

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: October Planning Board Meeting Summary
DATE: 11 October 2012

*****APPLICANT NOTE- November PB meeting submissions due on 22 October*****

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

ITEM 1 – Town of Old Orchard Beach (Wright-Pierce Engineers – Presentation: Post Construction Stormwater Management Ordinance (MS4)

- Wright-Pierce will present the proposed Post Construction Stormwater Management.
- A summary of the ordinance is attached to this memo.
- As I understand, the PB is not required to hold a public hearing because the ordinance will not be inserted into Chapter 78 Zoning. The Council will hold a public hearing.
- This proposed ordinance is presented to the PB for information purposes- there are standards that are applicable to PB review.

ITEM 2 – Beachmont Land Development, LLC – 44 Lot Single Family Subdivision (Subdivision/Shoreland Zoning – Final Review)

BACKGROUND

- This is a new Subdivision and Shoreland Zoning proposal for the development of a 44-lot single family cluster subdivision. Also, a portion of the property associated 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 waivers requested, including proposing individual septic systems opposed to a common system which is what Cluster Subdivisions require. The PB
- 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).
- There are waivers requested, including proposing individual septic systems opposed to a common sewer system which is what Cluster Subdivisions require. The PB has discussed these with the applicant at past meetings.
- 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 requests can be granted.

- **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 useful tool.**
- **One of the primary concerns of abutters is the access to Date Street. It appears the applicant will propose a connection to Date Street but it will include a controlled access by way of a breakaway gate or bollards. Our subdivision ordinance requires subdivisions over 15 lots to provide 2 street connections for egress/ingress from the subdivision (74-309 I). While two street connections are provided, one is proposed to include the controlled access (Date St.) while the Portland Ave. access provides the primary ingress/egress. This can move forward as proposed but the PB must grant a modification or waiver of 74-309 I. When the applicant reviews the plans with public safety departments, they should specifically point this out.**
- **The applicant should check with the Fire Department (Whoever is responsible for reviewing- call main number at 934-4911), Police (Deputy Chief Keith Babin 934-5899), Public Works (Bill Robertson 934-2250), and Biddeford/Saco Water Department (Tom Carr) to be sure the proposal is ok with them.**
- **I believe there is an opportunity to provide public access for the open space adjacent to the stream.**
- **Since many of the issues associated with this proposal are more engineering related, I'm going to lean on our town engineer for review at this point in the process.**

Additional Background Info From September Meeting

- **As you may recall, there are a few outstanding items:**
 1. **Applicant's response to town engineer's comments.**
 2. **Applicant's response to staff and PB member comments.**
- **The applicant submitted a revised set of drawings and additional supporting documentation in response to staff comments, PB comments and our town engineer comments. The majority of these revisions are the result of the town engineer's comments. The written documentation provides responses as well as the plans. I believe PB members had the following comments:**
 1. **Replace the proposed gate across Date Street with collapsible bollards. *This is shown on Plan C-101 but nothing is noted in the Details Sheets. I recommend the bollards be added to the Details Sheets. Also that the applicant verify with public safety the bollards will be acceptable.***
 2. **Add warning surfaces on crosswalks. *Cast iron detectable warning plates have been added to crosswalks.***
 3. **Open space to be gifted to the town. *I don't believe this has been finalized yet or required. Is the applicant interested in doing this? Would a conservation easement work instead? This could be something worked on after final vote. Also, if this land is to be common open space the cluster subdivision has standards associated with its dedication, maintenance and use (see 74-178 (c)).***
 4. **Language in covenants that gate (or bollards now) shall remain in perpetuity. *Is perpetual ok for the language or should it be another time frame, say 25-50 years? Also, this should be a note on the plan (under General Notes) and I***

recommend it be a condition of approval. The PB just needs to determine what an acceptable time frame is.

