

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: June Planning Board Meeting Summary
DATE: 13 June 2013

*****APPLICANT NOTE- July PB meeting submissions due on 26 June*****

*****APPLICANT NOTE- Please remember the town needs digital plan submissions*****

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

ITEM 1 – Sawgrass LLC – Sawgrass Subdivision Amendment: modified project (Final Review).

BACKGROUND (11 April Meeting):

- This proposal amends another amended plan which was last approved (with conditions) by the PB during November 2008.
- The November 2008 proposal amended portions of Dunegrass Sections J and L (and modifies unit numbers in Section M) in order to develop Sawgrass Condominiums: a five phase – 40 unit condominium project. One 8-unit building will be constructed in each of the five phases. The Plan is included within your packet. The owner at that time was Suncor LLC.
- The November 2008 conditions of approval were:
 1. **The final site plan (to be signed by the Planning Board) will include:**
 - a. There shall be 5 iron survey markers to be set at the angular points of the property line between the development area and the golf course.
 - b. The lighting shall be shown on the plan and in detail to agree with Section 78-1026 of the ordinance (full cutoff light fixtures).
 2. **Prior to the commencement of construction**, the cost of the site work for the phase(s) to be constructed shall be approved by the Town’s inspection engineer; a Performance Assurance for the cost of the site work shall be established; and 2% of the construction costs shall be put in an escrow account to pay for the necessary engineering inspections.
 3. **Prior to the issuance of building permits**, the Condo Association Documents shall be reviewed and accepted as satisfactory by the Town’s Legal Counsel. They shall also be recorded in the York County Registry of Deeds, and a copy of the recorded document submitted to the Town Planner.
 4. **Prior to Planning Board Signatures**, the site plan shall be submitted in digital format for the Town GIS mapping system. Contact the Town Planning staff for the detailed submission requirements.
- The new, 2013 proposed subdivision amendments include a complete redesign of the 2008 proposal. Instead of 5 buildings with 8 units in each, the amendment now proposes 22 individual homes on their own parcel of land. The unit count, impervious surface will be reduced and the overall concept changes.
- During 1987/1988, Dunegrass was approved as 18 separate sections (Sections A – R) with a total of 589 dwelling units and a golf course. The Dunegrass development has evolved since the original 1987/1988 approval through various amendments. It is somewhat unique in the way it was approved by both the town and DEP so it is allowed to change overtime and adjust to market conditions. These changes have varied from minor to major revisions.
- I believe the primary question the PB should consider is if this 2013 change is minor enough to rule on this evening or is the change is major enough to warrant a more

detailed review and additional meetings (e.g., site walk, public hearing). If the PB feels the change is minor, is their enough information to allow proper review? If the PB feels it is a major change, I believe the PB should indicate what additional material they need to provide a proper review and what meeting(s) will be held (e.g., site walk, public hearing, etc.).

- Stormwater/drainage management- The applicant provides a written response to the subdivision criteria but we don't have a plan or report; therefore, it is difficult to determine where the water is going and what systems will be in place to handle the flow. As I understand the 2008 proposal was to pipe stormwater across Long Cove Drive which would lead to an open drainage ditch along Wild Dunes Way and eventually draining into a pond by Hole 5. I believe the open drainage ditch along Wild Dunes Way no longer exists. If the 2013 proposal is to use the same method of stormwater drainage, this could be an issue- especially for the properties located at the Glen Eagle section.
- Note- the notice of decision in the applicant's packet is only for the 2008 amendment preliminary plan. This is not the final notice.
- Submission of home owner's association documents?
- The applicant should check with the Fire Department (Chief John Glass 934-4911), Police (Chief Dana Kelley 937-5805 Sewer Treatment (Chris White 934-4416), Public Works (Bill Robertson 934-2250) and Biddeford/Saco Water Department (Tom Carr) to be sure the proposal is ok with them. Note- I submitted the application packet to Public Works.
- I believe the applicant submitted plans to the town's engineer for peer review. I have not received a response form the town engineer as of 4 April.
- Will the proposal include new fire hydrants and street lights? I see none on the plan.
- How will the future residents dispose of solid waste?
- Water/sewer/road design, specs, plans?
- I know there have been concerns about water supply and pressure in Dunegrass and I believe there are two separate systems, one partially owned by Dunegrass and the other entirely under the control of Biddeford and Saco WD. Which water source will be used- where is the water coming from? Note that for the 2008 40-unit approval it was determined the project will not cause a burden on water supply. Biddeford Saco Water Co. has confirmed available capacity for this project in a letter dated 9/6/2007.
- Consider shared driveways?
- Snow plowing/disposal/storage method and location?
- DEP permitting status?
- Please provide a dwelling unit count update as a plan note. Please include where units are coming from and/or remaining in sections J and L.
- Proposed sidewalk- ADA accessible? The sidewalk is within the right-of-way. If the town accepted Wild Dunes Way, will the town be responsible for maintain the sidewalk? I'll check with Public Works.
- Currently there's an Island View Avenue in OOB- will this be an issue the proposed road name "Island Drive?" I recommend the applicant check with Police and Fire.
- Bill Robertson, PW Director comments:

1. *Where is the design for the Sewer system, Drainage system and water utilities?*
2. *The Conservation Commission is already proposing a trail along the southerly side*

of Wild Dunes Way for a connection from Veterans Memorial Park to the Eastern Trail, therefore is this sidewalk necessary. The proposed trail I believe will be 6 feet or so wide and be constructed of reclaim material. In fact it's already in place in this section and merely needs to be regarded and rolled.

3. I don't particularly care for the short distance between Long Cove Drive and Ponte Vedra Drive on Wild Dunes Way, and that may be the site distance but no one travels at 25mph. Perhaps the developer could eliminate this entrance make Ponte Vedra Drive a cul-de-sac with a partial cul-de-sac to the west and expand lot #17 back to get the required area.

- Overall, I believe this plan is better than the 2008 proposal and will be a better fit with the surrounding development. Even though the 2013 proposal is scaled down from the 2008 approval, my primary concern is if we have enough information to properly evaluate this proposal.

BACKGROUND (9 May Meeting):

- At the April PB meeting, the Board determined more information was needed in order to properly review the plans. The Board requested a full set of plans, scheduled a site walk and public hearing.
- The May submission includes a cover letter addressing comments from the April meeting, abbreviated stormwater management report and a set of plans.
- I believe the water supply issue is resolved because the supply is not part of the Dunegrass Community Association (DCA) water system.
- I have not received the HOA docs. Does the PB feel they need to review these before issuing a decision?
- Did the applicant check with Police and Fire about the Island Drive street name?
- The PW Director suggested eliminating the Ponte Vedra Dr. access to Wild Dunes Way. This has not be done- is this a concern to the PB?
- PW Director, Bill Robertson, offers the following:
 - I have not received comments from Bill- I know he's busy with construction projects. I expect his main concerns will be the Ponte Vedra Dr. access and stormwater drainage. He may recommend that the roads in the Sawgrass Subdivision remain private.*
- I have not received a letter from Biddeford/Saco Water- what is the status of this?
- Stephanie Hubbard received her first set of plans on 30 April. I expect she will provide comments by the 9 May meeting. Will her suggestions require plan changes?
- Status of DEP permitting?
- As I understand, the DCA documents require structures to be located at least 10' from unit site lines (side and front) and there is a 25' no clearing (vegetation larger than 4" in diameter) for the rear lot line. Looking at Sheet 1, it appears most of these structures do not conform to these restrictions.
- Stormwater- this seems to be the primary issue associated with this proposal. Based on the new submission, it appears the method of drainage is similar to what was approved in 2008. I have concerns about this because I can see a potential impact to the Glen Eagle development. Also, the ditches appear to be filled along Wild Dunes Way, so how will the water travel? Is the drainage pipe (on and off site) that will carry drainage appropriately sized? As I understand, drainage will travel to Basin 5- what systems are in place to insure the water can appropriately travel there? Also, does the developer have ownership rights to allow drainage in the basin? Are

there other entity's that need to give permission in order for the developer to use the drainage basin?

- Stormwater- Gary Salamacha, acting on behalf of the Glen Eagle Board of Directors offered these comments:

I guess the big question is, if the water dumps onto Glen Eagle, where is the waterway to channel the water to the pond on Fairway 5, which is how it was planned to go.

Any waterway or piping system would have to be in the public right of way, they can't use our common land or my lots to create a ditch.

The other big question is, the culvert is only 12" between units 5 and 4, and I don't believe a culvert that small will handle all the water anyway.

To get to that culvert between 4&5, the only way to do so as I said.

