

TOWN OF OLD ORCHARD BEACH
PUBLIC HEARING/PLANNING BOARD MEETING MINUTES
Thursday, July 21, 2011

Call to Order at 7:01 pm	Call to Order
Pledge to the Flag	
Roll Call: Chairman Win Winch, Mark Koenigs, David Darling, Eber Weinstein. Absent: Don Cote, Tianna Higgins Staff: Mike Nugent, Code Enforcement Officer; Jeffrey Hinderliter, Town Planner	
<p><u>APPROVAL OF MINUTES:</u> Mr. Koenigs moved to accept the minutes from April 21, 2011. Mr. Weinstein seconded. <i>Motion passes unanimously.</i> Mr. Koenigs suggested to change “phased out” on item two, to constructed in phases. He moved to accept the minutes from May 4, 2011 as noted. Mr. Weinstein seconded. <i>Motion passes unanimously.</i> Mr. Koenigs pointed out many discrepancies in the minutes. He then moved to approve the minutes from May 12, 2011 as amended. Mr. Darling seconded. <i>Motion passes unanimously.</i> Chairman Winch moved to accept the minutes from June 2, 2011 with the changes of listing the members of the board who were absent. Mr. Weinstein seconded. <i>Motion passes unanimously.</i> Chairman Winch asked that the minutes from June 9, 2011 be redone verbatim as there has been some correspondence regarding them from an abutter to one of the items. Mr. Nugent stated this can be done. Therefore, the minutes from June 9, 2011 were tabled to the next regular meeting.</p>	MINUTES
<p><u>ITEM 1</u> Proposal: Conditional Use/Site Plan Review/Major Subdivision. Demolish 53 overnight cabins and replace with 53 seasonal dwelling units. Agent is BH2M, Bill Thompson. Action: Conditional Use Approval, Preliminary Site Plan and Subdivision Plan Approval. Owner: Bernie Saulnier (William Thompson, Agent) Location: 180 Saco Avenue, MBL 208-1-1, GB-1 & R4 Zones</p>	ITEM 1
<p>Bill Thompson, BH2M, is representing the owner. Mr. Thompson gave a brief overview of the timeline thus far regarding the project. He stated that he has met with Jeffrey Hinderliter, Stephanie Hubbard from Wright-Pierce, and Les Berry from BH2M, and there has been numerous emails between Jeffrey and Stephanie with resolution of any issues. The fire chief has also weighed in, and he is happy with the fire hydrant and asked this be winterized. Chris White from Wastewater has signed off and sewer flows are equal to what is there now, and there is no issue with the off-site sewer to be connected to that. The last submission was dated 6-30-11, and in that was a letter outlining what was done thus far. On the site walk and at the public hearing, Mr. Urbanski had a number of concerns with a lot of it centered around storm water. One of the issues was the location of the rubbish compactor, and we have moved it back as far as we can. It really makes sense to have it there, and there will be a stockade fence around it. The closest to his property will be 90 feet, and there will be additional buffering for his concerns. as a point of reference, Saco Avenue curb is 20 feet from his property. The number of times the compactor will be serviced during the season is a minimal problem. Mr. Urbanski also mentioned some issues of flooding and concerns on that corner. Les walked the site with Jeffrey and Stephanie, and what is happening is that water is coming down Saco Avenue and turning into the site and coming across Mr. Urbanski’s property. Around his property there is a lot of pavement which will be gone and will be loamed and seeded. They propose to create a better swale behind these cottages to get the water down to the 24 inch culvert on site and will discharge into a 30 inch culvert. There will be intercepted and redirected water to make his situation a little better. The internal road design will have a 6 inch under drain in the center of the road with a cleanout and a catch basin part way down. All these will redirect and decrease the ground water and hopefully minimize and maybe eliminate many of the issues that he sees. The gate will be electronically controlled with a pass key with a card system for the owners. The one-way loop is to minimize traffic, and we have downsized our lighting a little bit. We did not want to create Maine Mall atmosphere. Storm water concerns that Stephanie had have been addressed. We really believe that it brings us to point where everyone has been responded to. Chairman Winch stated the first thing to take care of is the conditional use. It is a staff produced document with input from legal. Chairman Winch read from the ordinance regarding conditional use approval. Mr. Koenigs asked if the rest of the board had the document. The board did all have this document. Mr. Koenigs looked in the packet that was given out tonight. Mr. Hinderliter pointed out that the board received these things in the packet tonight and clarified what</p>	

Chairman Winch read was part of the conditional use Findings of Fact.