5. Vacant land behind lots should be noted on the plan that it will not be built on or extend the property lines back to include this land within the lots. *It appears the lot lines have been extended to include this land but there is a dashed line that remains- what is the dashed line? See Plan C-103*
 6. Note on plan regarding blasting. *A note is added to General Notes (#17) on the first page of the plan set.*
 7. Note on plan that driveways cannot be within 50' of intersections. *Note added to Plan C-101.*
- In addition to the above, Steve Blais, the owner's principle engineer, provided the info below (via email):

We have made the following changes per the planning board comments (included in our recent submission):

1. We replaced the Date Street gate with collapsible bollards
2. We added cast iron detectable warning devices at the crosswalks
3. We extended the backs of Lots 7 thru 13 through the former open space in that area and added a no cut-buffer in its place.
4. We added blasting notes to the cover sheet as General Note 17.
5. We added two driveway cut details, one with and one without sidewalk.
6. We added a note that driveways will be located within 50 feet of intersections on drawing C-101.
7. We have shown the collapsible bollards on Drawings C-102 and C-304 (we had not resubmitted these drawings in our 8/1/12 submission as that change was reflected Drawing C-101, which was included in the 8/1/125 submission).
8. We updated our details so the curb shape section graphically matches.

We inadvertently left out a note regarding constructing the sidewalk after all driveway cuts are installed. This note will be added to the Drawings before printing the Mylar for signature by the Planning Board.

We are currently coordinating with the sewer department to determine if the existing sewer has capacity to take additional wastewater flows from this project.

- I received preliminary comments from the town engineer in response to the most recent submission and expect a more formal response by our 13 September meeting. Our town engineer stated based on Wright-Pierce review of the submitted information, a number of the earlier concerns have been or are being addressed through review with Maine Department of Environmental Protection. Preliminary comments:
 1. I know during the meeting we had that there was some discussion with Mr. Sweet on the depth to the groundwater table and his assessment of the seasonal high groundwater table. The test pit logs maintain the shallow groundwater levels, and I did not see any discussion regarding what the final elevation of the seasonal high groundwater table was and how it was established in relation to the bottom of the infiltration basin. I would recommend this documentation be provided to the Town for the files.
 2. There is reference to an access easement to the infiltration basin #1 which I did not see on the plans. The easement/access should extend to the basin.

3. One of the LLS from the infiltration basin #1 appears to be directed back into the site (to a low point), not towards the stream. We may want to relook at the orientation.
4. There was a note that indicated the owner would be grading/developing lots to maintain stormwater flow to the easement locations that have been defined along the northern and western side of the development. I am not sure if there is anything that needs to be done on the Towns side to address this, our concern has been making sure the stormwater reaches these areas, which if they are planning on grading to adequately convey the off-site stormwater to.

New Info

- It appears we've reached the conclusion of this proposal. I believe all comments have been successfully addressed. I have one concern and a few remaining comments.
- My one concern is the final version of the homeowner's agreement/covenants is not complete. Since the PB does not have the authority to accept the subdivision improvements it's important to ensure roads, drainage, sidewalks, lighting, etc. are acceptably constructed, maintained and upkeep. This is typically found in the homeowners docs. This is important because it ensures that future residents will reside in a safe, well maintained neighborhood.
- Note the PB does not have the authority to accept roads, common areas, stormwater treatment ponds and related drainage fields, and improvements that appear on approved plans. Applicable town ordinance and charter provisions govern who can accept these (i.e., typically Council or registered town voters through referendum vote) and the procedure for acceptance. The PB can offer a recommendation for town acceptance of the above-mentioned items, including open space.
- I recommend the appropriate person(s) be sure to supply keys to public safety for any locks on the bollards.
- If acceptable to the PB, Stephanie Hubbard of Wright-Pierce, representatives from Beachmont and I will work out the details of the performance guarantee.
- As each phase is constructed, stormwater systems must be in place (at its appropriate time) to handle drainage from that phase under construction.
- Please remember this proposal is a Subdivision, Cluster Subdivision and Shoreland Zoning proposal so you'll need to consider these ordinances when reviewing this application.
- Please remember there are two outstanding waivers. First is the waiver of the central collection and treatment system standard and to allow individual septic systems (waiver of 74-278 (b) (7)). Second, a waiver of the standard that requires subdivisions over 15 lots to provide 2 street connections for egress/ingress from the subdivision (waiver of 74-309 I). 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 requests can be granted.
- **RECOMMENDATIONS:** My remaining concern is we have yet to receive the final version of the homeowner docs. This is an important document and if not received by the date of our meeting, it must be tied to the approval of the proposal. Otherwise, I recommend the PB approve this proposal with 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 traffic exclusion device at Date Street connection to remain for 25 years. This time frame may be extended.
 3. Date Street shall not be used as a construction entrance.
 4. Lots 27 – 32 shall be graded such that surface drainage is directed towards the drainage system. Lots 28 and 30 shall be graded to direct all surface drainage from the rear of the property to the field inlets located along the down gradient side lot line.

