

1 OLD ORCHARD BEACH PLANNING BOARD  
2 Regular Meeting  
3 March 9, 2017 7:00 PM  
4 Town Council Chambers  
5

6 **CALL TO ORDER (7:04 PM)**  
7  
8

9 **Roll Call:** Robin Dube, Ryan Kelly, Win Winch, Laura Bolduc, Mike Fortunato, Mark Koenigs. **Absent:**  
10 Eber Weinstein. **Staff Present:** Planner Jeffery Hinderliter, Assistant Planner Megan McLaughlan.  
11

12 **PLEDGE OF ALLEGIANCE**  
13

14 Chair Koenigs mentioned a change of membership. Ryan Kelly will be a full regular voting member and  
15 Mark Koenigs will be an alternate voting member.  
16

17 Since there was no Planning Board meeting on February 9, 2017 because of a snowstorm. The board  
18 members will be approving the minutes for December 1, 2016, January 5, 2017, January 12, 2017 and  
19 February 2, 2017.  
20

21 Linda Mailhot made a motion to approve the December 1, 2016 workshop meeting minutes, seconded by  
22 Win Winch. Unanimous.  
23

24 Win Winch made a motion to approve the January 5, 2017 workshop meeting minutes, seconded by Linda  
25 Mailhot, with a minor correction to change “outfall pipe” on page 5 of 6. Unanimous.  
26

27 Win Winch made a motion to approve the January 12, 2017 regular meeting minutes, seconded by Linda  
28 Mailhot, with minor corrections. On page 6 of 8 change to “not seen” and on page 7 of 8 change to”  
29 pond”. Unanimous.  
30

31 Linda Mailhot made a motion to approve the February 2, 2017 workshop meeting minutes, seconded by  
32 Win Winch with minor corrections. This was only a workshop meeting. Strike out Pledge of Allegiance  
33 and Strike out Elect Chair and Vice Chair.  
34 Unanimous.  
35

36 **Elect Chair and Vice-Chair**  
37

38 Win Winch made a motion to nominate Linda Mailhot as Chair, seconded by Mike Fortunato.  
39

40 **Planner Hinderliter called for the vote:**  
41

- 42 Win Winch – Yes
- 43 Robin Dube – Yes
- 44 Mike Fortunato – Yes
- 45 Ryan Kelly – Yes
- 46 Mark Koenigs – Yes
- 47

48 Mike Fortunato made a motion to nominate Eber Weinstein as Vice Chair, seconded by Win Winch.  
49

50 **Planner Hinderliter called for the vote:**

- 
- 1 Win Winch – Yes
  - 2 Robin Dube – Yes
  - 3 Mike Fortunato – Yes
  - 4 Ryan Kelly – Yes
  - 5 Mark Koenigs – Yes
  - 6 Chair Linda Mailhot - Yes

7

8 **Regular Business**

9 **ITEM 1**

- 10 **Proposal: Determination of parcels inclusion with 2004 Campground Registration**
- 11 **Action: Discussion; Decision**
- 12 **Owner: Paradise Acquisitions LLC**
- 13 **Location: 60 Portland Ave, MBL: 205-1-32; 50 Adelaide Rd, MBL: 106-2-2 (portion of)**
- 14

15 Chair Mailhot stated that this item is up for discussion by the board with a possible decision as to whether

16 or not the board believes these parcels should have been included in the 2004 Campground Overlay

17 Registration.

18

19 Planner Hinderliter stated that the only new information is from our town attorney. At the January

20 meeting there was a presentation from Paradise Park’s Attorney and received information from the

21 Brookside Condo Attorney. The Planning Board wanted to make sure that they were on the right track in

22 how they were moving forward with a decision in this matter.

23 The Town Attorney supports how the Planning Board has been moving forward with this proposal.

24

25 The Planning Board made a decision in 2004 in regards to Paradise Park Campground Registration. The

26 decision is whether 2 areas were included within the 2004 campground registration. One is the pistol

27 shaped lot and the other one was a transfer from Tousignant to Paradise Park.

28

29 Win Winch stated that the Planning Board has had 4 meetings on this proposal and keep coming back

30 with the same conclusion. When the registration was made they only referred to parcel 106-2-2 and they

31 left out the pistol shaped parcel 205-1-32. Mr. Winch looked at the zoning map and the pistol shaped lot

32 was not included. When they registered they only referenced parcel 106-2-2 (Tousignant property). Mr.

33 Winch feels that they have had all this time to make corrections to the boundary. Mr. Winch doesn’t

34 regard the pistol shaped lot to be part of the registration.

