

Town of Old Orchard Beach
 Planning Board Public Hearing & Meeting
 January 8, 2015

Call to Order	Call to Order
Pledge of Allegiance	Pledge of Allegiance
Roll Call: Win Winch, Eber Weinstien Chairman, Mike Fortunato, Mark Koenigs Staff: Jeffery Hinderliter Town Planner, Molly Phillips Meeting Note Taker	Roll Call
<p>Item 1: Proposal: Site Plan Review; Construct 48 X 90 Retail Building Owner: Ike Naim Location: 36 Old Orchard St. MBL: 206-31-5</p> <p>Ken Lafayette: Happy New Year. I just wanted to go over some questions and comments I have. I did get a chance to speak to Ike on Monday to discuss my concerns about the building going next to the building I own at 38 Old Orchard Street. One of the big concerns I have is the closeness of the buildings. I understand these buildings can be put together with no setbacks and he can build as close as he would like. He said he didn't know how close the buildings would be but that he would put a cap on the gap between buildings to protect from rain and snow. He was concerned as well about the maintenance of those walls because once the building is built we won't be able to get in there and fix it. I went to look at the plans, but I didn't see the design for that or how that would be accomplished. I was just curious since at some point it would have to be drilled into our building and just wanted to make sure it was sealed properly and contain that properly. The second thing I spoke with Ike about. The right of way in the back. It looks like on the plans that this new building would go past our building. We know we have gone as far as we could in the back with the right of way. Because with a stairway on the back of the building they need a 4' – 5' pad just to accommodate the door. The way the plan is put, there is not enough room for the stairs and they would most likely go into the right of way. Also I notice that there is only one exit on the side toward the ocean with no other exit. If the tenant in that side needs egress, you would have to provide that. In that case, there would no longer be enough room for our truck to get back there, for Dead River to get their deliveries or employees to park. That's why we put our building where it is, so that we can put our propane tanks in the back. Ike said he would push that thing up, but I didn't see the plans that way, so I don't know if it's planned for or not. If they put it where it is and they plan on having a dumpster back there, and tenant parking, there will be no right of way. That's a very big concern for us. One more note, I wasn't in Old Orchard when this plan was being presented. A lot of the things that were decided and approved through the Design Review Board I wasn't privy to. These things all got agreed upon at that time. In my experience, we spent \$500,000 at The Waves to put a new pool in. There was a 100 year-old cottage on our property that had been there forever. We were asked to talk to them, and we did. I went over to their house and spoke to them several times and the sister brought up a concern. That from her second floor window there would now be a pool deck level to her bedroom and there would be pool noise right next to her window rather than having the pool in the ground. So, we found a solution with a glass</p>	ITEM 1

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<p>enclosure that kept the wind out that guests like and mitigates the sound which the neighbors like. We were very pleased with that great solution, because of the conversations that we had as neighbors. These conversations have never been had with us on this project at Old Orchard Street and I think assumptions have been made. I am so excited that this building is being built, I'm not trying to be a fly in the ointment. I do have some legitimate concerns about the new building, but have never suggested that they move the building back 10 feet and loose 90sf of retail space. If we had talked about it, I might have suggested we bump things back a little and put a window in that retail unit so that customers in their building could look through to our store and see what we have in our window or vice versa. When you are walking down the street in Old Orchard, customers enjoy walking down the street and seeing what's in the window and see what kinds of goodies are in there. If you put up just a cinder block wall, that's going to change the experience for the pedestrian looking to shop. I understand that it's their right, I'm not saying they shouldn't do it, but if we had these conversations in the design phase we could have addressed this impact. My suggestions might have been that they could have angled a wall to create a more open entrance that would highlight the window. But, here we are now, Ike and I have spoken and he wants to be a good neighbor, and I look forward to continuing a good relationship with him in the future. In closing, the big thing is the right of way in back and how the buildings will be connected with that cap.</p> <p>Closed to public hearing at 7:16pm</p>	
<p>Item 2: Proposal: Site Plan Review: Construct 50 X 124 Retail Building Owner: Ike Naim Location: 29 Old Orchard St. MBL: 206-31-5</p> <p>Open to the public 7:16pm Close to public hearing at 7:17pm</p>	<p>ITEM 2</p>
<p>Item 3: Proposal: Conditional Use: Appeals from Restrictions on Nonconforming Uses to allow an Accessory Dwelling Unit Owner: Thomas Smith III Location: 183 Temple Ave. MBL: 211-2-22</p> <p>Open to the public: 7:18pm</p> <p>Jeffery Hinderliter: I did receive an email from one of the abutters and the abutter had no concerns. We did do a site walk with Mike and Mark in attendance and there was one abutter who came. But there were no concerns about the resulting plans.</p> <p>Close to public hearing at 7:18pm</p>	<p>ITEM 3</p>
<p>Item 4:</p>	<p>ITEM 4</p>

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<p>Proposal: Sawgrass Subdivision Amendment: Approved 40 unit condo project modified into a 22 unit single family house lot project Owner: Sawgrass LLC Location: Wild Dunes Way (Dunegrass Sections J & L) Map 105A Lot 1</p> <p>Open to the public: 7:18pm</p> <p>John Bird: I was wondering, it says in the notes that it's a 40 unit condo going to 22 detached houses, but it also says the impervious surfaces will be reduced. I was just wondering how that was going to be done going from 5 buildings to 22 individual lots. If there could be a little more discussion on that.</p> <p>Eber Weinstein: We can ask the Town Planner on that. I think though, that you would have had to have 40 parking spaces times 2 paved before and now we just have 22 which is much less. If you look at the plans, compared to what was there. But we don't have the calculations.</p> <p>Julian Eberl 53 Wild Dunes Way C-3: I have just moved into the Dunegrass development so this question has probably long since been answered. I just wondered if there was proposed design of what the actual houses are going to look like.</p> <p>Eber Weinstein: We don't really get to know that, we don't consider that here at the Planning Board. You could go to the Planning Office and they may have something for you to look at.</p> <p>Julian Eberl: Thank you. I understand.</p> <p>Close the public hearing 7:21pm</p>	
<p>Approval of Minutes – 12/4/14 and 12/11/14</p> <p>Eber Weinstein: I can see we don't have those with us.</p> <p>Jeffery Hinderliter: We have been very low on staff and Molly's been very helpful filling in. And she's just not had a chance to finish them.</p>	
<p>Item 5: Proposal: Site Plan Review; Construct 48 X 90 Retail Building Owner: Ike Naim Location: 36 Old Orchard St. MBL: 206-31-5</p> <p>Brud Weger: Good Evening. Since our last meeting we've got a new package of clarifications about the Town Planner's and the Board's concerns. It was a fairly lengthy list. I think we've pretty much covered here. To highlight things, to address some of Mr. Lafayette's concerns, this is our proposed building. The</p>	<p>ITEM 5</p>

