

OLD ORCHARD BEACH PLANNING BOARD

Regular Meeting

October 13, 2016 7:00 PM

Town Council Chambers

<p>Call to Order at 7:03 pm</p>	<p>Call to Order</p>
<p>Pledge to the Flag</p>	
<p>Roll Call: Chair Mark Koenigs, Win Winch, Mike Fortunato, and Eber Weinstein and alternate Ryan Kelly (Ryan will be a voting member at tonight's meeting). Absent: Vice Chair Linda Mailhot. Staff: Jeffrey Hinderliter, Planner; Megan McLaughlin; Assistant Planner.</p>	
<p>APPROVAL OF MINUTES: 7/7/16, 8/4/16, 9/1/16, 9/8/16</p> <p>7/7/16 Workshop Meeting Minutes: Chair Koenigs would like the pledge of the flag stricken from the workshop minutes and also the times that the workshop meeting start and end. Win Winch made a motion to approve the 7/7/16 meeting minutes, with noted corrections. Seconded by Mike Fortunato.</p> <p>8/4/16 Workshop Meeting Minutes: Eber Weinstein made a change on page 2 of 5 (item 2) Eber Weinstein suggested to remove this application and have the applicant start over. If the applicants do start over, they cannot apply for one year. Change to: <i>If it is voted down, the applicant cannot start over for a year. If it is removed, they can come back within a year.</i> Eber Weinstein made a motion to approve the 8/4/16 meeting minutes with noted corrections. Seconded by Win Winch.</p> <p>9/1/16 Workshop Meeting Minutes: Change the meeting pages from June to September. Win Winch made a motion to approve the 9/1/16 corrected meeting minutes. Eber Weinstein was marked absent from the workshop meeting and he was not absent. Win Winch amended his motion to approve the 9/1/16 meeting minutes with noted corrections. Seconded by Mike Fortunato.</p> <p>9/8/16 Regular Meeting Minutes: Eber Weinstein correction: (page 3) change the spelling from repetitious to <i>repetitious</i>. On approval of minutes for August 4, 2016 Strike out who?? And add applicant. Win Winch made a motion to approve the 9/8/16 meeting minutes with noted corrections. Seconded by Eber Weinstein.</p>	<p>MOTION VOTE UNANIMOUS (5-0)</p> <p>MOTION VOTE UNANIMOUS (5-0)</p> <p>MOTION VOTE UNANIMOUS (5-0)</p> <p>MOTION VOTE UNANIMOUS (5-0)</p>
<p>Regular Business ITEM 1 Proposal: Major Subdivision and Site Plan: 40 unit condominium project Action: Final Plan review; Ruling Owner: Church Street LLC Location: 164 Saco Ave., MBL: 208-1-9, GB1 & R4</p> <p>Bill Thompson, applicants engineer from BH2M introduced himself.</p>	<p><u>ITEM 1</u></p>

Planner Hinderliter gave a brief summary. In the Planning Board’s packets they have the cover letter and updated plans. The purpose is to address the Boards comments, staff comments and the Department Head comments. The primary Department Head comments that were outstanding were the Fire Department and the Public Works Department.

Mr. Hinderliter emailed the Board Members a summary of the follow-up to the comments that staff heard from the September 8, 2016 meeting.

Chair Koenigs allowed Mr. Thompson to go through his letter and clarify some items and the Board Members can go along and add checkmarks where he gives good explanations as to what happened and find out what they have to clear up if anything.

Mr. Thompson stated that they have reviewed the peer review comments, staff and department comments and have the following responses and plan changes.

Planning Board Comments:

1. Traffic Engineer reviewed the existing access drive location that is closest to Jameson Hill Road. His e-mail response indicates that there are no traffic issues.
2. We also reviewed the existing condition of the sidewalk along our site that borders Jameson Hill Road. This sidewalk and associate bituminous curb is in good condition with no cracking or settlement. There is also a tip down curb and sidewalk for handicap crossing.
3. Applicant will coordinate with the DPW on the restriping of the crosswalk on Saco Avenue.
4. The Open Space noted on the final plan shall be controlled by the Home Owners Association.
5. All existing trees 6 inches or larger are located within the proposed tree line and shall remain.
6. We have indicated which detail sheet corresponds to a particular plan detail.
7. We met with the Fire Chief and he has approved our plan changes which includes:
 - a. Increased paving radius of Faith Lane to 30 ft.
 - b. Design of T-turn near unit 27.
 - c. On-site hydrant which shall be maintained by Maine Water Co.
8. Waiver note 20B was revised to better describe the specific request concerning Faith Lane and Trinity Lane.
9. Cider Hill building on abutting property line has been shown.
10. Stockade fence has been extended and the proposed height has been added to plans.
11. Plan note 19 has been revised to include sidewalk as an item that will remain private.
12. Applicant/BH2M shall work with the Town to comply with all MS4 requirements.

