

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MAY 15, 2019
COUNCIL WORKSHOP RE:
PIPER SHORES CONTRACT ZONE AMENDMENT – 6:00 P.M.

Item 1. Call to Order.

Item 2. Those Present.

Item 3. Discussion on Piper Shores Contract Zone Amendment.

Item 4. Adjournment.



Attorneys at Law

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May 7, 2019

Members, Town Council
Town of Scarborough, Maine
c/o Thomas Hall, Town Manager
259 U.S. Route 1
P.O. Box 360
Scarborough, ME 04070-0360

Re: Piper Shores, Second Amendment to Contract Zone

Dear Members of the Town Council:

I am writing on behalf of Maine Life Care Retirement Community, Inc. d/b/a Piper Shores ("Piper Shores") regarding the Second Amendment to Contract Zone Agreement (the "Second Amendment"). Enclosed herewith are clean and marked copies of the Second Amendment. The marked copy shows the many changes that have been made since the Town Council's first reading of the Second Amendment on June 20, 2018. The Second Amendment has been heavily revised as a result of this process, provides numerous public benefits, and meets the statutory and ordinance requirement of being consistent with the Town's comprehensive plan. Exhibit C to the Second Amendment highlights the public benefits and consistency with the goals set forth in the comprehensive plan.

The applicant was pleased to receive preliminary site plan and subdivision approval from the Planning Board in April. As everyone is aware, this project has been the subject of extensive discussions and numerous meetings for more than a year. Piper Shores has met on various occasions with the Town Council, Town Council leadership, the Planning Board, Scarborough Town officials, and abutters of the project. Many of the meetings featured extensive public comments. A partial list of meetings to date include the following:

1. **January 19, 2018** – Contract Zoning Meeting with Tom Hall
2. **May 29, 2018** – Meeting with Tom Hall and Town Officials
3. **June 20, 2018** – Town Council Meeting; First Reading of CZA Approved

~ Over 60 Years of Service ~

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4. **June 26, 2018** – Meeting with Tom Hall & Town Councilor Bill Donovan
5. **August 16, 2018** – Meeting with Tom Hall & Town Councilor Bill Donovan
6. **November 19, 2018** – Planning Board Meeting
7. **December 4, 2018** – Meeting with Tom Hall
8. **December 27, 2018** – Meeting with Town Councilors Don Hamill & Paul Johnson
9. **January 8, 2019** – Meeting with Town Council Chair Peter Hayes
10. **January 9, 2019** – Town Council/Planning Board Workshop
11. **January 17, 2019** – Meeting with Tom Hall, Peter Hayes & Katy Foley
12. **February 6, 2019** – Town Council Workshop
13. **February 21, 2019** – Meeting with Tom Hall, Peter Hayes, Katy Foley & Town counsel
14. **March 8, 2019** – Meeting with Town Councilor Bill Donovan
15. **April 26, 2019** – Site Walk with Planning Board
16. **April 29, 2019** – Planning Board Meeting; Preliminary Site Plan Approved
17. **May 3, 2019** – Meeting with Tom Hall and Jay Chase

The process to amend the existing contract zone has been comprehensive, if not exhaustive. Piper Shores has received extensive feedback from interested parties provided in numerous ways, including public comments, written correspondence, a joint Planning Board/Town Council workshop, and site visit to the parcel by the Planning Board and Town officials. Throughout this extensive process, Piper Shores has attempted to listen attentively and respond accordingly to the comments offered by all constituents, particularly the Planning Board, Town Council and abutters.

The next step in the approval process requires a second reading with the Town Council and a vote to accept the Second Amendment. The Town Council is scheduled to meet next on May 15 and again on June 5. We respectfully request that Second Amendment be placed on the

Jensen Baird
Gardner Henry

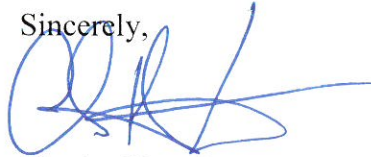
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May 15 agenda to include the public hearing and second reading of the Second Amendment. We are hopeful that the Second Amendment can then be put to a vote at the June 5 meeting.

There is significant cost in time and resources to drawing out the process. Additionally, delaying the process beyond June 5 would result in Piper Shores having to bring a new council member up to speed on what has already been a lengthy 17-month process. More delay will prejudice the applicant without benefit to the Town. Therefore, we respectfully ask the Town Council to consider the above timeline as this process moves to its conclusion.

Please let me know if you need any further information at this point. Thank you.

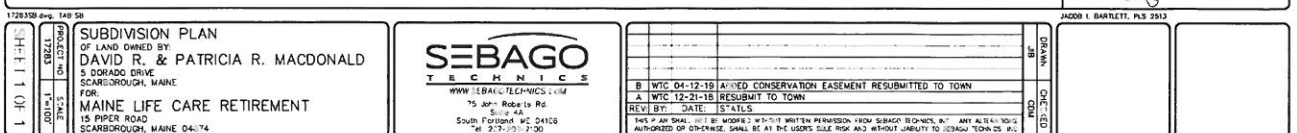
Sincerely,



Charles Katz-Leavy

CKL/pst

cc: Philip R. Saucier, Esq.



