

Old Orchard Beach Planning Board
9-8-2024 Public Hearing and Regular Meeting Minutes

David Walker: The date is August 8. My name is David Walker, and I'll be your chairman. Our first order of business is to call this meeting to you to order which I have just done. And now if you'd please stand with me and pledge allegiance to the flag, that would be appreciated.

Pledge to United States flag by all attendees:

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

David Walker: Thank you very much. All right. Jeffrey, you want to do the roll call, please?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Mr. Kelley?

Jay Kelley: Here.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Present.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Chris Hitchcock: Here.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Here. Please note that Wynn Winch is an excused absence tonight and Jay Kelley will be an active member participating member. Our first order of business is public hearing. Proposal, Site Plan 6, Unit Condominium building. The applicant is MAKA Builders LLC. The location 60 Sacco Ave. That's been around for a while. MBL206-10-1 zoning contract zone GB2. If you're here to speak either against or for, please approach the podium, identify yourself by your first and last name and your address, and then speak away. I will start this public hearing at 6:31. Anybody interested?

Brian O'Donnell: Oh, yes. Brian O'Donnell, my wife Gina here. We live across the street from and...

David Walker: Hi, Brian.

Brian O'Donnell: We've been to more of these meetings, and I can care to

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David Walker: I know.

Brian O'Donnell: Discuss. So, obviously, we're not necessarily, you know, opposed this day, so we're just concerned about a couple items left as they get to round this up. You know, we're still waiting for completion or at least approval that the asbestos has been removed from the building. There's asbestos in the building, the old post office.

David Walker: Okay.

Brian O'Donnell: And at this meeting, well, whenever this started, four or five years ago, Mark Jaques came. He worked at the post office building, lived across the street, and went to several of these meetings before he sold his house on the corner of Sacco and Fern Park. And the benefit post office, which was basically a mirror of this one, was torn down and they had to remove the asbestos. We just want to make sure that was taken care of before it gets torn down and this, we're unaware of it ever being treated, although the previous developer said it had been, but I think that's something that would be registered. So, we could just verify that was done.

David Walker: Sure. We have.

Brian O'Donnell: And the other, the second thing I know they're going to do the cutoff, and that some of the neighbors we were talking that one of the proposals that they're going to do is they're going to cut the corner there on Sacco Ave to make it wider, which everybody would love. Some people will question because there's a sewer there, a drain pipe. So how that gets addressed because it's like the other day was a perfect example of that downpour. There's huge amount of water comes down into the bottom of that street running down Fern Park, and then coming down Sacco, often puddles up. So how that gets settled during that, I mean, I'm not we're not saying for or against it, we just want to make sure that gets addressed during the process.

So those are the only two things we want to do. And I know with the parking, they're going to make sure they have the amount of spots we've had. That still has to be measured out, and some of the neighbors were concerned about just to make sure that the, the previous meeting, they talked about the offset, five feet from other people's property to make sure that's taken into account to make sure there's enough parking. And then at the school at the council meeting, they mentioned just to make sure the dumpsters are addressed to the thing and making sure snow removal. We just want to make sure that everything's covered before it goes forward.

David Walker: Okay. I think you're a candidate for my job, Brian. Yeah. Thank you.

Brian O'Donnell: I tell you, I hope this is probably the last one of these things I have to do.

David Walker: Yeah. Yeah.

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Brian O'Donnell: Thank you.

David Walker: Thank you very much. Okay. Anyone else? All right. Well, then we'll close this public hearing at 6:34, and we'll move on to minutes. We had two publications of minutes in our packets, June and July. Are there any changes, additions, or deletions? Any motions?

Robin Dube: Motion to accept.

Chris: Second.

David Walker: Motion to accept by Robin, second by Chris. Jeff, you want to call for the vote, please?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Mr. Kelley?

Jay Kelley: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes. That motion carries 5-0. Thank you. All right. Regular business. Item 2, proposal. Site plan, 6 unit condominium building. Action, final loan. Applicant, MAKA Builders LLC. Location 60 Sacco Ave, MBL206-10-1, zoning contract zone in the GB2 district. Jeffrey.

