

OLD ORCHARD BEACH PLANNING BOARD
April 6, 2017 5:30 PM (Site Walk, On-Site)
April 6, 2017 6:00 PM (Workshop, Town Council Chambers)

ROLL CALL: Eber Weinstein, Win Winch, Mark Koenigs, Chair Linda Mailhot, Robin Dube, Ryan Kelly.
Staff: Town Planner, Jeffrey Hinderliter, Town Assistant Planner, Megan McLaughlin.

CALL WORKSHOP TO ORDER (6:00 PM, Town Council Chambers)

Planner Hinderliter mentioned that the memo is not yet complete.

Regular Business*

ITEM 2

Proposal: Site Plan: Dunkin Donuts- Construct 2080 sq. ft. building and associated parking
Action: Ruling on commencement of construction 1 year extension (no plan changes)
Applicant: JFJ Holdings, LLC
Location: 14 Ocean Park Rd, MBL: 210-1-6

Planner Hinderliter stated that there is no new information on this proposal. The only thing that they are requesting is a one year project extension for the commencement of construction. We have a one year deadline on the site review. They have removed some of the cabins and they have done some asbestos abatement removal.

ITEM 3

Proposal: Major Subdivision and Site Plan Review Amendment: 9-unit residential development
Action: Discussion; Ruling on Amendment
Owner: Tom Gillis
Location: 1-3 Cascade Rd., MBL: 205-16-1

This is an amendment to a subdivision plan. This was introduced as a sketch plan during the March meeting. There are a few items that need to be looked into. Some of these items can be addressed on the final plan. We now have more of a complete plan. There are now fire hydrants. Adding some notes on the plans such as the roads are proposed to remain private. The Planning Board asked that the applicant provide impervious surface calculations proposed and he didn't see them within the material. There is a building coverage calculation which is different than impervious surface. Megan McLaughlin stated that he is not changing any of the stormwater.

ITEM 4

Proposal: Site Plan Review: Expansion of existing nonresidential (retail) building
Action: Discussion; Schedule Final Review/Ruling
Owner: Harold H. Harrisburg, Phylis I Harrisburg and Harrisburg Group Gen Partnership
Location: 9 East Grand Ave., MBL: 306-2-6

The Board Members have abutter's comments in their packets on this proposal as well as an updated plot plan. The Board was also discussing if some of the waiver requests that were presented to the board at the March meeting, whether they are applicable anymore. A few of these are applicable however the plan will require a couple of adjustments to make a majority of those not applicable to waivers. Attorney Neal Weinstein has been in contact with DEP and they are deciding what type of DEP permit will be required for this project. BH2M is working on adding some information to this site plan. Robin Dayton asked what the purpose of the loading dock will be. Attorney Neil Weinstein stated that this will make it easier to get things upstairs without blocking traffic.

ITEM 5

Proposal: Conditional Use Amendment of Approved Plan/Appeals from Restrictions on Nonconforming Uses (Overnight Cabins): Change use of 7 units from seasonal to year-round Hotel (currently 5 year-round use for a total of 12)
Action: Final Ruling
Owner: SRA Varieties Inc., D.B.A. Paul's II

1 **Location: 141 Saco Ave., MBL: 311-1-10**
2

3 Planner Hinderliter stated that there were a number of questions and comments from our last meeting for this proposal.
4 They needed to update these plans such as the parking issues. In the memo to the board members there are comments
5 from the Code Office that cover both licensing questions and occupancy permit questions.
6 Planner Hinderliter recommended to the applicants that they can change the plan and have a right turn only as an exit on
7 Union Avenue.
8
9

10 **ITEM 6**

11 **Proposal: Site Plan Review: Expansion of existing corps and admin building, parking lot construction,**
12 **relocation of Church Street, park construction, building demo, landscaping, site work**

13 **Action: Sketch Plan Review**

14 **Owner: The Salvation Army**

15 **Location: 6th St, Union Ave, Church St, Oakland Ave, 15th St; MBL: 311-6-1,12, 8; MBL: 311-4-1,2,3,4,5**
16

17 Planner Hinderliter mentioned that what this proposal shows is two options:

18 OPTION N - includes elements that assume Salvation Army's ownership of public and private property that it has
19 not yet acquired and the PB does not have the authority to decide on such matters.

