

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL WORKSHOP
Wednesday, February 25, 2015
TOWN HALL CHAMBERS
6:30 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Wednesday, February 25, 2015. Chair O'Neill opened the meeting at 6:30 p.m.

The following were in attendance:

**Vice Chair Joseph Thornton
Councilor Kenneth Blow
Councilor Jay Kelley
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid
Elizabeth Herold – Executive Director – The Pines
Attorney Edward J. Kelleher – representing The Pines
Carl Lakari – Developer and Consultant to the Project
Attorney Shana Cook-Mueller – representing the Town
George Greene – Assessor
Jeffrey Hinderliter – Planner**

**Absent: Chair Shawn O'Neill
Councilor Michael Tousignant**

The purpose of this evening's workshop is to discuss and review a proposal by The Pines at Ocean Park (108-1-8X), 20 Manor Street, to obtain Tax Increment Financing (TIF) in order to renovate sixty units of subsidized housing; to discuss food trucks/stands; and to discuss Special Entertainment Ordinance.

The Town Manager began the discussion with a short synopsis of what will be discussed in the first segment of our meeting. The Pines is a 60 unit subsidized housing complex on Manor Street which opened in 1972. Residents are mostly elderly. The homes are modest, 530SF. To live there residents must meet low-income eligibility.

The Pines was awarded a grant (several million dollars) from Maine State Housing (MSHA) to completely renovate all 60 units down to the studs. The grant funds are dependent on private investors. For this reason in order to use the funding The Pines must convert from its current non-profit status to a for-profit entity, and it must also secure from the Town of Old Orchard Beach approval for a financing agreement that gives back to The Pines a substantial portion of the property taxes that it would now be assessed for because of its new for profit status. This arrangement is known as tax increment financing (commonly referred to as TIF). The Pines currently makes a voluntary payment to the Town of \$3,000 in lieu of taxes (the payment is referred to as a PILOT). The letter from Liz Herald outlines the proposal to the Town as follows:

30 year agreement

Year's 1-16 payment of \$5,000 annually to the Town

Year's 17-30 payment of \$20,000 annually to the Town

Participating in the discussion was Elizabeth Herold, Executive Director of the Pines and their attorney, Ed Kelleher; and the Town's attorney, Shana Cook-Mueller.

Town Attorney Shana Cook-Mueller began by giving a short synopsis of Tax Increment Financing ("TIF) Basics. TIF permits local economic development and affordable housing development program that allows municipality to "capture" new property tax value. Property taxes on new captured value are "TIF Revenues." TIF Revenues can be used to fund a wide variety of authorized project costs, including providing payments to a developer.

The TIF District allows the municipality to create a boundary around a specific geographic area. Taxable Value within the TIF District is "frozen" as of the prior March 31 (i.e., the prior tax year) – this is the Original Assessed Value ("OAV"). The municipality adopts a Development Program describing authorized uses of TIF Revenue.

Some of the benefits to a municipality include attracting new investment (i.e., tax dollars); significant infrastructure projects; and tax shelters (i.e., the "tax shifts".) TIF's create short and long term benefits for communities, which include:

- 1. Provides development incentives requiring no tax increases. Properties are assessed and taxed the same way as in non TIF areas. The only change is that during the life of the TIF, property tax revenues are distributed differently with the incremental increase in tax revenue going to the village to finance redevelopment expenditures within the TIF area and the rest going to the underlying taxing bodies.**
- 2. Increases property values. TIF redevelopment projects are an investment that causes property values to increase thus broadening the tax base and benefitting everyone who pays taxes.**
- 3. Induces private investment and development. Villages and Cities can utilize TIF funds to offset relocation costs, development costs, and improve needed infrastructure to facilitate redevelopment.**
- 4. Creates jobs, job retention and supports training programs. Increased development, redevelopment and relocation mean a greater demand for workforce, and often times a higher skilled or higher educated workforce. Redevelopment also impacts areas outside of the TIF enabling other businesses to grow and prosper as well.**
- 5. Creates a stronger, broader tax base. Infrastructure improvements, demolition or redevelopment of blighted areas attract private developers to invest in the community. As a result, the overall equalized assessment value increases, lessening the property tax burden.**
- 6. Locally controlled. Municipal officials are responsible for determining the best utilization of TIF funds, not the state or federal government.**

7. Incremental revenue is reinvested in the TIF district. TIF funds are only utilized within the TIF district as a means to encourage the redevelopment of the area.
8. Benefits other taxing bodies. At the end of the TIF the entire property tax generated by the newly revitalized property goes to the underlying taxing bodies providing a revenue increase for schools, parks, libraries and so forth without raising taxes.