35

36 Mark Koenigs stated that in his perspective, to look back at that time and look at what was submitted.

37 There are other campgrounds which had similar situations and they were amended. The overlay is just a

38 mapping on the zone. When looking at the application, the deed for the Tousignant property is not drawn

39 on the map, but because it is on the deed, he would say that the intent of the application was to include it.

40 There is no deed or real clear other paperwork on the pistol shaped parcel, but it is on the map.

41 Mark Koenigs determination is that the both of these pieces of property should be included.

42

43 Ryan Kelly stated that without question the Tousignant parcel was part of the 2004 submission. There are

44 too many unanswered questions on the pistol shaped lot. He cannot say that it was included. It might

45 have meant to be included. Mr. Kelly cannot say in good conscience that the pistol shaped parcel is part

46 of it.

47

48 Linda Mailhot feels that the Tousignant property was included in the package and was included in the

49 original application that was submitted to the town and when we look at the map that has a clear bold line

50 around everything it is also boldly marked in the same fashion. Chair Mailhot feels that both parcels were

1 intended to be included and at some point along the way that it didn't seem that those 2 parcels, when the  
2 process was handled in detail were part of it as a whole.

3  
4 Planner Hinderliter stated that there are a few things the Planning Board can do.

- 5
- 6 • The Planning Board can have 2 separate votes: One on the Tousignant parcel and one on the  
7 pistol shaped parcel.
- 8
- 9 • The Planning Board can vote for both.
- 10
- 11 • If the Board feels that they need additional information to make a vote they could table that item  
12 and ask for more information
- 13
- 14 • If they do vote on the pistol shaped lot, the Planner recommends to specifically make mention  
15 that a portion of the lot adjacent to that is now included in that same MBL 205-1-32 and it would  
16 be important to exclude that area because that came about in 2016 well after the 2004 registration.

17  
18 Ryan Kelly would like for it to be more clear and we owe it to both parties to be sure to make the right  
19 decision. Mr. Kelly also mentioned that this should have been done by a surveyor which would have  
20 eliminated any question.

21  
22 Planner Hinderliter stated that in the 2004 application which reflected the language the ordinance gave  
23 people an option of having a surveyor.

24  
25 **MOTION:**

26  
27 Ryan Kelly made a motion to approve the land identified as a portion of MBL 106-2-2 referred to as the  
28 Tousignant to Paradise Park transfer with a deed dated in October 2002 was intended to be included with  
29 the 2004 campground registration. Seconded by Robin.

30  
31 **Planner Hinderliter called for the vote:**

32  
33 Win Winch – Yes  
34 Robin Dube – Yes  
35 Mike Fortunato – Yes  
36 Ryan Kelly – Yes  
37 Chair Mailhot – Yes

38  
39 **MOTION:**

40  
41 Robin Dube made a motion to approve the land area identified as MBL 205-1-32 excluding the portion of  
42 this MBL associated with the 2016 property transfer to Paradise Park that was intended to be included in  
43 their 2004 campground registration for the campground overlay. Mike Fortunato seconded the motion.

44  
45 **Planner Hinderliter called for the vote:**

46  
47 Win Winch – No  
48 Robin Dube – Yes  
49 Mike Fortunato – Yes

1 Ryan Kelly – No  
2 Chair Mailhot – Yes

3  
4 **VOTE:**  
5 **(3-2) PASSES**  
6

7  
8 **ITEM 2**

9 **Proposal: Major Subdivision and Site Plan Review Amendment: 9-unit residential**  
10 **development**

11 **Action: Sketch Plan review**

12 **Owner: Tom Gillis**

13 **Location: 1-3 Cascade Rd., MBL: 205-16-1**  
14

15 Owner Tom Gillis introduced himself. He started the project in 2007. In December he had gotten sole  
16 ownership and he secured financing. He is here for an amendment which has changed slightly from what  
17 he had given previously to the Town Planner. He is still in compliance with DEP as they consider the  
18 existing permit as complete.  
19

20 Mr. Gillis explained that they were too close to the wetland setback. They are putting drainage in and  
21 reducing the width of the buildings so they are now farther away.  
22

23 The buildings that currently exist are units #8 and #10. The foundation is unit #4.

24 Mr. Gillis staked out the front lots.

25 The front is staying the same except for the rotation of unit #6 to acquire better parking.

26 The road, water and sewer are in. They will be doing final pavement/curbing once the final units are in.

27 Mr. Gillis will be landscaping this summer. He would also like to do something similar to what Lacosta  
28 has done with fee simple type/condo lots. Mr. Gillis asked the board if there was some sort of ordinance  
29 to allow for that.