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separation distance between our building and the Harrisburg building is approximately 45". I went out there with Harold and we looked things over and he is agreeable with that distance. He is going to move his tanks to the back of his building and I don't think any further modifications are necessary. Maybe the vent stack, but I don't think so. On the side of Mr. Lafayette, this is Beachology, we are going to have approximately 30" between his building and our building at the window and then where the two buildings get closer the two buildings will be 9" apart. What we proposed to do is flash that space with 16" copper flashing up the ends and over the top. His building is higher than ours, so we have flashing going up the sides of the building, up the walls and then down. Probably a 75 year fix for that situation. We don't have too many concerns about our building because it's block but his building is wood siding. So, it will cover that up and it will have some means of ventilation. Then we propose to have street doors or gates. Jeffery was concerned about those openings, those alleyways, and what we propose are 7' high gates, with keyed deadbolt locks on them on the outside. They will be made with pressure treated frame, and then faced with Trex type product similar in color to the adjoining building. In your packets are examples and pictures of a similar look we are proposing. Of course, these are old and weathered. As far as the right of way in back we are actually not infringing on that right of way. Ike does not propose to have a dumpster back there. He keeps his trash inside the building until trash day.

Win Winch: His concern about the one means of egress. Is there only going to be one store there? Or are there going to be two?

Brud Weger: We're not sure. If we do end up with two units we would do an interior hallway to that one means of egress.

Jeffery Hinderliter: Just quickly. The submission that we have now is really complete with lots of issues buttoned down. I appreciate the outreach that Ike has been doing to work with both abutters. Thank you for that, it's nice to see. I have one more addition but I can't make it a condition because once they have met the legal aspects of the ordinance, I can't make it above and beyond what the board's jurisdiction is. But, if the board does make a decision, which I recommend, about continuing to work with abutters. Mr. Lafayette's idea about a window is a good suggestion. As with my research, the easement in the rear is 10' and the building does not encroach on it. And I hope that work will continue. I'll have two more conditions if the board goes ahead with their decision tonight.

Brud Weger: I would like Mr. Weinstein to come forward and address the board as well as the engineer to cover any questions.

Neil Weinstein: Did you have any questions Jeffery? Because the building is not going to be inside that easement. Then there was the easement out front that disappeared in the 20's or 30's. We have worked with Harold and Sam Harrisburg, and we came to agreements. Plus if the board has any questions?

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Andy Morro: Just one or two things that we have changed. The backflow preventer has been added to the plans on sheet 4. Final design of the drywells has been included in your packet as well.

Eber Weinstein: You say it won't affect the ground water?

Andy Morro: Yes, there was a roof drain attached to the rear of the unit. Everything will be directed below ground at that point.

Mark Koenig: Jeffery do you have another packet?

Eber Weinstein: We didn't have a letter, weren't we supposed to have a letter?

Jeffery Hinderliter: Yes, there were references made to letter from Neil and I didn't see that in the packet for 36 Old Orchard Street.

Neil Weinstein: Through the chair, I did answer all the legal questions at the last meeting. Then I asked if there were specific questions. But, then the questions were answered already that he had. So, I didn't write a new letter, I just came to the meeting.

Eber Weinstein: While Mark is going over it, shall we go over the criteria?

Jeffery Hinderliter: The Site Plan Review the 9 criteria is totally up to the board. I tied a number of my questions to that criteria.

Eber Weinstein: According to Section 78-216:

- 1) The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in this article and article VIII of this chapter.

Eber Weinstein: The owner does meet the building standards and the zoning standards. If any of the board members has a question, feel free to jump in.

- 2) The proposed project has received all required zoning board of appeals and/or design review permits as specified in division 2 of article II and article V of this chapter, if applicable, and has or will receive all applicable federal and state permits.

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Eber Weinstein: They state the Design Review Certificate granted in 11/3/14.

- 3) The proposed project will not have an adverse impact upon the quality of surficial or groundwater resources.

Eber Weinstein: The answer they gave is that as per BH2M report it will not adversely impact water quality.

- 4) The project provides adequate storm water management facilities to produce no additional peak runoff from the site during a 25-year storm event or any other event so required by the planning board, and will not have an undue impact on municipal storm water facilities or downstream properties.

Eber Weinstein: They state they are moderately decreasing the amount of runoff from the site with the use of pervious pavement areas. Basic site drainage will be through roof drains to a dry well at rear of site.

- 5) The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood.

Eber Weinstein: Pedestrian Circulation will remain the same, with sidewalk improvements where necessary to meet ADA standards store inventory will be delivered by truck. The trucks will use the designated unloading zone on Old Orchard Street between Milliken Street and the Train Tracks. Inventory will then be brought to the site using hand trucks.

- 6) The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community.

Eber Weinstein: The proposed project will be an environmental and visual improvement over the empty site.

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- 7) The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life, character, or the stability of property values of surrounding parcels.