No Money is diverted from the school. On the contrary, TIF's, when properly executed, create money for schools. First, schools continue to receive all the tax revenue they were entitled to before the creation of the TIF district. Second, under most circumstances, a school's state aid is greater when a school district overlaps a successful TIF. The incremental growth in property values is excluded from the property tax base when the state calculates the amount of aid it should award to a school district. The "poorer" a school district, the more it stands to benefit from having a TIF district.

When a TIF is established there are numerous legal requirements designed to insure the public and also other local taxing bodies are informed. Public hearings are held and all expenditure decisions must be made in public by local elected officials charged with representing the community. All documents pertaining to a TIF are available through a [Freedom of Information Act \(FOIA\) request](#).

There is tax shelter benefits including adding new value from a municipality's "State Valuation." A municipality's State Valuation affects important areas of municipal finance: State Education Subsidy, County Taxes and State Revenue Sharing Subsidy. Some TIFs include a Credit Enhancement Agreements whereby a developer or business receives a property tax reimbursement out of the TIF revenues. Not all TIFs include a Credit Enhancement Agreement. According to 30-A M.R.S.A., Section 5225 and 5249 – there are authorized project costs including project costs inside the TIF district; project costs outside the TIF district, but "directly related to or made necessary by" the TIF district. For non-affordable housing development districts only: Project costs unrelated to location of TIF district. Examples include: costs of economic development programs, environmental improvements, employment training within the municipality, or recreational trails with economic development potential. The TIF criteria and program limits includes 25% of area blighted; need of rehabilitation, redevelopment or conservation, or suitable for commercial or arts district uses; acreage cap, value cap; and term limits. The procedures for creating/amending a TIF district includes public notice, public hearing, vote by legislative body (Town Council), designation of TIF District, Development Program for the District, approval by Commissioner of DECD or Maine State Housing Authority (for affordable housing TIFs), and finally, if the District contemplates a cred enhancement agreement, that contract is executed.

Funding project costs include Credit Enhancement Agreements, Municipal Bonds, or setting aside TIF revenues. As it concerns the Pines Affordable Housing TIF proposal: Current a tax-exempt entity, making a voluntary annual payment in lieu of taxes; facility is in need of renovation; in order to access federal tax credits using investors, the entity must become a limited partnership (taxable entity); and they are requesting a property tax reimbursement agreement (credit enhancement agreement.)

Tax Increment Financing (TIF) is a public financing method that is used as a subsidy for redevelopment, infrastructure, and other community- improvement projects. A tax increment is the difference between the amount of property tax revenue generated before a TIF district designation and the amount of property revenue generated after the TIF designation. Only property taxes generated by the incremental increases in value of TIF districts are available for TIF projects. Tax rates do not change when a TIF is created. TIF districts do not increase taxes.

Creating a TIF does not reduce property tax revenues available to overlapping taxing bodies like schools. Property taxes collected on properties included in the TIF at the time of its designation continue to be distributed to the school districts, park district, library district, and other taxing districts and are not reduced by the TIF creation. Only taxes derived from future growth that would not have occurred, "but for the TIF" go to TIF projects. Historically in the 1960's and 1970's the federal and state governments began cutting back economic development programs that cities and towns could use to revitalize communities. TIF districts are one of the few remaining tools that local governments can use to attract new business, invest in infrastructure and rebuild blighted areas. TIF districts are a popular and effective redevelopment tool.

The Affordable Housing TIF Statute allows municipalities in Maine to designate certain areas within the municipality as Affordable Housing TIF Districts, and to implement development plans for those districts. The development plans allow the municipality to return to the owner of properties within the district tax revenues related to the increase in value in property within the district due to the development activities undertaken by the owners.

Ocean View Manor is a Maine nonprofit corporation with a 501©(3) status, meaning it is exempt from federal taxation. Ocean View Manor is planning on substantially rehabilitating the Pines using Low Income Housing Tax Credits awarded by the Maine State Housing Authority. A description of The Pines, its tenants and the proposed renovations is clearly stated out in detail. The proposed rehabilitation is being undertaken using Low Income Housing Tax Credits (LIHTCs), a federal income tax credit. LIHTCs are awarded in Maine by the Maine State Housing Authority through a competitive process. The Pines project was awarded LIHTCs in Maine Housing's 2015 scoring round.

In her report, Executive Director Liz Herald provided a historical as well as financial picture of Oceanview Manor.

Oceanview Manor statistics indicated a considerable savings for the Town of Old Orchard Beach. Working with the Town Manager, priority given to Town residents, nearly half of the Ocean Pines Apartments were awarded to resident of Old Orchard Beach. Better than 50 of this number were receiving either State or Town assistance. 52% of all annual Federal Rent Assistance which Ocean Pines receives has been awarded to Old Orchard Beach residents now residing in Ocean Pines. This is a savings amounting to nearly \$34,000

annually. 64 of Ocean Pines total annual rent supplement money is awarded to Old Orchard Beach residents.

