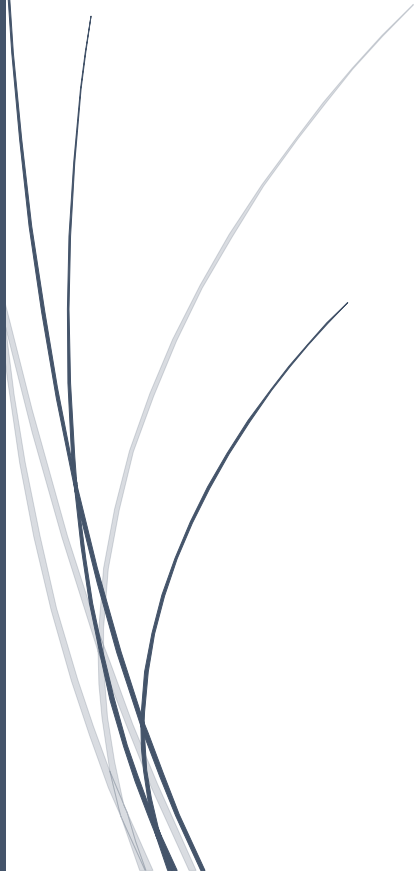


**OLD ORCHARD BEACH  
November 2018  
PLANNING BOARD  
MEMO**



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## *Regular Business*

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**ITEM 2**

**Proposal:** Subdivision Amendment: Relocate proposed detention basin #1; Relocate proposed sewer lines; Relocate proposed building G; Relocate and add stormwater pipes and catch basins; Proposed road retaining wall replaced with rip rap.  
**Action:** Ruling on Amendment  
**Owner:** KRE Properties Inc.  
**Location:** Settlers Ridge Condo’s, Ross Road, MBL: 103-1-5, RD

<u>Subdivision Amendment: Settlers Ridge</u>	<u>Project Status</u>
Sketch Plan	Not Required
Preliminary Plan	Not Required
Application Complete	Not Required
Site Walk	Not Required
Public Hearing	Not Required
Preliminary Plan Vote	Not Required
Final Review	Pending

At the last meeting, the Planning Board tabled the proposal while waiting for the Applicant to work with Wright Pierce to address outstanding comments. Wright Pierce provided a memo on 10/29/18 which has been included in your packet. The memo has been split up into three categories:

- **Items Requiring Feedback** – Final items that need to be discussed/confirmed with the Planning Board.
- **Outstanding Information** – Items that still need to be provided, some are awaiting final confirmation related to the items requiring feedback such as the Performance Guarantee and the PCSWMP.
- **General Plan/Construction** – Items that the Applicant and Wright Pierce can work through – they include plan notes/references such as how/what/type and details on specific items. There are also **Stormwater Model Review** items listed in the memo for WP to coordinate on with the Applicant.

The most important items for the Planning Board to consider are the items requiring feedback. There are three primary feedback items.

The first item is a discussion on **porous pavement**. Staff has expressed concerns about the inclusion of porous pavement due to the large amount of maintenance required. Wright Pierce has also expressed concerns about the maneuverability of vehicles on the pavement which may cause ruts and maintenance issues. Attar Engineering has indicated that the Developer has used porous pavement on other projects in other communities and the maintenance requirements will be included in the PCSWMP that’s provided to the HOA.

*Comment from the Town Manager’s Office on this:* I do not support using porous pavement for the access drive and parking lot as a means of avoiding additional DEP review. The porous pavement requires regular maintenance (periodic sweeping with a commercial sweeper) for it to function as intended and, even if maintained properly it does not work indefinitely. When it needs resurfacing it is not just an overlay, the base and surface need to be redone. I am skeptical that this is likely to take place under the management of an HOA, or whoever is responsible for maintenance. For that reason I support the Board requiring the use of regular pavement.

*Comment from Joe Cooper (DPW Director) on this:* Cleaning of the stormwater system; Support of H2O or our fire truck. Really concerned if that is not put in place properly it will not support the fire apparatus when it needs to; Condo association is not going to be familiar with this. Should the association be managed by an engineer or environmental firm?

The second item for the PB to consider is the **stormwater discharge location**. One of the discharge points is the northeast property line which may impact the adjacent property owner. Should the Applicant be responsible for coordinating with this property owner and reporting back to the PB?

The third item are a number of **dead-end parking spaces**. In order for residents to get out of the parking spaces, they are going to be required to make 4 point turns. Is this acceptable?

Another item that was discussed in the WP memo is the sidewalk width shown as 36 inches wide. The Ordinance (Sec. 78-1541) says that the sidewalk “shall provide a minimum four-foot wide travelway without obstruction.” The Applicant shall submit a formal waiver request from this provision.

There are some outstanding items that are discussed in the WP memo. These include the Right, Title and Interest (RTI) for sewer connection and roadway improvements. At the last PB meeting, the Developer indicated that there is a specific easement that allows for the connection to sewer utilities and to the existing roadway network. Planning Staff is waiting for these documents to be submitted.

We are also waiting for ability to serve letters from Maine Water and Chris White (Wastewater).

**RECOMMENDATIONS (NOVEMBER):** Planning Staff recommends that the PB discuss the three items requiring feedback: porous pavement, stormwater discharge location and the dead-end parking spaces and provide feedback to Staff and the Developer. We also recommend the Developer submit the information on the RTI and coordinate with WP on the remaining general plan/construction comments listed in the WP memo.

