no net, whatever. A couple...

David Walker: So, Jeffrey, Jeffrey, there's no sidewalk on the other side of Fern Ave. Is that correct?

Jeffrey Hinderliter: Correct.

David Walker: So are the people going to walk in the street now?

Robin Dube: *[Inaudible]* [01:30:06].

David Walker: Robin, your name's not Jeffrey.

Jeffrey Hinderliter: I don't know where they're going to walk.

David Walker: You don't know where they're going to walk.

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Jeffrey Hinderliter: Where they're going to walk. But everyone was insistent on getting that damn freaking sidewalk removed. So I don't want to hear any more crap about it. Jesus. Crap.

Christopher Hitchcock: It's a new kind of concrete.

Jeffrey Hinderliter: Enough of this stupid sidewalk, man. Let's move on.

Christopher Hitchcock: You got to cut through the parking lot. Oh, my God.

David Walker: All right. Sorry I asked.

Jeffrey Hinderliter: No. I really don't know, Dave. I haven't thought about it. I was just trying to figure out how to get this addressee of butters comments, the people who will apparently be walking there, and to try to please the council as the applicants.

David Walker: So when we had our public hearing for this many moons ago, most of the concerns were pocket. Those concerns have gone away now?

Jeffrey Hinderliter: I will still hear concerns. And that's a good question because that was one of the items that came up with the council.

David Walker: Yeah.

Jeffrey Hinderliter: And the applicants can't do anything about that, really, because they can't prohibit parking on a public street. That is the town's responsibility. So if the town identifies it as a problem, the town has to write this, if you go through, it's either chapter 50 or 54 of our ordinances. You'll see a whole list of streets where parking is or is not allowed. Fern Park Ave will have to be one of those streets there, and they'll actually have to change the ordinance to prohibit parking on Fern Park Ave.

So that was something that was brought up, but the applicants really can't do anything about that. What they can do is try to accommodate parking as best as they can within the area that they have. And I think they've done that. Another big item was, or actually, there were two big items aside from those. One is prohibiting short term rentals. It was kind of said in there before, but now it's clearly said in the agreement. And the other one, I think this is pretty interesting, was prohibiting nonresidential uses in the contract zone.

Robin Dube: Nonresidential what?

Jeffrey Hinderliter: Yeah. So anything that's not a residential use.

David Walker: So it is zoned for business. Right?

Jeffrey Hinderliter: Right now, it is zoned for business. That's right. For multiple types of businesses.

David Walker: So that's a good catch, actually.

Jeffrey Hinderliter: Yeah. And it's just for the residential use. Now, zoning can always be amended. Someone could come some years down the line and try to change that, but I think they're going to have a hard time going back to any sort of nonresidential use after it was put specifically in the contract zone. Yeah. Also, showing the dumpster location on the plan, which is shown.

So those are some of the changes that were discussed with counsel, that we worked out internally before it goes back to counsel. But I'd say we're pretty confident that those items address counsel and also about our concerns. And so I expect that counsel will vote on this, on their meeting on the 16th.

David Walker: So we're removing the sidewalk to encourage more parking on the street. Is that what's going on? Or is there going to be...

Jeffrey Hinderliter: No. I personally don't know what the whole big thing is about the damn sidewalk. I really don't. I thought the sidewalk would help with pedestrian movements and, actually, potential traffic calming a little bit, but the sidewalk has been an issue and it seems like the best way to deal with that is to remove the issue. And that's what was decided.

David Walker: All right. That's pretty good. So I see we have the applicant here tonight.

Eric Dube: Sure. I'm...

David Walker: You don't have gray hair yet. So.

Eric Dube: I'm getting there.

David Walker: Yeah.

Eric Dube: Eric Dube, Trillium Engineering, civil structural engineer. I can just add a little bit to that. Well, first of all, I'm the two and a half years. For one, the previous applicant didn't hire Joe or I to come up and kind of weed through some of these issues with Jeff. So, you know, we were kind of involved in the periphery, but not really. And the new owners, you know, they have good confidence in us to help out with that. Jeff's been great to work with. So thanks.

Sidewalk issue went back and forth. Obviously, it's not really up to us. It is a town council matter. There were some opinions that it was like that with post office for many, many years. People would pull up park, blah, blah, blah. People had opinions about that. I'm not going to go on because I don't have the town history on that. So that was one of the talking points.

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The other talking point was if you did a sidewalk and people still chose to park there, it was going to narrow the road. I think that was probably the biggest concern that I heard at the town council meeting. They kind of battled it out, understood that it's not our property. We don't own that piece of property. So but we were doing it because of the, the agreement.

David Walker: And that makes perfect sense. Plus, Fern Ave doesn't intersect at 90 degrees, so.

Eric Dube: Correct. The other thing is, I mean, since the new owners have it, they've cleaned up the brush. The brush has kind of pushed that out over the years. So people that used to park there with the post office could park tight to the building. And then the brush kind of pushed it. So maybe people didn't park as much. So people weren't used to it. And now the brush is cleared. So now all of a sudden, you see the pavement again. So, you know, you have that sort of thing going on.

But, anyway, beyond that, those are the things that were discussed. We're happy to give up the corner in lieu of that. To make that radius, we have the net residential calculations to be able to do that. And, you know, I don't want to repeat what Jeff has said. We've essentially addressed the concerns that we had last time, addressed all the other concerns of planning and happy to answer any questions.