At the present time the wait list shows that 20% currently live in Old Orchard Beach; 14.3% from Biddeford and Saco; 35.6% from other parts of Maine; and 15.8% from outside Maine. Of course all of the 60 residents who currently reside at Oceanview Manor are Old Orchard residents. Oceanview Manor is a Section 8 property which means that residents only pay 30% of their income. The average rent is \$362 which covers heat, electricity, maintenance services, supportive services and social and educational services.

As explained by Director Herald, the LIHTC program, being a federal tax program, is quite complicated. In essence, Maine Housing will allocate tax credits to The Pines when the renovations are completed. Ocean View Manor wants to convert the tax credits into cash to use to fund the renovations. In order to accomplish this, Ocean View Manor will convey The Pines to a special purpose limited partnership, formed by Ocean View Manor exclusively for purposes of this project. This partnership has already been formed and is called The Pines at Ocean Park, LP (the "Partnership"). Ocean View Manor will control the operations of the Partnership. Ocean View and or will sell an interest in the Partnership to an investor, who will pay cash for its investment interest in the Partnership, and in exchange for this investment, will receive the LIHTCs awarded to the Pines. The Partnership will use the cash paid by the investor to pay for the renovations. This cash won't cover all of the costs of the renovations; the balance will be financed with loans from Maine Housing and other sources. The Partnership will borrow these loans and will repay them using the rental revenues from The Pines. The Partnership will own the project for at least a fifteen year period after the project is completed. In exchange for receiving the tax credits, Maine Housing will require the Partnership to enter into a long term agreement which will restrict the Pines to use as an affordable housing project for the elderly, and which will limit the incomes of the people that live here and will set the rental rates that can be charged, This agreement will have a term of 45 years and will be recorded in the York County Registry of Deeds as the senior encumbrance on the property. Maine Housing will have the power to enforce the restrictive covenant in Maine courts. This is a rather cumbersome structure, but it is the standard way of utilizing LIHTCs for the purpose of developing affordable housing; there are dozens of projects like this in Maine. The partnership structure is required because a tax exempt entity such as Ocean View Manor does not have the ability to utilize the LIHTCs in the manner described above, due to constraints of federal tax law. In short, a tax exempt entity like Ocean View Manor can't sell investment interests to generate cash for the rehabilitation, but a limited partnership can. Once The Pines is transferred to the Partnership, it will no longer be owned by an entity which is exempt from local property taxes. At that point, it cannot benefit from a PILOT arrangement, and the only way that it can lawfully obtain any advantageous tax arrangement is through the Affordable Housing TIF Program. Section V below sets out the proposed TIF arrangement and explains why it is important to the long term viability of the proposed renovation project at The Pines.

The Pines, also currently known as Oceanview Manor, offers 60 one bedroom "garden" apartments to low-income seniors and persons with disabilities. The mission is to provide safe, affordable housing and to encourage maximum independence in a caring environment. The housing was built over 40 years ago and despite a strong commitment to maintain infrastructure, it is deteriorating. A capital needs assessment identified over \$5 million in needed improvements. Concrete slab floors, cast iron pipes and raw electric lines are breaking down and need replacing. New insulation, energy efficient windows, showers instead of tubs; energy efficient furnaces; and improved design features including walls and kitchens, are also needed to meet the needs of seniors.

The Pines at Ocean Park provides housing and services to very-low income people 62 and older as well as a small number of people who have a documented disability. To meet guidelines for project based HUD rental subsidies, prospective tenants must fall below low to very-low income limits. There is an enormous need for this affordable housing. According to a market study completed by the Signal Group in 2014, there is an estimated total of over 1,500 one- and two-person renter households age 55+ at or below the maximum income for The Pines in the greater Portland metropolitan area. The Pines has a very long (120+) wait list that confirms the local needs assessment data. There are 10 years remaining on the contract for HUD rental subsidies. The operating income on the property and the reserves are not sufficient-and will not be sufficient- to maintain or improve the property to allow the affordable housing to continue beyond this period. In addition, there is the concern about the quality of life for tenants as the units, despite best efforts, continue to decline. Overall, an entire re-capitalization is needed.

The site of 4.45 acres is flat with a parking loop serving 14 buildings comprised of between 4 and 6 residential units each. The unit is typically a single bedroom residence with kitchen, living and bath. The groups of units are arranged end to end and the linear buildings are parallel to each other, creating an entry "court" and central walk to each residential entrance. Parking is arranged along the perimeter of the drive, close to the buildings served. A community building houses offices, laundry and space for tenant programming, classes and events.

