

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: February Planning Board Meeting Summary
DATE: 9 February 2012

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

ITEM 1 – Baggs (Final Review)

- **Proposal to create a Private way to access one lot.**
- **This month, the PB will conduct final review.**
- **At our January meeting, a site walk and public hearing was held. The primary comments associated with the public hearing were stormwater drainage/management.**
- **The proposal secured variance approval during November 2011. The variance was necessary because the proposal could not meet the ROW standard.**
- **I have two primary comments at this time:**
 1. **Once I receive a final electronic version of the plan, it will be sent to public works for stormwater review.**
 2. **The applicant has requested several waivers. The PB should consider and rule on these waivers before any final action is taken on the proposal.**
- **RECOMMENDATION: The PB should determine if the proposal can be approved, approved with conditions, continued, or denied. Also, the PB will need to formally rule on any waiver request before a final vote. PW still needs to do stormwater review and if this is not performed before 9 February, the PB has the option to attach a condition or continue until this is complete. The condition could be:**
 1. **Development shall not commence until stormwater management has been approved by the Public Works Director.**

ITEM 2 – Chamberlin (Review Submissions, Schedule Final Review)

- **This proposal was tabled during the January meeting because the information requested was not received.**
- **At the December meeting, the PB determined additional information was needed in order for the application to move to the final steps/review.**
- **The additional information requested:**
 1. **Submission of right, title interest**
 2. **A revised plan which includes stormwater management systems, underground utilities and information sufficient to establish the exact location, direction, width, and direction of the private way**
 3. **Letter from Biddeford & Saco Water Department authorizing the installation of public water.**
 4. **The following should be on the primary plan:**
 - a. **Labeled as “Plan of a Private Way”**
 - b. **An approval block for PB signatures, the date of approval and the words “Private Way, approved by the town Planning Board”**
 - c. **A note reading “The Town of Old Orchard beach shall not be responsible for maintenance, repair, plowing, or similar services for the private way shown on this plan”**

- d. A note reading “All public rights shall be maintained and granting the approval of the private way shown on this plan does not relinquish public rights. Any improvements within the right-of-way can be removed and/or upgraded by the town at a future date.
- **RECOMMENDATION:** The information above has not been submitted; therefore, the PB should table the application until this info is received.

ITEM 3 – Pyle (Public Hearing, Site Walk Report, Schedule Next Review)

- At our January meeting, the PB determined the application was complete but conditioned upon receiving information concerning off-street parking. The applicant proposes to secure parking on an abutting lot. We’ll need this documented before any final decision is made.
- The PB should determine which conditions apply. A copy of the Findings of Fact for Mr., Weinstein’s 34 Washington Ave proposal is attached as a reference (conditions are on the back page). Although the project is similar to 34 Washington, not all the conditions attached to that proposal will apply to Mr. Pyle’s.
- If no additional issues arise during the public hearing and site walk, I believe final review can be scheduled for March.

Background Info:

- This proposal includes a project to alter the interior of an existing 3 unit apartment building to add a single motel unit (Lodging).
- This proposal is very similar to a proposal we reviewed last summer. As you may recall, Mr. King Weinstein was conditionally approved to add a motel unit at his property located on 30 Washington Avenue.
- The NC3 Zone allows Lodging as a conditional use with NO DENSITY standards.
- One of the primary issues associated with this proposal (much like Mr. Weinstein’s) is parking. This property currently has no off-street parking available. There are parking requirements: 1 space per room plus 50%. The lot currently is non-conforming with regard to the number of spaces due to the 3 existing units and no off-street parking available. Parking waivers can be requested by the applicant. The following zoning section is applicable:
Sec. 78-1568. Parking Waivers.
(a) The planning board may grant waivers from the standards of this division only in cases where the applicant can demonstrate that:
(1) With respect to the number of parking spaces, the actual parking demand for the applicant's proposal is less than required in section 78-1566 and a reduction in the number of parking spaces will not create unsafe conditions for vehicles or pedestrians; or
(2) With respect to standards other than the required number of parking spaces, the physical constraints of the site make compliance with the design standards of this division impractical or technically unfeasible, and modification of those standards will not create unsafe conditions for vehicles or pedestrians.
- If this proposal is to move forward, the applicant must make a formal written request for waiver of the parking standards. This request should include why the proposal cannot offer parking, with reference to the Parking Waiver standards cited above.
- The PB applied specific conditions to Mr. Weinstein’s proposal to ensure it remains a lodging unit (e.g., minimum 30 day stay; owner/operator shall register and pay