Jeffrey Hinderliter: Thank you. So at the July planning board meeting, the board determined the proposal is complete. The site plan review application is complete. And it was subject to the applicant submitting a couple of items. Those items include a landscape plan, number 1. Number 2 is showing the parking lot screening buffering. Number 3 is addressing fire department comments that were received before the August meeting. And then, number 4 was adding screening for the dumpster, and number 5 was showing horizontal light throw. So the August submission includes all of these items. And I have to commend the applicant. I really think they did a good job addressing the remaining comments. And even the lighting plan was better than I expected. We got a

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full lighting plan, so we got a good idea on writing compliance throughout the entire property. That was very good. Also, their vegetation, their landscaping plan exceeds what is required, so we appreciate them taking those extra steps.

One particular item that I'd like to mention that was included in this month's packet that our new fire department comments is the request to enlarging the elevator so it fits a gurney according to what the fire department spec'd out, and also the addition of, I believe it was two notch boxes at the front and rear entrance. So, something that happened after I wrote the memo, in fact, just yesterday, is the applicant followed up with the fire department comments and worked with the fire department to resolve those comments as of yesterday. So, the one of the issues was the previous plans did not have the dimensions for the elevator. So once the applicant worked that out with the fire department, they were okay. And what the applicant is also proposing to do is to increase the size of the vestibule that's right before the elevator shaft.

So, no problems there. There was couple of inches. You know, this shows what it gets into the technicalities. There was a couple of inches that one of the dimensions was off. If those couple of inches were actually added to the elevator, the elevator would have to go through. I was really surprised, this incredible amount of changes to accommodate those couple of extra inches. So the applicant worked with the fire department to get that resolved. So, I know that that matter was pointed out. You have a memo in your packet from our assistant chief, Cliff. And, just know, those issues are done.

Another item since the July meeting is the council approved the amended contract zone. So the contract zone agreement has its full approvals at this point. And a couple of important changes to mention is that the contract zone agreement that the council approved removed the proposed sidewalk along Fern Park Ave. It prohibits nonresidential uses in the contract zone, prohibits short term rentals in the contract zone, and then to help address safety concerns. And as Brian mentioned, they are increasing, or they're increasing the ability for traffic to turn off of from Fern Park Road, by conveying a portion of their property to the town. Brian brought up a good point about the storm water drainage system all right in that area. It will all have to be looked at during any sort of design, build process, including through the town's engineer. And, so it won't be me or you approving those sorts of things. We'll have the people who have the expertise to take a look at those matters at that at that time.

Finally, I believe that proposal meets all applicable ordinance requirements and also the terms of the recently approved amended contract zone. I do did have a suggested condition concerning the fire department comments that condition is no longer necessary because that matter has been resolved. You'll find a motion in the memo at the top of page 4, and that's all.

David Walker: So, Jeffrey, I was pretty satisfied with the landscape design that I saw, except I had to look at it under a microscope decipher it. And at my age, it's pretty tough, but and the lighting as well. So do we still need those conditions in here for to make this complete?

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Jeffrey Hinderliter: No. It's actually already complete. We're voting on final approval tonight. So in fact, the only condition that I had was related to the new fire department meadow memo. Now that that's resolved, there's no conditions.

David Walker: Okay. So we're really looking at a complete...

Jeffrey Hinderliter: Approval. Yeah.

David Walker: Yeah. All right.

Jeffrey Hinderliter: Yeah. So I think its right at the top of page 4. You'll find them a motion.

David Walker: Yeah. I got it. Thank you.

Jeffrey Hinderliter: You're welcome.

David Walker: Good evening.

Eric Dube: Good evening. Eric Dube, Trillium Engineering.

David Walker: Yeah. Could you or would you be able to address the concerns that Brian had about asbestos in the building?

Eric Dube: Yeah. I don't know if all asbestos has been removed. I know we think that some of it's been removed. What I can say is during the demolition permit, built part of the building permit process, demolition contract will have to go through, do a hazardous, waste or hazardous materials assessment. And then those will be taken care of, if there are any, during building removal. Okay. So I mean, that's typical of any...