The Board of Directors, staff, volunteers, design and financial professionals have spent many hours researching, strategizing and developing new facilities' designs to address/correct the deteriorating physical issues. The proposed design for 1 bedroom units maintains the placement and shape of the existing buildings. New vinyl siding and asphalt shingles will be used on the exterior. The older casement windows will be replaced with double hung windows.

The entries will be improved in style and function, providing a protected front door. The interior will feature a walk-in shower and improved design features as well as improved storage. In addition, a new hi-efficiency heating system for each building will improve maintenance and energy use. Finally, adding a small addition on the end of five buildings will create five 2- bedroom units.

The Pines at Ocean Park has been successful in raising the needed capital funds necessary to complete these renovations. Sources include low-income housing tax credits, Maine Housing, Bank of Maine and the Federal Home Loan Bank of Boston.

The goal of the project is to take all that has been learned over the last 42 years about "housing" design and construction; "green" building and universal design, and combine it with all that the organization has learned over the last 42 years about the needs of seniors, what it means to age in place and the importance of community. Combined with the necessary funding, The Pines at Ocean Park project will ensure the mission to provide affordable housing for low-income seniors for decades to come.

Project Budget.

The renovation of the Pines is a major logistical and financial undertaking. The proposed renovations will lead to an investment of approximately \$6.25 million in the Pines. Ocean View Manor has arranged for a mix of public and private sector financing sources to pay for the costs of these developments. A summary of sources and uses of funds follows:

Capital Budget Summary

Uses of Funds

Rehab Costs	\$ 5,179,923
Design and Engineering	\$ 79,235
Financing Costs	\$ 398,666
Legal Costs	\$ 47,500
Temporary Relocation Costs	\$ 162,000

Required Reserves	\$ 382,513
	\$ 6,249,837

Sources of Funds

Capital Investment (Tax	\$ 2,580,000
Bank of Maine Financing	\$ 600,000
Maine Housing Financing	\$ 850,000
Federal Home Loan Bank	\$ 500,000
Maine Housing Subsidy	\$ 1,400,000
Ocean View Manor	\$ 319,837
	\$ 6,249,837

Current Tax Arrangement.

Currently Ocean View Manor makes a Payment in Lieu of Taxes ("PILOT") to the Town each year. This arrangement has been in place since 1980, as evidenced by the correspondence attached here to as Exhibit A. Ocean View Manor pays \$4,000 per year to the Town, paid in quarterly installments.

We would propose to structure a TIF arrangement that resulted in a net payment by the Partnership to the Town of \$5,000.00 during the first 16 years of the TIF term. This would cover the period during which the project was under construction, and the fifteen year period after the project was complete. This fifteen year period is of particular interest to the tax credit investor in the project; the investor is required to retain an ownership interest in the Partnership for this fifteen year period, and will closely scrutinize the operations of the Pines during this period. We are seeking this level of tax payment during this time period in order to ensure that the project

Can pay all expenses and service all debt during this initial fifteen year investment period.

We would propose a net tax payment to the Town of \$20,000 for years 17 through 30 of the TIF period. We wanted to provide additional information to explain the need for this TIF arrangement: In short, although the renovation project will be expensive, it will not result in The Pines being able to generate any meaningful additional rental revenue through its operations. This is because The Pines will continue to operate as it has historically- renting out its units at low, rent controlled prices to tenants with low, qualifying incomes. In fact The Pines will be legally required to do so as a result of the restrictive covenant on rental rates.

The rent restrictions that will be in place are likely to be along these lines (they are adjusted slightly from time to time by U.S. HUD): 36 one-BR units will be restricted to \$725 per month; 18 one-BR units will be restricted to \$760 per month; and 5 two-BR units will be restricted to \$1,044 per month (as adjusted from time to time by HUD). These rents are in line with what The Pines currently charges.

Therefore The Pines at Ocean Park is seeking to maintain the level of expenses that has allowed them to provide safe and affordable housing to low-income seniors for over 4 decades. This includes continuing (with a small increase now, plus a more substantial increase after the 16th year of the TIF term) its current level of tax payments to the Town of Old Orchard Beach.

The mission of Oceanview Manor is to provide safe affordable housing and to encourage maximum independence in a caring environment.

The purpose of the Workshop this evening is to discuss our application for the Low Income Housing Tax Credit for 2015. Our housing stock is 42 years old and in urgent need of many things including more energy efficient measures; providing “aging in place” interiors, upgrading the utilities, etc. If successful with the Tax Credit application it would give the means to do rehabilitation to the properties. The ultimate goal is to continue to provide the affordable housing with services for the next 42 years.

Old Orchard Beach administration has always been supportive throughout the 42 years and the services received from EMT and Rescue personnel are so appreciated. Prior to 1975, Ocean Pines was number five among the Town’s highest property tax payers. In 1976 Oceanview was acknowledged to be “tax exempt” by the Town. At the same time Oceanview began paying \$2,000 per year in lieu of property taxes. In 1980 that amount was increased to \$4,000 per year and has continued until this point. It is their desire to continue to be responsible citizens and acknowledge that a change in status from “not for profit” to “for profit” means they will be contributing a larger amount.