Mr. Koenigs asked if the board should be looking at the one with the most recent date.

Mr. Hinderliter stated staff needed to redo these due to several minor changes from the June 2, 2011 meeting.

Mr. Koenigs stated that in the past with abutter concerns and public hearing testimony that is opposed to the project or wants something changed with the project we have gone through them out loud and one by one. I sometimes question that the board receives all of the information that Planning has received from the engineers. I would ask that if the Planner has received this that I get a copy of this before I make my determination.

Mr. Nugent stated that tonight was simply to just move forward for preliminary subdivision approval and they still have another round to go through.

Mr. Koenigs stated that if the board felt they were able to they could approve the entire thing tonight as they work through the information. He stated that each member needs to be organized and maybe he is more disorganized than most, but he is trying to be thorough.

Chairman Winch asked if he wanted to go through this out loud.

Mr. Koenigs wanted to go through together, as these will be the boards' words.

Mr. Hinderliter felt that the way staff prepared for tonight's meeting was to identify if there are any remaining items that the applicant needs in order to prepare for final plan and also to present to you the two items that were identified from the previous meeting to see if the applicant has at least supplied the information that we need. I think with our ordinances the way the procedure goes, is the next step is scheduling for the final plan and if you would like you can read the findings of fact in between now and the final plan or discuss them at the workshop. It is entirely up to you, as I know you just received them this evening. Mr. Hinderliter asked if the board reads the findings of fact before the final approval.

Chairman Winch stated the board usually does.

Mr. Koenigs stated he felt that this should be read out loud for the public.

Mr. Thompson pointed out that at the May 12, 2011 meeting this was read into the minutes.

Mr. Koenigs stated that since that time the applicant and Mr. Hinderliter has made some changes to the document. That is why I wanted to read this tonight.

Mr. Hinderliter asked that since they are not approving the final review tonight this should be read at final review, and he is recommending that this be done at the August 11, 2011 meeting.

Mr. Koenigs stated that he feels it is just one issue here for the conditional use, and we need to determine if this is a similar use and we are not changing the use and just following along with the ordinance. I think we can read through this document just like Mr. Thompson did at the May 12, 2011 record. I don't have a problem doing it any other way, but I would like to do it for the public.

Mr. Ordway stated he felt the importance of doing the conditional use tonight is that if there is one finding that calls for the subdivision plan to be tweaked prior to final approval at the next meeting it is important to get that out of the way. If we can get that out of the way tonight it sets us up for final approval at the next meeting.

Mr. Koenigs read the Findings of Fact.

With regards to #1: The board agreed with the findings.

With regards to #2:

Mr. Koenigs asked for the actual comments from the Fire Chief. Mr. Hinderliter pointed out that they were in the 5-27-11 staff notes. With that, the board agreed with the findings.

With regards to #3: The board agreed with the findings.

With regards to #4: The board agreed with the findings.

With regards to #5: The board agreed with the findings.

With regards to #6:

Mr. Darling asked about the noise from the compactor. Mr. Thompson addressed this and stated that he felt it would be approximately ten minutes of compacting, and this will be minimal.

Mr. Koenigs interjected that he had worked in the trash business for fifteen years, and trash created nuisances and needs to be managed properly. Done right, there care be minimal impacts, but it has to be done right.

Chairman Winch asked what they are doing now.

Mr. Koenigs stated that he did not attend the site walk so asked if any of the members who did attend the site walk what was currently there. Does the owner have a dumpster currently on the property.

Mr. Saulnier stated that it will be taken care of correctly.

Mr. Koenigs stated that there have been concerns by an abutter, and the applicant has tried to address this, and when we get to the plan review I would like to make some other comments which will make sure that this nuisance will be taken care of.

Mr. Darling stated there was some screening as well. He asked if there will be a gate around the compactor.

