

1 **OLD ORCHARD BEACH PLANNING BOARD**  
2 **August 3, 2017 5:00 and 5:30 PM (Site Walks, On-Site)**  
3 **August 3, 2017 6:00 PM (Workshop, Council Chambers)**  
4

5 **PRESENT:** Mark Koenigs, Win Winch, Robin Dube, Chair Linda Mailhot, Vice Chair  
6 Eber Weinstein, Ryan Kelly. **ABSENT:** Mike Fortunato.

7 **STAFF PRESENT:** Planner Jeffrey Hinderliter and Assistant Planner Megan McLaughlin.  
8

9 **Site Walk (5:00 PM, on-site)**

10 **Proposal:** Site Plan Review: Expansion of existing corps and admin building, parking lot  
11 construction, building demo, landscaping, site work

12 **Owner:** The Salvation Army

13 **Location:** 6<sup>th</sup> St, Union Ave, Church St, Oakland Ave, 15<sup>th</sup> St; MBL: 311-6-1,12, 8; MBL: 311-  
14 4-1,2,3,4,5  
15  
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17 **Site Walk (5:30 PM, on-site)**

18 **Proposal:** Conditional Use (Home Occupation): Psychic Readings

19 **Owner:** Mary & Greg Desjardins

20 **Location:** 94 Saco Ave, MBL: 206-5-10  
21

22 **CALL WORKSHOP TO ORDER (6:00 PM, Town Council Chambers)**  
23

24 **ITEM 1**

25 **Proposal:** Site Plan Review: Expansion of existing nonresidential (retail) building

26 **Owner:** Harold H. Harrisburg, Phylis I Harrisburg and Harrisburg Group Gen Partnership

27 **Location:** 9 East Grand Ave., MBL: 306-2-6  
28

29 Planner Hinderliter stated that in his memo, applicants Attorney Neal Weinstein has responses to the  
30 questions from the Board.

31 There are also new comments regarding applicant's July 24<sup>th</sup> submission.

32 Attorney Weinstein also provides the revised building plan which includes the platform gone.

33 Lisa Gribbin, neighbor and concerned citizen had concerns and made a submission for the board and also  
34 provided photographs.

35 Board members have attorney's letter. Memo goes through some outstanding items such as:

- 36 • Construction
- 37 • Loading and unloading plan
- 38 • Warehousing / Storage  
39

40 Planner Hinderliter stated that we are not reviewing the entire property, we are just looking at the  
41 expansion of a second floor of the building.  
42

43 The applicant will need to go through a whole new DEP permitting process.  
44

45 There are 6 waivers. The Board needs to grant:  
46  
47

48 **Waivers**

1 Based on the applicant's submissions, it appears waivers of the following Site Plan Requirements  
2 are needed in order for the PB to approve this project:

- 3
- 4 1. 78-215 (3) a. The portion that reads: Property boundary survey class 1, signed and sealed  
5 by a state-licensed land surveyor. Note: a plan was submitted but it is not sealed and  
6 states no boundary survey for this parcel has been performed.
- 7 2. 78-215 (3) a. The portion that reads: topographic elevations at a contour interval of no  
8 more than two feet.
- 9 3. 78-215 (3) a. The portion that reads: location and elevation of all existing and proposed  
10 structures. Note: The existing structure is shown but does not include an elevation.  
11 Regarding the proposed structure, it may be built in the same footprint but the overhangs  
12 will reduce the identified distance to property lines by 1' so the distances shown on the  
13 plan are not accurate.
- 14 4. 78-215 (3) g. The dimensions and layout of all building and zoning setback lines.
- 15 5. 78-215 (3) i. Location, dimensions, and layout of all existing and proposed built  
16 elements, including buildings and structures.
- 17 78-215 (3) n. Photometric data of existing and proposed exterior lighting.
- 18

19 The Planning Board must rule on the proposal within thirty days of the public hearing unless the applicant  
20 agrees to extend this deadline.

21 We have new Department comments from the Police Dept. and Fire Dept. with traffic concerns on  
22 Kinney Ave.

## 23

### 24 **RECOMMENDATIONS**

25 The PB should first rule on the waivers. If the PB does not accept one or more of the waivers or  
26 cannot apply a condition to ensure its compliance at a later date than the PB cannot approve the  
27 proposal as submitted. Second the PB should review the applicant's response to the requested  
28 items. This includes discussion about items such as warehousing. Third, do comments received  
29 at the public hearing warrant further review from the PB. Finally, does the PB feel they are  
30 prepared to rule on the proposal. If so, what, if any conditions should be attached.