Eber Weinstein: The proposed project will not adversely impact solar obstruction or glare. The new building will not harm quality of life, character, or the stability of property values of surrounding parcels. The proposed building will not produce noise, dust or debris.

- 8) The proposed project will not have a negative fiscal impact on municipal government.

Eber Weinstein: The municipal government will not be negatively impacted by this project. And obviously there will be more taxes from a more expensive piece of property.

- 9) The proposed project will not have an adverse impact upon surrounding property values.

Eber Weinstein: The project will be an improvement over the existing empty lot. The extension of local architectural character will positively impact surrounding property values.

Does anyone on the board have any negative comment on those or do they all agree?

Win Winch: I agree. Does Jeffery want to state the conditions on this?

Jeffery Hinderliter: Yes, I have two conditions and one recommendation. The first condition is that whoever is coordinating the construction, I recommend that they have a pre-construction meeting with public works, waste water treatment, public safety, code enforcement and planning department. They need to develop a plan to address any concerns that may come up in pre, post and during construction. The second condition is that the construction as it's related to fire protection and life safety shall comply with codes and ordinances. Then my recommendation is to continue to work with abutters, if changes are proposed they can be handled administratively through the planning office.

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<p>Eber Weinstein: Just out of curiosity when would you start building? Right away then.</p> <p>Win Winch: I motion for Site Plan Approval with the two conditions that the Town Planner stated.</p> <p>Mike Fortunato: I'll second.</p> <p>Call for the Vote: Win Winch: Yes Mike Fortunato: Yes Mark Koenigs: Yes Eber Weinstein: Yes</p> <p>4-0 passes</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">4 Yes- 0 No</p>
<p>Item 6: Proposal: Site Plan Review: Construct 50 X 124 Retail Building Owner: Ike Naim Location: 29 Old Orchard St. MBL: 206-31-5</p> <p>Brud Weger: Again we're responding tonight to the list of issues that Jeffery has prepared for us and the board. In this case, the space between buildings is 35" on the downhill slope and 28" on the other side. The other elevations are in your packet. Block walls are on the three sides not street facing and are fire rated for 2 hours. Jeffery had a concern regarding the proximity of our building to the uphill building lot 31. His concern is that our building is going to block some of those windows on that building. As you can see on page 11, with the height of that building it will block the view, but the concern is egress. I spoke to Chief Plummer about this, and he had no good solution to this, he wasn't sure these were egress windows. There is an egress structure on the back and front of the building. Personally these windows aren't sized for egress, so I don't think they are egress windows. There is 28' between buildings. Other issues were similar to lot 36 and I will have BH2M explain their changes.</p> <p>Win Winch: Just trying to remember what was there before?</p> <p>Brud Weger: Mr. Naim says it's abandoned and there's nobody living there.</p> <p>Neil Weinstein: This was just an old building 3 stories that was abandoned. The town is assessing it at full value and occupied, even though they can only rent the first floor. It has a condemned upper floor and so it was ripped down.</p> <p>Eber Weinstein: If they decide to build that upper floor, there's potentially a problem?</p>	<p style="text-align: center;">ITEM 6</p>

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Jeffery Hinderliter: I don't see that leading to any other problems, in fact the ordinance highly encourages two story buildings. And the building has been designed to accommodate a second floor structurally.

Mike Fortunato: Have you also spoken with the abutter here?

Brud Weger: I believe Ike has, and there are no issues. 28" is adequate, it's a little tight but the similar buildings around are maintained. We have a flat roof building so we aren't adding to the snow load.

Eber Weinstein: According to Section 78-216:

- 1) The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in this article and article VIII of this chapter.

Response: Yes, the project conforms to all standards of the zoning district and meets performance standards.

- 2) The proposed project has received all required zoning board of appeals and/or design review permits as specified in division 2 of article II and article V of this chapter, if applicable, and has or will receive all applicable federal and state permits.

Response: Design Review Certificate granted in 11/3/14.

- 3) The proposed project will not have an adverse impact upon the quality of surficial or groundwater resources.

Response: As per BH2M report it will not adversely impact water quality.

- 4) The project provides adequate storm water management facilities to produce no additional peak runoff from the site during a 25-year storm event or any other event so required by the planning board, and will not have an undue impact on municipal storm water facilities or downstream properties.

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Response: They state they are moderately decreasing the amount of run-off from the site with the use of pervious pavement areas. Basic site drainage will be through roof drains to a dry well at rear of site.

- 5) The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood.

Response: Pedestrian Circulation will remain the same, with sidewalk improvements where necessary to meet ADA standards store inventory will be delivered by truck. The trucks will use the designated unloading zone on Old Orchard Street between Milliken Street and the Train Tracks. Inventory will then be brought to the site using hand trucks.

- 6) The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community.

Response: The proposed project will be an environmental and visual improvement over the empty site.

- 7) The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life, character, or the stability of property values of surrounding parcels.

Response: The proposed project will not adversely impact solar obstruction or glare. The new building will not harm quality of life, character, or the stability of property values of surrounding parcels. The proposed building will not produce noise, dust or debris.

- 8) The proposed project will not have a negative fiscal impact on municipal government.