The current valuation of Ocean View is \$1.2 million and could significantly increase after improvements which could result in a higher tax bill of over \$20,000 to \$30,000. This is a significant amount when you are regulated with your rent levels. That Tax Reimbursement Agreement would give the Town more funds while at the same time allow Ocean View to continue to offer the services and housing that is so important to their residents.

The Agreement, upon completion by The Pines at Ocean Park, LP (the “Partnership”) the renovations at the Ocean View Manor Project, the Partnership shall receive back from the Town of Old Orchard Beach 50% of the total tax payment it makes each year. This Agreement assumes that the Partnership actually makes a tax payment and then the Town issues a check to the Partnership for half that payment. The Agreement provides that if the owner of the property ever becomes a tax exempt entity, it will still make a payment equal to the net amount of its tax payment in the form of a payment in lieu of taxes. The Agreement has a term of fifteen years after the Project is completed.

During the presentation this evening there was an interesting power point. The Pines, a retirement community with an emphasis on Living at the Shore in Ocean Park, Maine originated in 1972 and has celebrated 43 years of senior housing and services.

The Vision of the Pines – “During the summer of 1969, a cadre of six, bright, energetic, talented teenagers(from New England Baptist Youth Conferencing Camp at Ocean wood) assumed a mission project with and for the elderly. Among their findings was the alarming fact that many senior citizens, living on fixed incomes, were paying as much as 65 to 70% of their total income on housing. It was at this juncture that the Reverend Robert Bags (Executive Secretary of NEBC) became aware of their findings. Perseverance, strengthened by faith, the trust and spiritual empowerment of youth, we the necessary ingredients of victory and on Sunday, July 23, 1972, the Ocean Pines complex of 60 garden apartments was formerly dedicated. The Pines mission is to encourage maximum independence in a caring environment. Presently the Pines has 62 resident (11 disabled residents; 42 female residents, 20 male residents, 4 married households, four of the age of 41 to 60; 33 at the age of 61-80; 25 at the age of over 80 with an average income of \$15,087.)

Executive Director Herald complimented the municipality of the support they have always received and the working relationship continues to be positive.

The following individuals also commented and asked questions during the discussion period: John Bird, Jerome Begert, Assessor George Greene, members of the Pines management team and members of the Council. Questions related to assessed value and how that is determined; footprint has not changed, the ability to revert back according to Federal law; completion date of the project is January 2015; and timing needed to move this project forward. The timing was explained to be urgent so that work can be done in the summer. It is anticipated that the closing date when sign off will be accomplished would be June 30th. The question of rent restrictions was raised and it was indicated that rent restrictions will be in place and are likely to be along the lines of the rentals already in place. Usually they are adjusted some times by HUD. The 36 units will be restricted to \$725 per month; 18 one-bedroom units will be restricted to \$760 per month; and 4 two-bedroom units will be restricted to \$1,044 per month. Again, these are in line with what are currently being paid at the Pines.

Vice Chair Thornton expressed appreciation to those in attendance and the general consensus of the Councilors in attendance was support of this project. Discussion of an executive session being held determined that it would be on the 17th of March.

Food Trucks

The second issue being discussed in the Workshop this evening is the question of mobile food truck businesses which is a great way to expand existing restaurant sales or break into the food industry. While in the past food trucks have been associated with simple fare, like sandwiches, hot dogs and ice cream; today’s food truck business has exploded

into a variety. Today restaurant food trucks offer every kind of cuisine imaginable and while sandwiches are still on the menus, customers can find items such as gourmet cupcakes to sushi. There are those that feel that food trucks make sense but only at fairs, short-term events, etc. However there are others who have expressed their opinion that some of them are awesome; are recognized as supporting local businesses and giving an opportunity for employment; and one has little concentration on the net caloric intake. Food trucks are fan based, have a high agility and low entrance fee costs. The risk however is higher and there really is little history about the pros and cons of food trucks. Brick and Mortar on the other hand have roots and legacy but the entrance cost is higher.

Some of the considerations are that not every neighborhood allows food trucks nor wants them. Discussion continued on where that is legal as far as ordinance. Some ordinances also have requirements as to time of the year, etc. Food trucks cost money and require a license or permit. Sometimes consideration is given to capping the number of food trucks in a given town or city. Health and safety are important issues for consideration as well. Attention needs to be given to where food is stored, prepared and served; sanitary conditions; and proper temperature. The Health Inspector needs to be involved in the location and operation of food trucks. It should also be noted that Restaurants and food trucks don't always mix. Restaurants and other businesses may not take kindly to parking of food trucks nearby. Competition in the food industry is fierce. One of the biggest advantages a food truck has over a restaurant is that it can bring the food to the customer. It is, however, a balancing act to park in a legal area which is also busy. Food trucks provide a dining experience but faster. Social media is a great tool for food trucks. More and more mobile food truck businesses are turning to sites like Facebook and Twitter for promotion. You can tweet where you are going to be each day. Food trucks offer a great way to expand business such as serving lunch during the downtown lunch time but at night cater to a party or wedding.