Mr. Saulnier stated yes.

Mr. Koenigs asked about the hours of operation for the compactor itself. Will this be in the condo docs.

Mr. Ordway answered that the condo docs will not have that in them. He offered testimony regarding dumpsters

and compactors in the campground he owns. The noise minimal and consists of a hydraulic ram and when they pick it up. There are less pick ups with a compactor as opposed to a dumpster.

Mr. Darling asked if there will be pedestrian openings so people do not need to open a large gate.

Mr. Thompson stated it was a double opening approximately 2, 5 foot gates.

Mr. Darling asked if there was any consideration to just putting some openings on the side so the gates may not get left open and landscape around it.

Mr. Thompson felt that was something that could be looked into.

With regards to #7:

Mr. Koenigs asked if they should include weekly trash pick-up in the findings.

Mr. Weinstein stated he felt that was not necessary. Other projects have not needed that.

Mr. Koenigs pointed out that he wanted to make sure that the association takes care of the possible nuisances. He wondered if the one compactor will be enough for the amount of cottages.

Mr. Ordway stated that for over 500 campsites, there was only the need for removal once a week. The board felt this was addressed and agreed with the findings.

With regards to #8: The board agreed with the findings. **Mr. Weinstein** felt that it would increase the values of the surrounding properties and Chairman **Winch** agreed.

With regards to #9:

Mr. Koenigs stated that there was the same wording in response to this as #8. We used the language in the #8 response to #9. The board agreed with the findings.

With regards to #10: The board agreed with the findings.

With regards to #11: Chairman **Winch** felt that the applicants' proposal would help the flooding issues on Hobson Avenue. **Mr. Darling** felt like they are making the effort to address the abutters concerns. The board agreed with the findings.

With regards to #12: **Mr. Koenigs** wondered why it said will submit. He would like to change that to have submitted and we have reviewed and accepted that statement.

Mr. Koenigs moved to grant conditional use approval demolish 53 overnight cabins and replace with 53 seasonal dwelling units at 180 Saco Avenue, MBL 208-1-1, GB-1 & R4 Zones. Agent is BH2M, Bill Thompson.

Mr. Darling seconded.

Motion passes unanimously.

Mr. Koenigs wanted to go over the plans and questions that he had with them. He pointed out that there was no photometric included with the preliminary plans.

Mr. Thompson stated that they did a photometric on a different light to show what would work and that met the ordinance. The applicant then came back and reduced the number of lights to something like 13 or 18 lamp posts with lower wattage. I did not come back with a new photometric plan because there is less lighting than we had first proposed.

Mr. Koenigs asked if we need to meet a certain standard.

Mr. Thompson stated there is a light standard of spillage across the property line, and we have met that. I think you cannot spill more than 0.5 foot candles across property lines.

Mr. Koenigs asked if this is the only plan in the package that shows the compactor. What he would like to see a plan detail showing the doors, the site grading around it, just to clarify some questions. He was concerned that things will not be built according to what was discussed. That way the developer can be held to what was decided and planned, as there is a lot of changes in the departments and sometimes things can get lost if not properly documented. He pointed out that he wanted to make sure that all cut sheets, etc are put in the planning file for the project.

Mr. Hinderliter stated the cut sheet was provided and inquired if this was not acceptable.

Mr. Koenigs responded that it was great, and he just wanted to point out that this is something that consistently needs to be done. He then went on to discuss the common element and how it relates to the plans.

Mr. Ordway made a point of clarification and felt that perhaps they were talking about two different things. He pointed out that limited common element and the building envelope are two different things. The limited common element is where the cottage can be placed which can change a little depending on the buyer's choice. The building envelope is the cottage itself.

Mr. Koenigs wanted that specifically stated on the plans.

Mr. Thompson responded that it will be done.

Mr. Koenigs then asked how the 100 year flood line has moved on the west side.

Mr. Thompson stated that the original submission was shown incorrectly. We took that from the FEMA flood maps and scanned it onto the map.

Mr. Koenigs asked about the "dot dash" line is depicting.

Mr. Weinstein stated this was an abandoned, old road.