**BACKGROUND (OCTOBER):**

Wright Pierce continues to have a number of comments regarding the proposal. The following is an email received from Stephanie on 10/2:

I started looking at this last night and it appears I am still going to have a number of comments. There are some things outstanding (documentation requested not included in the application) and I am finding some additional minor details that will need to be sorted out, but there remain a few larger picture items:

- What are the defined easements to cross the existing development for the roadway and utility connections? I want to make sure the limits and locations of these easements are defined and that they are staying within these or have the RTI to utilize land outside of the easements.
- Stormwater Design:
  - The proposed project continues to detail point source (ie outfall) connections discharging directly to the property line. While there is a pre- vs post- assessment, my concern is that there is a change in how the stormwater is getting to the property lines (difference between runoff and impervious surface with direct point source discharge. While the aerial imagery shows this as wooded, it is not their property, and I want to make sure we understand the downstream receiving bodies and that this does not impact the adjacent properties (both developed, undeveloped and future development potential).
  - In reviewing the hydroCAD model, there are a few questions and comments I have regarding the outlet controls for the site. I am also concerned that while the model is also looking to the 25-year storm event utilizing the old TR-55 precipitation data. We already know that precipitation trends are noting higher precipitation trends (NOAA precip.net information available), and given the downstream implications (not fully described) I am not sure stopping the model at the 25-year storm event will prevent off-site impacts during higher storm events.
- Roadway and Retaining Wall Construction: More detail needs to be shown and whether they will be able to complete the construction within the property line. They have indicated that the final design would be prepared and reviewed during construction, but I recommend these details be evaluated during this phase (from a preliminary standpoint) to ensure that temporary construction easements will not be needed.
- Parking Lots – my original comment may not have been clear, but they have dead-ended the parking lots. Even with a 24-foot wide drive aisle, backing up with require some maneuvering space behind the vehicle. With dumpsters and snow storage in the way, those last few spots will become unusable.

In an effort to keep costs down for the Developer, Wright Pierce recommended addressing the large picture items identified above before they continue to spend time with the smaller details. Stephanie indicated she is willing to meet with Attar to discuss the details.

There was also a comment received from the Fire Department: *The code requires some sort of turnaround on any road that is more than 150 feet long. A hammer head, probably the least costly method needs to be as long as the largest piece of Fire Apparatus in our jurisdiction. Tower 71 (Ladder Truck) is just shy of 50 feet in length.*

**RECOMMENDATIONS (OCTOBER):**

Planning Staff recommends the PB does not make a ruling on the proposal until these details have been sorted out and Wright Pierce is satisfied. Once Wright Pierce is satisfied with the amendment, Planning Staff will be satisfied.

**BACKGROUND (SEPTEMBER):**

In 2016, the Applicant brought a subdivision amendment forward to revise the location of stormwater infrastructure, relocate a building and change some walkways/lighting. There were a number of comments discussed in 2016 from the Abutters as well as Wright Pierce. The Planning Board recommended the Applicant address the concerns in the Wright Pierce memo and provide a new submission to the board.

In this new submission, there are still a number of outstanding comments from Wright Pierce and the Abutters.

**RECOMMENDATION:** Planning Staff does not recommend moving forward on this amendment until the comments from Wright Pierce have been addressed.

**BACKGROUND (NOVEMBER 2016):**

Settler's Ridge is proposing a subdivision amendment which includes relocation of detention basin #1; relocation of Building G; side slope/road support/stabilization change from retaining wall to rip rap; relocation and addition of new stormwater piping and catch basins; changes (width and location) to walkways; addition of exterior lighting.

Originally, Settler's Ridge (formerly Pilgrim Place- PB approved the name change during 2012) was approved by the PB as what appears to be a two phase project. The first phase was buildings A-F which is built out. The second phase is buildings G, H, I which has not been constructed. The second phase is associated with this proposed amendment. Building G, H, I are towards the rear of the Settler's Ridge lot with building's A-F closer to Ross Rd. Buildings G, H, I have a total of 24 units with 8 units in each building.

During 2013, the PB approved a subdivision amendment to adjust the parking lot areas to reduce impervious surface by 4,000 sq. ft. To do this, the building locations were slightly adjusted, parking lots rearranged and sidewalk width and locations altered.

Wright-Pierce performed peer review of the new amendment and submitted a memo (included in your November packets) which identifies numerous issues. Staff feels it is important the applicant address these issues (including any follow-up plan adjustments) before the PB rule on this proposal. The WP memo was emailed to the applicant's engineer.

Dept. comments:

- WWTF (in November packets): "The additional flow will not have a significant impact downstream at the pump stations in terms of capacity. I do however advise the planning board the pump stations beyond Ross Road pump station is in need of improvements due to age and condition"
- FD (in November packets): "The only question I have at this time is who is responsible for the hydrants and if they are private see the attached Town Ordinance." Note- if they are privately owned the PB could attach the following condition: All privately owned fire hydrants shall be tested and maintained in accordance with applicable NFPA 25 standards. The developer and/or Home Owners Association shall be responsible for complying with this condition.
- Assessing (not in November packet): Assessing is questioning whether King Weinstein, as KRE Properties Inc, owns this property. According to Assessing, Gary Salamacha, who apparently was (or is?) also identified as KRE Properties Inc., claims that he owns the property. The deed attached to the subdivision amendment application is signed by King Weinstein as VP of KRE Properties Inc. The deed book and page as identified on the deed itself is the same book and page identified on the tax records. This appears to show Mr. Weinstein has right, title and interest and planning staff has not seen legal documentation to support Mr. Salamacha's claim. We have followed up on this and it appears Mr. Weinstein can apply for this amendment.

**RECOMMENDATIONS:** Staff believes the applicants engineer should respond to the WP memo before the PB rules on the proposal. This is because there are a number of important issues that need resolution before a vote take place.

**ITEM 3**

**Proposal:** Conditional Use: Accessory Dwelling Unit  
**Action:** Final Ruling  
**Owner:** Michael & Karin Lavigne  
**Location:** 9 Pond View Road, MBL: 105-4-42

<u>ADU: 9 Pond View</u>	<u>Project Status</u>
<i>Application Complete</i>	October (Conditionally)
<i>Site Walk</i>	Scheduled for November
<i>Public Hearing</i>	Scheduled for November
<i>Final Ruling</i>	Recommended for November

At the October meeting it was determined the following matters need resolution or clarification: septic system capacity to handle additional flow, parking area sized to handle additional vehicles, floor plan to show revised layout. Briefly on each:

- **Septic System.** As discussed during October, the current septic system was not sized to handle the additional flow generated by the two bedrooms in the proposed ADU (Note- the ADU plan has been revised to show one bedroom). For our November meeting, the applicant submitted an updated septic system design which shows an increase in size to allow for the capacity to handle a fourth bedroom. Assuming the ADU continues with the revised floor plan showing 1 bedroom, the updated septic plan is designed to handle the additional flow. One comment- the septic system should be installed before ADU occupancy.
- **Parking Area.** Staff and the PB wanted to be sure the property has the ability to handle 2 additional off-street parking spaces. The 2017 aerial shows there is enough space to safely handle two more vehicles.
- **Revised Floor Plan.** At the October meeting the owner/applicant stated they revised the floor plan to a one bedroom ADU. The revised floor plan (included in November packet) shows a one bedroom ADU with the former second bedroom identified as a “sewing room”. This change is fine as long as the sewing room does not become a bedroom. Remember, septic system design is tied to the number of bedrooms. The revised septic system is design for 4 bedrooms which is sized to accommodate the single-family’s three bedrooms and one bedroom in the ADU.

