

**TOWN OF OLD ORCHARD BEACH
PLANNING BOARD MEETING
Thursday, August 9, 2018
MINUTES**

A meeting of the Planning Board was held in the Council Chambers on Thursday, August 9, 2018. The Chair opened the meeting at 7:01 p.m.

PRESENT: Robin Dube
David Walker
Vice Chair Win Winch – Yes
Chair Linda Mailhot - Yes

ABSENT: Marc Guimont
Mark Koenigs
Gary Gannon

STAFF: Planner Jeffrey Hinderliter
Associate Planner Megan McLaughlin

PLEDGE TO THE FLAG:

APPROVAL OF MINUTES:

The Chair called for the approval of the Minutes of the Regular Meeting of June 14, 2018 and the Workshop of July 5, 2018.

MOTION: David Walked motioned and Vice Chair Win Winch seconded to Approve the Minutes as read.

VOTE: Unanimous.

REGULAR BUSINESS:

ITEM: 1

Proposal: Major Subdivision: 10 Lot Residential Subdivision (Red Oak Phase III)
Action; Discussion: Final Ruling
Owner: Mark & Claire Bureau
Location: End of Red Oak Drive

At the July meeting the Planning Board tabled the proposal. Planning Staff provided the Board with a “Red Oak Correspondence Document” dated 7/12/18 that highlighted some of the remaining items. The Planning Board was provided with comments from Wright Pierce dated 7/30/18 and a final submission from the Applicant including a comment response letter, HOA documents, Post-Construction Stormwater Management Plan (PCSWMP) and a revised set of plans.

Discussion involved the town staff’s request for modes street lighting throughout the development for first responders and security. The Applicant has shown light poles on the most recent plan set and these are locations where the electricity will be buried. That way, if lighting is required in the future, it can be installed without

having to dig up the roadway. The Associate Planner indicated that the Planning Board should determine if the Applicant should be required to provide street lighting as requested or only if they petition the Town to accept the street as identified in their proposed condition. The Associate Planner indicated that the staff felt that the Application is complete now and that there are nine conditions that are recommended the Planning Board add to the vote.

Planning Staff feels that the Application is complete now, there are nine conditions that we recommend the Planning Board add to the vote. It seems like a lot but Planning Staff feels that they are necessary for the project. An explanation on each of the conditions and why we felt they were necessary has been highlighted in green below.

- 1. Should the plan be amended to include a 15th lot that is accessed by Red Oak Drive, an amended subdivision plan shall be provided to the Planning Board that includes a second means of egress. **We are recommending this condition to address the requirement in our ordinance for a second means of egress for 15 or more lots****
- 2. All stormwater ponds and lot specific stormwater BMPs shall be the responsibility of the Homeowners Association in perpetuity. The Developer and subsequent Homeowners Association shall enter into a Maintenance Agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements. **We are recommending this condition to ensure the Town does not become responsible for stormwater infrastructure. A signed maintenance agreement between the Developer/HOA and Town ensures that the Town is not responsible for maintenance/repairs to stormwater infrastructure that is privately owned. It protects us down the road. This is a standard condition that will likely be added to all subdivision projects moving forward****
- 3. All residential lots shall provide stormwater treatment in accordance with the overall conceptual stormwater master plan, Sheet C-104 of the project plan set. Lot specific BMPs include: (See individual BMP installation and maintenance notes this sheet) **We are recommending this condition in light of some issues we encountered with another subdivision project that had lot-specific BMPs (e.g. rain gardens, drip edge filters, etc.). At another project, lot-specific BMPs were approved by the Planning Board and when the project got into the construction phase, the lot-owners/Contractors, etc. did not know they were a requirement. They constructed the homes and were ready to get their occupancy permits and the Town had to either hold them up or condition the occupancy on the BMPs being installed. In that specific case, they constructed the homes without planning for the required rain gardens, most did not know they were required. While the onus is on the homeowner/Contractor to look at the plan prior to/during construction, there is some responsibility on the Developer as well to convey this information to the homeowners. Including this condition with specific notes (listed below A-I) for all 9 lots will ensure everyone is on the same page in terms of where the stormwater should be going and what is required for each lot, specifically. It makes it clearer and it is also on the front page of the plan set which is what is referenced the most, including in our Codes Department. On another note, this may be something the PB wants to have a workshop on down the road. How do we address subdivision projects with lot-specific BMPs, do we always require conditions like this or is there a better way to do it****