Mr. Thompson pointed out where the note described what this was.

<p>Mr. Koenigs asked if they addressed the issue that peer review had regarding crosswalks. Mr. Thompson answered they will not be disturbing what it is there. Mr. Koenigs did not see any construction notes, such as demolition of the pool and reconstruction on top. Did you have any notes to guide the construction? Mr. Thompson stated this will be done per standard construction practices. Whatever is being replaced needs to be put on suitable soils, and code enforcement will be inspecting. Mr. Koenigs clarified that there are now 94 parking spaces as opposed to the original 84. I had a question regarding the house 211-17-1; it shows partial of the survey. Mr. Thompson stated they located the closest edge of that property. Whatever we do for culvert replacements the area will be an improvement. Mr. Koenigs asked about a “clean out between 13 and 14”. It doesn’t make sense to me, and it should be a manhole. Mr. Thompson stated this may be mislabeled. The profile shows it as a manhole. Mr. Koenigs moved to sheet 4. In your opinion Bill is this enough adequate detail of a ditch behind the Leaf properly to pick up that storm water. It is shown with contours, but there is no drainage plan. It would be that, and then the post development plan would probably show the detail. It would be very shallow. It is very shallow. He stated that anything beyond Hobson Ave, Mr. Thomason recommended in a letter that the town should maybe have something to do with shimmer. Mr. Koenigs asked exactly what the purpose of the under drain. I am under the understanding that this is to help control seasonal ground water levels. Mr. Thompson confirmed this. He stated this is a road-saver and helps get the water to a discharge point. Mr. Koenigs questioned the type of material going to be used for underlayment of PVC pipe. Les Berry, from BH2M explained this is a MDOT specification and cannot be changed. Mr. Koenigs asked about the curtain drain. What is PVE pipe? Mr. Berry responded that was a typo. Mr. Koenigs commented about the storm water report. There were things that stuck out at me due to the issues that were raised. I believe they try to address the onsite drainage issues. I didn’t have AP1. Without the facts, the summary report didn’t ring true. Les had to make some manipulations having inputs on the property. I guess the two critical points for making sure the two critical points are the entrances to the culverts we were discussing because if they fail the water will go back to the street or onto the abutters property. Mr. Berry stated yes. The reason is not there isn’t flow, but just that it’s not getting there well. The 24” pipe will get a lot more water there. Mr. Koenigs asked if you count the under drainage. Mr. Berry stated no because they are somewhat after affects. They discussed culvert sizes. Mr. Koenigs moved to grant preliminary approval for 180 Saco Avenue to demolish 53 overnight cabins and replace with 53 seasonal dwelling units. Mr. Darling seconded. <i>Motion passes unanimously</i> Mr. Koenigs asked if we can hold the public hearing at the next meeting. Mr. Nugent stated that if that was the wish of the board. Mr. Hinderliter commented that the board can hold a public hearing and grant final approval at the same meeting. Mr. Koenigs asked if there was a submittal for the bond and construction stuff. Mr. Nugent stated they just got the preliminary numbers, and it has gone to Stephanie for review.</p>	<p>Motion Vote</p>
<p>ITEM 2 Proposal: Conditional Use/Waiver of number of parking spaces. Convert current shop/warehouse to hotel unit. Action: Review of Findings of Fact Owner: La Boca Corp, King Weinstein Location: 30 Washington Ave., MBL 20308-1-1, NC-3 Zone</p>	<p>ITEM 2</p>
<p>Chairman Winch stated that this was Mr. Hinderliter’s item. Mr. Hinderliter responded that he wanted to make sure that the board is approving something that is allowed in this district and that they were giving thorough consideration to what, exactly, they are approving. After discussion with King, he stated there were going to be changes, and that we are going to get some material regarding this. I think the board should have that material in front of the so they know exactly what they are approving. One of the questions was the amount of hotel units. If we try to classify that under our land-use table, we need to figure out what this is. If we consider this lodging within the definition of lodging it includes hotels and motels. In the same district under the permission uses for non-residential it specifically indicates that hotels and motels are not allowed in this district. There is a bit of a conflict. Mr. Nugent stated it is not permissible as a straight permitted use. It steps up the elevation of review in NC3 to a</p>	<p>Motion Vote</p>

