

about the interior and exterior exits and these questions were resolved on site.
There was a comment from the Fire Chief stating that they need an egress window in the bedroom.
The homeowner intends to put one in which will be part of the code review.
Staff recommends approval of the proposed accessory dwelling unit.

Chair Koenigs read Article VII – Conditional Uses into the record:

- 1. Hazards to Pedestrians or Traffic:** I have 4 cars in my driveway now so nothing there will be changing in regards to cars entering and/or leaving the premises.
- 2. Fire Hazard:** There will be no increase in fire hazard and an improvement with fire warning system with the installation on integrated smoke alarms. The apartment, as with my main house, will have the adequate fire extinguishers in place as well.
- 3. Off Street Parking:** I've had 30 cars parked on my property before. There is plenty of room in both the driveway and dooryard for anticipated 4 cars being parked.
- 4. Water Pollution/Erosion:** The water will come from the existing well, almost 500 feet deep, filtering through the main house's filtration system and produce ZERO erosion.
- 5. Smoke/Dust:** The only dust will be the construction dust. No other contaminants will come from the existing and/or additional improvements.
- 6. Odor/Noise, etc:** There will be no odors, nuisances, or increase in property size that will block any light or air.
- 7. Waste Disposal:** Existing septic system is well maintained. For the last 10 years the 3 bedroom main home has been a one bedroom home with other two as guest room and storage room. Adding the additional bedroom and bath will still be far less usage than when we were raising the children, 2-3 loads of laundry a day. Far less usage now then early years.
- 8. Affect Property Value:** I will still be maintaining the property and from the outside the only visible change from the road will be the addition of a window replacing barn doors on the upper part of the garage. If anything, it will improve the property values.
- 9. Compatible with Neighborhood:** In law apartments have been installed to the left and right of me. The old adage in "keeping up with the neighbors" doesn't apply here. There will be no additional noise.
- 10. Abutting Uses:** There is no special screening or buffering necessary that will obstruct the neighbor's views. They can continue to enjoy their views. In fact, one oak tree is rotting and leaning over the garage and will be removed so they may get even more sun.
- 11. Drainage:** No removal of any fill is required, so no additional will be needed in any way.
- 12. Financial Requirements:** I have much more equity in the house to cover the cost of the apartment. I will continue to maintain the property and keep in 100% in working order.

Accessory Dwelling Unit Requirements:

1. The Accessory Dwelling will have an entrance to the main breezeway to the house, it can also be accessed by the garage doors, a rear 32" door through the rear of the garage. I am also planning to put a door that accesses the outside into the proposed 8' x 10' deck on the back side of the building and maintaining the look of a barn board and batten on the outside and the windows to match the rest of the main house.
2. The floor area of the proposed apartment is approximately 700 sf. which meets the 500 sf. minimum. The main house is 1728 sf. and less than the required 50% maximum of the main dwelling unit.
3. The dwelling will be served by a single electrical service with an upgrade by a certified electrician to prevent overloading. An additional panel may be installed for breaker purposes only but all fed through one CMP meter.
4. I have no other plans for additional apartment and I have no interest in becoming a landlord. This apartment will be part of the main residence.
5. The apartment will not be used for any non-conforming use and will met all of the requirements to

<p>be compliant with the applicable rules and regulations.</p> <p>Linda Mailhot made a motion to approve the Accessory Dwelling Unit. Win Winch seconded that motion.</p> <p><u>Planner Jeffrey Hinderliter called for the vote:</u></p> <p>Robin Dube – Yes Mike Fortunato – Yes Win Winch – Yes Linda Mailhot – Yes Chair Koenigs – Yes</p>	<p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(5-0)</u></p>
<p><u>ITEM 3</u></p> <p>Proposal: Conditional Use and Shoreland Nonconforming Structure Expansion/Relocation/Replacement: Replace and expand single-family dwelling with the Residential Activity Shoreland Zone.</p> <p>Action: Update; Final Ruling Owner: Ron Sabin Location: 129 West Grand Ave., MBL: 319-12-5, R3 & RA</p> <p>Chair Koenigs stated that at the Planning Board Workshop the board received follow up comments from our Town Attorney, Phil Saucier from Bernstein Shur and also received the Certificate of Approval from the Zoning Board of Appeals to Mr. Sabin. The ZBA variance was granted for the following: To create an expansion greater than 30% by volume and sf. in the Shoreland zone. The dimensional standards are per the September 18, 2001 zoning ordinances signed by the ZBA Chair on November 30, 2016.</p> <p>Planner Hinderliter stated that in November, the Planning Board determined that they couldn't move forward with this proposal because of the type of appeal that was approved by the ZBA because it was the incorrect appeal. The applicant went back to the ZBA and applied for the Variance appeal on November 28, 2016. The applicant secured that Variance to exceed the 30%.</p> <p>The proposal is a Conditional Use and as part of a Conditional Use you need to meet both Shoreland Zoning requirements as well as the 12 Conditional Use Criteria. In regards to the Shoreland Zoning requirements this has been decided for the Planning Board because the ZBA ruled on it and we must honor that decision unless the Planning Board wants to appeal the decision. Also with the Shoreland Zoning and the ZBA's decision in regards to the Conditional Use Approval Standards, the ZBA did not rule on this as a Conditional Use. These 12 standards fall within the Planning Board's jurisdiction.</p> <p>Out of these 12 standards there were 6 items that were a concern of the abutters as well as the Planning Board members:</p> <ul style="list-style-type: none"> • Off street parking. • Driveway. • Building height and sunlight access in compatibility with surrounding structures. • Sewer lines backing up. • Main electrical lines proximity to the structure as proposed. • Drainage problems 	<p><u>ITEM 3</u></p>

In regards to the issues with the electrical lines, the Town’s Electrical Inspector has been in contact with CMP and is working with the applicant. These are concerns that can be worked out. The power lines will need to be relocated before construction begins. Codes will handle this matter. This could possibly be a condition.