ITEM 3 – Town of Old Orchard Beach – Edith Libby Memorial Library Expansion (Site Plan Review: Final Review).

BACKGROUND

- This proposal includes an addition to the existing library which doubles its space, expansion to the parking area and site work. All work is associated with the Bond approved by the voters last year.
- As I understand, the land where the library is located is part of memorial park and the library has control over a particular amount of this land.
- Along with the Site Plan Review Ordinance, please pay particular attention to Section 78 Division 7 (Downtown Business Districts), especially Sections 78-661, 78-686 (more for Design Review Committee but the PB should consider this), 78-687, 78-689, and 78-746 through 78-750.
- Overall this is a well-designed project to add much needed space in the library. I ask the PB to pay particular attention to building design and placement since it is in such a critical area of our town. This proposal will require a Certificate of Appropriateness (It's within the DD-2 Zoning District) which means the Design Review Committee needs to review and provide a recommendation before the PB offers a final decision.
- Exterior light fixtures- what types of fixtures are proposed and how will the light be contained so it is primarily located on-site (avoiding light spillover on neighboring properties and the park).
- Stormwater Drainage- It's my understanding there is no storm drainage system that runs along Staples Street; therefore, I question how the stormwater management system will be designed.
- The applicant should check with the Fire Department (Whoever is responsible for reviewing- call main number at 934-4911), Police (Deputy Chief Keith Babin 934-5899), 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.

NEW INFO

- There were a few remaining outstanding items including securing an ok from Bill Robertson at PW and addressing Stephanie's comments. In response, David Merrill of TFH Architects provided a memo dated 21 September and Meeting Summary dated 20 September (both included in your packet).
- It appears the applicant has adequately addressed all comments and concerns.
- I recommend the applicant provide updated plans representing all of the agreed upon items, including those items mentioned in the 21 September memo.

- **RECOMMENDATION:** I recommend the PB approve this Site Plan Review proposal.

ITEM 4 – Dominator Golf, LLC – Proposed 4 Lot, Single-Family Subdivision (Minor Subdivision: Determination of Completeness, Schedule Public Hearing and Site Walk).

- This proposal includes the creation of a 4-lot single family subdivision, relocation of sidewalks and cart paths, stormwater management and utilities.
- This proposal is located within Dunegrass on Wild Dunes Way, adjacent to the 13th Hole and Lacosta Pines. This portion of land is identified as a maintenance area and part of the golf course.
- Dunegrass Golf Course and 589-unit condo development was approved as a single subdivision project in 1988. This subdivision was divided into sections. Each section was allotted a specific number of condo units. As the subdivision has been amended and built, the condo units shifted between sections, some sections to have more units at build out and some sections less with the understanding overall project build out is capped at 589 units.
- This particular proposal seeks to transfer development rights to up to four unit sites from the unused inventory of unit sites in Section B to allow Dominator Golf to develop four single-family lots along the southeasterly side of Wild Dunes Way and northwesterly side of Hole 13 (see Memorandum of Understanding in the BH2M submission).
- It is my understanding Section B has between 71 unit sites as of 2009. I believe approximately 24 unit sites are currently being developed within Section B which would mean approximately 47 unit sites remain (not including these 4 lots); therefore, it appears the unit sites can be transferred.
- Transfer of Development Rights and units shifting between sections has been part of Dunegrass build out since the subdivision was originally approved. In fact, the PB approved a proposal very similar to this during 2009. A few of the keys to build out is to be sure open space (the golf course is significant amount of area allocated to open space) remains and the unit count remains capped at 589.