SECOND AMENDMENT TO CONTRACT ZONING AGREEMENT

This Second Amendment to Contract Zoning Agreement made as of the ____ day of _____, ~~2018~~, 2019 by and between the Town of Scarborough, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), and Maine Life Care Retirement Community, Inc., d/b/a Piper Shores, a Maine ~~non-profit~~ nonprofit corporation, with an address of 15 Piper Road, Scarborough, ME 04074 (hereinafter "Maine Life Care"), pursuant to the Contract Zoning provisions of the Scarborough Zoning Ordinance.

WHEREAS, the Town and Maine Life Care entered a Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by a First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 (collectively, the "Agreement"); and

WHEREAS, the Town of Scarborough, by and through its Town Council has determined that the amendments set forth herein to said rezoning ~~would be~~ pursuant to and consistent with the Town's local growth program and 2006 Update of the Comprehensive Plan adopted pursuant to Title 30-A, Maine Revised Statutes, Chapter 187, Sub-part 6-A, by providing a range of senior housing opportunities within a growth area served by public water and sewer facilities, encouraging the development of multiplex/multi-family housing, growing a non-profit business that offers high quality jobs, and adding new residential development that does not result in demands for expanded services beyond the Town's ability to meet those demands; and such amendments are consistent with the existing and permitted uses within the original zoning district classifications; and

WHEREAS, the Town of Scarborough, by and through its Town Council, has determined that the amendments set forth herein to said rezoning are in the public interest and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification ~~by~~. The public benefits, which are more fully set forth on Exhibit C attached hereto and incorporated herein, include but are not limited to: (i) providing housing and amenities to senior citizens with innovative design features, (ii) donating an easement for open space and conservation land; (iii) providing public parking and public access to recreational trails, ~~(iii)~~ (iv) improving the Town's tax base, ~~and (iv)~~ (v) providing a contribution to the Town's Affordable Housing Initiative Fund; (vi) providing a contribution to the Town's multimodal reserve account to fund sidewalks to enhance pedestrian connectivity, and (vii) increasing employment opportunities in the Town; and

WHEREAS, the Town of Scarborough, by and through its Town Council has authorized the execution of this Second Amendment to Contract Zoning Agreement ("Second Amendment").

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

1. The Town hereby amends the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1. The Agreement is amended to add to the provisions of the Agreement the property described in Exhibit A of this Second Amendment (hereinafter called the "Dorado Property"). The provisions of Section 2 of the Agreement are hereby amended to provide that Sections 2(a) through 2(j) of the Agreement shall not apply to the Dorado Property and instead the following provisions shall apply to the Dorado property, and Maine Life Care is authorized to construct up to 6452 dwelling units and related improvements as described below and subject to the conditions set forth below and notwithstanding the provisions of Sections XIV and IX of the Zoning Ordinance of the Town:

(a) Building Footprint and Height: The maximum building height is 40 feet. Building height for purpose of this Agreement shall ~~mean~~ be as defined in the zoning ordinance, which states the definition as "Vertical distance measured from the average finish grade at the front of the building to the highest point of the roof on a flat or mansard roof and to the average height between the eaves and the ridge for all other types of roofs." For this definition, the "front of the building" shall be the exterior side of the building where visitors approach the main entrance and where off street parking is located.

(b) Density: The maximum residential density for the Dorado Property shall be 6452 dwelling units. The dwelling units may be located in any combination of single family dwelling units, duplex or two family dwelling units, and multi-family dwelling units, and any building with multi-family dwelling units may also contain additional common facilities such as meeting rooms, activity rooms, recreational facilities, common dining and kitchen facilities and parking facilities and other facilities that may be part of a Continuing Care Retirement Community.

(c) Permitted Uses: The uses allowed or permitted on the Property shall be a Continuing Care Retirement Community and accessory uses, including maintenance and operations support facilities. The term "Continuing Care Retirement Community" shall have the meaning set forth in the Contract Zoning Agreement, dated November 6, 1997 and November 17, 1997 and recorded in the Cumberland County Registry of Deeds, Book 13437, Page 19, and Book 13449, Page 171, as amended by the First Amendment to Contract Zoning Agreement, dated May 21, 2015, and recorded in said Registry, Book 32302, Page 205 and as amended by this Amendment.

(d) Building Design: Building design, style and materials shall be substantially as depicted on plans submitted during site plan review, with any changes thereto as approved by the Planning Board.

(e) Residents: Occupancy of the Continuing Care Retirement Community shall be limited to person 62 years of age or older households with at least one resident who is 62 years of age or older; provided, however, that in the case of any dwelling occupied by a person age 62 or older and by a person older than age 35 and younger than age 62, in the event that the person age 62 or older moves out of the dwelling unit or dies, the younger person may continue to reside the dwelling unit.

(f) Sewer and Water: The facility will be served by both public water and public sewer.

(g) Setbacks: The front ~~yard setback from Spurwink Road shall be a minimum of 200 feet and the~~ side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet, ~~except that the setback from Newcomb Ridge on the westerly side of the Dorado Property shall be 75 feet as shown on the Subdivision Plan.~~

~~The side and rear yard setbacks shall comply with the buffering requirements set forth in Section VIII of the Zoning Ordinance of the Town such that where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen.~~

(h) Parking: The following minimum off-street parking shall be provided: 1 space for each dwelling unit.