David Walker: It's *[Indiscernible]* [00:13:18] in anyways.

Eric Dube: It's standard process.

David Walker: Right.

Eric Dube: Absolutely. So and then with regards to the radius on the curb, I mean, which I mean, basically, you're going to have to tip the new radius down or that new edge of pavement down to the existing catch basin. We talked about that council meeting about the fact that we weren't going to get into, you know, moving catch basins because then it's a whole another animal on that. So I think there's a strategy there that we can deal with public works and make that happen.

David Walker: Okay. Any questions from the board? All right.

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Robin Dube: Make a motion to approve. Are you ready, Dave?

Dave: I'm all set.

Robin Dube: Okay. To approve MAKKA Builders LLC site plan application proposing to remove an existing building and construct a 6 unit residential condominium building located at 60 Sacco Avenue, MBL206-10-1.

David Walker: Motion by Robin.

Mary Anne: I'll second.

David Walker: Second by...

Mary Anne: Mary Anne.

David Walker: Mary Anne. Want to call for the vote, please?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Mr. Kelley?

Jay Kelley: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes.

David Walker: That motion carries 5-0. Wow.

Dave: Thank you.

David Walker: I'm going to celebrate tonight.

Dave: Appreciate the help, and thank you, Jeff, for all your help.

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Jeffrey Hinderliter: You're welcome.

Robin Dube: Imploded. Yeah. I want to watch it implode.

David Walker: Yeah. Just for the public's, knowledge, we've been kicking this around for about two years now, and it's nice to see it finally come to fruition. You think it was more? Seems like. Yeah. All right. As soon as they leave, I will continue. Good evening. Bunch of happy faces going out the door. Item 3, conditional use, adult use marijuana store action - determination of completeness, schedule - a public hearing and a sidewalk. The applicant is stereo wellness of Maine 4 LLC. Loss location is 11 Ocean Park Road, MDL-210-10-2, zoning in the GB1. Jeffrey, you're up.

Jeffrey Hinderliter: Thank you. You know, I think the first thing with marijuana is what I remind myself is just to take a breath. And, you know, you kind of realize what this is. Yeah. Take a breath in. Right, right, Robin? And, you know, just because there has been so much h put into all of this, that in some respects, when it comes down to, it's a retail store that will be a very popular retail store, but it's a retail store that's under 1,000 square feet in a commercially zoned area in town. That is on the border, you know, on the outskirts of town. And yet, you know, there is certainly a lot, and a lot of folks are committed. But when it comes to the planning board, I say, you know, just taking a breath, really this is a conditional use application for the planning board. All the other drama will come and it will play out in some way eventually, but what the planning board's responsibility is to remember that it's a conditional use proposal. It has a certain process to go through as part of the conditional use.

And in some respects, it's almost built like a contract zone in some way. You do approve the application, but ultimately, they can't get the marijuana store approval until it goes back to the council. So I remind myself of that. I could understand if any planning board members, if you've been following this along over the years, and this has been going on longer than that damn application we just frigging finally put to bed. But, just to remember that. So the proposal is for a conditional use application for an adult use marijuana store, located within an existing building. You all know where this building is, and so the public knows it's a small building towards the rear of this property, close to Old Orchard Beach Campground.

The board last reviewed this at the March meeting, and at that meeting, the board recommended that the applicant address a number of comments in the March staff memo and authorized the service for the town attorney to give us an opinion on the right title and interest matter and also for a traffic engineer to secure the services of a traffic engineer before the board decides on a determination. And as I said, there were a ton of staff comments in that memo too. So for tonight's meeting, really the sole responsibility of the board is to see if the applicant provided information to address those outstanding issues as part of the determination of the completeness. Now, the determination of completeness, I've probably said this about five times in the memo, but just so people know, a determination of completeness is not an approval or denial of a project. It's not determining whether an applicant complies with the standard or does not comply with the

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standard. But it's just that the planning board has all the information they need in order to come to a reasonable and informed decision once that time arrives.