- a. Lot 1 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - b. Lot 2 Development shall include a roof drip edge filter BMP and be routed to the Lot 2 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - c. Lot 3 Development shall include a roof drip edge filter BMP and be routed to the Lot 3 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - d. Lot 4 Development shall include a roof drip edge filter BMP and be routed to the Lot 4 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - e. Lot 5 Development shall include a roof drip edge filter BMP and be routed to the Lot 5 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - f. Lot 6 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - g. Lot 7 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
 - h. Lot 8 development shall include a roof drip edge filter BMP and be treated by the dedicated 150' limited disturbance wooded buffer. The buffer shall be deed restricted and recorded prior to the issuance of a building permit on Lot 8.
 - i. Lot 9 development shall include a roof drip edge filter BMP and be routed to the Lot 9 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
4. Any amendments to the overall conceptual stormwater master plan shall be designed and stamped by a Maine Licensed Engineer and submitted to the Planning Department for review prior to implementation. Changes to the overall conceptual stormwater master plan may require Planning Board approval. ****We are recommending this condition in case the above stormwater improvements need to be amended. It requires the Owner, Developer, or Contractor come back to the Town for re-approval, either Administratively or through the PB depending on the extent of the changes****
 5. Lot developers shall retain the services of a Maine Licensed Engineer to inspect and certify that the lot specific stormwater BMPs were installed and constructed in accordance with the BMP manual. Documentation and certification by the Engineer shall be submitted to the Town of Old Orchard Beach within 30 days of completion. ****We require through our infrastructure-inspection procedures stormwater ponds to be certified by the Engineer of Record for the project. Most of the projects we see include a few specific stormwater BMPs (e.g. a stormwater pond) but this one includes BMPs at each of the lots (i.e. drip edge filters, etc.). We need to ensure the lot-specific BMPs are certified by a licensed Engineer and that the Engineer is on-site during construction of the BMPs so we can ensure they are constructed properly. This protects us down the road should a homeowner come in and say they are having issues, we can point to a document and say the BMPs were constructed**

in accordance with the plan, here is the report. We receive these for stormwater ponds, etc. but it is important we receive them for lot-specific BMPs as well**

6. Total wetland alterations as the result of the infrastructure development shall be limited to 1,045 square feet as shown on the approved plan (See Sheet C-102). Wetland alterations within the residential lots shall not be allowed without amendment of the plan via Town Planning Department review. Additional wetland impact may require a Maine Department of Environmental Protection NRPA permit for wetland alteration exceeding 4,300 square feet. **This condition was recommended by WP to ensure the wetland fill areas are clearly identified**
7. Before building permits are issued for each individual lot, the applicant or owner shall demonstrate compliance with all applicable DEP regulations. **This is a bit of a different situation because the lots are intended to be sold as undeveloped lots. Single-family residential lots are exempt from MDEP review, however, there may be some aspects of construction that would require DEP review and the Applicant wants the Town to be covered. The Applicant will explain this further at the meeting**
8. This approval does not constitute a resolution in favor of the Applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgement that the Applicant does not have the legal right to use the land as proposed in the application, this approval shall not have any force or effect. **This condition was recommended by our Town Attorney in case there is an issue with the deed associated with Lot 7 as discussed in the earlier phases of the project**
9. Should the Applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with the Town standards, including the provision of adding acceptable street lighting in conformance with the Town street lighting standards. **This condition was recommended by Wright Pierce. If, in the future, the Developer requests the Town take over the road, they will need to show documentation that the initial portion of the road (constructed in 2004/2005) was in conformance with Town standards and the onus is on them to do that, not the Town. In order for the Town to consider accepting this portion of the road, they would need to consider the initial portion as well because that is the access to this phase.**

The Associate Planner indicated that there is one condition on the plan that Planning Staff recommends be removed (#8) regarding lots sold in an undeveloped state. This is already covered in #7.

Jason Vafiadis from Atlantic Resources – Consultants for Claire and Mark Bureau indicated that the subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetic, historic sites or rare and irreplaceable natural areas. He also stated that he did not see the importance of the additional lighting requirements although they have presented what has been requested. Vice Chair win Winch said he felt that was short-sighted but agreed to move forward. Member Dube asked about the continued attention to Phase 1 and 2 and Mark Bureau indicated that he was still providing maintenance and plowing services at this time. It was noted that this development is home to most professionals and is an expense development.