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<p>Response: The municipal government will not be negatively impacted by this project.</p> <p>9) The proposed project will not have an adverse impact upon surrounding property values.</p> <p>Response: The project will be an improvement over the existing empty lot. The extension of local architectural character will positively impact surrounding property values.</p> <p>Jeffery Hinderliter: I just have the same conditions but I don't have the recommendation.</p> <p>Win Winch: I move Site Plan Approval with the following conditions:</p> <ol style="list-style-type: none"> 1) That the construction manager meet with public works, waste water treatment, public safety, code enforcement and planning department. 2) They ensure that construction complies with existing fire codes. <p>Mike Fortunato: I'll second.</p> <p>Call for the Vote: Win Winch: Yes Mike Fortunato: Yes Mark Koenigs: Yes Eber Weinstein: Yes 4-0 passes</p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p> <p style="text-align: center;">4 Yes – 0 No</p>
<p>Item 7: Proposal: Conditional Use: Appeals from Restrictions on Nonconforming Uses to allow an Accessory Dwelling Unit Owner: Thomas Smith III Location: 183 Temple Ave. MBL: 211-2-22</p> <p>Jeffery Hinderliter: It's pretty straight forward. If the board chooses to approve this project, I recommend you combine the two approvals. There's an approval for the appeals from restrictions on non-conforming uses and approval of the accessory dwelling unit.</p> <p>Eber Weinstein: Do we have a motion?</p> <p>Mark Koenig: One of the things that we brought up on the site walk, is that it's an accessory dwelling unit by connection. That connection wasn't there, it wasn't evident at the site walk. So, there's a sketch inside the packet right?</p>	<p style="text-align: center;">ITEM 7</p>

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<p>Jeffery Hinderliter: Correct, and it's in the applicant's submission and review criteria.</p> <p>Eber Weinstein: That's one of the conditions. That connection has to be there.</p> <p>Mark Koenig: You said he was going to cut it in, he just hadn't done it yet.</p> <p>Mike Fortunato: I motion to approve</p> <p>Win Winch: I'll second that</p> <p>Call for the Vote: Win Winch: Yes Mike Fortunato: Yes Mark Koenigs: Yes Eber Weinstein: Yes 4-0 passes</p>	<p>Motion</p> <p>Vote</p> <p>4 Yes – 0 No</p>
<p>Item 8: Proposal: Sawgrass Subdivision Amendment: Approved 40 unit condo project modified into a 22 unit single family house lot project Action: Owner: Sawgrass LLC Location: Wild Dunes Way (Dunegrass Sections J & L) Map 105A Lot 1</p> <p>Jason Vafiadas: Good evening gentlemen. I believe we had our site walk, last week, one of the issues was the grading. That will be a grading tweak that so that everything will be contained on the lot.</p> <p>Win Winch: Let's start with Jeffery's Memo. Page 7 is the updating of home owner's documents. Has that occurred?</p> <p>Jason Vafiadas: Yes. It's just a couple things with the storm water notes need to be added to comply with town ordinances. I should add that the DEP approval is in hand and one of Jeffery's comments is that it needs to be supplied before construction. I believe that has been turned in already.</p> <p>Win Winch: Jeffery writes here concerns about short and long term functionality and maintenance of the drywell system. Drywells were added to the system to avoid additional discharge to the neighboring properties. Is this still a concern?</p> <p>Jason Vafiadas: This is a typical concern with drywells and it's a common treatment throughout Dunegrass. I know that Bill Robinson the Public Works Director has had some comments about it. If we get 2-3" storms. These soils take 6-10" and I haven't had any problems with it. I know that the DEP doesn't have any problems with it.</p>	<p>ITEM 8</p>

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Win Winch: What about the maintenance requiring it to be cleared out?

Jason Vafiadas: All you do is just get a sucker truck to take out the extra sediment every two years. That's all in the documents.

Eber Weinstein: In some areas of Dunegrass, they have a problem with run-off. You haven't commented on that at all.

Jason Vafiadas: Some of Dunegrass is treated with wet ponds and other various measures. They have some varying soils across the site. These soils soak the water right up. We saw that on the site walk.

Eber Weinstein: I don't know if we have had abutters complain about that, but they have brought that up in the past.

Win Winch: There was initially in May 2013 but none this time.

Jason Vafiadas: Previously it was on Glen Eagle Drive and Garry Salamaca, BH2M actually prepared those plans for plugging the culvert and created more storage onsite.

Eber Weinstein: I remember that on a site walk. The ground plummeted at the edge of that culvert. That's been addressed? Jeffery also has a question about the water supply looping.

Jason Vafiadas: Yes, the well line, with plans to actually connect that through Long Cove Drive that I'm actually working on in Section Q, will eventually be connected. The complaints about water pressure are actually on the separate water line that Maine Water Company owns.

Eber Weinstein: I assume you're using metal?

Jason Vafiadas: Yes, a duct line. And there is an easement that will be added to the plans that Maine Water Company will use as an overall for their main lines.

Eber Weinstein: As far as open space and density requirements, which are somewhat related, is there any update?

Jeffery Hinderliter: The density is actually being reduced because of what's currently approved and what we are proposing here from 40 to 22. The open space looks at the development of Dunegrass as a whole. A set figure for open space is set for Dunegrass as a whole. This section is one of the originally approved sections so they would fall under that approval. If the individual section is not changing from what was originally approved, then open space isn't really a question. Not that we don't need to look at that as a whole, and I

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mention that in my memo. I think that the open space and the density are not issues here.

Eber Weinstein: Actually in relation to that, John Birger asked a question about the impervious area.

Jeffery Hinderliter: I would lean more toward the engineer to see if the engineer has the calculations.

Jason Vafiadas: I don't have those will me, but I have prepared a new drawing, on C101 that shows those density calculations. When I originally got this thing, that wasn't really a concern. I've been waiting to get all comments before issuing the final set of plans.

Eber Weinstein: But, you saw the original plans and I just want official comment about the impervious area on this plan?

Jason Vafiadas: Yes, the impervious area has gone down on this plan. To the public comment, even though those are 22 separate units, you have roads to connect those units and driveways to those parking spots. Still this is less impervious surface than the previous plan.

Win Winch: I remember in May 2013 they had the overlay for us and one was put over the other so you could clearly see the reduction.

Eber Weinstein: We have some comments from the Public Works Director relative to our waivers. He comments about the maximum 8% percent grade on Island Drive and the allowing of driveways within 50 feet of the curb line tangent of the intersection. He says: eliminate the Ponte Verde Drive access to Wild Dunes Way. Because it's too close to the Long Cove access and suggests you make it a hammer head.