20 OPTION H - Below are comments associated with Option H. These comments are primarily related to the sketch
21 plan submission and applicable Ch. 78 Performance Standards (Art. VIII). The applicant should be prepared to
22 address these as they move forward to formal submission.
23

- 24 • The side property setback is 15'. It appears some of the proposed building area is within the setback. If the
25 applicant intends to move forward with building area within the setback they should apply for a variance before
26 proceeding with PB review.
- 27 • Lots acquired by the Salvation Army, although owned by the Army, are considered separate parcels for zoning
28 purposes. This means property lines still exist along with any setback, buffer, etc. requirements. The plans show
29 parking lot area crossing the property line, too. The best way to avoid any potential limitations that may result
30 from this is by combining the lots.
- 31 • 78-1491 – 1495 (access standards for nonresidential uses) includes driveway standards such as dimensions,
32 sitting, dimensions, sight distances, etc. One particular note that will impact this proposal is one driveway is
33 permitted for each street fronting a parcel.
- 34 • 78-1541 – 1544 (parking lot and site circulation) includes parking dimensions and layout, snow removal and
35 landscaping. 1541- do the pedestrian sidewalks meet (f)? How about pedestrian sidewalks for new parking
36 between Church and Union? 1542- Don't forget (f) wheel stops and curbs. 1543- need snow removal plan.
37 1544- remember screening and buffering plan is needed when adjacent to properties not acquired by the Army
38 including those along Oakland and Church. Street trees in accordance with 78-1771 -1775 needed along Union,
39 Church and 15th.
- 40 • 78-1566 – 1568 (required parking spaces) identifies church uses at 1 space per 6 seats in principle sanctuary or
41 meeting. One question- if the space is used for non-church functions should another parking space standard be
42 considered?
- 43 • 78-1591 – 1596 (off-street loading). It appears the area ID as Service Area is the proposed loading area. A few
44 thoughts- is there enough room to turn around without backing on the street? May need more buffering along
45 Church St. if the residential properties are not acquired. Need to show lighting.
- 46 • 78-1746 – 1827 (landscaping and buffering) includes landscaping and buffering standards primarily for the
47 building. Some of these standards, such as street trees, are also applicable to parking lots.
- 48 • The proposal will most likely be required to meet applicable standards in our post-construction stormwater
49 ordinance (Ch. 71).

50 Eber Weinstein mentioned that we may want to look into regulations relative to religion being that you can't turn down
51 certain things for religious organizations.

52 Planner Hinderliter mentioned that parking is something that we will also look into.
53

54 **ITEM 7**

55 **Proposal: Subdivision Amendment: Revise Pacer Avenue Subdivision to add 1 Estate Lot**

1 **Action:** Discussion; Ruling on Amendment
2 **Owner:** Ronald A. Patoine
3 **Location:** Trotter Lane, MBL: 105-4-34
4

5 This is basically an addition of one new house lot of an existing subdivision. This is an estate lot and these have certain
6 requirements. The advantage of an estate lot is that you don't need the whole frontage that is required.
7

8 **ITEM 8**

9 **Proposal:** Subdivision Final Plan Amendment: Amend Final Plan to reflect as-built conditions (parking,
10 landscaping)

11 **Action:** Discussion; Ruling on Amendment
12 **Owner:** Summer Winds Homeowners Assoc.
13 **Location:** 180 Saco Ave, MBL: 208-1-1
14

15 Megan McLaughlin stated that in November of 2016 the preliminary plans for Summerwinds was voted down. One of the
16 conditions was that they come back with an as built plan showing what was constructed on the site that wasn't in
17 accordance with the plan. They have submitted a cover letter and an as built plan. The board also have staff comments
18 from Dan Feeney, Code Official regarding some extra bedrooms in some of the units. We also received some comments
19 from abutters. There is no legend to show trees that were added or taken away. It just shows parking and walkways.
20

21 **ITEM 9**

22 **Proposal:** Conditional Use, Subdivision Amendment; Site Plan Amendment: 6 unit condominium expansion
23 (Summerwinds II)

24 **Action:** Revised Preliminary Plan Review and Ruling; Schedule Final Review/Ruling
25 **Owner:** 180 Saco Avenue Development LLC
26 **Location:** 180 Saco Ave., MBL: 208-1-1
27

28 This is what they are proposing now for additional units. Included is the cover letter and the preliminary plan and we had
29 asked for a calculation for impervious surface and they have provided that as well as addressing some of the conditions
30 that the board had asked for in the Wright Pierce memo from October 12, 2017. This information has not been reviewed
31 by Wright Pierce because the applicant wouldn't provide the town with an escrow. Bernie Saulnier indicated that once
32 they get the approvals they will write the check.