Assistant Planner McLaughlin stated that the MS4 requirements are in our ordinance so it does not have to be a condition.

DPW is comfortable with the sidewalks.

Eber Weinstein questioned if it a requirement to follow the NFPA Section 18.

The Board will follow this up at the next meeting or good and welfare.

Ryan Kelly mentioned that on #3 in regards to striping on the cross walk on Saco Avenue. There is nothing that is shown on the plans. Mr. Thompson will re-word it to say “except striping of the Saco Avenue crosswalk” to make it more accurate.

Planner Hinderliter stated that we have gotten sign off’s from the Fire Department and Public Works, in the September packet we had a sign off from Chris White, Wastewater Supervisor. We didn’t get a specific sign off from the Police Department, Code Enforcement or Assessing.

Chair Koenigs mentioned that we need to reinforce that the Department Heads at least do a follow up on these large subdivisions to make sure they have received, seen and acknowledged it.

Eber Weinstein would like to have a separate workshop to discuss the 25 year storm standard.

Points from Planner Hinderliter:

- Who will coordinate with the Public Works Director regarding the relocation of the cross-walk?
- Make sure the Planning Board is ok with the notes added to sheet #1. That is the plan that is most important. There will be adjustments to these notes including the waivers.
- Going to add the Phase II Construction of 8:00 am. daytime standard.
- Don't need the specific separate note on open space. It is ok to be identified as it is on the plan.

Chair Koenigs:

- Modifying note 20 with waivers
- Modifying note 21 with striping of crosswalk.
- Adding condition and note on 23 for the Phase II construction start time after 800 am.
- The phase line on the drawing will be at the intersection of Hope and Trinity Way.
- Units 1-20 Phase I and units 21-40 Phase II.

Win Winch made a motion to grant a waiver that is described in Article VII, Sec. 78-1542 (b) to allow for a 20' parking aisle width on Trinity Way from station 9+40 to 9+75. Seconded by Eber Weinstein.

MOTION

Planner Hinderliter called for the vote:

Ryan Kelly- Yes
Mike Fortunato- Yes
Eber Weinstein -Yes
Win Winch -Yes
Chair Koenigs. – Yes

VOTE
UNANIMOUS
(5-0)

Chair Koenigs read the Findings of Facts criteria for Subdivision:

The Planning Board, having reviewed the final application by the applicant and the plans as discussed tonight, we will read through the articles section 74.2 under subdivisions:

Sec. 74-2. Purpose.

The purpose of this chapter shall be to ensure the comfort, convenience, safety, health and welfare of the people; to protect the environment; and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the town, the planning board shall consider the following criteria and before granting approval shall determine the following:

- (1) The proposed subdivision will not result in undue water or air pollution. In making this determination it shall at least consider the following:
 - a. The elevation of the land above sea level and its relation to the floodplains;
Development area is generally at elevation 50' with no 100 year flood zone within development.
 - b. The nature of soils and subsoils and their ability to adequately support waste disposal;
These lots will be served by public sewer.
 - c. The slope of the land and its effect on effluents;
This site is served by public sewer with no on-site septic systems discharging effluents.
 - d. The applicable state and local health and water resources regulations;]
These lots will be served by public sewer.
- (2) The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
Public water is available for these lots we have a secured stating "ability to serve" from

UNANIMOUS
(5-0)

UNANIMOUS
(5-0)