Jason Vafiadas: Of all the suggestions, this is the most problematic. I understand what Bill is saying. To do that, we would lose a unit, and I don't think we could fit that back in. As far as plowing concerns, these are private roads. As a public safety thing, I only think 6-7 units will use that entrance. I do plan on sitting with the Town Planner because we have to talk about the connection of those walkways and the Eastern Trail connection.

Win Winch: The only other time we have ever waived that, it downtown with a four way access. But, you may have a real issue here with that other access being so close to another street. You are going to have a lot more traffic down Long Cove Drive. I noticed that last week, cars move along there pretty fast and they also so uphill. It's going to be a private road anyway, a hammerhead shouldn't be an issue. They will have to use a snow blower anyways. A couple of other places in town do that.

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Jason Vafiadas: The issue with the hammer head is that we'd have to put a structure up here, boulders or fencing. You can imagine.

Win Winch: It's beyond the economics of it, it's a safety issue. That's why we have the ordinance. Inevitably someone is going to be coming out of there, quicker up the hill, I see that coming.

Jason Vafiadas: How do you feel about it coming in over here?

Win Winch: If you could square that off, that makes sense.

Jason Vafiadas: I played around with a couple versions of this and I could probably make that work.

Eber Weinstein: The next comment is whether or not these roads are going to remain private?

Jason Vafiadas: Yes.

Eber Weinstein: The next issue is the 8% grade and you want a waiver. He suggests that will present issues in winter conditions.

Jason Vafiadas: I think we talked about this last meeting, I don't have a concern about the 8% grade because, other places and towns go up to 10-12%. As a designer and engineer, 8% grade doesn't concern me.

Eber Weinstein: What will happen to the drainage system when we get a storm with rainfall in the amount of 2" plus an hour?

Jason Vafiadas: I think I spoke about this previously, these soils will typically infiltrate 6-8" per hour. But the DEP gets you to slow that down for treatment. I think what he's talking about is that inundation and how quickly it gets into the ground.

Eber Weinstein: So you don't find that to be a problem. He also mentions that Public Works is responsible for all sewer lines and he prefers the manhole be an inside drop.

Jason Vafiadas: That's a detail we can just change.

Eber Weinstein: Any other comments?

Jeffery Hinderliter: There were a couple of other comments about the pathway along Eastern Trail? If the section's property boundary is changing, there was some concern about the big mound adjacent to the golf hole. There was some talk about a retaining wall protecting that mound for that hole. Of course

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there's two waivers, in a setback note on the final plan. Why I provided these comments was to show there are few items we need to resolve to button that up before the Planning Board can make a final ruling by the February meeting. Condition number 2, that I try to button up the buttons. I leave the decision up to the Planning Board. I think there are some issues that I think either the Planning Board needs to see represented on plans or written documentation.

Eber Weinstein: We can either read them out here, or just submit them to the applicant? You mention the waiver about the 8% grade, and you recommend the driveway in 50 feet.

Win Winch: I think his alternate configuration is a good idea.

Jason Vafiadas: I think there are two issues there. We have one of road connection and the other is driveways. I also have another question: if the driveways were flipped on the lots right here to put the driveways on Long Cove Drive. It would eliminate the long road

Mark Koenigs: You are just talking about taking all those driveways and bringing them off Long Cove Road. And then eliminating Verde and creating an intersection that "T"s that main road across from the other intersection. And you may be able to address that grade issue because the intersection would go on that grade anyway. This would be a complete re-design at this point.

Jason Vafiadas: My clients paid a lot of money to bring it to this point and now there's a change in engineer. So, they want to push this through. Just doing it as efficiently as possible.

Mark Koenigs: Does the board really want those driveways off Long Cove Road and not internally? It's all internal to the association if the driveways are pointed internally.

Jason Vafiadas: As you said, as traffic increases on this road, people are going to be confronted with more traffic. You are more concerned about traffic coming up the hill?

Win Winch: Up to that point there is nothing on that street. The original design was that it was a connector street with no houses at all. On the flip side, we've violated that like crazy. On this side, there's no mitigating traffic at all.

Mark Koenigs: Somewhere along the way, we change the whole thing when we put the connection through Dirigo. Win made a comment that he's seen people flying by there. That's a problem, it's a residential area and they should be going 25 and they are not. My other problem is that people walk in the road, bike in the road and use their golf cart in the road because there is no sidewalk there. So, I do want to make sure the recommendation to talk to the DPW about the

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connections of these trails. The way he has it drawn on this plan right now is an intersection with a crosswalk on Long Cove. I hope that they actually make that improvement with full stop signs and crosswalks and mark it all up. The association would then be responsible for maintenance of their part. Sidewalk and trails would then be on their property or the right of way? The improvement, the cost, is going to be on this development. When it's finally finished and put in, the people will start to respect the stop signs and looking both ways.

Eber Weinstein: I will just read out the recommendations here for the public record:

1. Construction shall not begin until all applicable Maine Department of Environmental Protection permit application approvals are secured by the applicant and/or property owner. If these MDEP approvals change the plans and written documentation that were submitted and part of the Planning Board approval, those changes shall be presented to the Planning Board.
2. The Home Owner's Association documents shall include the following language:
 - A. All storm water system operations, maintenance and repair shall be the responsibility of the Home Owner's Association.
 - B. All operations, maintenance, repairs of the streetlights and associated electrical systems shall be the responsibility of the Home Owner's Association.
3. Digital plans shall be submitted to the town and to the town's GIS consultant in accordance with Chapter 78, Sec. 78-215 (4) before any construction begins.
4. Setbacks shall be noted on the final site plan.
5. Maine Water easements, as stated with the Maine Water letter dated 21 May 2013, shall be shown on the final site plan.
6. Pathway, if proposed, shall be shown on the final site plan and detail plan.
7. Before construction begins, meet with Bill Robertson Public Works Director to discuss his comments in this memo and attempt to find and acceptable solution.
8. Before construction begins, provide documentation clearly presenting how the proposal will comply with 21.c of the 20 September 2005 Consent Agreement. This documentation shall include dates identifying when the compliance with 21.c is achieved.
9. Changes to the approved final plan shall be submitted to the Planning Board. Construction associated with these changes shall not continue until the Planning Board approves the changes.