<p>conditional use. It is a use, but a conditional use, which steps it up to the planning board.</p> <p>Mr. Hinderliter reviewed that he just wanted to make sure the board entirely understood the approval. There are a number of references in the Findings of Facts to the one hotel unit.</p> <p>Mr. Nugent stated that we were going to get the final floor plan fro King and then draft the findings so we can be very specific. This is kind of a work in progress. It may be prudent, and King stated it was okay with him, and you probably would like to table it. We just need to make sure that it is not an apartment.</p> <p>Mr. Koenigs stated that the abutter seemed to raise the most issues. He felt like this was a property dispute regarding property lines. Is this a property line dispute or if there is something else involved. Maybe we just need to make sure that we approved this correctly and then the neighbors can resolve the issues they have.</p> <p>Mr. Nugent responded that the process is such that once the planning board has approved this an aggrieved party can file an 80B appeal to superior court. Clearly if the abutter wants to sit and meet with staff and the applicant we can certainly do that to try to help the situation.</p> <p>Mr. Koenigs asked if we do not sign this the application is still open for us to discuss our already voted on approval.</p> <p>Mr. Nugent responded that would be the process.</p> <p>Mr. Koenigs confirmed that Mr. Weinstein agreed to table.</p> <p>Mr. Eber Weinstein asked if this was a legal problem.</p> <p>Mr. Nugent stated that the town’s attorney gave us a letter stating this was a legal use.</p> <p>Mr. Darling moved to table.</p> <p>Motion passes 3-0 with Mr. Eber Weinstein abstaining.</p>	
<p>ITEM 3 Proposal: Amendments to zoning ordinances. Chapter 78, Article I, Section 78-1, Article II, Section 78-34, 78-38, 78-68, 78-70, 78-94, 78-95, Article III, Section 78-142, Article IV, Section 78-212, 78-213, Article V, Section 78-246, 78-276, 78-302, 78-353, 78-354, 78-355, 78-376, 78-396, 78-397, 78-426, 78-427, 78-428, 78-429, Article VI, Section 78-686, Article VII, Section 78-1268, Article VIII, Section 78-1625, 78-1627, 78-1629, 78-1631.</p> <p>Action: Recommendation for forwarding to the Town Council.</p>	<p>ITEM 3</p>
<p>Chairman Winch stated the board will table this for the next meeting.</p> <p>Mr. Nugent suggested that at the workshop meeting on 8-4-11 there be a joint workshop with the design review committee and the planning board. This is a fairly large change.</p> <p>Chairman Winch asked where this originated.</p> <p>Mr. Nugent stated the Ordinance Revision Committee created this, and we will invite them to that workshop as well.</p> <p>Chairman Winch thought this was the first we really got into it.</p> <p>Mr. Weinstein stated the board has heard this briefly.</p> <p>Mr. Koenigs thought at the police station meeting several months ago.</p> <p>Mr. Nugent stated that the Design Review Committee was not aware of the depth of it.</p> <p>Chairman Winch stated the board didn’t either.</p> <p>Mr. Nugent stated that he had made a presentation regarding this.</p> <p>Mr. Koenigs asked if this was a timeline that the Ordinance Review Committee is working on from the Town Council.</p> <p>Mr. Nugent stated that there is none. What the Ordinance Revision Committee decided on will go to the Town Council, but my sense is that after this workshop there may be some changes that come to light.</p> <p>Mr. Koenigs asked if the chairman of the DRC will speak tonight, as he is in attendance.</p> <p>Chairman Winch stated he will have a change to speak during the appropriate time at Good & Welfare.</p> <p>Mr. Koenigs stated that he had a few concerns, and he wanted to let everything know how he felt.</p> <p>Chairman Winch asked for a motion to table.</p> <p>Mr. Weinstein moved to table Item 3.</p> <p>Motion passes unanimously.</p>	<p>Motion Vote</p>
<p>ITEM 4 Proposal: Conditional Use: Determination of Completeness; Set Public Hearing Date. The addition of 20 feet to the existing radio antennae at The Town of Old Orchard Beach Fire Department at 136 Saco Avenue, MBL 207-3-8 in the GB-1 zone.</p> <p>Action: Determine application complete and set public hearing date.</p> <p>Owner: Town of Old Orchard Beach.</p> <p>Location: 136 Saco Avenue, MBL 207-3-8, R1/GB2 Zones</p>	<p>Item 4</p>
<p>Chairman Winch stated he has yet to see a submission for this.</p> <p>Mr. Nugent stated that the town is waiting for submission from the engineer to get to the board. Can we please table this until August?</p>	