That time isn't at the determination of completeness. That time arrives when we have final review. So when I looked at this proposal, I looked at it in perspective is, did I think it's complete, not that if it does comply or not comply, or can we approve it or not approve it. Is it complete? And in my opinion, the applicant did a very good job with this submission. I can say that I was getting a little nervous because we were getting close to the real close to that six-month deadline for this submission. But the applicant, I thought, did a real nice job with this submission. Now, having said that, there are certainly some items that we'll need to discuss further and address at a future meeting. And some of those items are the on-site parking, freestanding sign, and traffic impacts. Still, the application is complete because all relevant information has been provided.

In fact, our traffic engineer has reviewed this since we last met, I believe, at least twice and provided comments twice and essentially signed off on it with the last review with two recommendations. A copy of that email from Gorill Palmer, who's our traffic engineer, is included in your packet, and I also included those comments in the memo. If there are items the board thinks need further consideration, it would certainly be helpful for the applicant to say, hey, you know, look at this parking matter, look at this sign matter, and we're going to be asking questions about this once it comes back to the board for final review. One particular item that was mentioned that everyone's been interested in is the question of right title or interest.

Our attorney from Bernstein Shur, Phil Saucer, put together, I believe a really good letter, and Phil is here this evening in case any of you have any questions for him. But if some of you old timers, Robin might be the only one, think back to some of the dunegrass property when Ron Boutet was still alive, and some of those back and forth that we had, you'll recall that there was a question about property and who owned what rights. And, our attorney, Phil, pointed out this is really somewhat of a similar situation, as we had back then. And, in fact, one, if, when we get to final review and if the planning board chooses to approve this proposal, you'll see in Phil's letter towards the end, there is a condition that is recommended that we don't take any this decision does not take a position on any sort of private matter between tenants and who owns what, and that is that's not the planning board's responsibility.

The planning board's responsibility as part of this review is just to determine whether the applicant has the right title and interest to apply for these permits. And, not speaking for Phil, but, reading through Phil's letter it does appear to me for the planning board's purposes that they do have that right title and interest, and they have met that burden of proof. So I think this is a very good submission. It's certainly complete in my mind. I would recommend that the planning board determine that it's complete. In addition to the determination of completeness, the board must schedule a public hearing within 30 days of today. That brings us right before our next meeting and I count holidays just in case because it doesn't say you can exclude holidays. I go 30 days straight.

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So what I'm recommending is that a public hearing is held on the 5th September, as opposed to our regular meeting date, which is on the 12th. Site walk is optional, and page 13 of the staff memo has motions to determine complete. Also, it's your right to determine it's not complete if you feel that is the case. And if you determine it's not complete, the application is essentially denied. You can't deny it tonight because it's not scheduled for final review tonight. We would still need to go through the public hearing process, all the typical steps, but the application would be denied because it's not determined complete. In your memo, in case you chose to take that direction, I did set up a motion and an explanation of that particular step. So that's all that I have.

David Walker: That's enough. Thank you, Jeffrey.

Jeffrey Hinderliter: Thank you.

David Walker: So the, we'll schedule a public hearing, of course, as recommended on the 5th, but will the final approval be on the 12th?

Jeffrey Hinderliter: Not necessarily. The final approval needs to be, I believe, it's 60 days from the, public hearing.

David Walker: Okay.

Jeffrey Hinderliter: So, it could be on the 12th, or it could be October, or it could be some day at the very beginning of November.

David Walker: I don't see any reason why we shouldn't delay this further than we already have. I'm kidding, of course. But...

Jeffrey Hinderliter: Yeah.

David Walker: All right. Another question that I was asked is let's say, it's approved and then the courts decide they don't have right title and interest. What happens to the license?

Jeffrey Hinderliter: If it's what attorneys might do is ask for and I'm certainly not a lawyer, and we have a lawyer, an attorney here who might be better to ask that. But what if they find that they don't have right title and interest for the purposes of planning board or the purposes of what the planning board's responsibility is or for the purpose of what the council's responsibility is, then what they might do is remand it back to either the council or to the planning board to reconsider this and have the applicant provide right title and interest. It could be the exact same, and then you might have to deny the application. So.