The Chair then read into the Minutes the updated responses to the Subdivision Criteria: Section 74-2: In approving subdivisions within the Town, the Planning Board shall consider the following criteria and before granting approval shall determine the following:

(1) The proposed subdivision will not result in undue water or air pollution. In making this determination it shall at least consider the following:

- a. The elevation of the land above sea level and its relation to the floodplains;***
- b. The nature of soils and subsoils and their ability to adequately support waste disposal;***
- c. The slope of the land and its effect on effluents; and***
- d. The applicable state and local health and water resources regulations;***

Response: The project will not create undue water or air pollution during or after construction. There is no proposed development within any floodplain; the soils are suitable for development and waste disposal and property slopes are stable and support development to the most practicable extent. The project complies with all state and local health and water resource regulations.

(2) The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

Response: The project will be served by public water and will readily have water available for the foreseeable future.

(3) The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

Response: The project will be served by public water and due to its relatively small impact to the Maine Water company's supply and transmission infrastructure, will not have any burden on the water supply.

(4) The proposed subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

Response: The project will be constructed to meet the requirements of the Basic Standards of Chapter 500 of Maine Stormwater Law and will also be constructed in accordance with Chapter 71 of the Town of Old Orchard Beach Land Use Ordinances.

(5) The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

Response: The project will result no unreasonable impacts on the highways or public roadways. According to the ITE manual, 9 additional residential lots results in only 90 total daily trips and 9 peak hour trips, which does not trigger any State traffic permitting requirements.

(6) The proposed subdivision will provide for adequate solid and sewage waste disposal;

Response: The solid waste, the project will be built to Town of Old Orchard Beach standards and it is anticipated that the Town of Old Orchard Beach curbside pick-up will be available by contract service with the Homeowner's Association until such time as the roadway may be accepted by the Town of Old Orchard Beach. All solid waste accumulated during construction will be disposed of in a safe and adequate manner by the contractors/owner. Sewage waste generated during construction will be handled by portable toilets. Household sewage will be handled by septic systems to be designed and installed to all local and State requirements.

(7) The proposed subdivision will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

Response: The project will not burden the ability of the municipality to dispose of solid waste due to its relatively small size and impact to solid waste generation. There will be no impacts to municipal sewage disposal services as the project is served by private septic.

(8) The proposed subdivision will not place an unreasonable burden upon local, municipal or governmental services;

Response: The project will not unreasonably burden municipal or governmental services due to its relatively small size.

(9) The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;

Response: The project will not have any adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites or any rare and irreplaceable natural areas. The project will be an extension of the existing development which maintains large swaths of wooded areas on relatively secluded lots.

(10) The proposed subdivision is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;

Response: The proposed project has been designed in accordance of all local codes and ordinances.

(11) The subdivider has adequate financial and technical capacity to meet the standards stated in subsections (1) through (10) of this section;

Response: The applicant has successfully constructed a number of previous, successful projects and owns the property without mortgage or lien holders. The project engineer, surveyor and other design professionals have successfully designed and permitted many projects in York County and have over 100 years of combined experience in residential design and permitting.

(12) Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, the proposed subdivision will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;

Response: The project does not fall within 250 feet of any pond, lake, river or tidal waters.

(13) The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater; and

Response: The project will be served by public water and will utilize stormwater BMPs which retain and filter stormwater run-off prior to it's reintroduction back into the water table. As such, no adverse effects on the quality or quantity of groundwater are anticipated.

(14) The proposed subdivision will not unreasonably interfere with access to direct sunlight for solar energy systems.

Response: The project will not interfere with any solar energy systems by affecting their access to direct sunlight.

MOTION: _____ David Walker motions and _____ seconded to Approve the Final Plan for the 10 Lot Residential Subdivision (Red Oak Phase III) located at the end of Red Oak Drive with the following 9 conditions:

1. Should the plan be amended to include a 15th lot that is accessed by Red Oak Drive, an amended subdivision plan shall be provided to the Planning Board that includes a second means of egress.
2. All stormwater ponds and lot specific stormwater BMPs shall be the responsibility of the Homeowners Association in perpetuity. The Developer and subsequent Homeowners Association shall enter into a Maintenance Agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements.
3. All residential lots shall provide stormwater treatment in accordance with the overall conceptual stormwater master plan, Sheet C-104 of the project plan set. Lot specific BMPs include: (See individual BMP installation and maintenance notes this sheet)
 - a. Lot 1 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.

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 7. Before building permits are issued for each individual lot, the applicant or owner shall demonstrate compliance with all applicable DEP regulations.
 8. This approval does not constitute a resolution in favor of the Applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgement that the Applicant does not have the legal right to use the land as proposed in the application, this approval shall not have any force or effect.
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