Further research has made aware that there is a growing discontent within the food service industry between brick-and-mortar restaurants and mobile food trucks. Many restaurants feel that the food trucks' mobility advantages take away their business and support cities and towns enacting time-and-location restrictions on food trucks in order to "level the playing field." The food trucks argue that these time-and-location restrictions are unfair because they prohibit the food trucks from competing fairly.

There are those who feel that food trucks have a distinct disadvantage. Typically when they are available they are clustered together at farmer's markets or the like as basically the primary meal options. They also can only offer so many menu items and on then so false. The restaurant community for the most part vehemently opposes food trucks.

This past summer one of the concerns in the downtown businesses was the loud music during the day time hours which many considered a "distraction." Since liquor was not served no special amusement permit was needed. The discussion this evening is to discuss the need for the issuance of a Special Amusement Permit Ordinance for music dancing or entertainment for a business that does not sell liquor. The intent is to provide language that requires Special Amusement Permits for Victualers that provide entertainment (even if they don't serve alcohol.) To do this it will be necessary to amend Sections within Chapter 6 (including the

title of Chapter 6 – current: “Alcoholic Beverages”; proposed Special Amusements and Alcoholic Beverages”) and sections in Chapter 18.

FOOD STAND DEFINITION:

“Food stand means any business not qualifying as a restaurant or a convenience store as defined in this section, and offering for sale foodstuffs to be consumed by the public off premises.”

WHERE FOOD STANDS ARE PERMISSIBLE

Currently, Food Stands are permissible within a particular area of the Downtown District-1 (DD-1) and within the entire Amusement Overlay District (AO):

Sec. 78-717. Permitted uses.

Permitted uses in the Downtown District 1 (DD-1) shall be classified as follows:

(1) Primary uses. Primary uses are as follows:

g. Food stands (located between First Street/Milliken Street and the beach) with a minimum ten-foot setback from the front property line.

Sec. 78-1083. - Permitted uses.

Permitted uses in the amusement overlay district (AO) shall be classified as follows:

(2) *Complementary uses.* Complementary uses are as follows:

d. Food stands with a minimum of a ten-foot setback from the front property line.

FURTHER INFO

In an attempt to determine whether a food truck or mobile food vendors are a permitted use in the DD-1 and AO Zoning Districts and because there is no definition for food truck or mobile food vendor in the town’s ordinances, it appears the use classification that is the best fit for a food truck or food vendor is “Food Stand.” Chapter 78 (Zoning) of the town’s ordinance defines a Food Stand as:

Any business not qualifying as a restaurant or convenience store as defined in this section, and offering for sale foodstuffs to be consumed by the public off premises.

The DD-1 allows Food Stands in a specific area- between First Street and Milliken Street and the beach with a minimum 10 foot front property line setback. The AO District allows
C:\Users\kmclaughlin\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\Y0TT4TNR\2 25 15 workshop on Proposal by Pines to obtain TIF and Food Trucks and Stands and special entertainment ordinance.doc Page 12 of 17

Food Stands within the entirety of the district provided there is a 10 foot front property line setback. Because the definition includes the language “any business not qualifying as a restaurant or convenience store” it appears a food truck or food vendor is permissible as a Food Stand.