Concerns about short term rentals and ADU’s were discussed at the staff’s development review committee meeting.

Town Manager Larry Mead commented:

My comments here are not directed specifically to any of the pending applicants but rather to the broader topic of the universe of requested accessory dwelling applications. I request that the Board include as a condition of approval for accessory dwellings that the dwelling may not be used for short-term rentals (defined as 31 days or less), that the accessory dwelling may only be rented for long term use if the primary dwelling is owner occupied, and that these two requirements be recorded in the registry of deeds so that any future owners are fully aware of this limitation. My rationale for this is that an accessory dwelling should substitute for an approved two unit use on a residential parcel. In the OOB rental market it can be too tempting for an owner to use the accessory dwelling as a means of generating income through short term rentals, or turning the property into a 2-unit property.

**RECOMMENDATIONS (NOVEMBER):**

Staff recommends the PB conditionally approve this proposed ADU.

***Recommended Motion:*** I will make a motion to conditionally approve the Conditional Use Application for an Accessory Dwelling Unit at 9 Pond View Rd, MBL: 105-4-4. Conditions:

1. *The most recent revised septic system shall be installed before occupancy of the ADU.*
2. *The ADU shall not be used for short-term rentals (31 days or less).*
3. *The ADU may only be rented for long-term use if the primary dwelling unit is owner occupied.*
4. *The Findings of Fact shall be recorded in the York County Registry of Deeds within 30 days of their approval.*

## **BACKGROUND (OCTOBER):**

This proposal is for an Accessory Dwelling Unit (ADU) to be built as part of an addition to an existing single family home. The addition includes converting the existing garage to living space for the main dwelling, constructing a breezeway which attaches to the new garage and ADU on the second floor of the garage.

Accessory Dwelling Units are permissible in the Rural District as long as they meet the Conditional Use Accessory Dwelling standards and Conditional Use Review Criteria. The purpose of ADUs is to provide a diversity of housing for residents while protecting the single-family character of residential neighborhoods.

Regarding this proposals conformance with the 5 Accessory Dwelling Unit Standards (78-1272):

- (1) States the ADU shall be accessed through the living area of the primary structure and all other entrances to the ADU shall appear to be subordinate to the main entrance. Also, proposed additions shall be subordinate and architecturally compatible with the primary structure. The proposal includes a breezeway which will serve as a shared entrance to the primary structure and ADU. The breezeway is considered living area. Regarding the proposed addition being subordinate to the primary structure, if the breezeway and garage was not part of the primary structure I would have the opinion it is not subordinate. Because it is part of the primary structure, the area exclusive to the ADU is only the 2<sup>nd</sup> floor of the proposed garage (remember, the garage is for the primary structure); therefore, in my opinion, makes the addition associated with the ADU subordinate to the primary structure. One recommendation, the applicant should strike the last sentence in their response to this standard.
- (2) States the ADU at least 500 sq. ft. but not exceed 50% of floor area of the primary structure. Assessing records show the primary structure floor area at 2,188 sq. ft. The proposed ADU is 1,008 sq. ft.
- (3) States the ADU and primary structure served by the same electrical service. This is not shown on the plan but is stated in the record.
- (4) States one ADU per lot and made part of the primary dwelling. The proposal meets this standard.
- (5) States the ADU shall not be permitted for any nonconforming structure or use where nonconformance is due to use of the premises. A single family dwelling is a permitted use; therefore, is a conforming use of the premises.

In addition to the ADU standards, the applicant's proposal must conform to the Conditional Use standards (78-1240). We need additional info or further clarification in regards to two of these standards, (3) & (7).

(3) States the proposed use will provide adequate off-street parking areas. The applicant writes the current driveway is 70' long and can easily park 2 wide. It may help if the applicant shows the parking area on a plan. Perhaps by use of an aerial photo (accessed via town website GIS) as the "plan" with the applicant highlighting parking locations.

(7) States the proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use. The applicant writes this apartment will have adequate waste disposal for both solid and liquid waste. Leech field has been recently updated and will accommodate the use. During 2009, the applicant received permit approval to increase the disposal field size. One problem is that although the size increased, the approved permit shows the septic system is designed to serve 3 bedrooms. The proposed ADU includes 2 bedrooms which. Single family septic design typically base the design flow, field size and tank size on the number of bedrooms. With the additional 2 bedrooms, we question if the system can accommodate the additional flow. Now would be a good time to contact a site evaluator to check the system and answer this question.

## **RECOMMENDATIONS (OCTOBER):**

Staff recommends the PB determine the application complete subject to receipt of proof that the septic system is or will be designed to handle 5 bedrooms. This documentation shall be submitted before the PB issues a final ruling.

***Recommended Motion:*** I will make a motion to determine the application conditionally complete for an Accessory Dwelling Unit at 9 Pond View Rd, MBL: 105-4-4. Condition: The applicant shall submit documentation that clearly shows the septic system is or will be designed to handle 5 bedrooms. This documentation shall be submitted before the PB issues a final ruling.