<p>Maine Water Company.</p>	
<p>(3) The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized. <i>There will be no unreasonable burden on the existing public water supply as stated in the Water Co. letter.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(4) The proposed subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. <i>All construction and post-construction will be per Maine DEP Best Management Practices. This includes all measures to stabilize this site and minimize erosion and its capacity to manage surface water. All lots are on relatively level sites.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(5) The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed; <i>The proposed units will access onto the existing Saco Avenue (a public road) utilizing the 2 existing curb openings. Access Drives sight distances will meet the zoning standards.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(6) The proposed subdivision will provide for adequate solid and sewage waste disposal: <i>Solid Waste will be handled under a private hauler contract and disposed of at a licensed facility. Sewage waste will be treated at the Town’s sewage treatment plant via the existing public sewer system.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(7) The proposed subdivision will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized; <i>There are no known issues with the ability of the municipality to handle the solid waste from these 40 units. The municipality will be handling any sewage waste and was confirmed by Old Orchard Beach’s Superintendent email.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(8) The proposed subdivision will not place an unreasonable burden upon local, municipal or governmental services; <i>There will be no unreasonable burden on local municipal government services from 40 units.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(9) <i>The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics historic sites or rare and irreplaceable natural areas.</i> The proposed lots are spread out over the existing 11 acre property with a large open space / undeveloped land.</p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(10) The proposed subdivision is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any; <i>This project will conform to subdivision regulations.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(11) The sub divider has adequate financial and technical capacity to meet the standards stated in subsections (1) through (10) of this section; <i>The applicant has the financial and technical capacity to complete this project. The applicant shall submit a Performance Guarantee prior to construction.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(12) Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, the proposed subdivision will not adversely affect the quality of such body of water or unreasonable affect the shoreline of such body of water. <i>No ponds, lakes, river or tidal waters with 250 feet of this project.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(13) The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality of groundwater. The approval of this residential project will in no way adversely affect the quantity of quality of groundwater. All units are served by public water and public sewer.</p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>
<p>(14) The proposed subdivision will not reasonably interfere with access to direct sunlight for solar energy systems. <i>The proposed construction of homes under the current zoning of height limits will not unreasonably interfere with access to direct sunlight for solar energy systems.</i></p>	<p><u>UNANIMOUS</u> <u>(5-0)</u></p>

6. Home Owners Association documents are included in the submission.

Miscellaneous Comments (September)

- Developer has been given development rights. The document are attached.
- Existing infrastructure issues will not be impacted by this phase.
- Snow removal will become part of the plan used for Phase I. We have a snow storage area designated at the end of driveway serving the Phase II units.
- No impact to municipal services are expected.
- We have outlined the impact on the existing 36 inch culvert under Saco Ave. this project does not further impact the existing conditions. This was to be addressed by the DPW.
- Our contention is that a Conditional Use Permit should not be required.
- Stormwater issues have been addressed in our Stormwater Report.
- Unit count is not an issue for this phase.
- Default on existing projects are not our control.

Owner Bernie Saulnier introduced himself and stated that he met with his attorney stating that this process has been going on a long time. And because this is in a GB-1 Zone, his attorney is asking for a simple minor amendment to an approved subdivision.

Planner Hinderliter explained that we do have a provision within our ordinance, under our official zoning map which is in 78-457 (5) how the district in GB-1 is created, it is 400' in. It either to the property line, if that property is within 400' or at the maximum of 400' in. And if you have a lot that has a split zoning district the Planning Board may permit the extension of the district regulations applicable to the larger portion of the lot into the smaller portion for a distance of 50' from the district boundary line. You can extend the Zoning District of GB-1 50' into the R-4 Zone.

Chair Koenigs stated that it seems like we have to amend what was approved for the original project. For subdivision, site plan and conditional use.

Eber Weinstein stated that we have to be consistent with the definition of the project.

Planner Hinderliter stated that the reason why it was determined to amend all 3 is because this is all part of the same project and because the Conditional Use was tied to the original approval. We still have the Conditional Use out there. We still have those 3 permits that are running with the land.

Chair Koenigs stated that the only thing we are actually conditioning is that units 55 & 56 can be allowed in the R-4 District and be consistent with the previous approvals.

MS 4 Comments (September)

Our office has exchanged email correspondence with Town Staff and received feedback on the applicability of Chapter 71 with respect to the Summer Winds Development. The original Summer Winds development pre-dated the enactment of Chapter 71, but since this is an extension of the original development a Post-Construction Stormwater Management Plan is required for the entire development. We also understand that the provisions of Chapter 71 require that the project meet the Applicable provisions of Chapter 500. The cumulative amount of development and applicability of Chapter 500 is fully detailed in the Stormwater Report that was submitted with the original application for Summer Winds and Summer winds II. Based on our analysis, the Basic Standards must be met which require certain erosion practices and BMP's as well as conformance the Maine Construction General Permit. The Erosion Control Requirements are noted and detailed on the project plan sheets. In addition to the erosion control narratives and details provided we have also revised the O&M Plan to conform with the

inspection, maintenance, and certification requirements of Chapter 71. The revised O&M Plan also includes additional items requested by Wright Pierce from their review memo dated August 30, 2016.