(i) Road Length: ~~The~~In recognition of the fact that all units will be equipped with residential sprinkler systems and that adequate fire hydrants will be provided throughout the project, the cumulative length of a dead end private way on the Dorado Property may exceed 2,000 feet but shall not exceed 2,800 feet.

(j) Site Plan and Subdivision Plan: The property shall be developed in a manner consistent with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough and the Subdivision Ordinance of the Town of Scarborough ~~(the "Subdivision Plan")~~.

Any amendment which involves the following changes will require an amendment to this Contract Zoning Agreement: (a) any change to the definition of a Continuing Care Retirement Community; and (b) any increase in the number of units, decrease in minimum setbacks or increase in maximum building height.

~~2~~ 2. Pursuant to Section 7(G)(5)(a) of the Town's Growth Management Ordinance, Chapter 413, in order to permit the dwelling units to be constructed in a timely and efficient manner, the Town hereby authorizes use of growth permits from the reserve pool for the project and authorizes and directs the Planning Board to so allocate from the reserve pool the appropriate number of growth permits to allow Maine Life Care, its successors and assigns, to obtain the requisite building permits for the project, inclusive of the 52 dwelling units.

3. Maine Life Care shall record this Second Amendment to Contract Zoning Agreement in the Cumberland County Registry of Deeds within 90 days after its execution by the Town.

4. In recognition of Scarborough's interest in expanding pedestrian connectivity in the area, Maine Life Care agrees to make a \$25,000.00 contribution to the Town's multimodal reserve account to be used for construction of sidewalks to enhance pedestrian connectivity. In addition, Maine Life Care intends to install a pedestrian crosswalk across Spurwink Road to facilitate a pedestrian connection between the existing trail system at 15 Piper Road and the Dorado Property. In the event that Maine Life Care is unable to install the pedestrian crosswalk across Spurwink Road, Maine Life Care will increase its contribution to the multimodal reserve account to \$40,000.00.

5. In recognition of Scarborough's interest in expanding affordable housing opportunities, Maine Life Care agrees to make a \$250,000.00 contribution (the equivalent of ___ units) payable to the Scarborough Affordable Housing Initiative Fund simultaneously with the execution of this Second Amendment, to be paid at the time Maine Life Care receives its building permit(s).

6. Maine Life Care agrees that it will donate a conservation easement to the Town, the Scarborough Land Trust, or such other entity/organization qualified to hold conservation easements pursuant to Title 33, Maine Revised Statutes Annotated, Section 476(2)(A) & (B), as amended, and under Internal Revenue Code Section 170(h)(3) and the regulations promulgated thereunder, to wit: government entities or nonprofit Code § 501(C)(3) organizations operated primarily to accept lands, easements, and property for the purpose of preserving and protecting natural, scenic, educational, recreational and open space values of real property, having a commitment to protect the conservation purposes of the donation, and the resources to enforce the restrictions; provided, however, that the Town, the Scarborough Land Trust, or such other qualified entity/organization is willing to accept said donation of the conservation easement under the terms and conditions hereinafter described.

The conservation easement shall encumber approximately 12.5 acres of land at the back of the Dorado Property and shown as the "Proposed Conservation Area" on the plan titled "_____ " prepared by Sebago Technics and attached hereto as Exhibit B and incorporated herein. The conservation easement shall be in a form mutually agreeable to Maine Life Care and the easement holder, shall prohibit the development or installation of permanent structures on or in the conservation area without the prior written consent of the easement holder, and shall permit public access for pedestrian walking trails in accordance with Section 7 below.

7. Maine Life Care agrees that: (i) all sidewalks and pedestrian walkways located on the Dorado Property and all walking trails located on the Dorado Property as shown on the Subdivision Plan~~4. Maine Life Care agrees that walking trails located on the Dorado Property~~ may be used by the general public during daylight hours subject to reasonable rules and regulations adopted by Maine Life Care from time to time, and (ii) said walking trails shall be maintained in perpetuity pursuant to a conservation easement encumbering the Dorado Property as set forth in Section 5 above. Maine Life Care shall provide ~~twoseven~~ (7) parking spaces for the general public to access such trails. Maine Life Care shall have the right to relocate such trails and parking spaces from time to time.

5 8. Maine Life Care agrees to the following regarding the water quality of the wells of abutting property owners. First, Maine Life Care will evaluate the water quality of the wells of abutting property owners prior to any blasting on site so long as the abutting property owner consents to such evaluation. Second, Maine Life Care will work with appropriate consultants to ensure that any blasting on the site complies with all applicable laws, rules, and regulations, and general best practices. Third, Maine Life Care will take all reasonable measures to prevent blasting activities from adversely affect the water quality of the wells of abutting property owners. Fourth, Maine Life Care will monitor the water quality of the wells of abutting property owners during construction activities and for a period of twenty-four (24) months following substantial completion of the project so long as the abutting property owner consents to such monitoring.

9. Unless extended by the Town by further amendment of this Agreement, construction of the additional improvements to the Property authorized by this Second Amendment may commence within five (5) years after execution of this Second Amendment and shall be substantially completed within ten (10) years from the date of this Second Amendment.

6 10. Maine Life Care acknowledges and agrees that the 52 dwelling units authorized by this Amendment will not be licensed as skilled nursing or assisted living or residential care and that accordingly such independent living dwelling units shall be subject to property tax by the Town.

11. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
By: _____
Thomas Hall, Its Town Manager
(Duly authorized by vote of the Scarborough Town
Council on _____, 2019)

MAINE LIFE CARE RETIREMENT COMMUNITY, INC.

By: _____
James E. Adamowicz, Its Chief Executive Officer

STATE OF MAINE
CUMBERLAND, ss.

_____, 20182019

Personally appeared the above-named Thomas Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Scarborough.

Before Me,

Notary Public

STATE OF MAINE
CUMBERLAND, ss.

_____, ~~2018~~2019

Personally appeared the above-named James E. Adamowicz, Chief Executive Officer of Maine Life Care Retirement Community, Inc., and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Maine Life Care Retirement Community, Inc. ~~---~~

Before Me,

Notary Public

- Exhibits
Attachment 1: Zoning Map Change
Exhibit A: Description of Dorado Property
Exhibit B: Conservation Easement Area
Exhibit C: Public Interest/Public Benefit

Attachment 1
Amendment to Zoning Map

Exhibit A

5 Dorado Drive, Scarborough, Maine

A certain lot or parcel of land, together with any improvements thereon, in Scarborough, Cumberland County, Maine, located on the northerly side of Spurwink Road, being a portion of property now or formerly owned by K. Joseph Newcomb as described in an instrument recorded with the Cumberland County Registry of Deeds in Book 6994, Page 269, and also being a portion of the parcel depicted as "Lot 3, 45.04 Ac. +/-" on a plan entitled "Plan of Property on Spurwink Road, Scarborough, Maine, Made for Joseph Newcomb," prepared by registered Professional Land Surveyor George R. Bauer, Registration #2231, dated July 3, 1998, revised July 23, 1998, as recorded in said Registry of Deeds in Plan Book 198, Page 300 (the "Plan"), and more particularly described as follows:

Beginning at an iron rod set and capped PLS 2231, located at the southwest corner of the parcel described herein, said corner being the intersection of the northerly sideline of said Spurwink Road with the easterly sideline of an area depicted on the Plan as "Newcomb Ridge Road, 50' Wide Right of Way," said point of beginning being located N 78° 50' 08" E a distance of 469.26 feet from a concrete obelisk marked "1920 R11M8E" situated on the northerly sideline of said Spurwink Road as shown on the Plan;

Thence running N 16° 49' 00" W a distance of 164.36 feet along the easterly boundary of said 50' Wide Right of Way to an iron pin set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 24° 43' 33" W a distance of 204.57 feet continuing along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 13° 28' 42" W a distance of 406.61 feet along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, as shown on the Plan;

Thence turning and running N 09° 16' 52" W a distance of 104.77 feet along the easterly boundary of said 50' Wide Right of Way to an iron rod set and capped PLS 2231, which iron rod is located S 84° 16' 52" E a distance of 51.76 from a 5/8" iron rod found at the northwesterly corner of said 50' Wide Right of Way and the northeasterly corner of land now or formerly of Frank J. Dirrigl and Sheridan N. Dirrigl, described in an instrument recorded in said Registry of Deeds in Book 6571, Page 122, and depicted on the Plan as "Lot 2, 2.16 Ac. +/- ;"

Thence turning and running N 75° 19' 19" E a distance of 273.87 feet along remaining land now or formerly of K. Joseph Newcomb depicted on the Plan as "Lot 4, 13.33 Ac. +/-" to an iron rod set and capped PLS 2231 at the southeasterly corner of said Lot 4, as shown on the Plan;

Thence turning and running N 16° 39' 08" W a distance of 575.00 feet along the easterly boundary of said Lot 4 to an iron rod set and capped PLS 2231 at the northeasterly corner of said Lot 4 and the southerly or southeasterly boundary of land now or formerly of Camp Fire Girls Hitinowa

Council, Inc. described in an instrument recorded in said Registry of Deeds in Book 4345, Page 217, as shown on the Plan;

Thence turning and running N 73° 20' 52" E a distance of 574.08 feet along the southerly or southeasterly boundary of said, land now or formerly of said Camp Fire Girls of Hitinowa Council, Inc. to a pine tree with wire remains, as shown on the Plan;

Thence turning and running N 18° 30' 23" W a distance of 1,352.95 feet along the easterly boundary of said land now or formerly of Camp Fire Girls of Hitinowa Council, Inc. to a 5/8" iron rod found at the northeasterly corner of said land now or formerly of Camp Fire Girls of Hitinowa Council, Inc. and the southwesterly corner of land now or formerly of Robert W. Hansen and Karen D. Hansen described in an instrument recorded in said Registry of Deeds in Book 11926, Page 37, as shown on the Plan;

Thence turning and running S 86° 49' 32" E a distance of 450.13 feet along the southerly boundary of said land now or formerly of said Hansens to a 5/8" iron rod found at the southeasterly corner of said land now or formerly of said Hansens and the southwesterly corner of land now or formerly of Robert C. Ludwig and Gail T. Ludwig described in an instrument recorded in said Registry of Deeds in Book 10802, Page 271, as shown on the Plan;

Thence turning and running S 80° 58' 54" E a distance of 104.28 feet along the southerly boundary of said land now or formerly of said Ludwigs to a crimped 1/2" pipe found at the northwesterly corner of land now or formerly of Peter B. Talbot and Lorraine D. Talbot described in an instrument recorded in said Registry of Deeds in Book 11668, Page 327, as shown on the Plan;