In regards to the sewer lines backing up, Mr. Hinderliter was informed by the Public Works Director that he would have a camera truck out next week. We could also apply a condition with this one as well stating that before construction begins, the sewer matter must be resolved to the satisfaction of the Public Works Director.

In regards to the off street parking, our ordinance requires 2 spaces per unit for a new structure. This is an existing single family dwelling as it exists today and the proposal is a single family dwelling. Although the use is not changing, the use is expanding due to the increase in the number of bedrooms. One way that we can try to help prevent what happens at other locations is through the licensing process which could have something in their file that states that this cannot be rented unless they have adequate off street parking.

The Planning Board needs to determine its final decision to determine whether they find that the applicant has met the Conditional Use criteria and also the Shoreland Zoning criteria.

Street Parking: The garage will be 34’ deep and there is also the potential for off street parking outside, adjacent to the building.

Driveway: There will be a new curb cut.

Building Height: The maximum height allowed is 35’ and the overall height of the proposed new structure will be 34’6” to the peak of the roof.

Sewer Line: Mr. Sabin is not sure if the cottage is connected to this sewer line. If there is a connection in West Grand then he will connect there.

The town owns the main in the street, but from your yard to the main is the private owner’s responsibility.

Code Officer Dan Feeney will not allow for construction to begin until it is connected properly to the sewer lines.

Electrical Lines: Electrical inspector Rod Belanger met with CMP and they will be able to move the high powered lines to the side.

Drainage: The drainage issue will be taken care of when the applicant excavates and remove the peat moss and backfill with 4’ of sand. The dimensions of the roof are not dramatically increasing and his structure will have gutters and rain barrels.

The applicant received DEP approval for his expansion.

The Chair makes record that the applicant has received a ZBA Variance approval for the Shoreland Zone standards in Division 17.

Linda Mailhot made a motion to approve this Conditional Use in the Shoreland Non-Conforming structure application with the condition that CMP move the wires away from the structure before construction begins. Seconded by Win Winch.

MOTION

<p><u>Jeffrey Hinderliter called for the vote:</u></p> <p>Win Winch – Yes Robin Dube – Yes Mike Fortunato – Yes Vice Chair Mailhot – Yes Chair Koenigs - Yes</p>	<p><u>VOTE</u></p> <p><u>(5-0)</u></p>
<p><u>ITEM 4</u></p> <p>Proposal: Conditional Use Amendment of Approved Plan/Appeals from Restrictions on Nonconforming Uses (Overnight Cabins): Change use of 7 units from seasonal to year-round (currently 5 year-round use for a total of 12)</p> <p>Action: Discussion; Schedule Site Walk; Schedule Public Hearing</p> <p>Owner: SRA Varieties Inc., D.B.A. Paul’s II</p> <p>Location: 141 Saco Ave., MBL: 311-1-10, GB2</p> <p>Planner Jeffrey Hinderliter stated that back in November, the Planning Board began re-considering this proposal. As part of the review the Planning Board was to make a determination of completeness. At that time the Planning Board found that the application was not complete because it lacked responses from the appeal from restrictions on non-conforming uses standards, operations plan, discussing how the units will be/and are managed, site walk plan that shows dimensions, curb cuts, parking, driveway, lot boundaries and distance things are from each other. There are also new Department comments. Thus far these items have been submitted, therefore staff feels it is complete at this point.</p> <p>Applicant Gee Singh introduced himself. Chair Koenigs asked the applicant if they are focusing on 12 units instead of 14 units. Mr. Singh stated that they only have 12 units total. Chair Koenigs stated that all of the records should reflect that. Chair Koenigs asked the applicants which of the 5 units are year round. The applicants stated that these are year round:</p> <ul style="list-style-type: none"> • Building #1 – 1 Unit • Building #2 - 2 Units • Building #3 - 2 Units (also has the common areas) <p>(All of the units are rented out weekly).</p> <p>Chair Koenigs suggested that the applicants need to submit a new plan with building and parking details as well as the location of the dumpster and submit by December 27, 2016.</p> <p>The site walk is scheduled for January 5, 2017 at 5:30 pm. The public hearing is scheduled for January 12, 2017.</p> <p>Win Winch made a motion to accept the application complete, seconded by Robin Dube.</p> <p><u>Jeffrey Hinderliter called for the vote:</u></p> <p>Win Winch – Yes Robin Dube – Yes Mike Fortunato – Yes Vice Chair Mailhot – Yes Chair Koenigs - Yes</p>	<p><u>ITEM 4</u></p> <p><u>MOTION</u></p> <p><u>VOTE</u></p> <p><u>(5-0)</u></p>

ITEM 5

ITEM 5

Proposal: Determination of parcels inclusion with 2004 Campground Registration
Action: Discussion; Decision
Owner: Paradise Acquisitions LLC
Location: 60 Portland Ave, MBL: 205-1-32; 50 Adelaide Rd, MBL: 106-2-2 (portion of)

Chair Koenigs: The Chair received a letter from the lawyer which he gave to the Town Planner and was distributed to the Planning Board Members. That was from Brookside Condominium Association. So we have a legal packet from the applicant with their presentation.

Town Planner Hinderliter: As you all know there is a lot of history with this and if you don't mind I will just fast forward to where we are today. Where we left off back in August of 2016, this proposal came before the board as an amendment to the campground overlay district zone. We found out that the campground overlay district wasn't what we thought it was. So we could not amend the zone on our zoning map because the zone in specific places basically didn't exist, it was more of a floating zone. It can be established but there are other requirements and we couldn't move forward with this one. So we had a couple of options and one of the big options was try to determine if the lots that were part of the zoning amendment were actually included within a 2004 campground registration. The campground registration was the process where the town went through back in 2004 where they created a campground overlay ordinance and they sought to make all of the existing campgrounds conforming in some way through the creation of this ordinance and through the registration process. Paradise Park happened to be one of those campgrounds that was part of the 2004 registration. So what happened, with the question of the 2 lots (1 being named the pistol shaped lot) and the other lot. So we began doing a lot of internal research. We researched all of the campground registration applications from 2004, we researched development that happened after 2004 to try to find if there were consistency's/inconsistency's with the material that was submitted as part of these applications. And one thing that became pretty clear was that the information that was included with each of these applications wasn't as precise as I expected to see. I thought that I was going to find boundary surveys with clearly defined property lines and I didn't find that in one of the applications.