**ITEM 4**

**Proposal:** Conditional Use: Home Occupation  
**Action:** Determination of Completeness, Schedule Site Walk, Schedule Public Hearing  
**Owner:** Michael Goyet  
**Location:** 114 Portland Avenue, MBL: 104-1-28

<u>Home Occupation: 114 Portland</u>	<u>Project Status</u>
Sketch Plan	N/A
Application Complete	Recommended for November (Conditionally)
Site Walk	Not Recommended for This Proposal
Public Hearing	Recommend Scheduling for December
Final Ruling	Pending

Planning Staff did not receive the complete application materials by the October meeting deadline, therefore, the proposal was tabled. Since then, we received the necessary materials and a description of the project is listed below.

This proposal is for the establishment of a design business as a home occupation. The current use of the property is a single-family dwelling with a proposed Accessory Dwelling Unit (see item #5 below). The design business will be in the finished basement with a separate entrance from the garage. It will operate 4-6 hours a day Tuesday through Friday. There will not be any deliveries or clients at the home. Parking will be in the existing driveway which has space for 5-6 cars (see aerial below).



Home Occupations are a Conditional Use (CU) in the Rural District. In addition to the 12 CU Standards (78-1240), the proposal must comply with the home occupation definition and the standards specific to home occupations (78-1267). Responses to the Home Occupation standards as well as the Conditional Use standards have been included in your packet this month.

*Home Occupation definition:* An occupation or profession which is customarily **carried on in a dwelling unit** or in a building or other structure accessory to a dwelling unit, **carried on by household members occupying the dwelling unit**, clearly **incidental and secondary to the use of the dwelling unit for residential purposes**, which can be conducted within a residential dwelling **without changing the appearance or condition of the residence** or accessory structures, and which **conforms to the requirements of Sec. 78-1267**.



The deed for the property identifies Michael and Karen Goyet as the owners. It appears the home occupation will be operated by Michael Goyet in the basement of the existing dwelling with no changes to the outside appearance aside from a sign which is discussed below.

Planning Staff had a comment on one of the Home Occupation standards:

**#7:** The home occupation may utilize:

- a. Not more than 20 percent of the dwelling unit floor area, provided that for the purposes of this calculation unfinished basement and attic spaces are not included.
- b. Unfinished attic and basement spaces.
- c. One accessory structure. The floor area utilized in the accessory structure shall not exceed 50 percent of the total floor area of the dwelling unit as previously calculated.

According to our property record card, the square footage of the dwelling unit is 2,061 sq. ft. This allows for up to a 412 sq. ft. addition in the basement. The applicant indicates that the new office will be 400 sq. ft. in the basement. This is not shown on a plan. The PB should determine if a plan for the Home Occupation should be submitted.

**#10:** A single sign identifying the name, address, and profession of a permitted home occupation or lawfully existing nonconforming home occupation is permitted, provided such sign is nonilluminated and **does not exceed two square feet**. Freestanding signs shall not exceed six feet in height and shall be located on the principal property. Wall mounted signs shall be located on the principal building and shall not extend beyond the first story.

In the Application materials, it says the sign will be 3” x 6” long on the side of the mailbox. In the Conditional Use Application narrative, it says 12” x 18” and in the responses to the Conditional Use Standards it says 12” x 16”. Planning Staff recommends further clarification be submitted on this – what will be the size of the sign and where will it be located. The Home Occupation Standards also state that a single sign identifying the name, address and profession of a permitted home occupation is permitted. What is proposed to be located on the sign?

Finally, According to Code Enforcement, a shed was placed in the Emerson Drive common right-of-way and kitchen rehab was done without securing permits. Code Enforcement informed the owner of this and, according to Codes, this matter has not yet been resolved.

#### **RECOMMENDATIONS (NOVEMBER):**

Planning Staff recommends the Applicant submit further information on the proposed signage. The PB should also determine if a plan should be submitted showing the layout of the basement. Other than these two items, the proposal is fairly straight forward. We recommend the board determine the application complete contingent on the submission of:

- Further information on the proposed sign and how it complies with standard #10 – what is the size, where will it be located, what is proposed to be on it.
- Plan showing location of the Home Occupation in the Basement to ensure it is under 412 sq. ft.
- Resolution of outstanding Code Enforcement matters in regards to the shed and kitchen rehab on or before 12.12.18.

Aside from these items, the PB can schedule a site walk for the December meeting, however, where we have a proposal for an Accessory Dwelling Unit at the same property, we recommend holding off on scheduling a Site Walk in December for this proposal. They are not necessary for Conditional Use Applications. We do recommend the board schedule a Public Hearing for December 13<sup>th</sup> at 7:00PM.

Recommended Motion: *I will make a motion to determine the application complete to establish a home occupation at 114 Portland Avenue MBL 104-1-28 contingent on the submission of further information on signage as well as a plan showing the layout of the basement.*

Recommended Motion: *I will make a motion to schedule a public hearing for December 13<sup>th</sup> at 7:00PM.*

#### **BACKGROUND (OCTOBER):**

**PLEASE NOTE:** The PB gave the Applicant until 10/2 to submit responses to the Home Occupation and Conditional Use standards. These were not received, therefore, the application is not complete. We recommend the PB table the item until the November meeting.

**ITEM 5**

**Proposal:** Conditional Use: Accessory Dwelling Unit  
**Action:** Determination of Completeness, Schedule Site Walk, Schedule Public Hearing  
**Owner:** Michael Goyet  
**Location:** 114 Portland Avenue, MBL: 104-1-28

<u>ADU: 114 Portland</u>	<u>Project Status</u>
<i>Sketch Plan</i>	N/A
<i>Application Complete</i>	Pending
<i>Site Walk</i>	Pending
<i>Public Hearing</i>	Pending
<i>Final Ruling</i>	Pending

Planning Staff did not receive the complete application materials by the October meeting deadline, therefore, the proposal was tabled. Since then, we received the necessary materials and a description of the project is listed below.

This proposal is for a 750 square foot Accessory Dwelling unit to be constructed on the existing home located at 114 Portland Ave.

Accessory Dwelling Units are permissible in the Rural District as long as they meet the Conditional Use Accessory Dwelling standards and Conditional Use Review Criteria. The purpose of ADUs is to provide a diversity of housing for residents while protecting the single-family character of residential neighborhoods.