Thence turning and running S 18° 17' 00" E a distance of 1,679.55 feet along the westerly boundary of said land now or formerly of said Talbots and the westerly boundaries of lands now or formerly of (i) Beverly A. Brennan, described in an instrument recorded in said Registry of Deeds in Book 3210, Page 250; (ii) Jeffrey W. Jones and Luciad Jones, described in an instrument recorded in said Registry of Deeds in Book 11265, Page 82; (iii) Scott D. Dakers and Jane A. Dakers, described in an instrument recorded in said Registry of Deeds in Book 8163, Page 256; (iv) Arnold M Bushner and Sharon A. Bushner, described in an instrument recorded in said Registry of Deeds in Book 7713, Page 252; and (v) Steven G. Jamison Trent and Susan I. Jamison Trent, described in an instrument recorded in said Registry of Deeds in Book 9480, Page 343, to a 1 1/2" iron pipe found at the southwesterly corner of said land now or formerly of said Trents and the northeasterly corner of land now or formerly of David E. Hefler, described in instruments recorded in said Registry of Deeds in Book 3124, Page 468 and Book 4124, Page 70;

Thence turning and running S 71° 49' 54" W a distance of 606.07 feet along the northerly boundary of said land now or formerly of Hefler to an iron rod found at the northwest corner of said land now or formerly of Hefler, as shown on the Plan;

Thence turning and running S 19° 33' 31" E a distance of 843.18 feet along the westerly boundary of said land now or formerly of Hefler through a bent iron pin found, as shown on the Plan, and continuing to an iron rod set and capped PLS 2231 on the northerly sideline of said Spurwink Road at the southwesterly corner of said land now or formerly of Hefler, as shown on the Plan;

Thence turning and running S 68° 58' 44" W a distance of 788.51 feet along the northerly sideline of said Spurwink Road to an iron rod set and capped PLS 2231 on the northerly sideline of Spurwink Road, as shown on the Plan;

Thence turning and running S 74° 01' 02" W a distance of 26.68 feet along the northerly sideline of said Spurwink Road to the iron rod set and capped PLS 2231 at the southeasterly corner of said 50' Wide Right of Way and the point of beginning.

The above described premises contain 44.02 acres, more or less.

Bearings are magnetic, 1960.

Reference is hereby made to the Plan. This conveyance is the conveyance contemplated by Note 4 on the Plan, earlier parties having agreed, notwithstanding such Note and notwithstanding the depiction of said Lot 3 on the Plan, to convey only the above-described portion of the parcel said Lot 3, excepting and reserving to K. Joseph Newcomb, his heirs and assigns, the fee ownership in the portion of said Lot 3 which is depicted on the Plan as "Newcomb Ridge Road, 50' Wide Right of Way."

Exhibit C
Public Benefits to Scarborough and
Consistency with the Comprehensive Plan

1. SENIOR HOUSING: The proposed development will provide additional housing and amenities to senior citizens.

The Scarborough Comprehensive Plan calls out the need for additional senior housing in Scarborough, stating: “We know that the senior population continues to grow and with that growth comes an increased need for higher density housing, often with smaller yards, common maintenance agreements, and shared facilities.”

2. INNOVATIVE DESIGN AND CLUSTER DEVELOPMENT: The proposed development features highly attractive and innovative design, including clustered development, significant open space preservation, and a mix of housing types (single-family, duplex, and apartments).

The Scarborough Comprehensive Plan promotes these same features in the Limited Growth Sector, stating: “Clustered developments with standards for significant open space protection, an interconnected street network, and a mix of housing types (single-family, duplexes and townhouses) are encouraged”.

3. CONSERVATION AND OPEN SPACE: Maine Life Care will donate an easement over an additional 12.5 +/- acres of land for permanent open space and conservation land. This is in addition to more approximately 95 +/- acres of land already under conservation easement on the existing Maine Life Care campus, bringing the total conservation area to more than 107 acres.

The Scarborough Comprehensive Plan states, “Open-space preservation was recognized early on as critical to protect Scarborough’s natural resources.”

4. RECREATIONAL TRAILS: Maine Life Care will provide public access to recreational trails located in the conservation area. This is in addition to the extensive trail network already accessible on the existing Maine Life Care campus.

The Scarborough Comprehensive Plan promotes, “Sustain and build our system of parks, trails, and open spaces to enhance our quality of life, protect our environment, and promote the economic well-being of our remarkable town by the sea.”

5. PUBLIC PARKING/ACCESS: Maine Life Care will construct seven (7) parking spaces available to the public near the trailhead to make the trails accessible.

The Scarborough Comprehensive Plan states, “Many recreation opportunities within a stunning coast environment significantly contribute to the quality of life enjoyed by current residents and appeal to visitors.”

6. ENHANCED SETBACKS: The proposed development will include robust setbacks from all sidelines exceeding the requirements of the existing zoning, including:

- the front yard setback from Spurwink Road shall be a minimum of 200 feet;
- the side and rear yards from the exterior boundary of the Dorado Property shall be a minimum of 50 feet; and
- the setback from Newcomb Ridge on the westerly side of the Dorado Property shall be 75 feet.