### 31

### 32 **ITEM 2**

33 **Proposal:** Major Subdivision: 20 lot cluster subdivision for single-family residential use  
34 (Eastern Trail Estates)

35 **Owner:** Ross Road LLC

36 **Location:** Ross Rd, MBL: 107-1-4, 14 & 16

37

38 Megan McLaughlin stated that this proposal is up for a preliminary plan vote. They had a site walk and  
39 public hearing. We have updated plans and Wright Pierce comments.

40 Linda, Jeffrey and Megan went out to the site with Randy McMullen from DEP. Concerned about it being  
41 previously used as a junkyard. Mr. McMullen stated that the materials underground are not likely to cause  
42 any issues. He recommends that the applicant talk with homeowners and let them know if they find  
43 anything when building their homes.

### 44

### 45 **Waivers:**

46 We still have to deal with the 2<sup>nd</sup> means of egress for having over 15 lots. The Applicant submitted a  
47 deed in the August submission states that they may have an easement to use Easy St. but we need to get  
48 the deed reviewed by the Assessor and possibly the attorney.

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**Site Distance:**

They are asking for the 30% reduction for the single unit truck and that requires the Planning Board to grant a waiver and has to meet the waiver requirements. They will have to submit a formal waiver request.

Outstanding questions on the Saco piece but no responses in the August submission addressing these comments:

- Are there elements in this proposal that need that Saco piece of the development to be constructed in order for the OOB piece to function properly.
- Question about the infrastructure.
- Bill Thompson from BH2M said that they would have public access to Eastern Trail, however there is nothing on the plan to say how that will work.
- Cluster development standards. There was a question on lot #4 that only had 70 ft. of frontage. §74-278 of the ordinance says that “all planned unit developments and cluster development shall meet the requirements for a residential subdivision, including planning board approval, except those requirements related to layout, setbacks, frontages and areas.” This is how the applicant was able to have 70 feet of frontage for lot 4.
- Have Wright Pierce comments.
- Wastewater is the only staff who provided comments: If this is going to be on septic tanks he has no concern. If they will be on public sewer he will take a closer look.
- Some concerns about having one means of egress and snow storage. Bill Thompson mentioned that there will be no issues with snow storage. Although Public Works Director Joe Cooper has some issues with this.

Our recommendation is if the preliminary plan vote is granted that it should be conditioned that they submit more information for several outstanding items.

Eber Weinstein asked if the water supply is going to be looped or are they going to wait until it goes to Saco to loop it?

Planner Hinderliter stated that it comes from the Eastern Trail so it would come from Saco.

**ITEM 3**

**Proposal:** Site Plan Review: Expansion of existing corps and admin building, parking lot construction, building demo, landscaping, site work

**Owner:** The Salvation Army

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

Scheduled for public hearing and final review.

Regarding the three primary issues:

1. Waiver request. The PB granted the waiver at the July meeting.

- 1 2. Full boundary survey. The applicant states an updated boundary plan will be provided before the  
2 start of construction. A class 1 survey was provided but does not include some recent info.  
3 According to the applicant the recent info does not impact the area associated with the proposal.  
4 The PB appeared to be comfortable with accepting the submitted boundary survey and applying a  
5 condition.
- 6 3. Grading and drainage comments in Wright-Pierce memo. The applicants August submission  
7 addresses Wright-Pierce comments. Wright-Pierce appears to have three concerns with the  
8 applicants most recent response (31 July): ownership of some of the utility lines, town's ability to  
9 access and maintain utility lines, "continued ponding" of stormwater.

10  
11 Fire Departments primary concern is granite curbing with the sharp edge. However according to the plans  
12 it is going to be concrete curbing.

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14 Recommendations:

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16 Our concern is the Wright-Pierce comments regarding ownership of some of the utility lines, town's  
17 ability to access and maintain utility lines, and "continued ponding" of stormwater.  
18 If the new issues are not brought to the PB's attention and the Board is comfortable with conditions, Staff  
19 recommends approval with the following conditions:

- 20 • An updated boundary survey shall be submitted to the town before construction begins.  
21 • Ownership of utility lines, the town's ability to access and maintain utility lines, and "continued  
22 ponding" of stormwater shall be resolved to the satisfaction of planning staff, Public Works  
23 Director and Wright-Pierce before construction begins.

