

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: February Planning Board Meeting Summary
DATE: 14 February 2013

*****APPLICANT NOTE- March PB meeting submissions due on 27 February*****

Below is a brief summary of pertinent issues related to the February Planning Board Agenda items:

ITEM 1 – Candi and Richard Ireland –Establish a preschool within existing commercial building (Conditional Use: Public Hearing and Final Review)

- The applicants are proposing to establish a pre-school and learning center for 3, 4 and 5 year olds (September – June) within an existing commercial building.
- The commercial building is adjacent (and it would seem part of) to Cider Hill which is an age-restricted community. Initially, I thought there may be age-restrictions attached to the subject property as well but I found nothing that restricts the ages of occupants within the commercial building or the property where its located (which is separate from Cider Hill).
- There are specific standards associated with the Child Care use found within the Conditional Use Ordinance that I ask you to carefully read when reviewing this proposal:
- The proposal was tabled last summer because we found it did not meet certain ordinance standards. Only through ordinance amendments could this proposal move forward. To move forward, the following ordinance amendments were proposed:
 1. Child Care Facilities is a permissible use with the PMUD District by adding this use as a Condition Use under Sec. 78-1023.
 2. The access standards of Sec. 78-1268 (b) (2) a are deleted. You may recall the standards mentioned specific roads that Child Care Facilities are required to have direct access to/from.
- During the fall and early winter of 2012, the PB and Council considered these amendments which were eventually adopted.
- With these changes, the applicants are moving forward with the exact same proposal that was before the PB last summer. Nothing new has been submitted.
- Our previous meetings included determination of completeness and a site walk. We still need to hold a public hearing and final review, both of these are scheduled this evening.
- There are Conditional Use standards and PMUD district standards that I ask you to carefully consider.
- My primary concern is the outdoor play area adjacent to E. Emerson Cummings Blvd. How will the operators of the daycare insure this area is safe and prevent children from accessing E. Emerson Cummings as well as Cider Hill's intersection?
- How will the operator of preschool minimize possible impacts to the quality of life for those who live in Cider Hill?
- Has anything changed since the last time the PB reviewed this proposal?
- How many children?

- **RECOMMENDATIONS:** As stated above, my primary concern is ensuring the children are protected from entering E. Emerson Cummings Blvd. and the road/intersection to Cider Hill.

ITEM 2 – Robert Kirby – Re-establish 3rd dwelling unit within existing building (Conditional Use and Appeals from restrictions of non-conforming use): Determination of completeness; schedule public hearing; schedule site walk (if desired)

- The building at 90 Union Ave was a vacant 3 family dwelling unit building until 2011 when the PB approved a 2 family use proposal. It is now occupied as a 2 family building.
- The owner would now like to re-establish the 3 family use.
- The parcel contains 5,300 sq. ft. A 3 family is nonconforming because the R-2 district requires 10,000 sq. ft./dwelling unit.
- Although nonconforming, the 3 family may be re-established with PB approval as a Conditional Use.
- The use requires 6 off-street parking spaces (2/unit). I'm quite sure there is not enough space available on the parcel for 6 parking spaces; therefore, a waiver would be required before the PB can approve the proposed use. This waiver would be to reduce the number of off-street parking spaces as provided in Sec. 78-1566.
- Sec. 78-1568 (a) (1) allows the PB to grant a waiver as long as the applicant can establish parking demand is less than required in Sec. 78-1566 and a reduction in the number of parking spaces will not create unsafe conditions for vehicles or pedestrians.
- Easily accessible on-street parking is located adjacent to the building on Union Ave.
- I'd like to note Mr. Kirby has made considerable improvements to the interior and exterior of the property- it really improved the aesthetics.
- The PB needs to decide whether the application is complete and schedule a public hearing. The PB may schedule a site walk but Conditional Use does not require one.
- Recommendations: I recommend the PB determine the CU application complete conditioned upon the applicant provide a written waiver request before the March meeting stating (1) why parking demand is less than required in Sec. 78-1566 and (2) why a reduction in parking spaces will not create unsafe conditions for vehicles and pedestrians. I recommend a public hearing be scheduled for 14 March.

ITEM 3 – Dominator Golf, LLC – Proposed 11 Lot, Single-Family Subdivision (Major Subdivision: Determination of completeness, schedule public hearing and site walk).