7. BUFFERING/SCREENING: The side and rear yard setbacks shall comply with the buffering requirements set forth in Section VIII of the Zoning Ordinance of the Town such that where no natural buffering can be maintained all such side and rear yards abutting residential districts shall be landscaped to provide a visual screen.

The Scarborough Comprehensive Plan states, “Known as “vertical rain gardens,” trees offer multiple benefits, including managing stormwater runoff.”

8. TAX REVENUE: The project will considerably add to the Town’s tax base and increase employment opportunities in the Town. The Scarborough Comprehensive Plan expressly calls out the need to stabilize and diversify the employment base in Scarborough.

The Scarborough Comprehensive Plan states, “Generally, a local government’s capital and operating responsibilities are financed by taxes and other fixed or restricted revenue sources.”

9. AFFORDABLE HOUSING: Maine Life Care will provide a contribution of \$250,000.00 to the Town’s Affordable Housing Initiative Fund.

The Scarborough Comprehensive Plan states, “Having more diverse and affordable housing options is critical to the region’s economic success and will assist businesses in attracting qualified workers.” It also states, “The funds collected through the in-lieu fee provisions can be used to increase the availability of affordable housing beyond what could have been provided under the standard density bonus provision.”

10. PEDESTRIAN CONNECTIVITY: Maine Life Care will provide a contribution of \$25,000.00 to the Town’s multimodal reserve account to fund sidewalks to enhance pedestrian connectivity.

The Scarborough Comprehensive Plan states, “A strong network of pedestrian sidewalks, trails, and bicycle lanes will also work to connect all residents and visitors.”

11. FISCALLY SUSTAINABLE: Maine Life Care will bring many civically-minded volunteers to Scarborough who will devote countless hours and resources to numerous civic and volunteer opportunities in the community; however, Maine Life Care will NOT significantly add to the strain on municipal infrastructure, such as public works and the public school system.

The Scarborough Comprehensive Plan lists in its Guiding Principles: “Fiscally Sustainable. Deliver excellent municipal services to our entire community in a fiscally sustainable manner to minimize the impacts and costs for tax payers.”

**Excerpt of
DRAFT MINUTES
PLANNING BOARD MEETING
MONDAY, APRIL 29, 2019 – 7:00 P.M.**

Members Present:

Mr. Nicolas McGee - Chair
Ms. Rachel Hendrickson – Vice Chair
Mr. Roger Beeley - Secretary
Ms. Robyn Saunders
Mr. Richard DuPerre
Ms. Jennifer Ladd
Mr. Rick Meinking

Staff Present:

Mr. Jay Chace, Town Planner
Mr. Jamel Torres, Assistant Town Planner
Ms. Angela Blanchette, Town Engineer
Ms. Doreen Christ, Recording Secretary

1. **Call to Order.** Nicolas McGee - Chair called the meeting to order at 7:00 p.m.
2. **Pledge of Allegiance.**
3. **Roll Call.** Roll was called by the Recording Secretary. All board members were present.

7. **Maine Life Care Retirement Community, Inc. requests a preliminary subdivision and site plan review for 5 Dorado Drive, Assessor's Map R91, Lot 1D.*** Jamel Torres gave an overview of the item. Maine Life Care Community, Inc. (Piper Shores) is proposing to expand their Continuing Care Retirement Community (CCRC) on a 45-acre parcel located off of Spurwink Road (Route 77). This parcel is located approximately 150-feet from the entrance to the Piper Shores main campus. The proposed development includes 16 duplex units, a mixed-use commons building consisting of 28 apartment units and a common clubhouse facility, eight (8) single-family homes, a public access trailhead, a nine- (9-) acre conservation easement, a trail network interconnected with the Camp Ketcha trails, a large open space area centrally located on the site and associated pedestrian infrastructure, parking, and stormwater management infrastructure. This use is subject to the Contract Zone amendment review process, which requires approval by the Town Council. This application is before this board for the preliminary subdivision and site plan review process. The next step, if approved, would be for a Public Hearing and a 2nd reading with the Town Council.

The applicant was last before this board in November 2018. The applicant had since resubmitted materials in January 2019, but decided to table their application.

A Site Visit took place on Friday, April 26, 2019. It shall be noted that board members Rachel Hendrickson, Roger Beeley, and Jennifer Ladd were present at this Site Visit.

Jamel Torres read the main elements from his staff comment sheet. The first was concerning Piper Shores proposal for a crosswalk across Spurwink Road to the existing Piper Shores property. Staff comments included that the proposed location of the crosswalk should be located at the Dorado Drive intersection and not at the mid-block, as currently shown. Also, by providing a crosswalk across Spurwink Road would require approval by the State of Maine DOT. If this is not approved by the MDOT, an alternative approach to connecting the proposed site to the public pedestrian network should be considered. As requested by staff, a balloon test was conducted by the applicant to simulate the height of the proposed commons building on the property. The balloon test was done on 12/26/2018 and included 11 viewpoints.

Jamel Torres stated that staff has received several letters from the public via both e-mail and hard copy which will become part of the record for this item.

Also included, in board member packets, was correspondence regarding the peer review done by Lauren Swett, PE & Noelle Koch, EL of Woodard & Curran. Also, a traffic study done by Bill Bray, PE of Traffic Solutions.

