

OLD ORCHARD BEACH PLANNING BOARD

Workshop Notice

January 5, 2017 6:00 PM

Town Council Chambers

<p>Call to Order at 6:05 pm</p>	<p>Call to Order</p>
<p>Pledge to the Flag</p>	
<p>Roll Call: Vice Chair Linda Mailhot, Ryan Kelly, Win Winch, Mike Fortunato, Eber Weinstein, Robin Dube. Absent: Mark Koenigs. Staff: Town Planner, Jeffrey Hinderliter, Town Assistant Planner, Megan McLaughlin. Others Present: Town Manager Larry Mead.</p>	
<p>Site Walk, 5:30 PM Proposal: Change use of 7 units from seasonal to year-round (currently 5 year-round use for a total of 12) Owner: SRA Varieties Inc., D.B.A. Paul's II Location: 141 Saco Ave., MBL: 311-1-10, GB2</p> <p>Present: Vice Chair Linda Mailhot, Ryan Kelly, Win Winch, Mike Fortunato, Eber Weinstein, Robin Dube. Staff: Town Planner, Jeffrey Hinderliter, Town Assistant Planner, Megan McLaughlin. Public: Gee Singh (owner), Gagon Singh (owner), Jamison.</p> <p>Site Walk opens at 5:30 PM</p> <ul style="list-style-type: none"> • Jeffrey introduces board and discusses the purpose of the site walk. • Board reviews plans and orients themselves regarding the buildings where associated with the proposal. • PB goes into unit 3. Owners explain layout of units including the purpose of what appears to be units within units in some of the buildings. States this Unit 3 is for 2 units total even though there are 4 doors. • Occupancy number limits and renting out to J1 students discussed. • Discuss how the buildings are constructed – they've all been constructed for year-round use, fully insulated and heated. • Discussion regarding the permitting and licensing of the buildings and units. • Owner discusses how the leases work. • Owner identifies which units are currently occupied and which have been approved as seasonal or year-round. • Discuss what the heating system is. • Discuss exit to Union Ave as well as the paved skirt. A sign will be needed identifying right turn only. This exit will be one-way only. • Discuss parking space location and how it will not work based on the plans because an access needs to be open to get to Saco Ave. Owners say they are adjusting the plan to keep the access to Saco Ave open and placing spaces behind the store and retaining wall. • Dumpster and its enclosure discussed. • Exterior lighting discussed • Snow plowing discussed and snow storage location identified. <p>Site Walk closed at 5:57 PM</p>	

CALL TO ORDER (6:09 PM)

Workshop Discussion

APPROVAL OF MINUTES: 12/1/16; 12/8/16

Public Hearing (To be held on 1/12/17, 7:00 PM)

ITEM 1

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)

Owner: SRA Varieties Inc., D.B.A. Paul's II

Location: 141 Saco Ave., MBL: 311-1-10, GB2

Planner Jeffrey Hinderliter mentioned that some of the Board Members had asked about the 2016 business licensing on this project.

Mr. Hinderliter went through the business license file and the council minutes to try to find out what was happening with the license. On February 16, 2016 there were 5 year round units approved by the council. One in building #1 and four in building #3. Building #3 has common space area. On March 17, 2016 the license file notes that 3 seasonal units were added in building #5 but there is no documentation of council approval for this one so it is not legally licensed. Mr. Hinderliter stated that they also checked with codes and they said that there is no occupancy permit issued for building #5. At the April 2016 council meeting, the council approved 6 seasonal units in buildings #2 and #4.

Basically as it's shown now, there are 3 in each building.

This now brings the total unit count to 11 units. What the Planning Board approved was 12 units.

When this came back to the Planning Board for re-submission we found that they had 14 units. We brought it up to the codes/licensing office and we saw that what was formerly considered common space were those 2 central units (2B & 4B) in buildings 2 and 4. They were approved as new units as additional units so that brought the unit total back up to 6. There was some confusion.

Planner Hinderliter spoke to codes/business licensing based on what has been approved. You cannot add those 2 units in there because that would exceed the amount that was approved by the Planning Board. That would then be 14 units plus the space that we understood to be common space for the units. Codes/licensing sent the license back to the council and on November 15, 2016 the council amended the license to have only 2 units in each building. Building #3 was still licensed for 4 units. Building #1 was still licensed for 1 unit.

The meeting on November 15, 2016 brought the total unit count down to 12 again, which is permissible. It also brought the licensed unit count down to 9.

Because building #5 did not have an occupancy permit and is not permissible to be licensed.

As of today we have a total of 9 licensed units that are approved by the council. 5 of these units are year round and the 5 that are supposed to be year round according to what the council approved was 1 in bldg. #1 and 4 in bldg. #3.