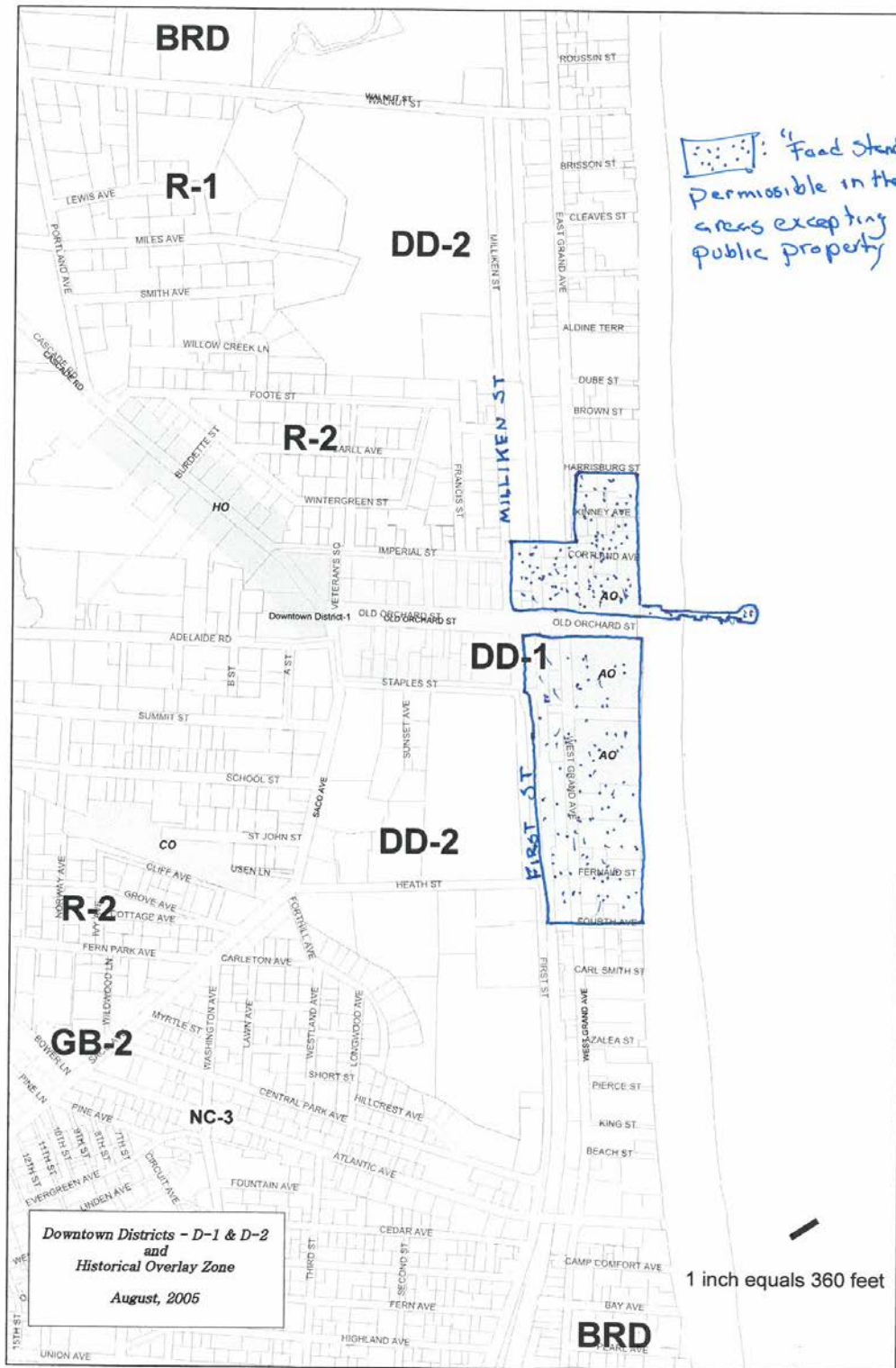
Since it appears Food Trucks and Mobile Food Vendors can fit within the Food Stand definition, it is important to consider these uses when determining how to regulate Food Stands. Also, there are a number of current ordinance standards that may have some relation to Food Stands (e.g., Chapter 18 “Ice Cream Trucks”); therefore, it will be important to understand how new Food Stand standards may impact other standards so we can be sure to avoid creating unintended impacts to other businesses and functions such as those allowed through Special Event Permits.

NEXT STEPS

In order to move forward, I need to be clear on a few things. It is my hope you can provide some guidance by responding to my comments and questions below.

- **Should we continue to regulate Food Stands as we currently do (i.e., no ordinance changes)?**
- **Tighten up the current definition of Food Stand? This could include defining Food Trucks and/or Mobile Food Vendors and excluding these uses.**
- **Continue to regulate Food Stands as we currently do but change the permissible locations? Please remember, if continue to regulate Food Stands as we currently do Food Trucks and Mobile Food Vendors are permissible.**
- **Do not change the Food Stand definition but add standards to allow them through special circumstances such as Special Events?**
- **Create standards specific for Food Stands? The standards could be related to aesthetics and number allowed within a particular area.**
- **Allow Food Trucks and Mobile Food Vendors and create standards specific to these uses? The standards could be related to specific definitions, aesthetics, and number allowed as well permissible locations.**
- **Allow Food Stands, Food Trucks and Mobile Food Vendors through a more detailed review process such as Conditional Use (administered by the Planning Board)?**

Below are suggested locations for discussion.