Is go down the public right of way, and at some point they would also have to cross Glen Eagles common land.

- Stormwater- I see no reference in the Stormwater Report concerning conformance with the town's Post Construction Stormwater Ordinance. This can be a condition of approval but we must insure it is mentioned in the Home Owner's Documents.
- Street Lighting- As discussed at the April meeting, the PMUD District has street lighting standards. The applicant's engineer, Les Berry, sent these comments:

Sheet 5 of the Sawgrass plans show a lighting plan with 0.93 average illuminance which is just below the standard of 1.0 average.

This is 9 light poles for 700+/- feet of road in the Dunegrass project that currently has no light poles. This just strikes me as a big overreach by the land use code.

1. Light pollution - I did not see any specific reference on the OOB ordinance to light pollution except from car lights but 9 lights is overkill. It will be so bright that one could read a book at night as they walked down the street. This in my opinion is creating a nuisance condition.

2. Dunegrass - This project does not have any lights. Why would the Town want to create one bright neighborhood next to all the other neighborhoods.

3. Construction Cost - The cost 9 poles with underground wires for a separate electric service is just unnecessary.

4. Operational Costs - This is a big monthly cost to the Homeowners Association.

5. Environmental Cost - Excess light and energy use just seems to be not in step with current public policy to conserve energy and minimize environmental impacts.

In summary, I live in a small lot subdivision in Gorham that I developed and I begged the planning board to not have light poles. They finally agreed with me and the neighborhood is now complete. That turned out to be an excellent outcome. There is plenty of ambient light for walking with need to get blackout shades so one can sleep at night. Perhaps we can talk about this at the site walk and invite the planning board to do a nighttime driveby.

- I agree with these comments but I have been unable to find something specific that clearly allows the PB to approve the proposal without street lighting in conformance with the PMUD standards. What I did find is the very last sentence in the subdivision ordinance (74-313 c): “Street lighting shall be installed as required by the Planning Board.” Seeing “shall” means to me that street lighting is required; although, the PB appears to have flexibility as to how much street lighting is required. I looked through other Dunegrass approvals Findings of Fact and found the developments were required to have streetlights in conformance with the PMUD standards. Note: The most recent submission show conformance with the PMUD street lighting requirements.
- I have not received a landscaping plan but based on the PB’s April discussions, this is not an issue to prevent the proposal from moving forward.

UPDATE (13 JUNE MEETING)

- My primary concern at this time is the 8% road grade on Island Drive. Even if the roads are to remain private, I still believe they must meet applicable standards; therefore, a waiver of maximum grade standard (74-309 (m)) is needed for a road with an 8% grade. This road is defined as a “Collector” which has a maximum grade of 6.0%. The PB has the authority to grant waivers (74-34 as long as the PB finds the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare or is inappropriate because of inadequate or lack of connecting facilities adjacent or in proximity to the proposed subdivision. As long as surface water drainage is properly planned for, I believe the PB can grant this waiver.
- The Home Owner’s Association Documents that I have do not appear to include the following language: A. All stormwater system operations, maintenance and repair shall be the responsibility of the Home Owner’s Association and B. All operations, maintenance, repairs of the streetlights and associated electrical systems shall be the responsibility of the Home Owner’s Association. There were a few HOA documents emailed so I may not have the most recent or maybe I overlooked this language. If the most recent HOA documents do not include this language I recommend they are amended to include the language (see condition).
- The revised plans include site lighting and landscaping (Sheet 5).
- It appears the stormwater management questions/concerns, including conformance with the Post Construction Stormwater Ordinance has been addressed, including the addition of an operations and maintenance plan. Also, the revised plans should address the neighbors’ concerns. There are concerns about short and long term functionality and maintenance of the dry wells (as you may recall, additional dry wells were added to avoid discharge to neighboring properties).
- I believe there are concerns about driveways close to intersections. 78-1466 (e) states that no driveway shall be located within 50 feet of the curblin tangent of an intersecting local street and/or private way. It appears several lots have driveways

that do not meet this standard (Lots 11, 12, 16, and 19). 78-1568 (a) (2) of the OOB ordinances provides a waiver provision that allows the PB to waive the standards above-mentioned second bullet as long as the modification will not create unsafe conditions for vehicles or pedestrians.