Regarding this proposals conformance with the 5 Accessory Dwelling Unit Standards (78-1272):

- (1) States the ADU shall be accessed through the living area of the primary structure and all other entrances to the ADU shall appear to be subordinate to the main entrance. Also, proposed additions shall be subordinate and architecturally compatible with the primary structure. It appears that the shared entrance will be through the front entrance of the home, through the kitchen, into the garage area and into the ADU. There is a second entrance proposed looking from the front, on the right side of the structure to access the ADU directly. The Applicant indicates that a small additional paved parking spot will be located in front of the entrance and added onto the existing driveway. The plan does not show the location of that proposed parking spot. We recommend that be provided to the Planning Board.



*(Photo from Property Record Card – Proposed Addition to the Right of the Garage)*

- (2) States the ADU at least 500 sq. ft. but not exceed 50% of floor area of the primary structure. Assessing records show the primary structure floor area at 2,061 sq. ft. The proposed ADU is 750 sq. ft.
- (3) States the ADU and primary structure served by the same electrical service. In the responses to the 5 ADU standards, the Applicant states “my Electrician told me he would connect the service to the existing home, but could add a service panel to the new addition in case access is needed by the tenant (my mother) if that is

acceptable to code. Because this is proposed as an ADU, a second electrical service is not permitted. Only one is permitted on the main home. The Applicant should revise the response to this standard to reflect that.

- (4) States one ADU per lot and made part of the primary dwelling. The proposal meets this standard.
- (5) States the ADU shall not be permitted for any nonconforming structure or use where nonconformance is due to use of the premises. A single family dwelling is a permitted use; therefore, is a conforming use of the premises.

The Application also has to comply with the 12 Conditional Use Standards:

CU Standard #3 states the proposed use will provide adequate off-street parking areas. The Applicant writes a small additional paved parking spot will be located in front of the entrance. 15' x 20'. This will be added on to the existing driveway. At this time we can fit 2-3 cars in our driveway when 2 cars are in the garage. There is about 650-700 sq. ft. of paved surface of that is part of the "right of way" which is not considered "OUR" driveway. We recommend the Applicant submit a plan showing the parking area, perhaps by use of an aerial photo (accessed via Town website GIS). Looking at the GIS, it appears that the parking area is limited.



Looking at the plans, we had a few additional comments. They are showing an 11 Foot (appears to be side) setback from the property line to the addition. The setbacks in the Rural District for this type of use are as follows:

- Side & Rear – 25 Ft.
- Front – 25 Ft.

The plan should be updated to reflect these setbacks.

It is also not clear how many bedrooms are proposed for the Accessory Dwelling Unit or the general layout.

According to Code Enforcement, a shed was placed in the Emerson Drive common right-of-way and kitchen rehab was done without securing permits. Code Enforcement informed the owner of this and, according to Codes, this matter has not yet been resolved.

Due to the influx in Accessory Dwelling Unit proposals, the Town Manager provided a comment on them: My comments here are not directed specifically to any of the pending applicants but rather to the broader topic of the universe of requested accessory dwelling applications. I request that the Board include as a condition of approval for accessory dwellings that the dwelling may not be used for short-term rentals (defined as 31 days or less), that the accessory dwelling may only be rented for long term use if the primary dwelling is owner occupied, and that these two requirements be recorded in the registry of deeds so that any future owners are fully aware of this limitation. My rationale for this is that an accessory dwelling should substitute for an approved two unit use on a residential parcel. In the OOB rental market it can be too tempting for an owner to use the accessory dwelling as a means of generating income through short term rentals, or turning the property into a 2-unit property.

Planning Staff will recommend a condition be added to each ADU proposal moving forward to address the concern.

**RECOMMENDATIONS (NOVEMBER):**

Planning Staff recommends the Planning Board hold off on making a determination of completeness until:

- Information on parking is submitted
- The ADU Standard #3 is updated regarding the single electrical service meter
- Setbacks are sorted out
- A plan showing number of bedrooms/a general layout is submitted
- Resolution of outstanding Code Enforcement matters in regards to the shed and kitchen rehab.

*No Motion Necessary this month.*

**BACKGROUND (OCTOBER):**

**PLEASE NOTE:** Responses to the Accessory Dwelling Unit Standards were not received by the extended deadline of 10/2. Therefore, Planning Staff recommends that the PB table this item until the November meeting.

**ITEM 6**

**Proposal:** Conditional Use: Accessory Dwelling Unit  
**Action:** Determination of Completeness, Schedule Site Walk, Schedule Public Hearing  
**Owner:** David and Deborah Walker  
**Location:** 5 Winona Avenue, MBL: 321-5-3

<u>ADU: 5 Winona</u>	<u>Project Status</u>
<i>Sketch Plan</i>	N/A
<i>Application Complete</i>	Recommend for November
<i>Site Walk (Not Required)</i>	Recommend for December
<i>Public Hearing</i>	Recommend for December
<i>Final Ruling</i>	Pending

This proposal is to formally authorize an already constructed Accessory Dwelling Unit (ADU). During 2015, the Walker’s secured building permit approval to construct the dwelling shown in the submission. At that time, they were not informed of the ADU requirements. After recent discussions with the Walker’s, it was determined their 2015 proposal included an ADU. So, the Walker’s are moving forward with PB approval of the ADU.

As you may know, ADU’s are permissible in the R3 zoning district as long as they meet the Conditional Use Accessory Dwelling standards and Conditional Use Review Criteria. Right to the point, the owner/applicant submission demonstrates compliance with the above-mentioned standards and criteria.

As previously stated in November’s memo, staff has concerns about ADU’s becoming short-term rentals. The Walker’s state the ADU’s use is exclusively for family members when they visit. Although staff has no concerns with this ADU use as a short-term rental under current ownership, we can’t guarantee this will not happen at some point in the future- especially if ownership is transferred. So, when this proposal is voted on, it is appropriate to apply the same short-term rental conditions as those stated in this memo for other ADU’s.

**RECOMMENDATIONS (NOVEMBER):**

Staff recommends the PB determine the application complete and schedule a site walk (Note- not required for conditional use proposals) and public hearing.