Chair Koenigs: They were consistently the same.

Town Planner Hinderliter: They were consistently the same. We would have brochures of campgrounds that were used to identify what folks thought were the registered area and it was accepted.

Chair Koenigs: That was the intent though was to find how many sites they had and where they were at so they would limit the actual growth to an organized manner. That's what I got out of the whole thing.

Town Planner Hinderliter: As they say hind site is 20/20, maybe the intensions were good but they could necessarily see something that's happened like what we're encountering now. And not that what we're encountering now, we shouldn't have dealt with other campgrounds in the past because it also looks like that has taken place where campgrounds were allowed to expand in the area where it was questionable whether those areas were a part of the 2004 registration.

Chair Koenigs: But they were previously identified as being part of their property at the time of the 2004 registration. They came back after the fact and said, oh by the way we now are trying to do something here and we too have the same similar situation here.

Town Planner Hinderliter: Correct. So Jeffrey Hinderliter and Megan McLaughlin reached a point where they were stuck. They got all the information and they just cannot come up with a clear answer. They then spoke with our Town Attorney, and the Town Attorney did a pretty detailed review of this, in fact he had contacted Chris Vandiotis, a very well-known land use lawyer who is kind of retired but Bernstein Shur still has the ability to use him to try to seek some help on this. Basically our Town Attorneys came up with something pretty similar to where Jeffrey and Megan were at. We didn't have a clear answer 100% that these lots are in part of the 2004 registration or no these lots are not in the 2004 registration. So based on our attorney

advice, our Attorney said that it should go back to the Planning Board so they can make a determination as to whether they feel these 2 lots were part of the 2004 registration or not. And that is why the proposal is before the Planning Board tonight. With this specific proposal there's not a development associated with it, you're not ruling on it like you normally do for conditional use, site plan or a sub division. It's really a determination as to whether you believe to the best of your ability the applicant, being Paradise Park has proven beyond a reasonable doubt that these lots are part of the 2004 campground registration. So that's the determination the Planning Board has before them.

Vice Chair Mailhot: Before we get started on this item, I would like to declare, as part of our rules of procedure any possible conflict of interest, just in that I am also a campground owner in the Town Of Old Orchard Beach and I own a business on Rte. 1 in Saco that caters to campers to various campgrounds such as Paradise Park. I wanted to state that for the record and not sure if there is a need to recuse myself.

Chair Koenigs: I appreciated you addressing that to the Board and the Board Members doesn't see an issue with this. To the rest of the public who is probably interested, we talked about this in our workshop, this is a lot of information to take in, read it within a week and make a decision on one presentation. I think we'll probably go through it, have the presentation from the applicant. And with the Attorney who is present here, we may have questions that we should ask tonight. We should deliberate over it. He will ask the Planner if this type of item requires a Public Hearing or not. It's not an application for a site plan, this is kind of a ruling. We can ask our attorney questions, we can probably ask the other attorney to clarify his letter, but other than that I don't know whether or not members of the public would actually have substance that is going to sway us one way or the other. We have to make a legal decision based on what the past Planning Board ruled on this property based on the registration process that is in the ordinance. To me I think it's pretty clear where I stand on it. I don't know about the rest of the board, but I want to make sure that the process we go through, that the Chair allows the process to happen. And I have already stated a couple of times at this meeting that I am not going to be at the next meeting, so if we don't decide tonight then I probably won't be here at the January meeting. I wasn't going to push the board to make a decision tonight, unless the board feels comfortable after the discussion to make a decision. And I am sure that the applicant would welcome a decision tonight. If it's a positive decision. As I recall, our initial discussion was that we, and we've had a whole week to read it and go through it and its clear to everybody, without dragging this on any more I just wanted to make sure that I was going down the right path as the Chair. I will let the applicant and the applicant's lawyer approach the board and make a presentation. We have read it, at least I have, and I appreciate the detail that's here. I had asked just for the applicant's information and I asked the Assistant Town Planner if we could have the application for 2008 and 2014 expansions because I felt that they had relevance to what was submitted and what your intent was. And what the applicants past applications included as far as deeds, right title and interest and interest from 2004 forward. I don't know why these are her but they are the full sized prints of the copies we got that were emailed to us after our workshop meeting last month. So I will turn it over to yourself if you could introduce yourself.

Gene Libby: My name is Gene Libby. I am an attorney from Kennebunk. I've been involved with the Paradise Park Campground. I think you'll see in the application, materials in 2004 that there was a deed that I witnessed as an attorney at that time for the acquisition of the Tousignant parcel. The first thing I'd like to do is to make clear that the areas we are talking about and what is contained in those areas. The so called pistol shaped parcel Do you have your little notebooks with the exhibits? If you could turn to exhibit G, which is a survey of the campground you will note the pistol shaped parcel shown on the survey. This parcel is currently undeveloped. Currently no sites in that area. When I refer to the pistol shaped parcel, I will be referring to that area. The second area we're concerned with is the area that does not have any sites. It is a recreational area. And the best way to show you that is to ask you to look at exhibit I which is a google earth map. That was taken December 31. 2002. If you would turn to the second page of exhibit I this is simply a little closer up photo. What happened is that

prior to the Holly family ownership, while the Smith's owned the property, the encroached on their neighbors property and half of the pool was actually on the Tousignant property as well as the volleyball court as you see in the picture. So the reason I show you this photo is that all of those facilities were existing in 2002 and in 2004 there are no sites on this parcel of property. And there are no proposed sites to be on what is strictly containing recreational facilities at the campground. So these were all existing at the time of the 2004 application.

