

1  
2  
3 OLD ORCHARD BEACH PLANNING BOARD  
4 Public Hearing & Regular Meeting MINUTES  
5 December 9, 2021 6:30 PM  
6 Town Hall Council Chambers  
7  
8

9 *MINUTES MAY NOT BE TRANSCRIBED VERBTIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A*  
10 *COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE TOWN CLERK AT 207-934-4042 OR*  
11 [kmclaughlin@oobmaine.com](mailto:kmclaughlin@oobmaine.com)  
12

13  
14 CALL MEETING TO ORDER

15  
16 PLEDGE TO THE FLAG

17  
18 ROLL CALL

19 Marianne Hubert

20 Win Winch

21 Robin Dube

22 Chair Walker

23 Vice Chair Hitchcock  
24  
25

26 Public Hearings

27 PH 1

28 Proposal: Site Plan and Major Subdivision: 24-unit townhouse condo units and 1 single-family condo unit

29 Applicant: Gorrill Palmer

30 Location: 2, 4, 8, 10 Little River Rd., MBL: 201-3-2, 4, 5 6; Zoning: RBD & Shoreland RA  
31

32 Public Hearing began at 6:31pm. Chair Walker asked if anyone wanted to speak on this item.

33 Sandra Wyman, of 113 East Grand Avenue, spoke to the Board. She stated that her property abuts the project  
34 location, and that she has sent in 15 pages of her concerns, with supporting documentation, and also sent addendums  
35 today along with photos showing nearby properties under water in the October 1966 storm. She also sent over the  
36 Anderson plan subdivision because in looking at her 2001 survey, there was a note that there was an encroachment  
37 onto the surveyed premises that abuts lot #10. She stated that she is confused about the lots, that there is a 6,8, and  
38 10, and a conveyance on lot #10, but on the 1969 plan, there is a note that the back lot is no good and was scratched  
39 out, and it was signed by the Andersons. She feels that because the back property line is not being defined and one of  
40 the pins is located in the marsh, she feels that this is not a buildable lot and that this needs to be looked at again. She  
41 has concerns about the conveyance, the flooding, and the wetlands that are touching the boundary property, and the  
42 boundary property sits on the sand dunes, and there should not be subdivisions on the sand dunes. The final point  
43 she wanted to make was regarding the habitat overlays, that there is an endangered species whose habitat is on the  
44 property, and that there is historical significance to the property from the 1800s.

45 Chair Walker asked if anyone else wished to speak at which point Peter Toohey, at 224 East Grand Avenue, an  
46 abutter to the property, spoke. He stated that he has history with the property, it's a great location, and is a property  
47 that can be developed, and he is not against the development, but he said there are issues with the flood zone, the  
48 wetlands, and protected species, so it makes the development problematic. There is also an issue with fitting a  
49 project into the character of the neighborhood, and he feels that this is not the best use of the property. He stated that  
50 the contract zone for 211 East Grand Avenue was keeping with the quality of the property and not the quantity  
51 (single family as opposed to a condominium), but that this project is the exact opposite. He feels that the developer  
52 is taking an aggressive approach to maximize the number of rental units, the number proposed is more than allowed  
53 by the zoning rules, and that the developer is altering adjacent lot lines, is borrowing land to skew per density

1 calculations, the units are small and the driveways are narrow, there is not adequate parking for residents or for  
2 visitors, there is not an area for drainage and they have barely any area for putting the snow. He asked the Board to  
3 not let this project be pushed to unreasonable, unrealistic numbers. He also questioned that if what the developer was  
4 doing was in compliance with zoning. He also stated that there is an issue with drainage because of the marsh, and  
5 questioned how the proposed drainage design would work when the ground was saturated, was frozen, or when the  
6 permeable system was clogged. He feels that because they will be elevating the grade of the properties that the  
7 footings and the compacting of surrounding soils will interfere with normal water flow in all nearby areas including  
8 nearby homes. He also questioned the right of way to the beach, and said the stated plan is to use public ways to the  
9 beach, which are hundred of yards away from Little River Road. He said this project isn't feeling like a quality  
10 neighborhood project but like a quality rental unit project, and feels the units will be a disruption to the  
11 neighborhood. It's not in keeping with the neighborhood of single family homes, and should be sent back to the  
12 drawing board.