applicable Maine lodging sales tax as applicable; A hotel/lodging ledger of occupants shall be maintained). The PB should considering doing the same for this proposal. Please advise the planner on these conditions at tonight's meeting

- **RECOMMENDATION:** If it is found after the public hearing, site walk report and overall PB comments that there are no other issues to be addressed, I believe the PB can schedule final review. We'll need documentation from the applicant concerning parking and the PB should consider which conditions to apply.

ITEM 4 – Stevenson (Public Hearing, Site Walk Report, Schedule Next Review)

- At our January meeting, the PB determined the proposal to be complete and scheduled a public hearing for 9 February and a site walk for 4 February.
- A few issues were discussed at the January meeting that will need further consideration:
 1. Need to review sewer and water connections before final vote. The applicant should discuss this with the Biddeford/Saco water District and the OOB Wastewater Treatment Plant (Chris White). Does the PB feel we need anything from the water company and sewage treatment facility in writing?
 2. The applicant needs to discuss the proposal with the code officer concerning compliance with floodplain ordinance regulations. It was asked the results of this meeting be reported back to the PB. It is my understanding the applicant is meeting with the code officer on 2 February. I believe floodplain matters should be resolved or on there way to resolution before a formal decision is made by the PB. Since this is for a single family dwelling, a flood hazard development permit will most likely need to be secured through the code officer and this could be done after the PB's final decision, when the applicant applies for a building permit.
- Please be sure to thoroughly review the application materials and particularly the copied emails and 30% expansion calculations (as well as the existing vs. proposed drawings). This is probably the most critical part of the packet. Note: I have checked these numbers and our former code officer, Mike Nugent, has and they appear to be in conformance with the 30% expansion requirement.
- One final comment is the vegetation on the property, especially the mature trees, may need to be disturbed or removed. Does the applicant have a plan in place to replant if removal is necessary?

Background

- This proposal is to convert an existing vacant building (formerly used as a plumbing shop) into a single family dwelling. The reason this is before the PB is because it is a 30% expansion within the shoreland zone. As a result of the 2011 shoreland zoning ordinance changes, proposal that involve 30% expansions now require PB Conditional Use review. Also, this requires PB approval because the project involves removal of more than 50% of the structures market value and for the conversion to a single family home.
- There has been a fair amount of work and correspondence between the applicant's daughter, former Code Officer Mike Nugent and the Department of Environmental Protection. I recommend you carefully review this correspondence.
- I recommend the applicant work with the code officer on the understanding the regulations and complying with the Floodplain Management Ordinance. The code officer can offer comments to the PB concerning his findings.

- **A few items to be aware of:**
 1. **The removal of more than 50% of the structures market value requires the PB to determine that the proposed reconstruction complies with the shoreland setback to the greatest practical extent. A site walk will be helpful for this).**
 2. **The structure cannot encroach on the wetland further than what the existing structures setback is; although, rip rap can typically be placed within this area as long that it receives applicable DEP approvals.**
 3. **The existing foundation, 1st and 2nd floors all count in calculating the volume and square footage for the 30% expansion (these calculations are included in the applicants packet).**
 4. **Trees that are removed as part of this project will need to be replaced with trees that are native to the area.**
 5. **The proposal will need to comply with the Floodplain Management Ordinance. I believe the applicant should discuss with the code officer how this needs to be done before the PB provides a final ruling.**
 6. **Public water and sewer connections exists, we should just receive assurance they are in good working order.**
- **RECOMMENDATION: If it is found after the public hearing, site walk report and overall PB comments that there are no other issues to be addressed, I believe the PB can schedule final review; although, I do believe it is important to resolve any floodplain issues and the sewer and water before a final vote from the PB.**