***Recommended Motion:*** I will make a motion to determine the application complete for an Accessory Dwelling Unit at 5 Winona Ave., MBL: 321-5-3.

***Recommended Motion:*** I will make a motion to schedule a Site Walk at 5 Winona Ave on 6 December at \_\_\_\_ (if you choose to schedule) and a Public Hearing on 13 December.

**ITEM 7**

**Proposal:** Conditional Use: Accessory Dwelling Unit  
**Action:** Determination of Completeness, Schedule Site Walk, Schedule Public Hearing  
**Owner:** Raymond and Linda Parent  
**Location:** 2 Arbutus Avenue, MBL: 206-16-4

<u>ADU: 2 Arbutus</u>	<u>Project Status</u>
<i>Sketch Plan</i>	N/A
<i>Application Complete</i>	Recommend for November
<i>Site Walk (Not Required)</i>	Recommend for December
<i>Public Hearing</i>	Recommend for December
<i>Final Ruling</i>	Pending

The proposal is for the conversion of existing space into an ADU. The ADU is located on the ground floor which is where the shared entrance is located. According to the application, total ADU sq. ft. is 558 (500 minimum required) and 17 % of main dwelling (less than 50% required. The pictures in the submission are deceiving as the structure looks smaller than it is. The applicant/owner states the square footage at around 3,300 and a check of the net floor (finished space) area shows that’s about right (3,100). One electrical meter will be used. No site work or exterior additions are proposed.

Overall, this proposal looks pretty straight forward. The one question we have is the shared access- does it meet the 78-1272 (1): “The accessory dwelling unit shall be accessed via the living are of the primary structure, and all other entrances to the accessory dwelling unit shall appear subordinate to the main entrance.” Is the ADU accessed via the living area of the primary structure? It’s a little tough to tell- perhaps the site walk will allow us to see more clearly.

As previously stated, staff has concerns about ADU’s becoming short-term rentals. Based on the submitted information it appears this ADU will be a rental. Renting an ADU is allowed but due to short-term rental concerns it is appropriate to apply the same short-term rental conditions as those stated in this memo for other ADU’s when this proposal is voted on.

**RECOMMENDATIONS (NOVEMBER):**

Staff recommends the PB determine the application complete and schedule a site walk (Note- not required for conditional use proposals but recommended for this one) and public hearing.

***Recommended Motion:*** I will make a motion to determine the application complete for an Accessory Dwelling Unit at 2 Arbutus Ave., MBL: 206-16-4

***Recommended Motion:*** I will make a motion to schedule a Site Walk at 2 Arbutus Ave on 6 December at \_\_\_\_ (if you choose to schedule) and a Public Hearing on 13 December.

**ITEM 8**

**Proposal:** Site Plan Review: 40 x 60 Maintenance Building  
**Action:** Determination of Completeness, Schedule Site Walk, Schedule Public Hearing  
**Owner:** Seacoast RV Resort LLC  
**Location:** 1 Seacoast Lane, MBL: 102-3-7

<u>Site Plan: Seacoast RV Maintenance Bldg.</u>	<u>Project Status</u>
Sketch Plan	Submitted in July
Application Complete	Recommended for November
Site Walk	Recommend Scheduling for December
Public Hearing	Recommend Scheduling for December
Final Ruling	Pending

The PB saw this proposal back in July as a Sketch Plan. At the time it was for the addition of campsites and a maintenance building. Currently, the proposal is back for just the 40’ x 60’ Maintenance Building at the existing Seacoast RV. It will go in the area where an existing barn is located with an access road in between sites 22 and 23. This is a fairly straight forward proposal, maintenance facilities are allowed as an accessory use in the CGO. However, since the building is proposed to be greater than 1,000 sq. ft., it triggers the requirement for review as a site plan.

The setbacks in the Rural District are 25 feet (side/rear) and 50 feet from the property line. The Applicant claims that the building setback is 52 Feet from the property line. This should be shown on the plan for confirmation purposes.

Wright Pierce had a number of minor details they wanted adjusted. We recommend the Applicant address these in their next submission.

**RECOMMENDATIONS (NOVEMBER):**

Planning Staff recommends the Applicant show the 50 foot setback line on the plan-set and address the Wright Pierce comments in their next submission. The PB should make a determination of completeness and schedule a Site Walk for 5:30PM on December 6<sup>th</sup> and Public Hearing for December 13<sup>th</sup>.

*Recommended Motion: I will make a motion to determine the application complete for a 40x60 maintenance building at the Seacoast RV campground, MBL: 102-3-7.*

*Recommend Motion: I will make a motion to schedule a site walk at 5:30PM on December 6, 2018 and a Public Hearing on December 13, 2018.*

**BACKGROUND (JULY):**

This is a Site Plan proposal for the addition of 7 full utility R.V. Campsites at the Seacoast RV Resort Campground and a 40x60 maintenance building. The project right now is in the Sketch Plan review stage which gives the PB a chance to review before a formal submission is made. The Campground Overlay District allows campground expansions of up to five sites per year through an Administrative Site Plan review process. However, anything more than that requires Site Plan Review through the Planning Board.

Planning Staff began review of this proposal and noticed on the GIS and on the Zoning Maps that the Campground Overlay District does not appear to encompass the lot where the expansion is proposed (102-3-7). The green lines on the map below are the extent of the CG Overlay.



Campground Overlay (Online GIS)



Campground Overlay (Official Zoning Map)

What is interesting with this one is the approval timeline vs. when campgrounds were required to register. Our Town Ordinance says in Sec. 78-1221: *“The requirements of the campground overlay district shall apply to all campgrounds in all zoning districts, except that campgrounds in operation as of November 5, 2003 shall be included in the campground overlay district only if they are designated as a ‘registered campground’ by the planning board no later than April 1, 2004. Existing campgrounds not so registered shall be governed by the regulations for the zoning district in which they are located and, to the extent they do not comply with such zoning district requirements or with the requirements of this campground overlay district, shall be deemed nonconforming uses, subject to the restrictions and limitations on nonconforming uses contained in article III of this chapter.”* Seacoast RV was original approved by the Planning Board on April 8, 2004. The first amendment was approved on September 9, 2005 and the second amendment subsequently approved on June 13, 2013. Because the requirement to register as a campground had a deadline of April 1, 2004, the original approval and subsequent amendments came in after that deadline which would explain why Planning Staff could not find a registration packet.