The Planner's presentation was well accepted and the continued concern of the Council was that further discussion and research needs to be done particularly in the defining of the definition of a food stand (i.e., food booth, food truck, stall, rotunda, mobile food truck, etc.) Food trucks are the preferred choice of most vendors in the mobile food industry because of their range in size and their mobility. By definition a food truck is a licensed, motorized vehicle or mobile food unit that's used for selling food items to the general public. This definition is quite vague, but that may be because the definition of a food truck varies from city to city. It should be noted that in some towns or cities you may find a food truck is a set of heating units sitting in the back of a pickup truck. In other areas, a food truck is a mobile kitchen built into a truck the size of a standard delivery truck (this definition has become the most common one since the surge in the mobile food industry in 2008). These trucks can range in length from 14 feet all the way up to 30 feet. The kitchens in these trucks are fully functioning kitchens that are regulated just as any other commercial kitchen, with additional inspection requirements to make sure all this equipment is safe to travel with in between uses. The pros of using a food truck over a cart or trailer are that a truck is far more mobile and can use parking spaces designated for one or two cars. Food carts are typically dropped off and parked in a single location and, like trailers; require a secondary vehicle to tow them. The kitchens you can have installed in food trucks are nearly the size of those in some trailers. Noting the above discussion, it is a concern that the definition of a food truck be completely explained so there is no deviation from the definition. Before this is brought back to the Council the Planner was asked to delve into the subject of definitions and also locations of such mobile units. The Council discussed the impact on businesses in the town but at the same time not to allow a business owner to put something on their own property has legal implications. Right now the definition is to open ended and it is believed would have impact in a number of areas. Is outside seating considered a restaurant? There was concern that if not enough time and research is put into this that it could have unintentional consequences. It was the general impression that this item is not ready for a public hearing and that another workshop in the future needs to be held with updated information.

The final discussion in this evening's workshop is the question of Entertainment License Ordinance. Entertainment includes any amusement, performance, exhibition, or diversion, for the patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value. The question is do we want retail, restaurants, food trucks, etc., do have a permit to play music whether they sell liquor or not?

The Town Planner made an excellent presentation in considering ordinance amendments associated with Special Amusement Permits. He indicated he is seeking further clarity
C:\Users\kmclaughlin\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\Y0TT4TNR\2 25 15 workshop on Proposal by Pines to obtain TIF and Food Trucks and Stands and special entertainment ordinance.doc Page 15 of 17

regarding the type(s) of licensed premises the Council wants to include within the Special Amusement Permit ordinance. The request for Special Amusement amendments came about due to a business that served food (did not serve liquor) and provided outdoor musical entertainment. Apparently, the noise level disturbed some people and businesses.

Current ordinances require Special Amusement Permits for premises that sell liquor consumed on premises and have music, dancing or entertainment of any sort. Bars and restaurants are the most common uses required to secure Special Amusement Permits. Restaurants and other uses that serve food and do not sell liquor on premises are not required to secure a Special Amusement Permit.

In consideration of how this matter came to the Town's attention, the Council may choose to require Special Amusement Permits for premises that serve food to be consumed on or off site and have music (except a radio), dancing or entertainment of any sort but do not sell liquor consumed on premises.

First, although Sec. 6-61 of the Special Amusement Ordinance includes the word "liquor" and not Malt and Vinous which are written on the liquor license (in addition to liquor), those businesses who sell Malt and/or Vinous and have music, dancing and entertainment still need a Special Amusement Permit because it all ties into the liquor license. In other words, a business that holds a license under the state alcoholic beverage statutes and has music, dancing and entertainment must secure a Special Amusement Permit. Second, please carefully consider any proposed ordinance amendments as it will be important to understand how new standards may impact other businesses so we can be sure to avoid creating unintended impacts.

Important excerpts from Special Amusement Ordinance (Chapter 6):

Sec. 6-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Entertainment includes any amusement, performance, exhibition, or diversion, for the patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

State law reference— *Similar provisions, 28-A M.R.S.A. § 1054 10.*

Licensee includes the holder of a license issued under the state alcoholic beverages statutes, 28-A M.R.S.A. § 1 et seq., or any other person or any agent or employee of any such licensee.

Sec. 6-61. - Required.

No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on his licensed premises, any music except a radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the town a special amusement permit signed by at least a majority of the municipal officers.

The Planner is hoping that after this workshop and input by the Town Council, that there will be a better idea in regards to the type(s) of licensed premises the Council wants to include within the Special Amusement Permit ordinance.

As a result of the discussion with the Town Council there were three suggested updates to the ordinance consideration. It was recommended that there is a need to alter the definition indicated in Chapter 6; alter the language as it regard special amusement; and alter the language in Chapter 8 as it relates to Victualers. It was recommended that this ordinance change by on the March 17th agenda as an agenda item to set a Public Hearing for April 7, 2015.

The workshop closed at 8:30 p.m.

Respectfully Submitted,

**V. Louise Reid
Town Council Secretary**

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of seventeen (17) pages is a copy of the original Minutes of the Town Council Workshop of February 25, 2015.

V. Louise Reid