13 Anne McBrady, of 215 East Grand Avenue, then spoke. One of her concerns was re the lack of the deed, so she is  
14 wondering what is exactly being transferred over for these parcels, i.e., right of ways, etc. She also stated that she  
15 was looking through the condo docs and didn't see Schedule A and Schedule B that we referenced, which are  
16 important documents regarding the allocations of interests and the easements re this project. She is looking for  
17 clarification on this, and for the number of units to be allowed. Another concern of hers is regarding the parking, she  
18 believes it is unrealistic and based on unrealistic assumptions re people parking in the garages. She further stated that  
19 there are safety issues involved with the parking as cars will be parked in the roadway, and that unloading and  
20 loading off of public roadways and private ways is against the town ordinance. She also questioned the DEP sign off,  
21 and the status of the permit by rule, and wants the Planning Board to address that. She feels that the character of this  
22 section of beach will be destroyed, and this isn't smart growth.

23 Chair Walker then asked if anyone else had any further comments. Seeing no one, the correspondence that was  
24 received was then read into the record (reproduced at end of these Minutes). Chair Walker then closed this Public  
25 Hearing at 7:02 pm.

26  
27

28 PH 2

29 Proposal: Subdivision Amendment: Amend 9-Lots at Wild Dunes Way Plan to add a 10<sup>th</sup> lot  
30 Owner: Dominator Golf, LLC  
31 Location: Portion of 65 Wild Dunes Way, MBL: 105A-1-200; Zoning: PMUD

32

33 Chair Walker asked if anyone was wishing to speak on behalf of this. Seeing no one, this Public Hearing was closed  
34 at 7:04 pm.

35

36 Minutes:

37

38 Chair Walker mentioned they had 2 sets of Minutes (October and November), and asked the Board if they had any  
39 comments. Mr. Hitchcock made a motion to approve the Minutes of October 14, 2021 and November 9, 2021, and  
40 Ms. Dube seconded the motion. Chair Walker then asked for the vote, at which point Town Planner Jeffrey  
41 Hinderliter called for the vote as follows:

42

43 Ms. Hubert YES

44 Mr. Winch YES

45 Ms. Dube YES

46 Vice Chair Hitchcock YES

47 Chair Walker YES

48

49 Chair Walker then stated that carries 5-0.

50

51

52

53

54

1 Regular Business

2  
3 ITEM 1

4 Proposal: Site Plan and Major Subdivision: 24-unit townhouse condo units and 1 single-family condo unit  
5 Action: Review; Final Ruling  
6 Applicant: Gorrill Palmer  
7 Location: 2, 4, 8, 10 Little River Rd., MBL: 201-3-2, 4, 5 6; Zoning: RBD & Shoreland RA  
8

9 Town Planner Jeffrey Hinderliter updated the Board as follows:

10  
11 Jeffrey stated that it was good to receive the public's comments on this, and the primary purpose of this  
12 meeting was to allow the public to have the ability to comment as there has been considerable interest in  
13 this project. We extended the submission deadline by a week in order to give the applicant more time to  
14 provide a more complete and accurate submission for what is being proposed, but we do not yet have  
15 comments from our consultant engineers. We expect we will have their comments next week. My  
16 comments are concentrated on the outstanding items from the November meeting, and 1 of the most  
17 important pieces are that we get those public comments out and allow the applicant time to respond. It is  
18 my recommendation that the Board table final decision and request the applicant submit a written response  
19 to the public hearing comments, as well as consider a number of other items which you have seen.  
20