Department Head Comments

Codes

- All deeds and development rights have been documented.
- Financial capacity will be provided along with a Performance Guarantee.
- The only permit required for this Phase II is a PBR for stormwater.
- No issue with internal road conditions.
- Proposed access drive for new units will be increased to 20 feet wide. All existing roads are narrower
- Fire Chief has reviewed design and is satisfied that this site can be accessed by emergency vehicles.
- The proposed units will not have any accessible space below the first floor.

Public Works

- Truck turning radius has been approved for the largest fire apparatus.

Fire Department

- Meeting on September 29, 2016 with Fire Chief and he has approved our changes.

Tax Assessor

- No Comment Required.

Submissions from Mr. Thompson:

- 10 copies of the Preliminary Plans.
- Assignment of Declarant Rights and Development Rights
- Warranty Deed
- By-Laws Summer Winds Cottages Condominiums Association
- O&M Stormwater Management.

Memo from Megan McLaughlin dated October 12, 2016

Roads to remain private in perpetuity

- Note #17: All utilities shall be privately owned and maintained. Utilities under the road will be private.

Landscaping and Lighting Plan

- Does not propose any additional landscaping. Existing trees at the entrance of the road.
- There will be 1 lamp post and each cottage will have its own building mounted lighting.

Slope at the end of the access road

- Guardrail protection is not needed anymore, it is now about a 6 inch drop, not anticipating a safety issue.

LID/BMP's

- Storm Water Design details indicate an underdrain underground system which acts as a treatment system.

Memo from Wright Pierce dated October 12, 2016.

A few comments remain in regards to General Construction details:

- Curbing – Have identified the curbing
- Sewer – E-1 pumps

- Added note #17 Roadways shall remain private – we are not a private way, this is an access drive to serve the cottages.
- Landscaping – existing trees at the entrance. Open space.
- Unit 59 is 20’ from the abutting property line. Work being proposed on the back side. Property line is the buffer.
- Clearing limits defined on the plans – Not a problem.
- Detail on the lighting – Same unit fixtures as Phase I but can show the details.
- Slope at the end of the road with the guardrail – have changed that grade.
- LID’s - Storm Water Design details indicate an underdrain underground system which acts as a treatment system.
- Erosion and sedimentation control – Recommend to have silt sack. Wrap silt fence around the drain manhole at unit #59.
- Geotextile fabric to separate underground backfill – Will be added to that detail.
- 36” pipe is no issue.
- O&M Plan – there is an Operation and Maintenance Plan submitted.

Eber Weinstein asked who will be responsible for maintenance operations.

Mr. Thompson stated that there is a Homeowners Association in place and they will be responsible.

Megan McLaughlin mentioned to Mr. Thompson that there are a few items that are still outstanding:

- Landscaping – limited buffer between the adjacent residential home. Can they submit a formal landscaping plan to show the buffer?

Mr. Thompson: They will submit some pictures.

- O&M Plan – Can the applicant get a letter from Mr. Fontaine, Chair of the Homeowners Association to say that they will assume the responsibilities for this amendment for documentation purposes?

Mr. Thompson: They can do this.

- Was the snow storage area added to the inspection and maintenance on the O&M plan?

Mr. Thompson: Yes it is added.

Chair Koenigs asked if the crawl spaces for units 6, 7, 5 & 4 all had pumps and were identified.

Mr. Thompson: They will check on this.

Chair Koenigs also asked if it is part of the Homeowners Association to have sheds.

Bernie Saulnier: There are at least 35 sheds and there are designated spots for them and all have unit boundaries.

Chair Koenigs asked about the 100 year flood process.

Mr. Thompson: DEP will send us preliminary letters. They want a survey description.

Chair Koenigs mentioned that because there are no crawl spaces, they will have slab on grade.

Mr. Thompson: Everything will be above the 100 year flood and will make sure that the original plans adhere to that.