A Few Misc. Comments and Questions:

- The unit sites and stormwater is located within the maintenance and golf course area. Can the applicant show the proposal still meets applicable open space? Will the maintenance area be relocated? If so, where?
- Please verify Section B has enough units to transfer. I know there's been development within Section B since 2009.
- Please include unit count as a note on the final subdivision plan.
- I recommend the applicant provide an overall plan showing the location of the proposed 4-units on the overall Dunegrass master plan.
- I believe this proposal will require an amendment to the Dunegrass DEP Site Location permit. Status?
- Lot 4 access- will it meet site line requirements? Where will the driveway be located?
- Are the sewage pipes and pump station sized adequately for the additional lots?
- Will this proposal require amendments to the WDW Community Association Declaration of Covenants?
- Proposed street lights?
- Who will be responsible for maintenance and upkeep of the stormwater drainage systems including the infiltration pond and pipes?

- Is an easement necessary for the infiltration pond?
- Was there a reason why the existing sidewalk is curved in the area it is proposed to be relocated?
- Minimum standards note on the plan regarding setbacks- it's my understanding there are no setbacks required for individual lots within the project (Dunegrass as a whole). The setbacks are for the project area boundaries. Is the applicant proposing their own setbacks?
- Lot area- is the applicant certain these lots meet lot area requirements?
- I recommend the applicant provide responses to each of the Review Criteria (Chapter 74 – Subdivision, Article V, 74-266 through 74-277. Excluding 74-278).
- I recommend the applicant provide responses to each of the Purpose statement standards (Chapter 74 – Subdivision, 74-2 (1) through (14)).
- The applicant should check with the Fire Department (Chief John Glass 934-4911), Sewer Treatment (Chris White 934-4416), Public Works (Bill Robertson 934-2250), and Biddeford/Saco Water Department (Tom Carr) to be sure the proposal is ok with them. Please provide info of these conversations and any recommendations.
- The proposal will be submitted to Wright-Pierce.
- Public Hearings and Site Walks are not required for Minor Subdivisions. Does the PB believe we should schedule these? In my opinion I think it is a good idea.
- **RECOMMENDATIONS:** If the PB feels they can determine the application complete, I recommend it be contingent upon the applicant addressing the items mentioned above and any comments the PB may have by our next meeting. The PB should decide whether to hold a public hearing (8 November) and site walk.

ITEM 5 – Central Maine Power – 1.92 mile long rebuild to existing 34.5 kV transmission line (Conditional Use: Determination of Completeness, Schedule Site Walk and Public Hearing).

- CMP is proposing to replace the existing 1.92 mile long 34.5 kV transmission line and rebuild that line within the existing right-of-way. This line extends from the new Vallee Lane Substation to the Old Orchard Beach Substation (off school Street).
- The rebuilt line will be built to support 69 kV, but will continue to operate at the existing 34.5 kV standard. No tree clearing is part of this proposal and the rebuild will be constructed entirely within the cleared right-of-way essentially along the same centerline that exists today. The 31 pole structures will be replaced with 29 new pole structures. The height of some of the pole structures will increase.
- 3 new poles will replace 3 existing poles within the floodplain. The poles are flood-proof; therefore, they comply with applicable floodplain regulations.
- The proposal requires permits from DEP and the Army Corp of Engineers. Army Corps has permitted the project and CMP is in the process of securing DEP permits.
- I asked the applicant to address any potential off-site impacts. They provide an excellent description of the construction plan (tab 5 of the application binder) and address impacts to neighboring properties (tab 6). Note the construction schedule is January 2013 to April 2013.