Chair Koenigs: I think the Chair only received 2 stamped plans of the property before the transfer and it looks like a survey that was done by Dow and Columbe that actually showed the volleyball court and the basketball court. I looked at other people's applications that didn't have the same (*the remainder of this comment could not be understood*). So you sent two actual registered copies.

Gene Libby: I sent the original survey to the Chair because I only had the one. I just want to make sure these copies get back to your files.' So essentially what you are doing tonight is reviewing a determination made by the Planning Board on February 4, 2004 (which is exhibit B) and the Planning Board determined at that time that (and I 'm reading from the determination) The Planning staff is satisfied that the application is complete and on a motion by Mr. Begin seconded by Mr. Most, the motion carries unanimously and the motion was to accept the applicant as in compliance with the ordinance. Jeffrey spoke to this when he commented on his review of all of the applications back in 2004 that he didn't find them as precise as he thought he might and what I think you're doing here is trying to determine what was before the Planning Board in 2004. Based on the standards that were being applied at that time and not the standards that we might apply in 2016, which I think created an expectation of a little more precision that what was done at the time. It is the campgrounds position that this isn't a rigid review of technical sufficiency. But only one of the substantial compliance. Did the Planning Board know that the pistol shaped parcel and the recreational facility were part of the campground application? And I have submitted the campground application and it is Exhibit A. If you look at the last page of Exhibit A, highlighted in yellow is the pistol shaped parcel shown here. This is a diagram of the boundaries of the campground that was submitted as part of the application that was deemed sufficient and the one that was approved by the Planning Board.

Chair Koenigs: This application has page numbers circled on it and I assume that those pages were numbered and circled by the existing Town Planner at the time. The last page that you referenced that has the map, your exhibit doesn't exactly show a page #13 on it but the Town Planer has shown this to us about 4-5 months ago and it did have the #13 on it so I just want to make sure, so that if anybody wants to review this independently, doesn't think that we just slipped this page in. This page did exist with the original application and the town has verified this just for the record, right Mr. Hinderliter?

Town Planner Hinderliter: This is correct.

Gene Libby: When a copy of this was made for me, the copy was so poor that it wasn't visualized so I had the campground go back and get the original that they submitted were you can clearly see those lines.

Chair Koenigs: That's why I wanted to define for everybody who is listening that the copy we have before us doesn't have the #13 on it.

Gene Libby: I wanted to take and issue with one of the statements made by Jeff that you need to make a finding beyond a reasonable doubt.

Chair Koenigs: This sounds like a strong statement. It's like a death penalty to me.

Gene Libby: Like when you go to jail? I think you need to make a determination based upon this civil standard. I agree that the applicant has the burden of proof, but I think the standard is a per ponderous of evidence which is the civil standard. And whether it is more likely than not that the Planning Board in 2004 understood that the pistol shaped parcel and the recreational facilities were part of the operating campground. There are some technical issues here and I don't want to bore you but I do want to point them out to you. If we look at Exhibit C, this is the original deed, where Paradise Park Acquisition LLC acquired the operating campground from the Smiths. You will see the Book & Page # at the top. If you turn to page 360 of the deed, you will see the description, beginning at an iron pin on the Westerly line of said Cascade Road at the Southeasterly corner of land by Cheryl Arpenio, that called for the Westerly line of the Cascade road is the call to the beginning of the pistol shaped parcel on the Cascade Road. If you look at the deed, there were 6 different parcels and they were identified in the deed as

Exhibit A-B-C & D. Exhibit D contains the description of 2 properties. One of which is the pistol shaped parcel. I have also included as Exhibit D the original deed from Mr. Goodrow to the Smiths from 1986 of which contains the same call beginning at an iron pin on the Westerly line of Cascade Road at the Southeasterly corner of the land conveyed by Cheryl Arpenio. So what I hope to show through that is that when the campground was purchased, the pistol shaped parcel was part of the original configuration. But something happened during the purchase. If I could ask you to go to Exhibit E, I printed this off from the town's website. It is the town's record showing Map 205 Block 1 Lot 32. That is the pistol shaped parcel. But if you look, it shows that the parcel was purchased March 28, 2016 for \$75,000.00. That is clearly wrong. The Paradise acquisition did purchase property from Corey Gray on March 28, 2016, but not this property. And if you turn to Exhibit F, this is the vision appraisal card also on the town's website. If you look at the very top of the vision card you will see Map ID# 205-1-32. And if you look at the ownership, it says Paradise Park Acquisition LLC May 19, 1997. And it contains the Book and Page of the deed that I just went through with you. Book 8270 Page 349. So this entire parcel was purchased and for some reason the number of the property didn't get included in the overall application which was Map 106 Block 2 Lot 2. I've shown you a survey which is Exhibit G and I apologize for the smallness of the print but it was conveyed to me digitally. I want to make clear that this survey was done in 2005. And the deed calls for the pistol shaped property on the 1997 deed into the campground. Now the standard that you used to look at this property is important and I think Jeffrey noted that and I wanted to draw your attention to another application at the same time period. Exhibit K. This is for Wild Acres Tent and Trailer. And you note the parcel number 208-3-2 in this application. But the planning records show in Exhibit L a letter of August 3, 2006. And in that letter apparently there was a question with respect to Wild Acres and Wagon Wheel of what party was included in the campground overlay zone. And the Planner, at that time, Sandra Lee wrote this letter saying that both of the properties were in the campground overlay. If you turn to page 2, Exhibit L you will see that there are (2) Map and Lot numbers. 315-3-1 and 208-3-2 and the note at the time says all of the parcels 315-3-1 and 208-3-2 should be in the campground overlay district. This should have been done in 2004 when the CO district was adopted by the council but it was done incorrectly. If you turn the page you will see that 208-3-2 is shown with hash marks here and the 315-3-1 parcel is shown to its right. So apparently what happened is that the Map 315-3-1 wasn't property recorded on the town records as being in the zone. Something similar happened with the MBL 205-1-32. The Paradise Park property, which should also be in the overlay zone. So with respect to that property, it was clearly defined in the boundary of the campground that the Planning Board deemed was complete and once they determined the application was complete, the board unanimously approved the application. I want to bring your attention back to Exhibit A and the second page of the application. It has submittal requirements and you'll see boxes A (1 &2) checked and a yes written in the margin. I assume that that was done by a member of the Planning Staff to indicate that those criteria had been met. Now Jeffrey has informed me that by going through all of the applications that the aerial photos that all of the applications contain were provide to the applicants by the town. And for that reason that is why I included the google photographs from 2002. It is my belief that the aerial photos that the town had probably showed something similar to, or identical to the google photos and I haven't seen the town photographs. I assume that Jeffrey has those.