Present at this meeting were Jim Adamowicz, CEO of Maine Life Care Retirement Community (Piper Shores), William Conway, RLA, of Sebago Technics, Inc., performing the civil engineering services, and Charlie Katz-Leavy, from the law firm of Jensen Baird. Charlie Katz-Leavy is legal counsel for the project and is a real estate attorney.

Jim Adamowicz began the presentation. He commented that he was pleased to provide the update. There have been a number of meetings during both 2018/2019 to present. Also, there are a number of modifications. He then turned the presentation over to Will Conway, the project manager. Will Conway showed the overall plan. There are three (3) neighborhoods – The pocket neighborhood, the Commons, and the Estates. The Contract Zone Agreement has been revised, density is capped at 52 units for this project. There are nine (9) acres to be placed in a conservation easement. Spurwink Road is the entrance. During the final plan they will shift the crosswalk to the proper location. There is an earth/berm at Newcomb Ridge Road designed to buffer the abutters. They have formalized and provided a 75 foot setback along Newcomb Ridge Road. He showed the Central Meadow with the stormwater pool. He showed the Commons Building with resident and guest parking. The height has been lowered from 55' to 40' for the Hybrid Building. This building will have a flat roof. There are eight (8) single-family buildings (Estates Neighborhood). He showed the plan with roadways and access points lighted.

Charlie Katz-Leavy presented the Contract Zone Agreement, which was included in the application as Tab 2, Revised CZA Document. There are 52 units, the building height has been decreased by 15', there is a 75 foot setback with additional screening and buffering, and the conservation easement. He commented that the public benefits are listed in Exhibit C, Public Interest/Public Benefit, to the Contract Zone Agreement. Item No. 3. Conservation and Open Space states that Maine Life Care will donate an easement over an additional nine (9) acres of land for permanent open space and conservation land. This is in addition to more approximately 93 +/- acres of land already under conservation easement on the existing Maine Life Care campus. Item No. 5. Public Parking/Access states that Maine Life Care will construct seven (7) parking spaces available to the public near the trailhead to make the trails accessible. Additional screening is being provided. There is a contribution to affordable housing, which is \$250,000 and all the units are fully taxable. This is also listed as Item No. 9, Affordable Housing. The Contract Zone provides that public access be maintained, which will be provided.

Will Conway said that this is the 4th time this has been before this board.

All approvals need to be submitted with the Final Plans, which are from the Portland Water District, MDEP (DRAFT copy), Dept. of the Army, and the Sanitary District. Will Conway said that they are before this board and are hoping for preliminary approval this evening.

This item was opened to the public for comments.

Art Dillon – Volunteer President for the Scarborough Community Chamber of Commerce. He said that the Scarborough Community Chamber of Commerce sees enormous financial and social value in the Piper Shores' expansion. Piper Shores has shown that they are a generous, thoughtful, reliable, and responsible neighbor. Piper Shores has agreed to pay taxes. They are the largest single taxpayer in Scarborough, contributing \$1.45 million annually to the Town. With this expansion, the Town of Scarborough can expect 85 new residents becoming active citizens of Scarborough – volunteering, donating, working, and buying goods and services here. There is a huge need for a retirement facility. In closing, he commented that the Chamber enthusiastically and strongly supports this project.

Jeff Jones (14 Acorn Lane). He said the first issue he has is with traffic. No traffic study has been done to understand the aggregate impacts of the entire Piper Shores development. He asked, "What is the real impact regarding traffic?" No improvements or changes have been done to Spurwink Road. The sidewalks should be required. He said not only would he want to see a larger contribution to the Town sidewalk fund (\$25,000), but still want Piper Shores to at least put in sidewalks along Route 77 between their two (2) boundary lines, without which he stated this is another isolated community. He said that he has two (2) issues – traffic impact and requiring sidewalks along Route 77. The crosswalk at Dorado Drive will not happen and it would be so dangerous that no one would try to cross there. He did state that the conservation easement is a great improvement to the plan. At this point, he asked why the entire wetlands weren't put into the conservation easement. He said he is concerned about the size of the building, at 94,000 SF. This is a huge building. He feels it is too big for the Rural Farming (RF) District and it is not compatible with the Comprehensive Plan. In closing, he commented that the revised plan is an improvement to the original plan.

Lucy Jones (14 Acorn Lane). She commented that this is a direct impact to the abutters. The RF Contract Zone is a change from residential to 52 units. This is too big of a change and sets a precedent to this Town. The key component of this project is the size of the building. This is a sticking point. She asked, “Would you want that size of building in front of you or behind you?” She said what recourse do we have? She is concerned with property values decreasing. Again she asked – “Do we need this project?” This will definitely disrupt our neighborhood.

Donald Simoneau (4 Newcomb Ridge). Donald Simoneau said he never knew of the project until it was given the “green light”. He feels they were directly left out of the loop. The projects far exceeds the density in the RF District. The information that has been given, has been limited. This project will totally transform the topography. There will be a lot of blasting. Nobody wants this “Pocket Neighborhood”. This does not fit. We thought we were protected in the RF District. He referenced the \$25,000 for sidewalks. He said who will foot the bill for this project. It shall be noted that Donald Simoneau was present at the Site Visit.