In addition, each proposal that was brought before the PB labeled this parcel as “Seacoast R.V. Resort, L.L.C.” However, in the notes section of each plan, the area for the proposal is labeled as 26.5+ acres. The size of the Seacoast RV Parcel (102-3-5) is 26.5 acres according to our GIS records. However, since the plan is labeled as 26.5± it could have been intended to include the 2 acre parcel (102-3-7) which is 2 acres. Planning staff recommends that the Applicant provide additional information on this parcel to show that it should be included as part of the Campground Overlay (CGO).

Another item that Planning Staff recommends be submitted with the formal application is a current update/list of how many sites exist in the campground today as well as how many State Licenses the campground holds. According to our licensing files, the property has a total of 89 sites. It is unclear how many state licenses the campground holds.

Regarding a formal submission, this will require Plenary Site Plan Review and will have to meet the Performance Standards under Sec. 78-1229 of the ordinance which applies to any campground expansion or campsite upgrades in the campground overlay district but do not affect existing conditions, buildings or sites. This is assuming that the 2 acre parcel is located in the CGO. The applicable standards pertaining to this expansion are listed below:

- **Buffering:** The perimeter of all campgrounds and areas that abut residential properties shall be visually screened from adjacent properties in accordance with the standards of Article VIII, Division 7 (landscaping and buffering) of the zoning ordinance. One item to point out is that this may trigger the requirement for a 100 foot buffer of any property line. Sec. 78-1229(1)(c) states that *“with the exception of the main entrance and associated registration building, no campsites, recreation areas, roadways, service areas or other improved areas shall be located within 100 feet of any property line, and the 100-foot buffer shall be kept in a natural vegetated state. The*



requirements of this subsection 78-1229(1)c. shall apply to all campgrounds established after January 1, 2000 and to extensions of existing campgrounds onto land which was not part of the registered campground approved by the planning board under section 78-1226, but shall not apply to campsite upgrades and campground expansions within a registered campground.” The Planning Board will have to determine whether or not this requirement is necessary based on the materials to be submitted by the Applicant regarding the status of that parcel. On the plan, a buffer is shown, however, the size of it is not labeled.

- **Signage:** If there is signage proposed for the project, the ordinance standards say that there is no limit to informational signs within the campground. However, standards are spelled out for signage that may be viewed from a public way. This is likely not applicable in this case because the lots are proposed away from Ross Road, however, it is good to keep in mind.
- **Parking and Circulation:** For each RV Campsite, 1 off-road parking space needs to be provided. In addition, it looks like a new 20’ paved drive is proposed to access this section. The Performance Standards identify the internal roadways in a campground overlay district as driveways. Roads designated for one-way traffic need to be a minimum of 10 feet wide and roads designated for two-way traffic need to be a minimum of 15-foot wide. The proposed 20 foot drive appears to be the only means of egress and it exceeds the 15 foot requirement. However, the ordinance also says that in order to preserve the rustic character of the campground setting, driveway surface materials are permitted to remain as gravel or crushed stone, provided that the use of those materials is not determined by the PB to pose an erosion or sedimentation hazard. The proposed drive is paved. There is a stream crossing in the area so the PB may make that determination that using gravel or stone could post an erosion hazard.
- **Lighting:** No campground lighting of buildings or roads shall shed more than 0.1 foot-candles of illumination on any adjacent residential property. All external lighting shall consist of shielded luminaries or downlights so as not to produce point sources of glare and nuisances to adjacent properties and motorists on nearby streets. This should not be a problem in this section of the campground as it appears to be secluded from adjacent residential homes. There is one area adjacent to the home at 102-3-8 that they may have to worry about. The Applicant should submit foot-candle calculations for both the road serving the campsites and the proposed maintenance building.
- **Emergency Vehicular Access/Pedestrian Evacuation Egress:** The ordinance requires a 15-foot wide driveway connecting the internal campground road to a public or private street with a gravel or crushed stone surface, access gate fitted security lock system that is operable and accessible to municipal emergency services OR a pedestrian evacuation egress in those situations where the PB determines that an emergency vehicular access to a street is infeasible. The area needs to be a 10-foot wide path that connects a major driveway/footpath within the campground to an off-site path, sidewalk, or open space and is of suitable gradient and dimension to accommodate the rapid evacuation of pedestrians from the campground in the event of an emergency. An area like this may already exist in the campground but the Applicant should show how this section will connect to that.
- **Space and Bulk Requirements** for the CGO that are most applicable to this proposal:
  - **Building Setbacks** in the CGO have to meet the requirement of the underlying district which is the Rural District.
    - **Front Yard (All Structures):** 50 ft.
    - **Side Yard (Principal Structures/Detached Garages and Accessory Structures):** 25 ft.
    - **Rear Yard (Principal Structures/Detached Garages and Accessory Structures):** 25 ft.

The setbacks for the building are not shown on the plan so these will have to be explained when the Applicant makes a formal submission to ensure it meets these.

- **Campsite Density:** 1 Site/2,500 s.f. NDD for RVs, and 1 site/5,000 s.f. NDD if the campsite itself is located in the Shoreland Zone, however, that is not the case here. Portions of Seacoast RV are located in the Shoreland Zone but not these sites.
- **Minimum Site Width:** 30 Ft. for an R.V.
- **Minimum Site Length:** 40 Ft. for an R.V.
- **Setback (RV and Seasonal Campsites):** 30Ft. from Public Road, Side yard/Rear property line/residential property line.

Permitted accessory uses in the CGO which are “customarily subordinate and incidental to the permitted uses and provided that such accessory uses are reserved primarily for the use of registered occupants and visitors of the campground and not the general public” include:

- “*Registration offices, administration and maintenance facilities*” so this facility is allowed as an accessory use in the CGO. However, because it is greater than 1,000 sq. ft it triggers the requirement for review as a Site Plan.