David Walker: Sure. Any questions from anybody? So we've already done a sidewalk out there. Do you feel like we need to go out for another sidewalk?

Winthrop Winch: Well, we know that slight cold.

David Walker: Marianne, sidewalk? Yes? No?

Marianne Hubert: Yeah. That's, I guess, no.

David Walker: So we don't need to do a sidewalk, but we do have to have a public hearing, another public hearing. And that public hearing will be scheduled for August 8th. And if nobody has any additional questions, and I appreciate your flexibility and the time you put into this process. Somebody could make a motion for me to go home.

Marianne Hubert: I'll make a motion. I'll make a motion to conditionally determine as complete MAKKA Builders LLC site plan application proposing to remove an existing building and construct a 6-unit residential condominium building located at 60 Saco Avenue, MBL 206-10-1 with the following conditions. The following condition shall be submitted to the planning board department on or before July 22nd, 2024.

One, landscaping plan that meets section 78-1796-217-98, amended plans showing parking lot buffering and screening, screening for dumpsters show on plan C101 and include screening in detail sheets. Address fire department comments including notes on plan C101 and show horizontal lights rose.

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David Walker: Motion by Marianne.

Robin Dube: Second.

David Walker: Second by Winch. Strong second by Robin.

Robin Dube: *[Inaudible]* [01:39:21].

David Walker: No. No. Jeffrey, you want to call for the vote?

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?

Christopher Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 5-0. Good luck with counsel. And we'll see you next month.

Eric Dube: Thank you very much.

Robin Dube: Thank you so much.

David Walker: No. I'm not ready yet.

Robin Dube: You're not? *[Inaudible]* [01:39:48].

David Walker: Yeah. Good and will fair. Anybody make a good and well fair? Other business.

Winthrop Winch: Just one point. The next building, parking will be very difficult. So we need to like we did last year, somebody has to be out there to make sure the space is available.

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David Walker: Why? What's next month?

Winthrop Winch: August. Historically, we get the biggest problem with parking for this meeting.

Christopher Hitchcock: They had managed it today out back.

David Walker: Yeah. There was a guy out there controlling it.

Winthrop Winch: I was with it. I tried to get out here. And I got the last space.

Christopher Hitchcock: I saw that. But I was driving back there, and the guy checked it.

Winthrop Winch: They're going to have a public hearing. You know? People need a place in the park, too. So, you know?

David Walker: Well, out back is plenty of space. I talk out there all the time.

Winthrop Winch: Okay. Okay.

David Walker: And...

Winthrop Winch: I'll take your word for it.

Robin Dube: They have the extra parking lot across the outback, and he was asking like Chris said...

Winthrop Winch: Oh, that's good.

Robin Dube: *[Overlapping conversation]* [01:40:48] to the planning board, you know?

Winthrop Winch: That's good to hear.

David Walker: And just a reminder, there's some Mylar signatures required over the employee.

Marianne Hubert: So I would like to discuss this affordable housing issue. That's cool. When they make affordable, can we discuss it?

David Walker: I don't know. What do you want to discuss?

Marianne Hubert: That's the quality goes down to make some units more affordable. That they're going to put cheaper windows, cheaper, cheaper everything. Cheaper roof tiles.

David Walker: Well...

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Robin Dube: We can't control the material that is being used.

David Walker: What would you like to do to mitigate that?

Marianne Hubert: Well, I don't know. This is the thing. We are asking for substandard houses.

Winthrop Winch: That's not really a Plain Boy issue, though.

David Walker: That's not what we're asking for. I would say that's up to code enforcement.

Winthrop Winch: Yeah.

David Walker: You know?

Winthrop Winch: Yeah.

Jeffrey Hinderliter: Yeah. That's a tough one, Marianne, because you may not get subzero appliances. But some people are just looking for a house to live. And all homes need to meet building codes. So there are standards. Although the price of the tiles or the windows may not be that upper piece, there's still good quality, and they meet building codes. And that's what helps it make affordable homes, the important part of the affordability of homes, to allow people to enter that affordable home market.

So you have to, you know, as we see with some affordable homes now. There are shipping crates. So there's a variety of forms of affordable housing. But I think the expect – people go in with the, or at least should go in with the expectation that this is not going to have the high-end pieces that less affordable housing has. And that's just part of the game. You can't have affordable housing and have non affordable components in it. Yeah.

Marianne Hubert: Yeah. Well, that's the big issue then.

Jeffrey Hinderliter: Yeah.

David Walker: All right. Anything else?

Jeffrey Hinderliter: Just these plants right here.

David Walker: Okay. Yeah. But motion to adjourn. Somebody?

Winthrop Winch: So moved.

David Walker: All right. Let's unanimous then. Thank you.

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Jeffrey Hinderliter: Thank you, everyone.

David Walker: Good night.

Jeffrey Hinderliter: I appreciate it.

David Walker: So you may want to get your own attorney for your...

Sue Bellavance: *[Inaudible]* [01:43:58].

David Walker: I know. But that's not a town issue. Those are your...

Sue Bellavance: Oh, you know it wasn't a town issue.

David Walker: Yeah.

Sue Bellavance: Just want to get it in the record.

David Walker: Yeah. Well, you got in the record.

Sue Bellavance: Yeah. That was my point...

I attest the above minutes were approved by the Old Orchard Beach Planning Board on 8 August 2024.

Jeffrey Hinderliter, Town Planner