The second parcel is the Tousignant parcel and the Tousignant parcel was included in the application. If you turn to page 10 of the application, there is a deed from Chick and Mary Tousignant to Paradise Acquisition LLC. And after they purchased the property it was determined that the Smith's had encroached onto their property. To rectify the situation Paradise Acquisition bought the property because it cut their pool in half. And they included the deed to signify and to say to the town that we own this property. I want to make it clear to the Planning Board that the only thing on the Tousignant parcel are the recreational facilities that existed in 2004 when the application was put forward. And there are no plans to put sites on the Tousignant parcel that contains the recreational facilities. All the Holly's want to do is to make sure that all of those facilities are contained within the campground overlay district. The argument here is a pretty simple one. #1 the deed was contained in the application and #2 from the Planning Boards perspective, if they had an aerial view of the campground, they clearly could see the pool, the basketball court and the volley ball court were all part of the

operating campground at the time. So the question that I ask you, and the question you need to ask yourselves is was the 2006 Planning Board aware that the pistol shaped parcel and the Tousignant parcel were part of the application. Now clearly the block and lot numbers was not listed on the application. The application only contains a space for 1 block and lot number. But it's pretty clear that the Planning Staff reviewed it and the Planning Board knew what they were dealing with. I think that is brought into better focus by Jeffrey's reference to the fact that the 2008 and 2014 expansion both showed the pistol shaped parcel (If I am reading the Planning Board summary correctly). And the recreational Tousignant parcel to be part of the application soMr. Libby stepped away from microphone... when there was a plan to expand the campground, the Planning staff knew it. The Planning Board knew it in both 2008 and 2014. So our request to the Planning Board is that using the same standards that were applied by the Planning Board in 2004. Is it fair to conclude that the pistol shaped parcel and the recreational parcel were part of the overlay district. I think that answer is an affirmative one. I would be happy to answer any questions by the Planning Board with respect to any of the exhibits or any of the other questions you might have.

Win Winch: You made quite clear of the ownership at the time. Have you responded to the letter from David Jones on behalf of the Brookside Condos? There are a lot of points that I would like the answers for. Have you responded to him on those points?

Gene Libby: I haven't responded to... I know David.. His office is

Win Winch: I want to see your responses to his points. He raises some very valid points and frankly at this point I have to agree with him. I want to hear your responses. We're copied on this but I've gone through his letter.

Chair Koenigs: For the public what are the questions?

Win Winch: Everything in this letter. He raises at the end.

Chair Koenigs: Should we read this letter into the record?

Win Winch: the owner took no steps to have parcel number 205-1-32 merge with 106-2-2 as assessed in campground use. That was point #1. The next page, only parcel 106-2-2 is identified on page 1 of the registration form. The owner could have included parcel 205-1-32 on the registration form or could have been submitted on an additional application but was not. The application was required to include a copy of the 1999 tax assessor's card for the campground site. Only the card for parcel 106-2-2 was submitted on the application. The 2003 business license for Paradise Park, a copy of which is part of the registration referred only to 50 Adelaide Road. License # 106-2-2. The application packet included the sheet of mailing labels for abutters. It also include the abutters on parcel 106-2-2 but does not include the abutters of parcel 205-1-32. So I would like to see your responses on behalf of the client on those questions.

Gene Libby: Certainly.

Win Winch: You're copied on the letter so you've got everything right there.

Gene Libby: Ordinarily I wouldn't have replied directly to Mr. Jones when receiving objection from the Planning Board. I would reply to the Planning Board directly. I would first indicate that the standards that we have to apply is the 2004 standard that Jeffrey mentioned with respect to all of the other applications. Now I agree that the applicant did not seek a merger of the lots. What is unknown to us, we know that the deed that was provided to the town clearly defined the pistol shaped property. What we don't know the answer to is why the town, when it recorded that sale, didn't record the campground lot to include the pistol shaped property. And I cannot answer that question for you Mr. Winch.

Chair Koenigs: To the Planner – we have to ask that question to the Assessor or the Tax Department? In the town office in their records as to why their records do not match up with the actual submittal of the recorded parcels and why they weren't combined under one ownership. I don't know how comfortable the Planning Board feels with information. I have similar questions that the other attorney had for the Brookside Condominiums without reading the letter and using his questions. My questions had to do with the timing that's laid out here and what fell out of that afterwards. We see that another campground corrected their problem where they didn't have their parcel identified but they did it in a couple years. These guys in 2008 did 2 more expansions. They obviously had surveyors and lawyers review their applications to make sure that they own the parcel. We reviewed it to make sure they had

right title and interest. So I did ask the Town Planner and Assistant Town Planner to provide me with the plans. But I didn't clearly ask the question good enough. What I wanted was the applications with the meets and bounds, right title and interest that was in the 2008 and 2014 applications. So I wanted the complete documents that showed that they did own the Tousignant property in 2008 and that they did own the pistol shaped property and they considered it, even though it's shown on the plan here, that they actually put it in the application and the Planning Board approved those expansions. Although those expansions are on the other end of the property, it was part of the application. So the applicants acted as if it is. I just want to confirm for the Planning Board that it was. And I think I understand the lawyer's position that we're stepping back in 2004 in their shoes and saying what did they have. There's a lot of statements that he made in his letter that's really reaching for us to try to look back. They did 13 of these in one night?