<p>Mr. Weinstein moved to table. <i>Motion passes unanimously</i></p>	
<p>ITEM 5 Proposal: Construct a 32' x 40' building containing two rental units and associated parking (new construction) Action: Plenary Site Plan Review Determination of Completeness; Set Public Hearing and Site Walk Dates. Owner: Cascade Corp (Attar Engineering, Inc., Agent) Location: 12 Foote St., MBL 205-19-11 (Seabreeze Motel), DD2 Zone</p>	<p>Item 5</p>
<p>Chairman Winch asked if the application was complete as far as staff was concerned. Mr. Hinderlitter stated yes. There were some revised plans sent with the packet last week. Mr. Koenigs stated that this would currently go through Design Review of Committee. Mr. Hinderlitter stated that it had been reviewed by the DRC. The second set of plans was requested by the Design Review Committee. Mr. Weinstein stated he is still trying to work with the neighbors and DRC, but the footprint and engineering so far is staying the same. Chairman Winch asked if 5:45 on August 4, 2011 was good with everyone for a site walk. The board agreed. Chairman Winch asked if they would schedule the public hearing at that time. Mr. Hinderlitter stated the public hearing would be on August 11, 2011 at the regular meeting. Mr. Darling moved to determine the application complete for Construct a 32' x 40' building containing two rental units and associated parking (new construction) 12 Foote Street, MBL 205-19-11 (Seabreeze Motel), DD2 Zone. Mr. Koenigs seconded. Mr. Eber Weinstein abstained. <i>Motion passes 3-0-1</i></p>	
<p>ITEM 6 Proposal: Request to review performance guarantee calculation methodology. Action: Discussion and review. Owner: DGA Enterprises Location: Hid'n Pines Campground, 8 Cascade Road, MBL 104-1-30, RD Zone</p>	<p>Item 6</p>
<p>David Ordway, representing Hid'n Pines Campground. He stated they are here seeking a clarification and/or amendment to the site plan that was previously approved by this board. This situation presents a nifty question that I am not sure you have dealt with before, and there may be some policy questions involved. In that determination there was no specific amount determined for the performance guarantee. It was simply delegated to be reviewed, and specifically said "performance assurance shall be established by bond or letter of credit, and the amount of this performance assurance or guarantee shall be approved by the town's peer review engineer." It became apparent that the town's engineer and the applicants engineer were coming at this from different angles. Stephanie Hibbard felt that the entire estimated cost should be the amount of the bond. Mr. Thompson believed and still believes that in the case of the site plan, where most of the improvements are being done on private property, and only a small amount of the project involves any sort of public improvements that the amount should be based on the cost of improvements should the project be abandoned that are necessary to stabilize the site and eliminate any of the damage of the project not being done. This is somewhat of a different situation than that of a subdivision. In the site plan context you are reviewing a project that mostly is taking place on private land with very little public impact. The same policy considerations that are placed on subdivision do not necessarily adhere to this. Mr. Ordway went on to quote ordinance. He stated that it does not matter if the grass is planted or the electrical posts are done, at least in the context of site plan review. A reasonable expectation for a performance bond is for whatever specific stabilization need to secure the site should be required, but not the entire amount to finish the project. I don't think the town wants to be in the business of finishing every site plan that comes before you that is not finished. Mr. Nugent noted that it is handled entirely different. If the Ahearn's did not want to do all the sites they do not have the obligation to do that. There will be no aggrieved homeowner to say they need to finish something. Stephanie is just doing what she normally does for a site review, but this is somewhat of a different animal. She is stuck in that mode unless the board decides to unstick it. Mr. Weinstein asked for a legal opinion from the town's attorney. Mr. Darling asked if the applicant has an opposed number. Mr. Ordway stated he was not sure what the board has. We asked Mr. Thompson to identify the things that would need to be done in the event that the project was abandoned or discontinued. He did include item 5 which falls into the specific condition of approval. We had him improve that to the number of \$50,400.00. This would be the inspection contingency which has already been paid. The bank was aghast at the amount of the line of</p>	

credit given the fact that they had financed the project and the proposed cost and then looked this over and said where did this come from? I would respectfully request that you establish the amount as part of your approval. For whatever reason that didn't happen.