David Walker: Wow. Okay.

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Phillip: Chair. Yes. In the condition of approval from the attorney. The last line should it be determined by a final non-appealable court judgment that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect.

David Walker: Very good. Thank you.

Phillip: But the question was about the license, not the code.

David Walker: Yes. Attorney. Phil.

Phil Saucier: Thank you, Mr. Chair. Phil Saucier from Bernstein, Chair of the Town Attorney. You've asked what would happen if the court found that the application had or the applicant didn't have the right title. That would likely come through an appeal process after one of the decisions that Jeffrey mentioned. I did note in my letter as, you know, there has been an appeal from the original license administrator's decision, street court. There has been an update since my letter. That case was dismissed by the judge as being premature. So that is no longer pending at the moment, and what the superior court judge said was premature because it's not going to be ripe until the town council makes this decision. So there's still a couple steps in the process. The parties could decide to appeal again, other parties could decide to appeal again at the end of the process. And if the court finds that they didn't have right title interest after all, in what really is a private dispute between the landlord and the tenant and potentially another tenant, the town is not a party to that lease at all. But a court could make that determination in the course of an appeal, then the court could overturn the decision on that basis.

I suppose it could also remand it and ask for additional information, but I suspect it would be more of an overturning of the decision in that case. But that's something down the road, not really for this board at this moment, and, at this level of completeness determination. That's sort of decision if in the future if someone wants to appeal it, and we'll go from there.

David Walker: Well, thank you. Your letter was thorough and...

Phil Saucier: Thank you.

David Walker: Very easily understood, but I'm always looking down the road.

Phil Saucier: Sure. That's right.

David Walker: But I guess your crystal ball is cloudy right now.

Phil Saucier: That was a little bit.

David Walker: I appreciate.

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Phil Saucier: Yeah. Thank you.

David Walker: Thank you very much. So one other thing that I'd like to is the applicant here? I think he is. Good evening.

Brandon Pollock: Good evening, Mr. Chair. Good evening, Mr. Chair. Brandon Pollock, Theory Wellness of Maine 4 LLC, 38 Montbell Ave, Stone and Mass.

David Walker: Sure. So Brandon, I did take a look at all the materials that we had, and I don't know if you're familiar with them.

Brandon Pollock: I did it myself. Yep.

David Walker: Okay. So there was a recommendation from Garell Palmer that I really took seriously. And I'd like you to consider when and if the time comes that you will be back before us. And that was to remove that cutaway on Ocean Park Road. And he was Melvin Ave as a way to get into your store.

Brandon Pollock: Okay.

David Walker: I thought that that would solve the problem with the sign, as well as, back up into Ocean Park Road as people were trying to get into your parking lot. So...

Brandon Pollock: Okay. Yeah.

David Walker: I'm sure you don't care what way your customers get into your establishment, your commercial business. I just saw that as possibly a safe way. I haven't really washed out with other board members. I'm sure that they have their thoughts too, but I just offer them an opportunity to speak right now if they'd like to.

Female Speaker: That's good. Hello, Chair.

David Walker: Yes.

Female Speaker: They don't own the property, so why don't they as far as the owner of the property probably is not going to go with something like that...

David Walker: Yeah, well.

Female Speaker: Because of her business that's in the front building.

David Walker: Yeah. They can still access through Melville Avenue.

Female Speaker: I doubt she would block that off.

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David Walker: I would say yes, but if you want, you can appeal to the town attorney for that through Jeffrey. But I think it's a strong way to provide a safer option for a cause entering into that lot, given the volume that's going to be here. Other than that, pretty comprehensive package spent a number of hours along with other board members going through it. We appreciate your effort. And I'm hoping that we'll be able to find a determination of completeness tonight. So.

Jay: Questions through the Chair, to Jeffrey?

David Walker: Yeah.

Jay: What is contributing a fair share toward the high traffic?