- This proposal includes the creation of a 1-lot single family subdivision, new roads, infrastructure, stormwater management systems, and utilities.
- This proposal is located within Dunegrass off Oakmont Drive adjacent to a CMP easement. This portion of land is identified as a maintenance area and part of the golf course.
- Dunegrass Golf Course and 589-unit condo development was approved as a single subdivision project in 1988. This subdivision was divided into sections. Each section was allotted a specific number of condo units. As the subdivision has been amended and built, the condo units shifted between sections, some sections to have more units at build out and some sections less with the understanding overall project build out is capped at 589 units.
- This particular proposal seeks to transfer development rights to up to 11 unit sites from the unused inventory of unit sites in Section B to allow Dominator Golf to

develop 11 single-family lots within the maintenance area identified on the Dunegrass Master Plan (see Memorandum of Understanding in the BH2M submission).

- It is my understanding Section B had 71 unit sites as of 2009. I believe approximately 24 unit sites are currently being developed within Section B, the PB recently approved 4 lots and this proposal will remove an additional 11 unit sites which means approximately 36 unit sites remain; therefore, it appears the unit sites can be transferred.
- Transfer of Development Rights and units shifting between sections has been part of Dunegrass build out since the subdivision was originally approved. In fact, the PB approved a proposal's similar to this in the past. A few of the keys to build out is to be sure open space (the golf course is significant amount of area allocated to open space) remains and the unit count remains capped at 589. As I understand, the 11 lot subdivision is located in a identified maintenance area and includes a very small amount (0.03 acres) of open space; therefore, it will not violate open space provisions. Note: the ordinance requires Dunegrass provide a minimum of 35% of the project area (that is the entire Dunegrass development) as open space. The golf course is part of Dunegrass open space.

A Few Misc. Comments and Questions:

- The town recently passed a Post Construction Stormwater Ordinance. How does this proposal conform to the applicable standards in that ordinance?
- Is the stormwater system designed to meet the criteria of a five-year storm based on rainfall data from Portland weather bureau records?
- Nicklaus Drive: the small piece of land between Oakmont Dr. and the CMP ROW- who owns this?
- Is Oakmont Drive built to a standard to accommodate the additional traffic?
- What is the site distance at the proposed Oakmont/Nicklaus intersection?
- The applicant is proposing a waiver of 74-309 (m) for the maximum street grade at intersection (2%). The subdivision ordinance allows to PB to grant waivers as long as the applicant can document the waiver request meets provisions in 74-34. I recommend the applicant provide a written response.
- I recommend lot 8 driveway be located so there is a vegetative buffer between the subdivision and the adjacent property line. Note there is no specific distance required.
- It would be nice to see a quality landscape plan be part of this proposal.
- Please include a chart on the plan updating Section B lots.
- Streetlights: I see one streetlight at located at the intersection of Nicklaus/Palmer. Is this enough? How does lighting conform to the PMUD performance standards 78-1027 (h)- shielded, average of 1.0 footcandle on the road and sidewalk surface, not exceed 15' in height, no glare, visual discomfort, or nuisance to motorist and residential properties?
- The proposal is located within the maintenance and golf course area. Will the maintenance area be relocated? If so, where?
- This proposal will require an amendment to the Dunegrass DEP Site Location permit. Status?
- As part of the road design standards, 74-309 (e) states the PB may require a 20' easement to provide continuation of pedestrian traffic or utilities to the next street. The plan does not show this nor do I see the need.

- Although the sidewalks and road surface meet the maximum and minimum grade requirements, they are quite level- have adequate systems been designed to effectively drain stormwater and prevent ponding?
- Hydrant: It appears there is one hydrant proposed. Will this hydrant provide adequate service to the development- especially the home on lot 8? We'll need Chief Glass' input. Also, please note there are Fire Hydrant standards (Sec. 30-91 – 30-96).
- Does the public sewer system have capacity? We'll need Chris White's input.
- Concerned about snowplowing at the locations where dead ends connect directly to driveways.
- How will the rain gardens be maintained and not altered by the future homeowners?
- How does the new development comply with the construction requirements set forth in the Declaration of Restrictive Covenants for WDW Community Association? Has permission been secured through the WDW Community Association?
- Who will be responsible for maintenance and upkeep of the stormwater drainage systems (Post Construction Stormwater Ordinance)?
- Minimum standards note on the plan regarding setbacks- it's my understanding there are no setbacks required for individual lots within the project (Dunegrass as a whole). The setbacks are for the project area boundaries. Is the applicant proposing their own setbacks?
- I recommend the applicant provide responses to each of the Purpose statement standards (Chapter 74 – Subdivision, 74-2 (1) through (14)).
- Please submit a completed performance worksheet.
- Please remember our GIS consultant needs a digital submission
- The applicant should check with the Fire Department (Chief John Glass 934-4911), Sewer Treatment (Chris White 934-4416), Public Works (Bill Robertson 934-2250), Police Department (Chief Kelley or Deputy Chief Babin 937-5805) and Biddeford/Saco Water Department (Tom Carr) to be sure the proposal is ok with them. Please provide info of these conversations and any recommendations.
- The proposal was submitted to Wright-Pierce for peer review.
- RECOMMENDATIONS: If the PB feels they can determine the application complete, I recommend it be contingent upon the applicant addressing the items mentioned above and any comments the PB may have by our next meeting. The PB needs to schedule a site walk and public hearing.