Mr. Koenigs stated it was a symptom of changes in staff. Establishing the first amount was the responsibility of staff, and for some reason it didn't happen.

Mr. Darling stated that he felt that Wright-Pierce needs to look at this and bless the amount.

Mr. Koenigs also felt that legal needed to look at this. He asked how often a draw down change. There was discussion regarding the process.

Mr. Ordway stated there was no active construction because it is the season of camping now.

Mr. Koenigs wanted to know what the time frame the applicants were looking for.

Chairman Winch asked about the letter of credit and performance guarantee regarding the bank.

Mr. Ordway explained the process the bank went through, and when the numbers came back to them there was a large discrepancy.

Mr. Weinstein asked if originally the numbers were accepted by the applicant.

Ryan Ahearn answered that there were no numbers. They were told to go ahead and break ground, and then when the inspection occurred the numbers would be known. Both of the numbers were just given to us in the last six weeks. I received emails from Mike regarding why this has not been paid. He did not know what the number was. When the big number came back I told Stephanie that a lot of work had been done, and I asked if she would come back and drop it down and give us the remaining number. She came back with 431K. Some of the itemization for remaining costs seemed unreasonable.

Mr. Weinstein asked why the numbers were not available before and if there usually is a number.

Mr. Nugent stated there was some discussion about how the number was formulated; therefore, it was a difficult thing to figure.

Mr. Weinstein asked if the town can make this amount lesser.

Mr. Nugent stated that staff needed to have direction from the planning board.

Chairman Winch stated that the staff can just crank down the amount.

Mr. Nugent stated that it was prudent for the board to know what was going on.

Mr. Ordway stated where the planning board gets involved is the phrase "required improvements". Does that mean the estimated cost of the entire completed project or those things that are required to meet the standards of the ordinance together with any special conditions. We think there is a big difference between those two things. The other option is to come back to the board and make this into phases.

Chairman Winch asked if a quick determination by the town's attorney would be prudent or if the board can direct staff to take care of this.

Mr. Hinderliter responded to Mr. Weinstein's concern about setting a precedent, and after some research it was found to not have any continuity of whether a performance bond was required.

Chairman Winch just a simple motion to go back and recalculate would be appropriate.

Mr. Koenigs felt that they have made a proposal as to what they think the value should be and just add 15%.

Chairman Winch stated that staff should just concur.

Mr. Nugent stated that also this number would have to go back to Stephanie for her review.

Chairman Winch asked if we want to stretch this or get it done.

Mr. Weinstein asked if we should wait until the next meeting.

Chairman Winch suggested we come back to the next meeting with the revised number.

Mr. Weinstein added to check with legal, and then it would be fine with him.

GOOD & WELFARE

Don Comoletti, Design Review Committee Chairman.

Mr. Comoletti gave some background regarding the Design Review Committee. He stated that he found out just recently that the Ordinance Revision Committee was desirous of disbanding the DRC. This came as a large surprise to the DRC and I'm sure to the Planning Board. I think it is a great idea to get together with everyone and have a workshop. He welcomed the opportunity to get together. He also pointed out that he was concerned about the changes regarding limiting the design review process to enclosed building additions. Therefore, stairways, porches, awnings would no longer come under design review. This is something the board is concerned with.

Mr. Koenigs stated that there was an administrative review process if it comes under certain dimensional standards. He understood that the Ordinance Revision Committee was trying to streamline the process.

Mr. Comoletti stated he did not want to see the ORC folks work in a vacuum as they seem to be. I can't imagine that they would not have had a discussion or workshop at least with the planning board.