Mr. Dulac (6 Newcomb Ridge Road) was surprised this is before the Planning Board and not the Town Council. As residents of Scarborough, we need to be heard. This project is not compatible with both the Comprehensive Plan and the existing zoning district. He feels the neighbors are being overlooked and ignored. This is a flawed process and that they are trying to bridge the gaps. The pieces do not fit. He wants this to be denied this evening.

Nicolas McGee clarified that the Planning Board Members are not elected officials. The Planning Board Members are appointed. In regards to a done deal from the beginning – This is not a done deal. Nothing is a done deal. The Board’s purview is to ensure the technical aspects of the proposal align with the Site Plan and subdivision standards. The structure of the Board review will be one item at a time: the first topic – the technical aspects of the plan; the second topic – recommendation on the Contract Zone language; and third – open up to the board discussion.

This item was opened to the board for the following discussion and deliberation.

Roger Beeley referenced the setback. He also mentioned the trees to the north. He was pleased with the trees. The issue is the sidewalk. Roger Beeley asked if Spurwink was a state road? Angela Blanchette commented that it is. There are federal and state standards, i.e., road widths, shoulders, etc. It would need MDOT approval for a crosswalk. A speed limit is needed for a crosswalk. Sidewalks are different. Jay Chace said the crosswalk is proposed to connect to an off-road trail through the existing Piper Shores campus. There is no sidewalk in the ROW. Angela Blanchette said that additional measures would be needed to get the speed limit down. Will Conway said the crosswalk was not part of the original plan, but has been added based on discussions. He mentioned trail access to Camp Ketcha, extensive network on the site itself, the sidewalk contribution. Robyn Saunders mentioned trail connectivity. Can you walk from Camp Ketcha to Higgins Beach? The sidewalk network was shown and described that if the crosswalk is able to move forward the connection could be made. Will Conway said that this is a huge benefit that we are providing.

Robyn Saunders asked about aggregate trips and the overall traffic impacts. Jay Chace commented that Bill Bray has provided two (2) peer reviews that were really focused on this phase of the project. Robyn Saunders stated that this is an amendment and not a new Contract Zone and it would be helpful to understand the cumulative impacts.

Rachel Hendrickson said that they looked at an option for a sidewalk on Spurwink Road. Then they looked at a crosswalk. More folks would use a crosswalk. There might be some impact for a crosswalk. Rachel Hendrickson said that this is what we are here to look at – Site Review/Design Standards. Rachel Hendrickson asked if there is no MDOT approval Piper Shore should have a Plan B. Ms. Hendrickson also suggested the conservation easement are should be consider to be closer to the public parking.

Charlie Katz-Leavy said a permanent conservation easement could reduce the use of the area and Piper may wish to have an accessory use, such as a greenhouse in proximity to the parking area

Richard DuPerre asked about a protection plan for abutters wells. The response was that there have been conversations with S.W. Cole to develop a plan. Richard DuPerre suggested additional wayfinding signage should be considered.

Jennifer Ladd referenced the Site Visit. She commented that the trails are well maintained and easy. The perspective is different from other views. In regards to trails and crosswalks (some signage) – will this be available to the public (wayfinding/signage). The response was that signage will be placed in future

applications to the Board. Jennifer Ladd asked how will residents and staff go between facilities? Will Conway responded that there is a shuttle bus. A Conservation Easement is a way to preserve land and including the wetlands in the area warrant some thought and provide some value.

Rick Meinking said in regards to content he too felt an aggregate study analysis should be provided.

Nicolas McGee asked the following questions to get a consensus of how the board felt, as follows:
Is there a level of comfort with the plans drawn up? Is the buffering within the guidelines for open space? Would the inclusion of the wetlands in the Conservation Easement – would this be a welcomed addition? In regards to a crosswalk – the team should include this as a Plan “B”. This can be discussed further.
There was general comfort with the Site Plan.

Jennifer Ladd asked if there is capacity left to build out on an existing site? Jay Chace responded that it is pretty limited.

Nicolas McGee stated that the process offers opportunity for the Planning Board to offer insights on the Contract Zone language; however final determination is in the hands of the Town Council with regards to public benefits and with the consistency to the Comprehensive Plan. At this point, Nicolas McGee asked the board for thoughts or recommendations from the Planning Board to the Town Council. Based on discussion the issues recommended to be addressed in the contract zone include; well protection measures (well quality/levels must be maintained); trailhead access; modifications to the conservation easement area; and, addressing pedestrian connectivity should the crosswalk not be approved by DOT. Ms. Saunders mentioned she felt there was missing a link of compatibility of permitted uses, which Mr. McGee identified as the role of the Council to make a determination upon. Ms. Hendrickson said she applauds Piper Shores for affordable housing money.

Nicolas McGee stated that this is not the last time this application be seen by this board as the project will need to return for final approvals once the contract zone amendment is approved. The following motion was made.

MOTION: *by Nicolas McGee, seconded by Roger Beeley, to move to grant preliminary, provisional site plan and subdivision plan approval for the project titled, “Piper Shores Dorado Site” proposed by Maine Life Care Community, Inc., as depicted on the plan set prepared by Sebago Technics dated 4/12/19 with the following condition.*

Condition: *Prior to the submission of a final site and subdivision plan application, the contract zone agreement and plan set shall be revised to address the staff review comments in the memorandum dated 4/29/19 and as discussed during the Board’s deliberation.*

VOTED: 5-0 (Passed).