Buildings 2 and 4 are supposed to have 2 units in each. And those are the ones that were permissible as seasonal. Building #5 which includes the 3 units does not have council license approval nor do they have occupancy permits.

When the applicant provided us with their plans, nothing was adding up.

What was permitted to be occupied was building #3 which only allowed for 2 units, but the council approved 4 units.

Eber Weinstein stated that the Planning Board originally approved it for 12 units.

Buildings 1 and 3 were the buildings that were supposed to be year round because they were

determined to be the grandfathered buildings.

Buildings 2, 4 and 5 are the new buildings.

A concern that we have is can the Planning Board approve a proposal that is different than what the council approved.

The council did approve 2 units in building #2 and according to what the applicants are saying is they have only 2 units that were currently occupied with the 3rd one that was proposed to go to year round use but was not occupied because it was not yet permissible thru the Planning Board.

It was only permissible by the council for 2 units and what they are looking for are 3 units.

Planner Hinderliter feels that codes needs to look into this issue because they are responsible for licensing and occupancy.

Vice Chair Mailhot mentioned that theoretically if the Planning Board moves forward and approves this, they have the option of not ever getting a license and not ever leasing those properties out.

Eber Weinstein asked what the council gave them for seasonal.

Planner Hinderliter stated that they approved 4 seasonal and 5 year round.

Vice Chair Mailhot mentioned that going back and looking at the council meetings would be beneficial. All members agreed that there is certainly some progress here and there has been no negative feedback from the neighbors.

Town Manager Larry Mead stated that staff's position on this has remained consistent. This is a use that was grandfathered. When these units are occupied for winter rentals they end up putting more people in them than they can handle and problems are created as a result of that. In terms of approving this, the council felt very strongly that the grandfathering should be limited to the 5 year round units that were on site before and that the new buildings that they brought in would have added up to another 7 units for a total of 12, should remain seasonal.

It worked out nicely when they were rented to the J-1 students because we have a need for J-1 student housing and also because there wasn't a lot of vehicles that were being parked there. The Town Managers concerns are with the parking spaces being on a slope. He doesn't see that happening and also that is a primary access in and out of this facility that people use.

From our perspective, if we stick to the grandfathering that is allowable that has been done initially, that is as far as he would like to see this development in this type of use and doesn't see a good reason for giving them something that is not really required in terms of 7 extra year round units.

We have had problems with monitoring them because of using units that they are not supposed to be using. He believes that this will continue as well.

Vice Chair Mailhot asked if there have been illegal rentals there and if they had been given citations.

Town Manager Mead stated that the units that were supposed to be common areas when the J-1 students were there were transitioned into rentals. They were just told to immediately to stop and they complied.

Vice Chair Mailhot asked if this is an efficiency unit, how many people can be in it.

Planner Hinderliter stated that there is both an occupancy number and also a minimum square footage number.

There is one unit in building #1 and 4 units in building #3. These were the units that were grandfathered.

Eber Weinstein asked in order to get a permit for year round conversion, you would go to the building inspector instead of the Planning Board for non-shoreland zoning.

Planner Hinderliter stated that is true because it falls under the non-conforming appeals from restrictions of non-conforming use. What it comes down to is that we need to think about with non-conforming standards, will there be a greater impact as a result of essentially expanding the entire use to year round. You have to look at all of the documentation in order to make that opinion.

Eber Weinstein mentioned that we also want to look at what's legally available to them.