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25 **ITEM 4**

26 **Proposal: Conditional Use (Home Occupation): Psychic Readings**

27 **Owner: Mary & Greg Desjardins**

28 **Location: 94 Saco Ave, MBL: 206-5-10**

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30 The home occupation standards state a home occupation shall be carried on wholly within the  
31 principal single-family detached dwelling unit or owner-occupied two-family dwelling.

32 This property was non owner-occupied, it was being leased.

33  
34 In response to the PB's condition, a lease agreement with a tenant purchase option (Exhibit O)  
35 has been submitted. A few comments concerning this submission:

- 36  
37 • The lease agreement term is June – November 2016. Is there updated documentation to  
38 show the term was amended or the lease agreement renewed?
- 39 • According to the tenant purchase option, the option expires on 1 Dec. 2017 if not  
40 exercised. What if the PB approves the proposal and the option expires after approval?  
41 What assurances or guarantees can be given to ensure option will be exercised? The PB  
42 may want to consider a condition that tie into the business license. This could state  
43 something like: Any business license approval associated with this home occupation  
44 approved by the Planning Board shall expire on \_\_\_\_\_ unless the operator of the home  
45 occupation provides proof that the operator owns the property on or before the expiration  
46 date. This condition shall be stated on the approved business license. The  
47 operator/future owner should provide the PB with an update.

- In the lease agreement, 10 c states no business of any sort shall be conducted at the premises. Does the operator have the owner’s permission to use the property for the proposed home occupation?

The Planning Board can set hours of operation.

The 2 issues to be concerned about is owner/occupied and signage.

**Other Business**

**1. Discussion: Food Trucks/Food Stands**

On 2 August 2017, the Council enacted a moratorium on mobile food businesses. The moratorium defines mobile food businesses as “any business not qualifying as a restaurant or convenience store and offering for sale foodstuffs to be consumed by the public off premises, as the term Food Stand is defined in Chapter 78 of the Code of Ordinances of the Town of Old Orchard Beach, and including, in addition to food stands, food trucks and food carts.” The moratorium was enacted in response to concerns associated with food trucks and how mobile food businesses are regulated. Below are comments concerning moratorium key points, current language, current language interpretation, discussion points, and next steps.

**Food Stand Definition**

Food stand means any business not qualifying as a restaurant or a convenience store as defined in this section, and offering for sale foodstuffs to be consumed by the public off premises.

**Food Stand Permissible Locations, Setbacks, Sales**

Sec. 78-717. Permitted uses in the downtown district 1 (DD-1) shall be classified as follows:

(1) Primary uses. Primary uses are as follows:

g. Food stands (located between First Street/Milliken Street and the beach) with a minimum ten-foot setback from the front property line.

Sec. 78-1083. Permitted uses in the amusement overlay district (AO) shall be classified as follows:

(2) Complementary uses. Complementary uses are as follows:

d. Food stands with a minimum of a ten-foot setback from the front property line.

Sec. 50-246 (Streets, Sidewalks, and Other Public Places Ordinance). Outside Solicitation of Sales (Note: this may apply- see comments in Current Language Interpretation, below)

No person shall engage in the solicitation, sale or rental of any goods, wares or merchandise outside the enclosed portion of a building.

We are tasked with developing standards that limit the licensing of food trucks and mobile food business. The areas that they are allowed, depending on the interpretation on the current ordinance is in the Amusement Overlay District/Palace Playland.

1 The council would like these businesses in permanent structures.  
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3 **2. Discussion: Future Workshop Items**  
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5 At the PB's August meeting, its staff's hope the Board will provide us with some guidance to  
6 assist us with development of ordinance standards. We will have draft ordinance standards  
7 prepared for the PB September meeting.  
8

9 Good & Welfare  
10

11 ADJOURNMENT: The workshop meeting adjourned at 7:29 pm.  
12

13 \*Note: Workshop Agenda Public Hearings and Regular Business items are for discussion purposes only.  
14 Formal decisions on these items are not made until the Regular Meeting.  
15

16 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*  
17 *Beach, do hereby certify that the foregoing document consisting of six (6) pages is a true copy of*  
18 *the original minutes of the Planning Board Meeting of August 8, 2017.*  
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