30 Mark Koenigs informed him that the way it was originally approved as a condominium and that the road  
31 would always be maintained by the association.

32 Mr. Koenigs suggested that Mr. Gillis look at the Lacosta file to see what they did to use as an example.

33 He also suggested that whatever the Planning Board amends as a board, he would highly recommend that  
34 the approved site plan be re-drawn and re-stamped and have a new signature for the current board to sign.  
35

36 Chair Linda Mailhot asked if there has been calculations made in terms of what the proposed amount of  
37 impervious surface will be as opposed to what was previously approved.

38 Mr. Gillis stated that the calculations have been done and the drainage area has been increased in size from  
39 the one that was submitted previously. He will provide calculations and have it updated in the  
40 amendment.

41 Chair Mailhot also asked about the percentage of completion.

42 Mr. Gillis stated that the sewer has been run to all units as well as the water.

43 Chair Mailhot asked if that include the individual units.

44 Mr. Gillis stated that as far as he knows they ran the sewers to the east side of the buildings, but he will  
45 verify this.  
46

47 What Mr. Gillis is asking to do is to modify the 2 units in the back and splitting them from duplexes to  
48 single units.  
49

50 Chair Mailhot asked Planner Hinderliter in regards to the findings of facts that was provided for backup,

1 if we usually call out any waivers that would have been given on those findings of facts, specifically the  
2 width of the roadway.  
3 Planner Hinderliter stated that since he has been here, they have always identified waivers as part of the  
4 findings of facts. He will go through the file and answer that question.  
5 Chair Mailhot also asked about the fire departments comments in the memo that states that unit 3 and unit  
6 5 do not meet certain NFPA requirements.  
7 Planner Hinderliter informed the Planning Board that our new fire chief recommends that from an  
8 improved surface to an exterior door you should have an access road within 50' and if this is not done,  
9 automatic sprinkler systems are to be installed. The board recommends that Mr. Gillis talk to the fire chief  
10 before the next meeting.

11  
12 Mark Koenigs asked Mr. Gillis if he was aware that abutter Paradise Park may be putting in a road and  
13 that he may want to include some sort of screening/fencing for his back property and that if he does he  
14 needs to include that on the amended plan.

15  
16 Chair Mailhot asked if there will be any formal signage.  
17 Mr. Gillis said that he is still working on that and he will get back to the board on this.

18  
19 Mike Fortunato asked if these single family homes will be 2 stories.  
20 Mr. Gillis stated that he is planning on having 2 story colonial style homes.  
21 Mark Koenigs asked why the mailboxes have been changed to a different location.  
22 Mr. Gillis stated that he met with the postal service and they said that it would be more convenient.

23  
24 Mark Koenigs asked about dumpsters.  
25 Mr. Gillis said that he wants to take the dumpsters out and he talked to Blow Brothers about having  
26 individual pickup. This would be very cost effective and he will also include this on the plans.  
27 The snow storage area will also be on the plan as well.  
28 Mr. Gillis will come back to the board with a final plan.

29

30 **ITEM 3**

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

35

36 The Planning Board tabled determination of completeness at the December 2016 meeting because the  
37 applicant's December plenary site plan review submission did not include all relevant information  
38 necessary to allow the Planning Board to make a reasonable and informative decision. The Planning  
39 Board requested the following information:

- 40 1. A completed, signed and properly printed plenary site plan review application.  
41 2. Waiver requests.  
42 3. Responses to the 9 Site Plan Criteria for Approval.  
43 4. Any items requested by the Planning Board members and Department Heads.

44

45 Planner Hinderliter worked with Attorney Neal Weinstein and the applicant's builder to get that  
46 information. The applicant has provided this information. The applicant did not provide the board with a  
47 submission of a site plan at the workshop meeting in February, which was a big part of the original  
48 waiver request however Attorney Weinstein provided the board a submission of the site plan at the March  
49 workshop meeting.

50

1 In regards to #7 of the memorandum, a number of the site plan related items don't need to be waived  
2 because of the submission of that plan.

3  
4 There are 4 primary issues and the applicant has addressed these within the submissions:

5 1. **Loading & unloading**

6 Loading shall be conducted off public and private ways unless in urbanized areas, loading activities  
7 shall occur only in loading zones designated by the Police Chief.