Jeffrey Hinderliter: Yeah. That's a good question, so currently the town has been well, for a long time actually looking into the halfway intersection corridor for traffic improvements. We've partnered with Sacco. We've partnered with MDOT to look at these improvements. And, there's all kinds of different options that are out there. One option, believe it or not, has three traffic lights on that one road. But there's a number of different things. A number of those items cost money. So, what Gorrill Palmer is suggesting is that the town consider having the applicant provide some funding to help with that. I think that's a great suggestion and, you know, nothing bad about Gorrill Palmer. They're just not as familiar with our ordinances. They don't work with us that much.

But that's something that's typically considered an impact fee. And, if you have impact fees, you usually need an ordinance, some kind of ordinance language enabling that impact fee. And, so it's something we could certainly look into more, but I can say that right off the top of my head, it might be a good idea, but I wouldn't hang your hat on that.

Jay: Okay. Thank you.

Jeffrey Hinderliter: You're welcome.

David Walker: Anyone else? Could I clarify? Well, Jay asked an interesting question, but I didn't know what his point was. Now that I think about it, this last sentence is talking about our approval no longer being having any force. We're not making an approval. Not tonight. Right. Okay.

Jeffrey Hinderliter: So this wouldn't be something talking down the road.

David Walker: Who was?

Jeffrey Hinderliter: The attorney.

David Walker: Oh, weird. That wasn't supposed to come up tonight. No. Okay. It wasn't clear in the letter, but now I got it.

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Chad: This is Chad.

David Walker: Yeah.

Chad: They've been working on that intersection for over 20 years because they've been doing it back when I was up there.

David Walker: And it'll be another 20 before they completed.

Chad: Exactly.

David Walker: Yeah. Yeah. Okay. Anyone else? Anyone want to make a motion?

Chris: I motion to determine complete theory wellness of Maine for LLC conditional use application proposing an adult use marijuana store at 11 Ocean Park Road, MBL 210-10-2.

David Walker: Motion by Chris.

Mary Anne: I'll second.

David Walker: Second by Mary Anne. You want to call for the vote, please, Jeffrey?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Mr. Kelley?

Jay Kelley: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes.

That motion carries 5-0.

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David Walker: We'll schedule a public hearing for September 5th at 6:00 PM.

Chris: If you guys are comfortable with that, yeah. It's up to you.

David Walker: All right. Just make sure they unlock the doors before 6:15 for us. But, yeah, that would be fine by me. And then our board member's interested in a sidewalk. I mean, I'm past that place five times a day anyway. So we will not need to do a sidewalk, but we will have the public hearing at 6:00 PM on September 5th. We thank you for coming tonight.

Chris: Yeah. Thank you.

David Walker: You're welcome.

Chris: Appreciate the suggestions too.

David Walker: Yeah. Have a good evening.

Chris: You too.

Jeffrey Hinderliter: One thing to note on this application, I know that, Jay is typically, an alternate. It would be much cleaner if Jay continues to be a voting member on this particular application

David Walker: Well, that's in our bylaws.

Jeffrey Hinderliter: Yeah. Okay. Just, yeah.

David Walker: Just so you know. So you even if when shows up you'll be the voting member for this item when it comes to...

Chris: Thanks.

David Walker: Thanks for the help, Chris. Thank you very much. Item 4, proposal - major subdivision and site plan, 61 unit, single family condominium development entitled the forest. Action is preliminary plan review, determination of completeness, schedule public hearing. The applicant is Atlantic /resource consultants, and the location is 63-91 East Emerson, Cummings Boulevard, MDL 207-1-2 zoning contract zone PMUD. Jeffrey.

Jeffrey Hinderliter: Okay. Another application, we've three in my opinion, very well prepared applications this month. So I, as a staff member certainly appreciate that. But in some respects, it also means that it's a little more work for me because I can't find one thing that's really wrong and say and just say, you got to address this before I get to the other things. I couldn't do that with this. And similar to the other contract zone that we had earlier this evening, you'll recall that this was a contract zone too, and these folks

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have been very good to work with. Whatever has been requested throughout the process, the applicant's or potential future owners, developer has been very receptive to that and has addressed that. So I think that does need to be recognized.