<p><u>Regular Business</u> <u>ITEM 2</u> 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) Action: Discussion; Schedule Final Ruling Owner: SRA Varieties Inc., D.B.A. Paul’s II Location: 141 Saco Ave., MBL: 311-1-10, GB2</p>	
<p><u>ITEM 3</u> 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)</p> <p>Planner Hinderliter stated that there is no new information with this proposal. He did speak to Bill DiDonato in Assessing. We will have some additional information by tomorrow. What the Planning Board has in their packets are 2 letters. A follow-up letter from the attorneys from Brookside Condominium Association (Jensen Baird Gardner & Henry). We also have a letter from the Paradise Park Attorney who tried to answer some of the questions from our last meeting, and also a response to the comments in the Jensen Baird Gardner & Henry letter. Planner Hinderliter will also follow up with our Town Attorney on this.</p>	
<p><u>ITEM 4</u> Proposal: Major Subdivision: 20 lot cluster subdivision for single-family residential use Action: Sketch Plan review Owner: Kevin Beaulieu & Steven Beaulieu Location: Ross Rd, MBL: 107-1-4, 14 & 16, RD</p> <p>Planner Hinderliter passed out sketch plan attachments with staff comments to the Board Members. This includes not only a subdivision proposal for Old Orchard Beach but also Saco. Assistant Town Planner explained to the Board Members that this proposal is for 20 lots off of the Ross Road next to Easy Street which abuts this subdivision. The 20 lots that they are proposing in Saco will come at a later date. Also another subdivision that was approved was called Lands End and it is on the opposite side of Easy Street and was approved for 8 lots and is part of that sub-division approval. They were going to upgrade Easy Street to make it an access to those 8 lots, but it is unclear where that proposal stands right now. We have already reached out to Saco’s Town Planner, Bob Hamblen to let him know about the project. As part of our ordinances we have to coordinate with Saco during the public hearing process so that abutters from Saco can come to the meetings and also the Saco Planning Board can give comments to the Old Orchard Beach Planning Board about the project with any concerns that they might have.</p> <p>As far as open space and trails, it is over an acre and its located in Goosefare so there will be some stormwater considerations.</p> <p>We have Stephanie Hubbard from Wright Pierce comments who mentioned that there are wetlands on this site with lots 1-4 so it’s possible that they will have to get some permitting through DEP. Ms. Hubbard talked about the Lands End Subdivision and she also pointed out the section in the ordinance for cluster developments that says that structures requiring plumbing should be connected to a public sanitary sewer system if available or a centralized collection and treatment system. This subdivision will have public water but private septic systems.</p>	

<p>Town Planner Hinderliter stated that what the Planning Board has done in the past is allowed for individual septic systems on each lot, but to do that you have to waive the common collection system to allow for the individual septic systems.</p> <p>Vice Chair Mailhot asked why someone would want to do a cluster subdivision vs. a traditional major subdivision.</p> <p>Planner Hinderliter stated that it would have more lots / Density.</p> <p>Vice Chair Mailhot asked what is the theory behind a central septic system.</p> <p>Planner Hinderliter said that because you have smaller lots, you have fewer areas to put a septic system that would meet the soil requirements. You need 2 test pits which gives more assurance that shows where the septic field has suitable soil to accommodate the effluent.</p>	
<p><u>ITEM 5</u></p> <p>Proposal: Major Subdivision: 9 lot residential subdivision (Red Oak Phase II)</p> <p>Action: Sketch Plan review</p> <p>Owner: Mark Bureau</p> <p>Location: 141 Portland Ave, MBL: 104-2-2, RD</p> <p>Assistant Planner McLaughlin stated that this was approved as a 3 lot subdivision in 2004. They amended it in 2005 to add 1 additional lot which was finished last summer.</p> <p>In February one of the code staff went there for an inspection and said that the site was a mess. They noticed that they had drainage ditches dug in different places. They didn't have any plans on what was supposed to be done. Wright Pierce went out to look at the land and in July DEP got involved.</p> <p>Audie Arbo, Biologist at Maine DEP who is in charge of Land Use Enforcement in our area did some research and found out that there were no DEP permits for any of the work that was being done at Red Oak. She found a permit by rule outfall pipe but that was in 2006. The big issue that they had is that they put in a stream crossing without a permit by rule and also did work within 25' of the stream that is on site. Next to the stream they have a large perennial garden. Audie Arbo had a conversation with owner Mark Bureau and recommended that the new engineer working on this phase get together and get a plan in place on how they are going to fix the drainage ditch. As of yesterday she still hadn't received a plan. The case is still open with DEP regarding the construction within the 25' of the stream. They are working on a plan to move the drainage ditch on the left side of the road away from the stream.</p> <p>Vice Chair Mailhot mentioned that she is a direct abutter to this property however her land is completely developed.</p> <p>Planner Hinderliter told her to let the Planning Board members be aware of this and if she doesn't feel that there is a conflict she can state that to the Planning Board members.</p>	
<p><u>Other Business</u></p> <p>Findings of Fact:</p> <ol style="list-style-type: none"> 1. Ron Sabin, Nonconforming Structure Expansion/Replacement, 129 W. Grand Ave. 2. Mark and Catherine Andrews, Accessory Dwelling Unit, 98 Ross Rd <p>Planner Hinderliter mentioned that with the 129 W. Grand Ave. project, the sewer is still an issue. Planner Hinderliter also mentioned that he thought that he would have an update on the Summerwinds II project, but didn't receive anything.</p>	

ADJOURNMENT	
MARK KOENIGS, CHAIRMAN	
Meeting adjourned at 7:02 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 Six (6) pages is a true copy of the original minutes of the Planning Board Meeting of January 5, 2017.