Mark Koenig: Through the chair, just so the public knows the 21.c is the looping water, right?

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<p>Eber Weinstein: Right. Any other comments?</p> <p>Mark Koenigs: I'm not real keen on waiving the 50' requirement for the driveways from the intersections. I think that first lot, number 16, would be somewhat problematic. If it could be flipped to the other side of the house so that it's farther away. I think that Lot 1 is about 50' from the intersection.</p> <p>Jason Vafiadas: Center line to center line it's greater than 50 feet.</p> <p>Mark Koenigs: I assumed it was measured center line to center line as opposed to edge to edge. And the 8%, if we could, I would like to see that tweaked, there's only 60' of road that has that in it. If it's closer to the 6% rather than to the 8% it makes it a little safer. Today I had a car slide through an intersection in front of me and it was maybe 2%.</p> <p>Eber Weinstein: Ok, I think we have enough to wait for the next meeting. You should address those issues and we will be easy to change.</p> <p>Jeffery Hinderliter: If I may, one other comment is that I would recommend the engineer analyze the impact to the golf hole that is adjacent to it. If you analyze it and find that there will be no impact to the golf course than the Planning Board can show that documentation that at least we asked for it to be looked at.</p> <p>Jason Vafiadas: That'll be taken care of when I go back in and the height of that mound, should rise above the property line.</p> <p>Eber Weinstein: That's golf hole six. (Fielding a question from audience) We had a public hearing already but if you want you can submit questions to the town planner or one of us after it's over.</p>	
<p>Item 9: Proposal: Subdivision: 31-lot Cluster Subdivision for Single-Family Homes (Orchard Estates Subdivision) Action: Review new submission; Discussion; Schedule Site Walk; Schedule Public Hearing; Schedule Final Review Owner: Diversacorp LLC Location: 202 Portland Ave. MBL: 103 - 1 – 45 & MBL: 103-1-32</p> <p>Bill Thompson, BH2M: I represent Johnny Hall and Nate Libby for Diversacorp. We are here for the Orchard Estates subdivision, a 31 lot clustered subdivision on 27 acres of land. I think you've all been out there with Milliken Mills Pond on the right side of the project and Portland Avenue right here. We will be asking for some waivers, they are outlined in my packet in the narrative and cover letter. The site is served by public water we have water hydrant in the front. We will run the hydrant system throughout the project to serve each lot. Each lot will also be serviced with a subsurface disposal septic system. We have done</p>	<p style="text-align: center;">ITEM 9</p>

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two test pits on each lot and those locations will be protected, the buildings will not encroach on those areas. We have electric, phone and cable brought in from Portland Avenue. We have one entrance, which we are asking for a waiver on that. We have a 1200 foot road coming up with a T turnaround, two side roads to support those lots 500 feet and 900 feet also with T turnarounds stopping short of that open space. 6.6 acres of open space set back from Milliken Mill Pond, with that area here for open space with no development proposed. We have two streams that come up through the property. We are recognizing those with setbacks and no building zones which set these up as landing areas overlooking Milliken Mills Pond. All the lots are about 20,000 to 25,000sf in size with the 20' wide road with curbs and sidewalk. The catch basin storm water collection system would require curbing. We sent letters to all the town departments, Public Works, Public Water, and Sewer Department to get their comments. As you know, with this existing building on the corner here, the applicant is proposing to gift that to the town with 1 acre of land around it. The town has expressed some interest in protecting that brick house and that gift to the town would be with an understanding that it be kept in good shape so it wouldn't become an eyesore to the development. I think everyone would like to see that re-made, this historic brick house. We have a storm drainage system with road grades, level spreader one at the end of this road here, one to the open space and then water will come down and another level spreader between lots 28 and 29 would collect that. What that does, it collects in a pipe drainage system and then spreads it evenly. We adhere to the DEP Chapter 5 standards, this one of the methods of accomplishing good water quality. That's a big issue with water quality and the DEP with no pollutants, which is also the way the town ordinance leans also. The DEP said in our preliminary meeting that they like our approach to storm water management. We have a meeting on Wednesday with the Army Corp of Engineers to look at the wetlands. We do have wetlands that tend to follow property lines. We designed the lots purposely to not impact the wetlands. We've shown a couple of the typical homes that could be built. The impacts we are going to permit are basically for the road crossing. They do tend to bisect the parcel we think the 20' wide roads help that and the grading of the roads themselves at 2:1 slope. We are in the process of getting that submitted to DEP along with the storm water design. Your packets have the narrative and the back end is a bunch of graphs. We also have a draft of the home owner's documents saying what can and cannot happen. It includes right title and interest, deeds and test pit logs, two on each lot, if anyone wanted to see that. No issues with Nitrates because the soils are so consistent. So, my waiver requests are on page two of the narrative and we would be looking for approval on those. I have a cost estimate for the infrastructure of \$7,000 and \$1100 dollars in a line of credit will be put forth to the town. The applicant has the appropriate funding.

Win Winch: Are those private roads or public roads?

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Bill Thompson: They will be built to town standards as far as gravel depth, it may be turned over to the town in future.

Eber Weinstein: So from 24' wide to 20' wide those would still be acceptable to the public?

Bill Thompson: Correct.

Jeffery Hinderliter: During some of the preliminary work on this proposal, when I made some conceptual designs, I spoke with our Public Works Director. Bill Robertson, felt comfortable with these waivers based on that conversation but he has not seen this most recent design. I wouldn't have moved forward with those concepts if Bill didn't feel comfortable.

Eber Weinstein: 20 feet is a little narrow, but obviously better than over by Salvation Army where the streets are like driveways there. That was then. It's a relatively small development with limited traffic.

Bill Thompson: 20 feet is becoming relatively common place with small developments. Like you said if it was a through road, it might be a different issue.