Chair Koenigs asked about the outfall from the existing underdrain between units 3 & 4 if they could extend that pipe out 10-15 feet?

Mr. Thompson: He will look at this.

Eber Weinstein asked if the applicant had to go to the town to get permits for these changes.

Bernie Saulnier stated that they were told by BH2M that they were still within the square

footage of the impervious area and they were not affecting anything.
 Mr. Thompson stated that he will go back and look at the guidelines.

Eber Weinstein stated that he would like for the Planning Board to look into this as well.

Megan McLaughlin stated that they are still working on getting the Planning Board a complete definition of the timeline of this project. Ms. McLaughlin also mentioned that they could not find the meeting minutes for the site plan meeting.

Ms. McLaughlin will get the Board Members the Certificate of Occupancy for Phase I from the Code Office.

Mike Fortunato asked about the new road going in and are there catch basins in that parking lot or is that the only drainage for that whole area?
 Mr. Thompson stated that this is the only drainage.
 Megan McLaughlin will check with Stephanie Hubbard from Wright Pierce to make sure that this is adequate.

Chair Koenigs would still like 100 year flood zone changed because in the ordinance it says that we cannot approve a subdivision that is in a flood zone.

The Planning Board requested previous copies of the meeting minutes for this project and also get a copy of these for the Applicant and the Applicants Engineer to look at.

<p>ITEM 3 Proposal: Conditional Use and Shoreland Nonconforming Structure Expansion/Relocation/Replacement: Replace and expand single-family dwelling with the Residential Activity Shoreland Zone. Action: Determination of Completeness; Schedule Site Walk and Public Hearing Owner: Ron Sabin Location: 129 West Grand Ave., MBL: 319-12-5, R3 & RA</p> <p>Planner Hinderliter gave an update and stated that this is a little different than other proposals in the past and we do not see these often. A lot of Ocean Park is within a Shoreland District that you wouldn't normally associate Shoreland Zoning with. There is no standing water there. However the way that our Zoning map designates Shoreland Zone in some areas is based on the 6.3 elevation of the highest annual tide. The structures that are within the Shoreland Zone are treated the same exact way as if they were right by a designated water resource. So you have different setbacks. This building is located on West Grand Ave, but on our Shoreland Zone maps it is showing water. So it makes this structure non-conforming. So if it is not conforming to the setbacks it needs to go to the Planning Board. Applicant Ron Sabin wanted to expand beyond what the Planning Board was allowed to do. The Planning Board can allow expansions up to 30% of the existing square footage in volume. Mr. Sabin wanted to do some things that were beyond that, so the Planning Board could not approve it. Mr. Sabin had chosen to go the ZBA to seek a Variance to build what he is proposing. He was granted that Variance on September 26, 2016. A question came up that it is in the Shoreland Zone and the ZBA has a requirement where they are supposed to notify the Commissioner of DEP 20 days before they make a decision on a Variance. It is in the standards and the ZBA didn't do that. So now the Planning Board needs to uphold the ZBA's decision unless the Planning Board wants to appeal the ZBA's decision in Superior Court.</p>	<p><u>ITEM 3</u></p>
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<p>he will be back here next month at the Planning Board meeting. Mr. Hinderliter and Mr. Landry’s architect have been going back and forth discussing this project. Planner Hinderliter stated that the ordinance says that all rights are expired for site plan, however the ordinance also allows for a 1 year extension standard as a stand-alone as long as it is not tied to a 2 year expiration and as long as they can prove that the one year extension is justified. Mr. Hinderliter recommended for the applicants to write a cover letter, update the Planning Board, and answer the questions that we are going to have for them to justify the one year extension and a bring a plan.</p> <p>Ryan Kelly stated that the ribbon cutting at Milliken Mills Woods was held last Friday. Congratulations to the kids that were involved in this project and it is a nice thing that they did for the town.</p> <p>Chair Koenigs mentioned that on October 18, 2016 the Town Council will appoint Robin Dube as an alternate on the Planning Board.</p>	
<p>ADJOURNMENT</p> <p>MARK KOENIGS, CHAIR</p>	
<p>Meeting adjourned at 10:40 pm</p>	<p>Adjournment</p>

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 Eleven (11) pages is a true copy of the original minutes of the Planning Board Meeting of October 13, 2016.