ITEM 5 – Beachmont Land Development, LLC (Pre-Application Meeting)

- **This is a new Subdivision and Site Plan Review proposal for the development of a 42-lot single family cluster subdivision. Also, a portion of the property associate with this proposal is within the Stream Protection district which means Shoreland Zoning applies; although, the proposed development is not within the SP district**
- **This subdivision is proposed as a cluster. This allows the applicant to design a subdivision that alters the layout, dimensional and area requirements that are typically called for in the ordinance without a waiver or variance.**
- **There are specific standards associated with cluster proposals and they are found in Subdivision Ordinance, Section 74-278. These standards include Basic Requirements (e.g., building design, common water supply, common sewer system), Open Space (e.g., allocation of common open space, covenants, maintenance responsibilities) and Siting and Buffering (e.g., overall site design, building design, internal and perimeter buffering).**
- **Cluster Subdivisions do not specifically allow alterations from other subdivision standards- only those that are called for in the cluster standards; although, the Subdivision Ordinance does have a waiver provision (Section 74-34) that allows the PB to waive almost any standard in the subdivision ordinance. To grant a waiver, section 74-34 has specific criteria the PB must apply when determining if waiver request can be granted.**

A few items to consider (PB and Applicant):

- **The most important initial item is a decision on what the PB feels it can waive or modify. As stated above, the PB has the authority to waive or modify almost any Subdivision Ordinance standard. The applicant has requested specific waivers and the PB should concentrate on these as to whether they can or can't be granted. I highly recommend the PB carefully reviews the waiver standards (section 74-34)**

during consideration of the waiver requests. Also, it is always good to think out of the box when an ordinance allows the PB to waive a standard. An ordinance may call for something specific but there may be something that could work better. This is why waivers can be a very useful tool.

- When reviewing the plans, I recommend the PB look at it as if this is the actual subdivision layout and identify what may need to be addressed. This will help the applicant prepare plans and documents when the time comes for a formal submission.
- Public Works review for items such as road design, curb cuts and utilities.
- This proposal will have public water so the applicant will need to discuss this with Biddeford/Saco Water Company (and provide a written sign off).
- OOB Public Safety will need to review the proposal.
- You'll see proposed internal road is connecting with Date Street in the Homewood Park Development. Subdivision design typically encourages roads with in subdivisions to have a way to connect to abutting property when roads terminate at or near property lines. Nonetheless, we still must review previous files associated with Homewood Park Development and Date Street to see if this is legal and we'll need an analysis of traffic and Date Street road conditions to determine if Date Street can support the additional volume of vehicular traffic.
- Wright Pierce will need to provide a complete review of all site work, design and stormwater management systems.
- This proposal may need a Traffic Movement Permit through MDOT. I recommend the applicant provide the PB written analysis in regards to this. Is a permit required- then this permit must be secured before a final PB vote. A permit is not required- please provide an explanation.
- The proposal offers open space that has freshwater access. This could be something the town may want to explore and acquire.
- **RECOMMENDATION:** Since this is a sketch plan/pre-application proposal, no formal vote is required to take place at this time; although, it is a good opportunity for the PB to identify any items that could significantly alter the subdivision or even general items that could make it a better subdivision and use of land. Also, it seems appropriate the PB offer the applicant insight regarding the waiver requests. These waivers are important to this proposal so any decision could significantly alter the plan.