33 They are resubmitting the preliminary plan to seek the Planning Board's approval to get to the final plan.
34

35 **Other Business**

36 **1. MS4 Presentation by Wright-Pierce**

37 Megan McLaughlan told the Board Members that Wright Pierce is here tonight to give a presentation to the Planning
38 Board on the MS4 program for stormwater.
39

40 Christine introduced herself. Christine has worked with the town since 2008 on MS4 permitting compliance.
41

- 42 • ***What is MS4: This is the towns program system:***

43 M – Municipal

44 S – Separate Storm Sewer System.

45 A conveyance of gutters, catch basins, storm drainage, ditches or any manmade conveyance that transfers water
46 from the road, impervious areas to waters of the state. The town is regulated for whatever stormwater enters the
47 MS4 and discharges to the waters of the state.
48

- 49 • ***Who has authority over this permit:***

50 MS4 is an unfunded federal mandate that stems from the clean water act in the NPDES (National Pollutant
51 Discharge Elimination System.
52

53 In Maine the DEP is delegated to administer this permit for the EPA.
54

- 55 • ***What is a regulated municipality?***

1 There are 30 communities in Maine that are regulated under this permit. Regulated means that they have this
2 MS4 stormwater permit. You get pulled in into the permit based on an urbanized area. Portland is the central area.
3 Old Orchard Beach is part of the inter-local stormwater working group which is all the communities in the Casco
4 and Saco Bay areas. There are 14 communities that make up that group and they work jointly together on some
5 of the issues based on the MS4 program. The purpose of the program is to improve water quality. Stormwater is
6 rain or snow melt that doesn't soak into the ground and runs off. Pollution is anything on the roads and parking
7 lots and that gets washed away into the water supply. (sand, sediment, chemicals, excess salt, trash and debris
8 etc).

9 MS4 permits run in 5 year periods. This first one was initiated in 2003 so we are currently in the 3rd generation of
10 the permit. Due to expire in 2018. Then start another 5 year permitting. Each cycle has more requirements that
11 the town has to follow. Participation is required by most departments.

12 Some of the requirements of the program have to start with the stormwater program management plan. This tells
13 DEP how the town plans to meet the requirements. There is an annual fee associated with the permit. The permit
14 is made up of 6 MCM (Minimal Control Measures) areas of focus:

- 15
- 16 1.) Public Education and Outreach
- 17 2.) Public Participation and Involvement
- 18 3.) Illicit Discharge Detection and Involvement
- 19 4.) Construction Site Runoff Control
- 20 5.) Post Construction Runoff Control
- 21 6.) Pollution Prevention and Good Housekeeping
- 22
- 23

24 This is something that is required by the Federal Government and the town pays for it.

25 Eber Weinstein was curious to find out if anyone has done a study to see what it would cost us for the compliance.

26 Mr. Weinstein asked how the audit was for the Town of Old Orchard Beach.

27 Ms. Hubbard stated that there were some deficiencies noted, however the town did very well.

28

29 Mark Koenigs asked if they had any plans pertaining to a stormwater management plan for the old transfer station yard.

30 Does the town have its own requirement for their own properties?

31 Ms. Hubbard stated that the town has some of its own requirements.

32

33

34 **2. Discussion: Appeals from Restrictions on Nonconforming Uses (78-180)**

35 If any such nonconforming use of a structure ceases for any reason for a period of more than two years, any subsequent
36 use of such structure shall conform to the regulations specified by this chapter for the district in which such structure is
37 located and the whole intent of the appeals from restrictions on nonconforming uses standard is to offer an appeal of 78-
38 177 & 179 to allow the owner of a nonconforming use or structure to extend the nonconforming time frame beyond the 2
39 year expiration up to 10 years. This is because 78-177 & 179 allows what 78-180 does for up to 2 years. It is 78-180 that
40 allows an owner to extend this 2 year expiration to 10 years through the Appeals from Restrictions on Nonconforming
41 Uses process. With the above our approach to amending 78-180 changes. Before we formalize any amendment and
42 submit for the PB's 1st reading the following questions and comments should be discussed:

- 43
- 44 1. Should we just let the standards in 78- 177 & 179 limit the continuance of nonconforming use of land
45 and structures at 2 years and not offer an appeal through the PB? The way I interpret this is it would cap
46 nonconforming use and structure enlargement, increase, extension, movement, reconstruction, alteration,
47 or resumption at two years, period. If this is what we decide than 78-180 could be entirely deleted
48 because 78- 177 & 179 appears to cover it.
- 49 2. Should we do as suggested in #1 but permit some flexibility by allowing people to improve their
50 nonconforming use of land and structures beyond 2 years? If so, how much flexibility and what do we
51 consider an improvement?
- 52 3. Should we keep 78-180 and still offer the appeal through the PB but shorten the 10 year time frame? If
53 we decide to keep this standard I suggest something like: "...for a period of more than two years, but
54 less than five years".

- 1 4. Should we keep the same time frame and general language in 78-180 but change the authority to rule on
2 the Appeals from Restrictions on Nonconforming Uses to the ZBA and leave PB with authority to rule
3 on conditional use? If we do this the amendments could become a bit more complicated because the
4 ZBA has specific statutory authority- we would just need to check on this. Also, the ZBA should be
5 included in our discussions.
6

7 The majority of the Board Members would like to go with option #1.
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10 **3. Discussion: Planning Board approval expiration for subdivision, site plan and conditional use** 11

12 The proposed changes to subdivision, site plan and conditional use approval expiration were introduced to
13 the PB at the March workshop. The PB offered comments and questions which include the following:
14

- 15 • The expiration clock begins when a project receives “final approval”. Do we consider final approval as
16 the day the PB votes on the project or signs the mylar? Should final approval be defined?
- 17 • Administrative review of project commencement and substantial completion. Should staff have the
18 ability to authorize project extensions? If so, should it be limited to those projects that are originally
19 approved administratively or should it include PB approved projects? As proposed, subdivision does
20 not allow admin review. Site plan and CU allows for admin only if it was originally approved as admin.
- 21 • Should we set a specific limit to the number of extension requests? It was suggested to we limit the
22 number to 2 one year requests for project commencement and substantial completion.
- 23 • Should we define “intended purpose”? Intended purpose is used in the substantial completion
24 definitions: “sufficiently completed to allow the subdivision to be used for its intended purpose.”
- 25 • Are expiration dates on subdivision projects legal? Staff checked with legal and yes, we can add
26 expiration dates. This gets tricky when the subdivision includes lots and the lots are recorded. If a
27 subdivision expires it’s quite possible the ability to developer the lots will expire too. So it could
28 become a bit of a messy title and assessing matter to undue the lots. Also, what if the subdivision is half
29 developed but not substantially complete and people are living in homes on these lots? We can assume
30 the town will have a performance guarantee in place to finish the infrastructure but there’s a possibility
31 of something unforeseen. Maybe the expiration dates should be tied to infrastructure but what if the
32 subdivision involves construction of a condo building where infrastructure may be minimal?
- 33 • Reach out and encourage developers to begin and complete projects. As we’ve found this can be tough
34 because the reason vary and are sometimes caused by unpredictable events. Examples, market
35 conditions, death, divorce, etc. Staff can contact developers when project expiration dates approach but
36 there’s not much we can do beyond finding out the reasons for delay and trying to work with them to get
37 projects started and completed. Maybe having an expiration date will in itself encourage developers to
38 begin and complete projects.
39

40 Assuming we can resolve the remaining issues at our April workshop, staff can prepare formal ordinance
41 amendments that will reflect the proposed language below, along with any changes, for the PB’s 1st
42 reading at the May meeting.
43
44

45 Eber Weinstein mentioned that there is a problem with run off at the end of the new project at the Village at Pond View
46 Woods. Both that project and Beachmont is contributing to that run off.
47

48 **Good & Welfare** 49

50 Mark Koenigs mentioned that there will be an April stools day at the beach to help educate people to pick up their animal
51 waste. Maine healthy beaches will have a table set up.

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ADJOURNMENT

Meeting adjourned at 7:47 pm

LINDA MAILHOT, CHAIRPERSON

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Six (6) pages is a true copy of the original minutes of the Planning Board Meeting of April 6, 2017.