8 Other standards: You cannot drive on a sidewalk except if it is part of a driveway. You cannot stop,  
9 stand or park a vehicle on a sidewalk. You cannot hinder or impede free and interrupted passage on a  
10 sidewalk. Our ordinance also states that no vehicle should be parked on Kinney Avenue.

- 11 • Where will the vehicles park to unload the product?
- 12 • How will product be moved from the loading zone to the building?
- 13 • Where will the product enter the building?

14  
15 2. **Overhang of the building and balcony towards Kinney Avenue.**

16 With the submission of the 2015 plan based on the building plans the balcony will overhang onto the  
17 sidewalk beyond the Harrisburg Property by about 1' – 2' which isn't permissible. The easy  
18 resolution to this is to shorten the balcony and the overhang so it is entirely on the Harrisburg property.

19  
20 3. **Being able to construct the building on the owners own property.**

21 The applicant states that they have the ability to construct the building without accessing the applicants  
22 Property.

23  
24 4. **Is this a warehousing use.**

25 Planner Hinderliter states that warehousing is defined as a use engaged in storage wholesale and  
26 distribution of manufactured products, supplies and equipment but excluding bulk storage of materials  
27 that are flammable or explosive or that create hazardous and commonly recognized offensive  
28 conditions.

29  
30 Chair Mailhot asked the Town Planner as far as the waivers on the application that are being sought after  
31 now, does he feel that there is sufficient information in light of the latest submission we have received.

32  
33 Planner Hinderliter states that he agrees although some of the waiver language could be tightened up.

34  
35 Attorney Neil Weinstein introduced himself. He states that the applicant already dealt with the Police and  
36 already determined that there is not going to be any parking on Kinney Ave. Any tractor trailers that will  
37 be there will be parking on Harrisburg St. The plan calls for a pitched roof which will improve the looks  
38 in the entire neighborhood. There will be no traffic on Kinney Ave. except for the forklift. It will be retail  
39 and stock for the building downstairs. The conveyor belt goes from the basement to the first floor. There  
40 will not be any trash on this site. There is an enclosed locked dumpster at the other building across the  
41 road. Currently there is a hydrant directly in front of the building. No additional sprinklers needed on the  
42 second floor under the fire protection code because it is only 2 stories. This will bring in new business,  
43 employment to his client and also tax monies to the town.

44 Attorney Weinstein states that there has never been any traffic problem on Kinney Ave.

45  
46 Win Winch asked how the delivery process will be taking place.

47 The delivery trucks will park on Harrisburg Street to unload, then take a forklift over to Kinney Ave.

48  
49 Robin Dube stated that last year there were boxes stored on Harrisburg St. and asked if this will happen  
50 again.

1 Attorney Weinstein stated that they will not pile anything and nothing will be left on Kinney Avenue.  
2 Robin Dube also asked how much of the 2<sup>nd</sup> floor will be storage?  
3 Attorney Weinstein stated that there will be a mix of both retail and storage on the 2<sup>nd</sup> floor.  
4  
5 Chair Mailhot asked Attorney Weinstein to clarify a statement that he made about the conveyer belt and  
6 she asked if it is already existing.  
7 Attorney Weinstein stated that there is a conveyer belt that goes from the basement to the 1st floor but  
8 there is no conveyer belt planning to go to the 2<sup>nd</sup> floor.  
9  
10 Mike Fortunato seems to recall that there were other trucks picking up stock from other locations.  
11 Attorney Weinstein doesn't know anything about that issue and added that Mr. Harrisburg primarily  
12 doesn't do that.  
13  
14 Chair Mailhot asked in order for the forklift to load into that second door so they need to be on Kinney  
15 Ave.  
16 Attorney Weinstein stated that they would be on the edge of Kinney Ave.  
17  
18 Ryan Kelly asked if there are any provisions for blocking that sidewalk off to keep pedestrians from  
19 walking under the forklift when it is bringing product up to the 2<sup>nd</sup> floor over the sidewalk? His concern is  
20 safety for the public.  
21 Attorney Weinstein stated that he is sure that his client will not be unloading while people are walking on  
22 the sidewalk.  
23 Robin Dube asked if this building is owned by Harold Harrisburg or Samuel Harrisburg.  
24 Attorney Weinstein stated that Harold Harrisburg and his wife Phylis are the actual record owners.  
25  
26 Chair Mailhot asked what they are asking for waivers.  
27 Planner Hinderliter and Attorney Weinstein will get together and go through these too tighten the  
28 language up.  
29  
30 Mark Koenigs asked in regards to reading the surveyors notes on the Plan (A) waiver and Note #11:  
31 The existing 2' wide R.O.W. for the benefit of the land of Richards Apartments, LLC states the strip of  
32 land to be kept open at all times for use of abutter. Mr. Koenigs asked if this was in the deed.  
33 Attorney Weinstein stated that this was not designed for this actual plan. This was for the Shalom  
34 property that his client was intending on purchasing.  
35 Mark Koenigs mentioned that the notes do not reflect the surveyors stamp for the Harrisburg property.  
36 Mr. Koenigs requested to get the surveyor to make a statement in a letter that states that using this plan  
37 for this purpose is ok.  
38  
39 Chair Mailhot asked about the balcony. The question is whether the balcony overhang is going to be  
40 removed or shortened.  
41 Mark Koenigs mentioned that looking at the design sketch that was approved, it shows the balcony and it  
42 shows the overhang for the façade. They are basically the same limits.  
43 Attorney Weinstein stated that if it is over any public area and the board is not ok with that, they can bring  
44 it back to the edge of the property. BH2M could modify the plan to fix those issues.  
45  
46 It was noted that a decision has not been made on the waivers tonight and that the Town Planner and  
47 Attorney Weinstein will meet on these waivers.  
48  
49 Win Winch made a motion to determine the application complete, seconded by Robin Dube.  
50