Town Planner Hinderliter: I think they did like 9.

Win Winch: I wasn't at that meeting but I was very familiar with the process. We spread them over 3 or 4 meetings.

Chair Koenigs: the vote was more of a formality. Most of the work was done by the staff.

Win Winch: Exactly.

Chair Koenigs: My understanding is that the town was trying to get its tax records organized so the campgrounds were not adding 20-50 sites and adding nuisances to neighbors, expanding and being bad neighbors.

Win Winch: They wanted a declaration because at that time you could put a campground anywhere. So this is undefined.

Gene Libby: I would like to respond to Mr. Winch's question that I don't think I've answered, with respect to the MBL's for 205-1-32. That clearly wasn't set forth on the application and there's nothing I can do to change that. My point Mr. Winch is that the boundary outline clearly includes the pistol shaped parcel. And the original deed clearly includes the pistol shaped parcel. So is there some fault that may apply to Paradise acquisition and not seeing this and correcting it. I can't say the entire fault lies on the town. But I can say, and my position with respect to the Map Block and Lot number is that the Planning Board and the town, when they have discovered past omissions, which everybody clearly knew was before them, they have simply corrected them. They haven't said, "Oh, you didn't list that number so therefore you are out of luck.

Chair Koenigs: This correction that you sited in the application was done just through the Town Planner without the Planning Board re-voting it. We're doing something that's unprecedented. Obviously the Town Planner at the time was the Planner in power, or in the office when the 2004 registration process took place. So if she was still here she could correct her own mistakes. Jeffrey's at a disadvantage because he is 2 or 3 Planners away and lots of years. So I think that he is doing it the right way by asking us to do it which is what the lawyer suggested.

Gene Libby: That's why I asked the Board to apply the standard.

Win Winch: I'll have to go back and look but I think the registration pre-dates Sandra Lie's employment here, I'm not sure. I'm not sure timing wise on that.

Chair Koenigs: One of the things from my history here is that these abutter notices, that's referenced in the letter from the other lawyer, is that this is generated using a printout that the town uses and gives to the applicant. So if you put in a Map, Block and Lot # and obviously the Planning Department, at the time, had to be working with each one of the campgrounds and they were saying "Here is your list of abutters" and if they put in 106 only and didn't put in the 105 property, they are not going to get a list for the 105. To me that seems like a real simple explanation as to why this application didn't have it because it just says this lot #. This happened on the other property as well, the other campground, Wild Acres.

Win Winch: Did they have that software back then? I went down and talked with the Assessor and they had to dig out the old property cards. So I am not sure when they made the switch. But they still have the original property cards downstairs.

Chair Koenigs: But the towns the one that assigns the Map, Block and Lot #'s.

Win Winch: But as far as notifying the abutters I'm not sure if this was done at that time.

Chair Koenigs: I'm just saying that through the process, the Planning Department was intimately

involved with each applicant, telling them here is your aerial map, give us this information. They were trying to be very business friendly, but at the same time trying to get information out of them, trying to get them to actually comply with the ordinance. This is just one comment, there are 5 comments that he made, I'm just trying to go one for one, I think to ask the applicants attorney to respond to them all.

Gene Libby: Like many things, once an initial error is made, the error gets compounded and overlooked and that's what happened here. But I think significantly that you are not looking at it tonight to make an initial decision. Two Planning Boards before you have acted on this application. And acted on the application as if the pistol shaped parcel and the pool and the recreational facilities were all part of the campground.

Chair Koenigs: But the Chair has also stated that at that time those applications, those areas were not relevant to the expansion areas. They weren't in question. Are you following what I am saying? So we weren't even focused on that property, and so part of your application here that says the mindset of the Planning Board, that they should have known, or would have known. It says clearly known. It says clearly know, and to me I put a big question mark. I don't think that being a Planning Board member for 9 years, whether or not they clearly know everything. We're told everything, we know everything. Then looking at the application that we're going to divide, here's an aerial map, and here is the plan, and here's the meets and bounds and put it all together, we're looking at the professionals that are making the presentation, we rely on the professionalism to a large degree. We don't actually get out the calculators and the rulers and things and actually plan this all out. That's what we have a Town Planner for, that's what we have professional engineers for and the consultants for. Is to tell us the facts and then we make a ruling on what we see.

Gene Libby: Let me pose the question. The 1997 deed, after the closing goes to the registry of deeds to be filed, then it goes to the town, and the town takes the deed, reads the deed description and then makes the appropriate notations on town records and on Map, Block and Lot #'s. For a reason which we don't know, the person responsible for that in 1997 didn't pick up what is now called 205-1-32. In fact, what we do know is that on the town records today that lot is shown as being acquired in 2016 and we know that's not true. So what I don't want to see happen here is that a mistake, and since I can't say that the problem with this is that the town screwed up. Well I think the town did screw up. There is a question of when did the applicant know it and what steps were taken. My argument is clearly the applicant knew of the pistol shaped property because it was clearly put on a boundary survey that the Planner found sufficient and the Planning Board voted on. Now it didn't have the Map, Block and Lot # but as the evidence shows, there were other corrections made. Now at the time what the town was trying to do was to make all of these campgrounds, which were spread out as non-conforming uses in many of the zones conforming. And to get an accurate number of sites on the lot so that they weren't contending with: well this campground had 200 sites last year, and now they have 250 sites.

Chair Koenigs: Well they are trying to manage the sewers and stuff like that as well, the usages and utilities.

Gene Libby: All of the appropriate town reasons. But I think those have to be part of the equation, this isn't simply a question of, is the Map, Block and Lot # on the application. Is the application in substantial requirements with the standards which were in effect at the time?

Chair Koenigs: Win had his questions coming from the lawyers letter, are there any further questions that we should ask this attorney so that he can explain his position clearly to us. I think eventually we are going to have to deliberate amongst ourselves without other information from other people.