Mr. Nugent clarified that early in the process before they touched zoning we sent emails to Planning Board, DRC, etc, inviting them and gave those schedules. They tried, and there was just no interest.

Mr. Comoletti stated that he could not make it to every meeting, but would have been to the meeting that had

<p>specific attention to DRC.</p> <p>Mr. Nugent again clarified that he had specifically invited Mr. Comoletti, as well as the entire DRC to that meeting.</p> <p>Mr. Comoletti stated that he felt that he should watch things closer.</p> <p>Mr. Nugent stated that he felt the workshop would be very helpful to craft a document that works for everyone. Obviously, everything is up to Town Council approval.</p> <p>Mr. Comoletti hoped that residents would come as well.</p> <p>Mr. Koenigs stated he commend the ORC on the hard work they have been doing, and not in a vacuum because people have come to give testimony. It is also on Channel 3, if you take the time to watch it. It takes a lot of time to do it. It is wordsmithing, and it is not just the DRC, or the Planning Board section it is all through the ordinance. These just needs more input before going to Town Council.</p> <p>Chairman Winch asked if the Clark’s wished to speak now.</p> <p>The Clark family addressed the board and asked if there was a revised submission regarding 30 Washington Avenue. They wanted to know what the use was going to be and if approvals were going to be made.</p> <p>Chairman Winch stated this was read, and therefore, it is in the minutes. We take the comments in and address them in our decision making process. We do not directly respond.</p> <p>The Clark Family asked if the board has not approved the project.</p> <p>Mr. Koenigs noted that there was no survey submitted which was not required. The board received the appropriate application, but there was a change in the number of hotel units. We are not reviewing his internal design. If the board makes a decision that you do not agree with you have the right to appeal this decision. I would like to see the submittal that the applicant was going to submit according to the Findings of Fact. I have approved the Findings, but I have not signed it. I cannot say that all the information is available because it is. The property line was not on the radar. In the second letter it gets into the specifics of the property line, etc.</p> <p>The Clark Family stated that their concern is that the board voted on something when they did not have the revised application. There was reference regarding exits and it is unclear whether the exit is a door or an exit from the parking lot. They were concerned how the board made the decision when it is not clear.</p> <p>Chairman Winch addressed that this is a conditional use and a waiver for number of parking spaces. The planning board does not get into the way this is laid out.</p> <p>The Clark’s asked if it is clear as far as zoning. Have you gotten legal opinion?</p> <p>Mr. Koenigs stated the town’s attorney has reviewed this and recommended that we use the term hotel unit.</p> <p>Chairman Winch stated it was one hotel room.</p> <p>Mr. Koenigs stated that it was seven because of the architect’s drawings. Mr. King Weinstein addressed this.</p> <p>The Clark’s stated we have never seen it.</p> <p>Mr. Koenigs stated that is something that only the planning board would see. The best suggestion would be to take Mr. Nugent’s suggestion on meeting with staff and the applicant to address your concerns. There are only certain rights we have in regards to be in the planning board.</p> <p>Mr. Darling stated that if people are crossing your property that is more of a boundary despite and not something the planning board addresses.</p> <p>The Clark family stated they understood that, but asked if the new door was placed due to the town’s request.</p> <p>Mr. Koenigs stated it was not a requirement. We did not require this. Where the entrance or egress was did not come into discussion nor would it. Whatever he does on his property has to do within code. It is not the boards prevue. That is why Mr. Nugent would be best to mediate this issue.</p> <p>The Clark family asked if no final decisions have been made.</p> <p>Mr. Koenigs stated the next meeting is a workshop, and the findings of fact will be scheduled to be approved on 8-11-11. You are welcome to come, but the public cannot speak. After that period of time if you feel like your concerns have not been resolved or if you feel like the planning board’s process is part of the problem then you can appeal.</p> <p>Chairman Winch reviewed the minutes and clarified what was approved.</p>	
<p>Meeting adjourned at 9:52 pm</p>	<p>Adjournment</p>

I, Tori Geaumont, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of eight (8) is a true copy of the original minutes of the Planning Board Meeting of July 21, 2011.

Tori Geaumont