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1 **Planner Hinderliter called for the vote:**

2  
3 Win Winch – Yes  
4 Robin Dube – Yes  
5 Mike Fortunato – Yes  
6 Ryan Kelly – Yes  
7 Chair Mailhot – Yes

8  
9 **VOTE:**  
10 **(5-0) PASSES**

11  
12 A site walk is scheduled for April 6, 2017 at 5:30 pm.  
13 A public hearing is scheduled for April 13, 2017 at 7:00 pm.

14  
15  
16 **Other Business**

17  
18 **Good & Welfare**

19  
20 Win Winch mentioned that they are reconstructing the sewer on Pavia Ave. This shows the benefits of the  
21 Planning process.

22  
23 **Update on the Milliken Mills brick building:**

24 Planner Hinderliter stated that the owners were ready to move forward with a demolition permit but were  
25 stopped. Staff has been in contact with the developers of Orchard Estates and reminded them of the  
26 conditions that were associated with the Planning Board's approval.

27 In February of this year a memo was sent to Orchard Estates stating that if the structure needs to be  
28 demolished, staff will look for a plan and drawings to replace this structure that preserves the historic  
29 style of the home.

30 It was left in the Code Officials office hands.

31 It is at a standstill until we get some plans from the developer as to what they are going to do moving  
32 forward.

33  
34 **Update on Dunkin Donuts project:**

35 They will begin construction in March/April 2017. They have a 2 year window.

36  
37 **Update on Church Street project:**

38 We have heard nothing from them. They are waiting on DEP permitting.

39  
40 Lisa Gribbin/Richards Apartments introduced herself to the board members. She is an abutter to the  
41 Harrisburg project. The Shalom House was torn down and Ms. Gribbin bought the land.

42  
43 She was concerned about the additional traffic and parking on Kinney Avenue and asked the Planning  
44 Board to please consider this when they say that there will be no parking on the street. There have been  
45 many times in the past that customers of Harrisburg will park on Kinney Avenue and her apartment  
46 parking spaces.

47  
48 Ms. Gribbin also asked when does DEP do their permitting on this property. In the back dune you need to  
49 secure a DEP permit. 35' high gets you a permit by rule, over 35' they need a full DEP permit.



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1 Planner Hinderliter stated that DEP permitting can get addressed during the process. Planning Board  
2 recommends that the applicant secure their DEP approval before the Planning Board makes a decision  
3 and if that is not the case they can condition their approval saying that their construction cannot begin  
4 until all DEP permits are secured.

5  
6 Ms. Gribbin is concerned about the second story of this building and who will monitor the floor load.  
7 The Planning Board members stated that this is a code issue.

8 Ms. Gribbin also would like to ask the builders how this is going to be built without using the surrounding  
9 property.

10 The Planning Board stated that it is not their issue.

11  
12 Ms. Gribbin expressed her concern about safety issues with this project. She stressed to the board  
13 members to go into this with their eyes wide open.

14  
15 LINDA MAILHOT, CHAIR

16  
17 MEETING ADJOURNED AT 9:37 pm

18  
19 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*  
20 *Beach, do hereby certify that the foregoing document consisting of nine (9) pages is a true copy*  
21 *of the original minutes of the Planning Board Meeting of March 9, 2017.*

22  
23 