Eber Weinstein: I personally don't have a problem with that, if the Public Works Department doesn't.

Jeffery Hinderliter: I think a number of the waivers are Public Works related and you will certainly have recommendations at the next meeting.

Eber Weinstein: Again we have the maximum grade of 6%-8% from the previous project. The problem there is winter time use.

Bill Thompson: We have a small percentage of the road at that grade. Really just in that intersection. The 8% is right up here by lots 6 and 7.

Jeffery Hinderliter: I just want to say one thing, I had an interesting conversation with one of our residents who has developed a number of properties around town. We met up yesterday and he took me around to one of his developments in Scarborough and Pine Point. The way this was built it was exactly what I was thinking when this was designed. It was incredible the similarities to this development, but this one exists. You can see, from this example, it's just after Kens and before Baileys. Sea Ridge or Sea Pine? I think its Sea Ridge. South side of Blue Point Road. There has really been tremendous effort and time and cost associated with making this a really great development.

Win Winch: The question I have is about the waiver for 15 house lots to 30 to 31 house lots with one means of egress. The original scenarios had two roads and it

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was a lot easier to waive with not so many lots. If you had to in an emergency you could get out of there in an emergency.

Bill Thompson: Well we do have hydrants throughout that mitigates the danger in an emergency.

Win Winch: That's usually the problem is the road gets blocked. There's been a couple that we have turned down in the past, one in Ocean Park, but that was the issue. I go back, if you have standards and you are going to waive them, what's the point.

Jeffery Hinderliter: If I may, I like waivers if they can be proven, things change over time and the older language of our ordinances is out of date for the modern building standards and trends. I think when you have the ability to waive it gives you some flexibility but keeping the protection of the standard. As long as you can prove that what you are waiving is still safe.

Win Winch: But, the development next door had that break away fence. That was the only way we could approve that and that's what I am thinking of for here. The street out front is fine but the issue is the one out back.

Bill Thompson: Like Jeffery says those standards are when they didn't have the ability to extend the fire hose so far and I think in an emergency you would get by.

Win Winch: Well, then I guess we ought to change the standard.

Mark Koenigs: Is that called 'Honey Gold' that road along the back? That goes back to the open easement area for the other subdivision. They have a road that comes in to that. So, if you are looking for another means of egress you could tie the roads together to get a breakaway road. You might have a pond in the way or a berm.

Eber Weinstein: Any other comments? The space and bulk requirements.

Waiver Requests as Follows:

1. Article VI – Street Design Standards Sec. 74-309 (m)
 - a. Waive the maximum grade from 6% to 8%
 - b. Waive minimum pavement width from 24 feet to 20 feet
2. Article VI – Street Design Standards Sec. 74-309 (l)
 - a. Waive the requirement of subdivision containing 15 or more lots having two street connections with existing street
3. Zoning Regulations Division 12 – Rural District Sec. 78-964 – Space and Bulk Regulations
 - a. Waive minimum lot size with public water from 40,000sf to 20,000sf
 - b. Waive minimum lot frontage from 200 feet to 90 feet

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- c. Waive minimum lot width from 200 feet to 90 feet
- d. Waive net lot area from 30,000sf to 28,000sf
- e. Waive minimum front yard setback from 50 feet to 20 feet
- f. Waive side rear setbacks from 25 feet to 10 feet

Eber Weinstein: They are asking for quite a few.

Mark Koenigs: So in the rural district we must have waived these, a lot of these for the other subdivision, Beachmont. Especially the lot sizes and areas, we waived those.

Eber Weinstein: what are you using for sewage?

Bill Thompson: We'll have septic systems on site with individual beds and we did two test pits on each lot for that.

Eber Weinstein: And it's city water you are using? Hydrants and everything?

Bill Thompson: Correct.

Mark Koenigs: Have you already included the septic report that was used for Beachmont in here? I think it was a different engineering firm that did that one.

Bill Thompson: We feel that, that report proved out the rationale why these septic systems are possible. The logic they used would apply to this also. State law is that you can have a septic system on 20,000sf lots, which ours go from 20,000 to 30,000.

Eber Weinstein: what about those lots that are going toward the water heavy area?

Bill Thompson: We've built on a workable grade, the septic systems on this side will have to be built on a southerly slope. Clay face on them would treat any break out.

Eber Weinstein: There's a lot of stream water going through there and we wouldn't want a septic leak getting in there?

Bill Thompson: Well, we've kept a 75' set back on each side with nothing proposed in the middle. The septic systems are proposed to be 100-150' away from the streams and the gradient helps.

Jeffery Hinderliter: Just a couple of things, I think what the Planning Board should do is not necessarily vote on each waiver this evening because I would like to get Public Works to go over a couple of things especially on those roads.

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The feedback I'm getting from the board is that they would like to consider at least one other access point, breakaway similar to Beachmont. All of my conceptual designs when I presented tried avoid that second access to protect that abutter which is really the only way to get that second access road. I also had feedback about the thought of the brick home as a gift, we have to make sure that the town is protected, the abutters are protected, but also the abutters have questions about what it will be used for. The Town Charter has provisions in terms of accepting a gift. It's something we still have to work through. I recommend that the board, continue public hearing and hold another site walk for our February meetings.

Eber Weinstein: I would like to see a report from the Fire Department, Police Department or Public Works.

Bill Thompson: We did send them a plan and a letter. They should have gotten a packet.

Eber Weinstein: I would just like something in writing to protect the town. Especially if there is a waiver that we need to approve. The other thing is the house lot. It would be the house and then the area behind it?

Bill Thompson: The parcel shown here is what they would give to the town.

Eber Weinstein: The open area would just be from the development to the house. The spreaders you were talking about, would that be underground stone?

Bill Thompson: It's above grade like a berm of stone. Water comes into it by a culvert and then goes through the stone which is 18" high and naturally flows. So a big storm would fill it with water and then it infiltrates.