Robin Dube: I am looking back at section C over here where Bobby and Darlene bought their property in 1986. Not 1987. The top says book 8270 page 352 where it tells you in #6 that Bobbie and Darlene bought that from Paul Goudreau in 1986. So somewhere back then he either, or they either incorporated the whole thing into their property then because it's right here in the deed. So to see where this property went.

Chair Koenigs: So how did it broken back out by the town. Which is a mystery.

Robin Dube: And I asked someone here tonight. Are you being taxed separately on that piece of land?

Gene Libby: I can't answer that question.

Chair Koenigs: I think if you had a question and they can't answer it then we ask the lawyer to get the answer for us. Because I think I had a similar question in my notes too but if you have a question, say

it.

Robin Dube: I was told that the piece of property is being taxed separately as a piece of property instead of all joined together as one.

Chair Koenigs: So you get 2 tax bills from the town which would be for the Map and Lot # for the records.

Robin Dube: So somewhere, what you're saying, it was never incorporated into that big parcel as one, their still looking at it as 2 separate pieces of land. How did they incorporate the piece that they bought from Chick and Mary Tousignant? It would have been the same scenario where you're taking another piece of property and adding it to it. That would have been another piece that.. how did they add that in... did they just put it in the deed?

Chair Koenigs: That may not be a question for the lawyer, it may be a question for the Town Planner to ask the Assessor or the Tax Department and to actually give us some sort of feedback on what tax bills have been sent out, for what pieces of property, Map, Block and Lot and do they incorporate the entire area for Acquisitions LLC.

Gene Libby: Through the Chair, could I inquire to Jeff whether the practice of the town when property is acquired in a block of land such as the campground.

Chair Koenigs: Where you are trying to combine properties, like 3 or 4 properties that are joined and you try to make them into one bigger subdivision?

Gene Libby: There is one deed and it describes 6 different parcels that are all contiguous, it would seem to me that the towns practice would be to record that on their plan, it says one lot under one single ownership.

Chair Koenigs: So you want to ask through the Chair the question how does the town do that.

Gene Libby: Yes.

Win Winch: There is something in the ordinance about undersized lots, same owners. I've seen that happen more than once.

Town Planner Hinderliter: That's with non-conforming. Undersized non-conforming lots which I don't think is the case here. It would have enough area but there could be, one question to that is campgrounds, if you look at them individually, are supposed to have a certain amount of acreage. That was part of the campground overlay district ordinance. I'm pretty confident that this wouldn't be the issue here, I think what I need to do is to work with the assessing office to go over some of these questions to try and figure out what may have happened back then and why these lots weren't combined. Is the pistol shaped lot and the main Paradise Park lot under separate ownership, are they different entities or the same.

Gene Libby: They are the same. Paradise Acquisition LLC.

Chair Koenigs: The Chair would like to remind the Planning Board members that I believe that what we are trying to do is to see whether or not the applicant met the requirements for the registration in 2004 and that the application at that time included the properties that are in question, the pistol shaped property and the Tousignant property, it was deeded to them because they had built on it and encroached on it and then they had an agreement. To me, and going into the discussion, my frame of mind is that the application and the map clearly showed the pistol shaped property to be included in it. That Map, Block & Lot # was not listed on that, it was a crude sketch, it was probably better than some of the other sketches in the other applications because they were just using their site maps, site numbers with a hand drawn sketch and then the Tousignant property, it clearly shows that they had facilities on That property and they actually had the deed attached to the application. So to me those are the 2 root questions, is were they part of the campground in the minds of the Planning Board in 2004. I was only asking the question to make sure that the applicant, after they had gone to the expense of expanding and they continued to show it. And I think that the drawings that I have received do show that. I am confident that when we do get the copies of the application for 2008 and 2014 that the deed will show that. But I'm really kind of questioning, it's not part of the question here, it is the taxes and why the applicant didn't try to rectify this with the town (1) so they just got one tax bill for the campground and not 2 separate tax bills, if that's what they were doing. And I would like to know that but I don't think it weighs in my mind what happened in 2004 as far as the decision. Does that make sense?

Linda Mailhot: It does make sense. The question that I have is in the previous documentation that

we've received with the town with these sketches that show the outline areas, it is not exceptionally clear to me. The only one that I have that is clear is the one that was provided in the binder by the applicant's attorney. My question Jeffrey, is whether or not the actual original documents that were submitted still survive somewhere or do those get scanned and get trashed. This is the only one that is clear to me is in the binder. All of the other ones given to me were such poor copies that they are not clear. That's why I am asking if the original submission exists.

Chair Koenigs: That's a question for the Town Planner.

Town Planner Hinderliter: Yes but the original submission, what we feel is the original submission via staff seems to be a copy of that boundary survey. It's distorted and I think what the applicant said tonight was the document that was submitted as part of the packet was in the Paradise Park's file. They could have had the original and copied it for the Planning Board in 2004. But the one that we have in our file is the most original that we have available. I can actually bring the files at the next meeting. And we went to the point where we took photographs to compare what was actually was in these original files. I think this was in regards to the aerial photograph where the aerial photograph was positioned in respect to the application. So we believe that is the original that was submitted as part of the Planning Board's application. The distorted copy that you have from us.

Chair Koenigs: So Jeffrey if you were taking notes on my request for getting the application for 2014 it is just the 2008 application that I don't have. Again I've already stated my position, so unless there is somebody else wants the application for 2008. Because I'm thinking that we're making a decision based on 2004 and not 2008. I'll retract what I requested. When I have the application for 2014 I don't need one for 2008 unless somebody else wants it. To me it shows that they believed that they clearly owned the property and that they were all combined going forward. This is the one that actually has the #13 on the top of it that the Town Planner gave us 6 months ago.

Gene Libby: That's the one that I got and as Jeff has indicated there's no question that was the original submitted to the town.