- Although this project qualifies as a Conditional Use proposal, the applicable use, Installation of Public/Private Utility Facilities (78-1270), only has one standard that is somewhat associated with this proposal (standard 2).
- Because there are not many applicable performance type standards related to the proposal in our ordinance, The applicant provided responses to the Conditional Use Approval Standards (78-1240, 1-12); the Installation of Public/Private Utility Facility (78-1270, 1-4); and the applicable district standards (PMUD and R-1). These responses are included with tab 7.
- As stated above the applicant provided responses to the Conditional Use Approval Standards (78-1240, 1-12); although, I recommend the applicant revise these and provide a more detailed response for each (see 7.2 at the end of tab 7).
- There will essentially be no changes to what we see today. The most obvious change will be pole height, which may not be seen due to their location in more dense vegetation and away from roads and occupied properties.
- **RECOMMENDATION:** This is a well put together packet and addresses all items I requested during earlier meetings and communications. I recommend the PB schedule a public hearing for 8 November. In regards to a site walk, the CU ordinance states the PB may schedule one so I'll leave this up to the PB.

ITEM 6 – Stillridge LLC – Building expansion, exterior renovation and site work to multi-use commercial building (Site Plan Review: Determination of completeness; schedule public hearing and site walk)

- This proposal is to rehab and expand an existing multi-use commercial building.
- The primary changes associated with this proposal are:
 1. Interior and exterior building rehab
 2. Approximately 3,106 sq. ft. in new building construction
 3. Proposed easement to be located on land adjacent to the park, east of project site property.
 4. Site improvements including parking stripping, lighting and freestanding sign.
- The building changes are actually not major when you break them down and equal about 1,109 in new building area and 946 of existing area that will now be enclosed.
- Site work will, for the most part take place within existing areas. The majority of new construction will be on the east side of the building and include paving the existing gravel parking area and work associated with the easement (including the vegetative buffer).
- This proposal received Design Review Committee approval on 1 October 2012 contingent upon the applicant showing the window and door area of the façade is not less than 25% or more than 66% of the façade area facing the sidewalk.
- One of the tricky items associated with this project is a referendum vote is required for the work to be completed in the location of the proposed easement assuming the applicant wants to occupy the easement area for more than 3 years. The question as to whether town voters decide to grant the easement or not will be on the 6 November ballot. Currently, the Council authorized a 3 year lease (which is the maximum time frame by charter). Understandably, the applicant desires a more permanent lease and this is what the town will vote on. If the vote is in favor of granting the long-term lease the project can move forward as represented on the submitted documents. If the vote is no, the project can still move forward as proposed except the easement area will only be in effect for 3 years; therefore, any

improvements in this area may be required to be removed after 3 years. It is my understanding the applicant has an alternate plan if the easement is not approved which includes removal of a portion of the existing building. Nonetheless, I believe it is important to wait for the 6 November vote results before any firm decision is made by the PB.

A Few Misc. Comments and Questions:

- I recommend the applicant shield exterior waste haul outs and provide the method of shielding on a details sheet.
- Who will be responsible for hauling waste?
- Where will existing utility poles be located?
- I recommend the applicant provide exterior lighting details including pole and fixture type on the details sheet. Also, information showing the lighting will be acceptable for the parking area and not spillover onto adjacent properties.
- The plan identifies gravel area to be paved- please show the extent and location of the new pavement.
- Note the DD2 district has a 0' setback for mixed and nonresidential use property.
- The parking plan meets applicable parking standards for the use and the size of spaces, number of spaces and allocation for compact vehicles (not to exceed 40%).
- Imperious surface and building coverage #'s appear to vary in the submission. Please document the existing and proposed as one number throughout. I don't see this as being an issue but it will be good to have consistent numbers.
- I recommend submission of a landscape plan in accordance with 78-1798. You can choose the lighting and waste haul out shielding details.
- I recommend that all erosion control items to be removed immediately upon site stabilization.
- Where is sewer/water lines located on the property?
- It appears the plans do not have enough information to represent on-site drainage and its associated facilities. Are there any catch basins and underground stormwater pipes? Does the entire site sheet flow into the single catch basin on Heath Street? How will potential stormwater drainage impacts on-site and to adjacent properties be mitigated with the improvements including the new paved area, easement and building area? I'm curious how post development drainage will properly work.
- **RECOMMENDATION:** Although the long term easement lease has yet to be decided, I believe we can still move forward with the proposal and schedule a public hearing and site walk contingent upon those items mentioned above and any additional issues raised by the PB are addressed by the applicant.