ITEM 6 – Allouette Beach Resort (Pre-Application Meeting)

- This is a new Shoreland Zoning, Floodplain and Site Plan Review proposal associated with demo and new construction for portions of the Allouette Beach Resort. The applicant has assembled a very good packet- introducing and explaining the key items of the proposal.
- Proposed development includes removal of 3 buildings- a 7 unit motel and two, 1-story buildings that contain 2 motel units in each; Construction of a new motel building with 14 units and an owner occupied unit; New parking layout including parking underneath the new motel building; Site work including new dune creation and rehabilitation of existing dunes, removal of pavement and seawall, removal of footpath through dune and install barriers to control foot traffic through the dunes. A total of 1,075 sq. ft. of new green space.

- The applicant has worked on this proposal for some time and there are many DEP related issues, such as development in the frontal dune, that have been worked out in advance of this meeting
- At this time, the applicant is looking to the planning board to identify any potential areas that could be major issues. Fortunately, I believe the applicant has worked to resolve many of the time consuming permitting matters in advance.

A few items to consider (PB and Applicant):

- When creating an application, I recommend the applicant divided the submissions into Shoreland Zoning, Floodplain, and Site Plan Review. This will help us see how the proposal complies with each applicable ordinance.
- The application packet should include any information associated with state and/or federal permitting.
- The proposal indicates 11 motel units exist in the portions to be removed and the proposal includes 14 motel units plus an owner occupied unit' although, this will not increase the total units on the property. Does this mean that additional units will be removed elsewhere? Also, is the owner occupied unit a motel unit or a dwelling unit? I ask this so we are sure the proposal complies with minimum lot size requirements.
- Is all proposed work located on the owner's property? I'm thinking of the work associated with the dunes and the seawall removal.
- Does the proposal conform to parking requirements?
- What are the proposed barriers to control dune foot traffic?
- I recommend the applicant submit architectural drawings.
- The applicant will need to contact the Biddeford/Saco Water Company and OOB Waste Water Treatment Facility to discuss the proposal (and submit any documentation). Also, the proposal will be submitted to Public Works and Public Safety for their comment.
- Wright-Pierce will assist the town with engineering-related submissions
- **RECOMMENDATION:** PB to advise applicant on what they should concentrate on and items that need specific attention

ITEM 7 – 7-11 (Site Plan Review Plenary Plan Review)

- This is a new Site Plan Review application. The proposal is to replace existing fuel dispensers, canopies, underground storage tanks and necessary piping and replacing with new. This includes removing the two existing canopies and installing one new canopy and four new fuel dispensers.
- The proposal is submitted as a plenary plan review at this time; therefore, only feedback is needed from the PB.
- Through an early review, it has been found the two existing canopies are nonconforming in regards to the setback requirements. The proposed canopy is will also be nonconforming to the setback requirements and one setback will become more nonconforming. The PB has some authority to deal with nonconformities (uses and vertical expansions) but it does not have authority to grant exceptions when it comes to horizontal setbacks. The site design, as proposed, must receive a variance from the Board of Appeals before any final PB action. I've informed the applicant a variance must be secured before the PB can grant approval if they intend to continue with the proposal as presented.

- **One particular item the PB should consider is traffic movement in and out of the site. As we all know the halfway section is dangerous. By relocating the canopy, which means relocating the fuel dispensers, will this create or further exacerbate a problem traffic area? Also, the underground fuel tanks will be relocated so they are closer to the road. How will trucks refuel these? Where will the trucks be parked when refueling? What time of the day will trucks refuel? When reviewing the proposed canopy location, further consideration should be applied to internal vehicular and pedestrian circulation. I believe this is critical information the PB needs to know and there may be an opportunity to improve this traffic problem.**
- **RECOMMENDATIONS: I recommend the applicant first secure a variance before submitting an application for formal site plan review. This is a good opportunity for the PB to have an advance review of the proposal so they may advise the applicant to any particular area they should concentrate on. As I mentioned above and I must emphasize, I believe traffic movement into and out of the site (including the trucks that refill the underground tanks) and internal vehicular and pedestrian circulation are the most critical matters associated with this proposal.**