Town Planner Hinderliter: Actually that comment is creating a memory, just to show you the level we went to, we did question that copy and we thought, wow the quality looks really poor and that was one of the reasons why we decided to expand in our research even further to see if anything was in the Town Clerk's records, if we truly had in our files the only documentation that Town Hall had in regards to these applications.

Chair Koenigs: The only other person that would have, because I saw the name in the exhibits here that works for the town GIS is Tom Burns. And I know that if you go onto the website into GIS system, that he actually has each property boundary lines in there with the classification, whether it was found by meets & bounds or there is a hard survey, or an electronic submission and he actually has them designated so that you can find what lines and where they came from to that level. So that gentleman actually has the real professional layout of mapping of the town and is the one who keeps the records for purposes that the town uses for management of the town. So I think he works with the Assessor's office and the DPW as well. He is the consultant when it comes to mapping properties.

Gene Libby: We appreciate your intention and listening to the presentation, if you feel that the evidence is sufficient to act upon we would like the Planning Board to act on it tonight. If you feel that there is sufficient information.

Chair Koenigs: We will leave that to the Planning Board to think about it for a minute. There's a lot of information to take in, but I appreciate the time that everyone took to listen to the applicant's attorney to explain everything, but I still think that Win Win's questions may still need to be answered. I think that we need to look at the 2004 Planning Board. If I was to look at that I would have thought that 8 years later that I approved the pistol shaped property because it was on that map. It's in the meets and bounds on the deed that they submitted. I think from a Planning Board's standpoint it was approved as being part of the campground at that time because they added the deed to the application and it kind of trumps that fact that they had recreational facilities on somebody else's property and it makes sense just by being there it made it part of the campground and it doesn't have any sites in that triangle area. I think that's what the applicant's copies that I handed out, I received 2 certified copies of Dow & Columbe survey map showing the Tousignant property prior to the transfer showing the campground. So if we can get those back, actually I think these need to back into the Town Planner's

files. We will take a 5 minute break and let the Board decide if they want to act on this tonight. Make a vote or table it for further discussion if we don't have questions. If we don't make action tonight we should actually make a list of questions, and review the questions the Planner has to get the answers for the next meeting so it's really clear to everyone what's outstanding. Its 9:35 pm. we are going to take a 5 minute recess.

Chair Koenigs: It is now 9:42 pm. We are on agenda #5. Determination of parcels inclusion with 2004 Campground Registration Decision, Paradise Acquisitions LLC Location: 60 Portland Ave, MBL: 205-1-32; 50 Adelaide Rd, MBL: 106-2-2 (portion of). We had a presentation and some discussion, and the Chair entertained further discussion just for the Planning Board. What I would ask the Planning Board to do is if they don't feel as each individual member can make a decision tonight that you actually state the questions that you may have already asked before, just to make sure that the Town Planner has those questions.

Mike Fortunato: I'm fine.

Vice Chair Mailhot: I'm fine.

Win Winch: We're going to do the verbatim minutes again because that is very helpful. I'm not prepared to make any decision one way or the other tonight, so what would be helpful to me is by the next workshop meeting, if we have the minutes like we did this time. I just want to go back and realign everything up and see what the sequence is.

Chair Koenigs: And do you still want Jeffrey to answer the questions about....

Win Winch: Yes we need to get those questions answered.

Chair Koenigs: So he is going to work on questions to have to do with the Town Assessor Department that you had asked about. The attorney from Brookside Condominiums. Is that clear Jeffrey. I think if any one member isn't willing to decide tonight then I think we should table this.

Robin Dube: She would like her questions to be answered about the combined 2 separate pieces of property just to make sure.

Chair Koenigs: So the person to ask the question to is Jeffrey and make sure that he has a note and get a confirmation.

Robin Dube: Is it 2 pieces of property, has it been combined or are they paying taxes on 2 separate pieces?

Chair Koenigs: The property card should have the area that's shown on the deed when you actually take the meets and bounds area.

Chair Koenigs: The Chair is going to ask for a motion to table. We'll pick this up where we left off at the workshop where the questions will be answered by the Town Planner that have been asked.

Win Winch made a motion to table this item, seconded by Robin Dube. No discussion.

MOTION

Town Planner Jeffrey Hinderliter called for the vote:

VOTE

Mike Fortunato: Yes

Vice Chair Mailhot: Yes

Win Winch: Yes

Robin Dube: Yes

Chair Koenigs: Yes

(5-0)

ITEM 6

Proposal: Site Plan Review: Expansion of existing nonresidential (retail) building
Action: Determination of Completeness; Schedule Site Walk and Public Hearing
Owner: Harrisburg H&P & Harrisburg Group Gen Partnership
Location: 9 East Grand Ave., MBL: 306-2-6, DD1

ITEM 6

Chair Koenigs stated that they had their workshop and the applicant came in and gave them a revised application that we could actually read. We gave them instructions at that workshop that we needed their application to be complete. The Chair reviewed part of the application that they received at the

<p>Cynthia Kerr introduced herself to the Board. She has properties on Kinney Avenue. She went through issues with the last property building proposal and her concerns have not changed. She is concerned about the quality of life on that street, how the use will change, traffic lighting, pedestrian safety and traffic safety. She reviewed the application and there is a request for information like lighting and how bright the lights are going to be and how it will be lit. There has always been a history of lodging properties on that street, while the retail has expanded. She asked how deeply will the application answer those questions. And when will we have an opportunity to investigate. Chair Koenigs stated that this item will be on the next Planning Board agenda. Ms. Kerr stated that she wants to make it clear that she feels that this project could be very nice if consideration is given to the neighbors.</p> <p>Chair Koenigs reminded the Board Members that he won't be at the next Planning Board meeting and that he has not re-applied for being on the board as of yet.</p>	
ADJOURNMENT	
MARK KOENIGS, CHAIR	
Meeting adjourned at 10:01 pm	Adjournment

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of seventeen (17) pages is a true copy of the original minutes of the Planning Board Meeting of December 8, 2016.

Valdine Camire