ITEM 4 – Town of Old Orchard Beach – Construct a skateboard complex (Conditional Use: Determination of completeness; schedule public hearing; schedule site walk (if desired))

- Jason Webber from the OOB Recreation Department is proposing to construct a Skateboard/BMX complex on land within the ballpark facility.
- The PB was introduced to this project last summer. The proposal has been scaled down.
- This is the first phase of the proposed Skateboard/BMX complex. I'm not aware of the timeline for future phases.
- The proposal will have drop of and handicap parking adjacent to the complex. The remaining parking will come from the existing ballpark parking lot which has plenty of space available. Although, it is expected most of the primary means of travel to the complex will be with skateboards and bicycles.

- **My primary comments at this time:**
 1. We'll need a bird's eye view showing the location of the complex on the ballpark land.
 2. I believe the ballpark has a site location permit. This proposal will most likely require an amendment to the site location permit. Is there any information from the applicant concerning DEP permitting?
 3. The packet doesn't appear to address drainage and erosion and sedimentation control. Since there is new impervious surface, stormwater needs to be drained properly somewhere. Where will this be? Also, what erosion and sedimentation control measure will be in place?
 4. The proposal will utilize existing vegetation as a buffer. This should be adequate to protect adjacent residential properties from noise and light spillover but we just want to be sure of this.
 5. I recommend the applicant discuss the proposal with police, fire and public works and request they offer comments or the applicant can provide commentary reflecting the details of these discussions.
 6. How will the complex be monitored? What is someone breaks a bone and phones are not available- how can we be sure the injured person gets the appropriate care in an acceptable amount of time?
- Although site walk aren't required for Conditional Use, I recommend we schedule one.
- **RECOMMENDATIONS:** I believe the most important items that need to be addressed are stormwater drainage, erosion and sedimentation control, and DEP permitting. The PB may choose to determine complete but I recommend that it be conditional based upon receiving information on these items (as well as the other's I mentioned above 1 – 6). I recommend the PB schedule a site walk and public hearing.

ITEM 5 – David J. DiLibero – Home Occupation: scooter delivery(Conditional Use: Determination of completeness; schedule public hearing; schedule site walk (if desired))

- Mr. DiLibero is proposing to operate a home occupation at his home located adjacent to 125 Saco Ave.
- The home occupation is to offer scooters for recreational rental purposes, which will primarily be delivered to the customer. The home occupation will be open April through September, 7 days/week, 9 – 5.
- The only way zoning permits a use such as this in the GB-2 district (at least through my interpretation of the ordinance) is through a Home Occupation. As you may know, Home Occupations are processed as a Conditional Use Permit and there are specific standards the proposal must comply with in order to be considered a home occupation (78-1267). The applicant provided responses to these standards. When reviewing the proposal, please review to determine if it is compliance with 78-1267.
- When reviewing this proposal, my two primary concerns are whether it will acceptably meet:
 - A. 78-1267 (3): Will there be exterior storage of scooters or other materials associated with this proposal?
 - B. 78-1267 (5): Will this create a traffic hazard? This is a small lot adjacent to a busy street. This will be worth a look at a site walk.
- Although site walks are optional for Conditional Use proposals, I recommend the PB schedule one.

- **I recommend the applicant contact the PD Department (Chief Kelley or Deputy Chief Babin 937-5805) for their comment on this proposal.**
- **RECOMMENDATIONS: I recommend the applicant address my concerns above and any the PB may have to the satisfaction of the PB. I recommend the PB determine the Conditional Use Permit as complete and schedule a site walk and public hearing**