Planning Staff also recommends that the Applicant provide information on how stormwater will be handled from the 7 additional sites and the maintenance building. If the total disturbed area is greater than 1 acre, it will trigger the requirements for Chapter 71. Having said this, the existing Seacoast RV is already subject to Ch. 71 based on the 2013 expansion and already follows the requirements under Ch. 71. This may just be a simple amendment to the documents they already have in place for stormwater including the Post-Construction Stormwater Management Plan.

The Applicant will also have to apply for DEP permits for the stream crossing and we will want to have this reviewed by Wright Pierce.

**RECOMMENDATION (JULY):**

Where this proposal is in a Sketch Plan phase, it is a good opportunity for the PB to review and discuss with the Applicant without having to make any formal decisions.

- Planning Staff recommends when the Applicant submits their formal submission that they also submit additional information on this particular parcel (102-3-7) to show that it has historically been included as part of the CGO.
- The Applicant should also provide a current update/list on how many sites exist in the CG today and how many State Licenses the Campground holds.
- And we recommend they address the bulleted items above in terms of Space and Bulk Requirements/Performance Standards.

**ITEM 9**

**Proposal:** Conditional Use: Addition to existing OOB Skatepark (Phase II)  
**Action:** Determination of Completeness, Schedule Site Walk, Schedule Public Hearing  
**Owner:** Town of Old Orchard Beach  
**Location:** 14 E. Emerson Cummings Blvd (Ballpark); MBL: 207-3-6

<u>Conditional Use: Skatepark (Phase II)</u>	<u>Project Status</u>
<i>Sketch Plan</i>	Submitted in September
<i>Application Complete</i>	Pending
<i>Site Walk</i>	Pending
<i>Public Hearing</i>	Pending
<i>Final Ruling</i>	Pending

This month the PB begins consideration of the formal OOB Skateboard Park Phase II Site Plan Review application. The Phase II expansion includes 1,600 sq. ft. of new skatepark area (slight increase from sketch plan), stormwater systems (under draining soil filter, soil filter basin, pipe) and a gravel parking area along Ballpark Way. In addition to Site Plan Review, this proposal requires a stormwater permit from MDEP.

At the sketch plan meeting, PB and staff had a few comments. The primary concern, which was also brought to our attention by the Ballpark Commission, was parking. The concern was adequate off-street parking at the skatepark was not provided which resulted in vehicles parking along the shoulder of Ballpark Way. This created potential dangers to pedestrians and vehicle flow during times of events at the ball field. This month’s submission attempts to address this by providing parking off Ballpark Way, adjacent to the skatepark. Also, and this appears to have happened after the site plan was prepared, the Ballpark Commission reconsidered and offered an official position in support of the proposal to have skatepark visitors use the Ballpark parking lot as needed (note- this was questioned during sketch plan). The Commissions support may change the skatepark needs for adjacent parking.

Staff analysis of the proposed parking as shown on the site plan finds two problems. First, Sec. 78-1542 states: “All parking stalls shall be directly accessible only from an off-street parking aisle. No stall shall be accessed through another parking stall or directly from a public street or private way.” As proposed, parking stalls are accessed directly from Ballpark Way. I believe Ballpark Way is a public street and not a driveway. Second, the plan provides for one handicap space but the space does not include the 5’ access aisle.

Sec. 78-1568 allows the applicant to seek a waiver of the off-street parking aisle standard as long as it can be demonstrated that “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.” The handicap 5’ access aisle cannot be waived.

Other comments from the sketch plan meeting include DEP permitting and how it should be treated during PB’s ruling, site lighting, adequate buffer, changes to use (more traffic, noise, etc) as a result of expansion, definitive design at time of formal submission. The responses to questions such as these are typically found in the written application (e.g., responses to review criteria) and/or the design (e.g., site plan). Its staff’s opinion the applicant’s responses to some of the Site Plan Review Criteria need additional info to clearly show the project’s conformance. Specifically, Review Criteria (d) (3), (5), (6), and (7)- Note: see submission pgs 3 & 4. Staff is confident the proposal can conform, but it must be shown.

**RECOMMENDATIONS (NOVEMBER):**

Moving forward, staff recommends submission of the following before the PB determines the application complete:

1. Revised site plan showing handicap stall access aisle.
2. If continuing with the proposed parking as shown on the 10.22.18 site layout plan, a waiver request of Sec. 78-1542.
3. Revised responses to Site Plan Review Criteria (d) (3), (5), (6), and (7).
4. Test pit results.

**BACKGROUND (SEPTEMBER):**

OOB Skatepark Phase I was approved by the PB during April 2014. Jason Webber, OOB Rec Director, is now proposing an addition to the skatepark (Phase II). Phase II includes a 1,300 sq. ft. addition to the halfpipe and a few more potential additions (“alternatives”). Proposed as a sketch plan right now, the PB has an opportunity to provide feedback before formal submission.

Some of the concerns during Phase I included hazards to pedestrians, parking, noise, glare from lights, adequate buffer, trash, crime, misc impacts to abutting properties. As I have heard and observed, overall, the skatepark has been a great success. Those who use it appear to take personal responsibility for the upkeep and oversight. I was made aware of some concerns during project construction and initial use, similar to those the PB had. But I’ve heard only good comments about the skatepark during the past few years.

The skatepark falls within the ballpark’s DEP site location and stormwater permitting. With the additional impervious surface, DEP permitting is much more comprehensive with Phase II compared to the original proposal. Wright-Pierce will oversee engineering.

Overall, this proposal seems straight forward. Quick review of the conditional use criteria and the sketch plan shows no red flags. Stormwater design will be the most technical piece of this proposal. A few comments:

- With DEP permitting having the most significant role with the proposal, does the PB think the applicant should secure all DEP permitting approvals before the PB provides a final ruling?
- Will light pole remain within skatepark? Proposed lighting locations?
- Parking still adequate?
- Buffer still adequate?
- Does the applicant expect any changes to the use as a result of the expansion? More traffic, noise, etc.
- We’ll need the definitive design at the time of formal submission.

**RECOMMENDATIONS (SEPTEMBER):**

Staff recommends the PB offer their thoughts. Motions are not necessary.