So with the planning board, you last reviewed this proposal at the June meeting. And at that meeting, the board requested that the applicant submit a traffic analysis, in response to the town engineer, Wright Pierce, more of their site engineering comments, and, also, the staff comments are my comments for before the preliminary plan is determined complete. So this month, the board's primary responsibility is to determine if the applicant fulfilled the board's request, and if they did, for the board to make a determination of completeness, very similar to the last proposal we reviewed. And one difference between the marijuana store proposal and this proposal is the board is not required to make a determination of completeness tonight. You actually have until around 12th December to make that determination.

But as you'll see in my memo, I feel it's complete. There are some items that need to be addressed, as you would expect from any project of this size. But based on my interaction with the developer, the applicant, I'm confident that those items will be addressed, and I see no reason to hold off on a determination of completeness. And with this proposal, a lot of the planning has been done. We do a lot of the planning through the contract zone process which the planning board has done, has reviewed, the council has done, and has reviewed. A lot of what it comes down to at this point is ensuring that the engineering is on so that impacts to abutters are mitigated, impacts to the town are mitigated, and so on. And, the applicant is, I believe, well on their way to addressing these issues that have been identified by the engineers.

So one outstanding matter is the traffic engineer. We just received a traffic study from the applicant, and I shipped this off to Gorrill Palmer. I expect Gorrill Palmer's comments by, I believe, it's the 16th. I think that's next Friday. So the end of next week. So you don't have our traffic engineer's review of their traffic engineer's report, I don't have it yet, No one has it yet. Gorrill Palmer is still working on that. So that's one of the outstanding issues to resolve. And another item that I I'm afraid I may have confused some folks a little bit is the classification of the road. In the memo, you'll see that I've recommended some clarity. What is this road? How is it defined for our review and ordinance purposes? Is it a collector, or is it an internal driveway? And long story short, to get right to the point, it's an internal driveway, and the applicant is correct. That is how the contract zone was approved.

It states it right in there. So we're not reviewing this as a collector road, which means that the normal standards that are associated with the collector road don't apply. So Wright Pierce had to adjust some of their comments because they too were questioning this during their initial review. That's an important piece because that might have stood right out to you in the recommendations, so you can ignore that. And I apologize for any confusion. It is an internal or an internal drive. So, really, just like the marijuana store, your responsibility tonight is to make a determination of completeness, not approving,

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denying, compliance, noncompliance. Is it complete? And in my opinion, it is. There are some outstanding matters to resolve and I certainly trust that they will be.

You've already had the site walk, so there's no need to schedule a site walk. The public hearing, you don't have to have that on the 5th September. This is not a conditional use application, and it doesn't have the conditional use time sensitive items. So you can have that on the 12th of September if you choose and you will find a motion to determine complete at the top of page 22 in your memo. And that's all.

David Walker: All right. Thank you, Jeffrey, and thank you for the clarification on internal versus collector roadways.

Jeffrey Hinderliter: You're welcome.

David Walker: I did have to call you myself and ask questions, so I'm glad you've got that done for us tonight. Appreciate it. I didn't really have any questions. I'm waiting for our engineers to follow-up with some more work on their stuff. And I'm waiting for Gorrill Palmer to take a look at the traffic report. I did look at it. It looks fairly simple, so I don't have anything for you. Does anybody else on the board have any questions for the applicant?

Male Speaker: No.

David Walker: No?

Male Speaker: No. But through the Chair, I'd like to ask Jeffrey a clarification about one thing.

David Walker: Sure.

Male Speaker: On the buffering, Jeffrey, this no cut zone, have you recommend a note be put on about the no cut zone except for trimming and removing of dead vegetation and trees? I've seen this come up recently just in another setting where buffers were not maintained at all. So is that an affirmative obligation that we're trying to get in there? And how does, how do we get that in or did they add that after they saw you recommend this?

Jeffrey Hinderliter: I'd have to look at the plan again. I do remember that. I think there are two primary ways to address that. One is a note on the plan. If you go back to one of my questions, early on in this process is, will the guys that are here tonight, will they be the primary contractors for the project? That makes a big difference because as I've seen with other projects, they just may not be familiar with a note on the plan as someone as intimately involved as these guys. But that doesn't mean that these guys are going to be around on this project forever. So that gets into the second piece where we get something in the condo docs to ensure that this is maintained. An interesting piece, though, where

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this came up is, with me, it was earlier this year. It was in Cider Hill, just the project right next door where some folks wanted to cut into their buffer.