- The DCA provided comments which they want to be part of the conditions of approval. As I understand, DCA is separate from the zoning standards the PB must follow. Prior decisions from the PB and town staff reflect this. I do believe the PB must carefully consider the DCA's comments but ultimately, I think it is separate from the PB's responsibility to ensure a development complies with applicable ordinances. If the DCA's comments tie directly to a zoning standard than that will fall under the PB's jurisdiction. Otherwise, and as it appears to have been interpreted in the past, compliance with DCA rules and obligations must be worked out between the DCA and the developer. Ideally, the developer and the DCA will work these matters out before town approval or before construction begins.
- There were comments concerning the September 2005 Consent Agreement between the town and the Developer (part of your packet). Not all of the terms of the agreement are directly associated with the Sawgrass proposal (identified as a portion of Section L); although, Section L is specifically identified as part of obligations 21.a and 21.c (page 5 of the 20 September 2005 Consent Agreement). In regards to 21.a, I believe the remaining undeveloped portions of Long Cove Drive do not need to be completed with the development of Section L because the obligation states "prior to the completion of development of areas Q, M and L." My interpretation of this is Q, M and L are tied together and because Q and M are undeveloped, by only developing L at this time does not mean Long Cove Drive needs to be completed because Q and M remain undeveloped. Once Q and M are developed, Long Cove Drive must be completed. Regarding 21.c, this appears to apply because the obligations states "at the time of development" and "to each of those areas." This appears to be different from 21.a because 21.c treats each section separately and states at the time of development, not at the time of completion. Therefore, it appears Section L needs two sources of water.
- The PW Director prefers that Ponta Verde Dr. should not access Wild Dunes Way- and should terminate in a hammerhead or cul-de-sac. The plans have not been changed to reflect the PW comments. Is this a concern to the PB?
- I recommend setbacks be included as a note on the final plan.
- **RECOMMENDATIONS:** I believe the PB can rule on the revised Sawgrass residential subdivision. Before a decision is made on the subdivision as a whole, I recommend the PB first rule on a waiver of 74-309 (m) to allow a maximum grade of 8% on Island Drive and a waiver of 78-1466 (e) to allow the driveways of Lots 11, 12, 16, and 19 be within 50 feet of the curblin tangent of an intersecting local street and/or private way If you choose to approve I recommend the following conditions:
 1. Construction shall not begin until all applicable Maine Department of Environmental Protection permit application approvals are secured by the applicant and/or property owner. If these MDEP approvals change the plans and written documentation that were submitted and part of the Planning Board approval, those changes shall be presented to the Planning Board.
 2. The Home Owner's Association documents shall include the following language:
 - A. All stormwater system operations, maintenance and repair shall be the responsibility of the Home Owner's Association.

- B. All operations, maintenance, repairs of the streetlights and associated electrical systems shall be the responsibility of the Home Owner's Association.**
- 3. Digital plans shall be submitted to the town and to the town's GIS consultant in accordance with Chapter 78, Sec. 78-215 (4) before any construction begins.**

Item 2 – Town of Old Orchard Beach (Historic Society) – Rule on Design Review Certificate Recommendation

- The Historic Society is proposing to replace the single glazed windows with double glazed windows at the Harmon Museum.
- At their 6 May meeting, the DRC recommended the PB approve a Certificate of Appropriateness for this project.
- **RECOMMENDATIONS:** I recommend the PB approve a Certificate of Appropriateness for exterior improvements in accordance with the applicants Design Review submissions. Please sign the Findings of Fact.

Item 3 – Judy Patterson – Rule on Design Review Certificate Recommendation

- The Judy Patterson is proposing to paint the façade at the property located at 41 Old Orchard St. MBL: 206-31-9.
- At their 6 May meeting, the DRC recommended the PB approve a Certificate of Appropriateness for this project.
- **RECOMMENDATIONS:** I recommend the PB approve a Certificate of Appropriateness for exterior improvements in accordance with the applicants Design Review submissions. Please sign the Findings of Fact.

Other Business - Seacoast RV Resort LLC – 22 Site Campground Expansion (Site Plan Review Amendment and Conditional Use)

- The PB approved this proposal at the 9 May 2013 meeting.
- Please sign the plans.

Other Business – Dominator Golf, LLC – Proposed 11 Lot, Single-Family Subdivision (Major Subdivision: Applicant Update).

- The PB approved this proposal at the 9 May 2013 meeting.
- Please sign the plans.