Eber Weinstein: Do they need maintenance those things?

Bill Thompson: Not a lot, occasionally when the silt builds up you would remove that and freshen up the stone. There is no moving parts and it's a great system that does what it's supposed to.

Mark Koenigs: You mentioned you had an easement for a trail along the whole property behind the abutter's property. We have the animal shelter that's further up, but to get to the bridge from Portland Ave is there access? Does the sidewalk go anywhere? How will people be able to get to the trail?

Bill Thompson: Part of the reason for the trail is to keep people internal and give them access to the pond.

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<p>Mark Koenigs: What might help is that there is a Conservation Committee working on that trail across the street at 51 Portland Ave.</p> <p>Bill Thompson: We would like to know, what's going to be happening across the street. We would like to see what the goal is and respond to that connection.</p> <p>Eber Weinstein: The site walk would be Feb. 5th and at least 1 hour. We would have the workshop. So, February 5th at 4pm and Public Hearing on the 12th.</p>	
<p>Item 10: Proposal: Subdivision and Conditional Use: Establish 24 unit free-standing condominiums (The Turn Subdivision) Action: Review new submissions; Discussion; Schedule Site Walk; Schedule Public Hearing; Schedule Final Review Owner: Dominator Golf LLC Location: Wild Dunes Way, Adjacent to Dunegrass Section C, MBL: 105A -1-200</p> <p>Bill Thompson: Dominic, the owner of Dominator Golf and Matt Warner, his attorney are here to answer questions. This is a parcel 5.23 acres for 23 single family units with one entrance off Wild Dunes Way. These lots will be served by public water and sewer into the existing municipal system. We'll have underground utilities that have become standard with these developments. 25' wide road with a sidewalk on one side. We are going to manage our storm water on site with a pond. There will be a curb system and catch basins to bring storm water into the pond. We have met with the DEP and they like the plan and that it doesn't tie into the existing system. Dominic has right, title & interest, which makes this an amendment to the original Dunegrass plan. We do have a couple wetland areas, we will be proposing to permit, and the DEP will need to approve it. We don't see any complications with the state. We do have three units off Wild Dunes Way with driveways pointing to that road. There is a golf course path, but Hole 9 & 10 will not be impacted.</p> <p>Eber Weinstein: Jeffery can you give us a quick summary of the legal issues?</p> <p>Jeffery Hinderliter: There was some questions in regards to the units. One of the questions: number one they were approved for 589 units, if there was a proposal brought forth that exceeds it could be do that? Yes, is the answer. I think it's important for further review because Dunegrass is very popular and we need to get a hold on the development as a whole. So, the legal issues aside we can go forward with this development.</p> <p>Eber Weinstein: With this one, it was just open land.</p> <p>Jeffery Hinderliter: We are looking as this one as a new section which is a little different from the others we've looked at. I was encouraged by the developer willing to talk to abutters went to the extent where he had a meeting at the</p>	<p>ITEM 10</p>

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<p>clubhouse and invited everyone to look at the plans. He went an extra step to include the abutters early in the process.</p> <p>Matt Warner: I represent Dominator Golf. There is absolutely no legal basis to restrict the number of units. The legal reason is that unit count is a marker for density and nothing else. The density is nowhere near being reached and it is now more a single-family development over all. No single developer has claim to any unbuilt units. There is no legal authority for this board to say that one developer can't build due to unit count. That 589 unit count number most likely will never be reached. The DCA recently provided a letter of support for this project and we can forward that to Jeffery.</p> <p>Win Winch: Does that density rely on it standing alone?</p> <p>Bill Thompson: It doesn't have to stand on it's own.</p> <p>Win Winch: But you are taking out space that wasn't supposed to be developed, you've taken out green space that was on the original plan. How do you account for that in the green space calculation?</p> <p>Matt Warner: Well, green space and density are two separate issues. Green space is supposed to be at 35% and currently Dunegrass is well above that. The Planning Board has treated the golf course in the past as green space.</p> <p>Jeffery Hinderliter: Interestingly in the prior Dunegrass approvals there is no green space requirements mentioned. The only mention of open space is from the DEP report on the original plan that said 35% which included the green space.</p> <p>Schedule the site walk February 6th at 5pm and Public Hearing on February 12th.</p>	
<p>Item 11: Proposal: Construct 48 X 90 Retail Building Action: Certificate of Appropriateness Owner: Ike Naim Location: 36 Old Orchard Street; MBL: 205-3-8 Win Winch: Motion to approve the Certificate of Appropriateness Mike Fortunato: second it 4-0 passes</p>	<p style="text-align: center;">ITEM 11</p> <p style="text-align: center;">Motion Vote 4 Yes – 0 No</p>
<p>Item 12: Proposal: Construct 50 X 124 Retail Building Action: Certificate of Appropriateness Owner: Ike Naim Location: 29 Old Orchard Street; MBL: 206-31-5 Win Winch: Motion to approve the Certificate of Appropriateness Mike Fortunato: second it 4-0 passes</p>	<p style="text-align: center;">ITEM 12</p> <p style="text-align: center;">Motion Vote 4 Yes – 0 No</p>

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<p>Item 13: Proposal: Remove existing building and construct three-story apartment building Action: Certificate of Appropriateness Owner: Atlantic Ocean Suites II LLC Location: Dube Street; MBL: 305-1-3, DD-2 Win Winch: Motion to approve the Certificate of Appropriateness Mike Fortunato: second it 4-0 passes</p>	<p style="text-align: center;">ITEM 13</p> <p style="text-align: center;">Motion Vote 4 Yes – 0 No</p>
<p>Other Business</p>	<p>Other Business</p>
<p>Good & Welfare</p>	<p>Good & Welfare</p>
<p>Adjournment at 9:48pm</p>	<p>Adjournment</p>

I, Molly Phillips, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of twenty-six pages (26) is a true copy of the original minutes of the Planning Board Meeting of January 8, 2014.

Molly Phillips