When I looked into their buffer standard, they had very strong buffer standards, and I could not waive those buffer standards. What they wanted to do made sense to me, but the plan did not allow that. So in order to do that, I said you need to go through the plan amendment process, but you also need to get permission through the condo association to make sure everyone is on board because it was common land. So everyone has rights to that, some kind of rights to that buffer area. It's not really your property. So I think that it's kind of a long answer, but I believe there's two good ways to note on the plan and then the condo docs

Male Speaker: So do you believe we've said enough here that it'll get picked up?

Silas Canavan: Jeffrey, if I may.

Jeffrey Hinderliter: Sure.

Silas Canavan: Sorry. Silas Canavan, Arc civil engineer for the project. We do have a note on the plan basically saying exactly that. You're able, you know, it has to be maintained, and then dead and, you know, diseased and dangerous, you know, vegetation can be removed. I don't know if it's in the condo docs yet, but we can certainly add it to that. There's also dimension on the plan, so it's both notes and graphically that it's on there. So contractors should see it. Along those lines, though, it's great that you mentioned that. One of the things that I saw from the traffic study was that we have to maintain clear line of sight along east Cummings Highway. And I don't know, is that the town's responsibility or is that the condo's responsibility?

Jeffrey Hinderliter: That would be the condo's responsibility. That's outside of the right of way. And I don't know if you can see it from here, but on our C200 Plan, I believe it is, we do show those clearing limits within the site triangles.

Silas Canavan: Yeah.

Jeffrey Hinderliter: And we have a note that says needs to be cleared to maintain.

Silas Canavan: Right.

Jeffrey Hinderliter: And it's outside the right of way, so it wouldn't be the town's responsibility of...

Silas Canavan: All right. Great.

Jeffrey Hinderliter: Applicants.

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Silas Canavan: A lot of times, I see the town going by with these big things, and they just reach in and grab all of this stuff.

Jeffrey Hinderliter: I mean, if town wants to do it, I'm sure they wouldn't mind.

Silas Canavan: But I don't think they would. No. No.

David Walker: Thank you. Anybody else? Okay. I'm looking for a motion. Page 22.

Mary Anne: I'll make a motion to determine complete seacoast land acquisitions and Atlantic resource consultant site plan, and subdivision application proposing a 61 unit single family residential condominium development at 63-91 East Emerson, Cummings Boulevard, MBL 207-1-2.

David Walker: Motion by...

Chris: Second.

David Walker: Mary Anne, second by Chris. You want to call for the vote, please?

Jeffrey Hinderliter: Ms. Dube?

Robin Dube: Yes.

Jeffrey Hinderliter: Mr. Kelley?

Jay Kelley: Yes.

Jeffrey Hinderliter: Ms. Hubert?

Marianne Hubert: Yes.

Jeffrey Hinderliter: Vice Chair Hitchcock?

Chris Hitchcock: Yes.

Jeffrey Hinderliter: And Chair Walker?

David Walker: Yes.

That motion carries 5-0.

Jeffrey Hinderliter: Thank you.

David Walker: So we'll see you guys on September 12th, 6:30. Our next regular meeting there'll be a public hearing.

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Jeffrey Hinderliter: Perfect.

David Walker: And a determination of completeness, perhaps. Okay?

Jeffrey Hinderliter: Thank you.

David Walker: Thank you very much. All right. Other business. Do we have any other business?

Male Speaker : No.

David Walker: All right. Motion to adjourn.

Mary Anne: Second.

David Walker: The second.

Jeffrey Hinderliter: Thank you, everyone.

David Walker: It's unanimous. Meeting adjourned.

Male Speaker: Good job.

I attest the above minutes were approved by the Old Orchard Beach Planning Board on 12 September 2024.

Jeffrey Hinderliter, Town Planner