21 Caleb Barasso, project engineer from Gorrill Palmer, then spoke. He agrees with Jeffrey Hinderliter that  
22 the best option is to resubmit with as much information as they could to inform the Board and the public, so  
23 he is also requesting that this be tabled for now. He did want to provide an update with what has been  
24 going on since the last meeting, and went on to explain that they did have a Site Walk which was very  
25 productive. Re the updated plans, the plan is now pointing out limited common elements and the general  
26 common elements, which are most everywhere outside of the units, as well as parking spaces. Some layout  
27 changes were made, utilities are marked, stormwater tweaks were made, and the storage capacity for  
28 stormwater is increased and is almost double the required size. He also explained that they know they are in  
29 the flood plain so the site and also the buildings are designed with that in mind, and the applicant is going  
30 to get a Flood Hazard permit from the Town. He stated that they will get updated HOA docs, and Chair  
31 Walker reminded him about the items that needed to be changed in the current HOA docs. Caleb also stated  
32 that they are currently waiting for the survey, which is the reason they wish to table this project, and once  
33 that is done, the plan can be finalized. He also explained that he reviewed all with Code and with Fire, and  
34 has their verbal sign off on all of the comments, including visitor parking. They will be adding some No  
35 Parking signs along the edges of the open areas, and they also will be adding an additional fire hydrant so  
36 there will be 2 on site, and he also explained that the buildings will be sprinkled. He also explained that the  
37 rental policy will be covered in the HOA docs, and he believes that there will be no rental term shorter than  
38 1 month allowed. The easement to the beach has been discussed with the abutters, and the plan is to draft  
39 up a document to outline the release of the easement after approvals for right of ways are obtained. He also  
40 explained that they will track down the actual building date for the structure that will be torn down, that he  
41 is in contact with Maine Historic, just to clarify that the building date for the structure that is there today is  
42 1995, not in the 1800's. Caleb then asked if the Board had any further questions, at which point Ms. Dube  
43 asked if the applicant has obtained the DEP letters; Caleb answered that he is expecting that by February.  
44 Another question Ms. Dube had was re the deed, if the deed they had was indeed the last deed; Caleb  
45 replied that he will be clarifying that. He also stated that to that point, they are having the entire lot  
46 surveyed so any issues with property lines will be resolved. He also wanted to emphasize that they are  
47 actually trying to take previously developed areas out of the setback area so a lot of the area will be re-  
48 vegetated and the buffer will be improved, thus being good for the environment. Ms. Hubert then  
49 commented that there is only 1 access and exit on East Grand so the recommendation is that the width of  
50 that road needs to be widened to state DOT standards. Caleb replied that they are looking to widen the road

1 up to the 2<sup>nd</sup> entrance, and then they will be repaving. Chair Walker then asked about sidewalks, to which  
2 Caleb replied that the sidewalk is now just along East Grand Avenue, and felt that by having a wider actual  
3 travel way on the road that the standard to have sidewalks could be waived. There was discussion by the  
4 Board if sidewalks were going to be needed, and Chair Walker stated that he thought they had left it that  
5 there would be a 20' wide road with sidewalks. Town Planner Jeffrey Hinderliter stated that his  
6 recollection was in agreement with Caleb's, that a 20' road was more important than having a sidewalk.  
7 One of the reasons behind that was the condition of the current road, and also there is access through the  
8 development and a new sidewalk will lead out to the East Grand sidewalk. Chair Walker then stated that  
9 he had received objections about no sidewalk, and the Board needs to address this tonight. Jeffrey  
10 Hinderliter mentioned that one of the early suggestions was a walkway of stone dust with a compact  
11 surface as opposed to a hard-scaped sidewalk. This could serve the purpose of a sidewalk and be more  
12 aesthetically pleasing. The Board then discussed options. Mr. Winch suggested a sidewalk on the frontage  
13 of the development to the 2<sup>nd</sup> driveway. Ms. Hubert agreed that a sidewalk is needed to the 2<sup>nd</sup> driveway.  
14 Ms. Dube then asked what good would a sidewalk do for part of the development only? Chair Walker  
15 explained that a sidewalk would be located just at the busy part of the road where the traffic would be, and  
16 Caleb then added that he hadn't yet looked at the design of the sidewalk but there is a grade change along  
17 the development, so would a sidewalk create the need for a retaining wall, would they lose more trees,  
18 would there be more environmental impact, etc.? Because of the unknowns, Caleb mentioned that it may  
19 just be unfeasible, to which Chair Walker replied that it seems that the Board does want sidewalks to be  
20 looked at and wants the applicant to make a recommendation as to what may work. Chair Walker then  
21 mentioned that he would like the applicant to also look at #10 Little River in terms of sewer connection, to  
22 which Caleb replied that #10 technically isn't part of the subdivision. Chair Walker asked if it would be  
23 feasible to do, to which Caleb explained that it may not be feasible to do due to the distance of the 1 house  
24 and that such would require its own pump station. Ms. Dube then asked if the pump station they ultimately  
25 would be connected to would be the Walnut Street pump station, to which Jeffrey Hinderliter replied yes,  
26 and Ms. Dube then commented that there is an existing backlog of projects waiting for that pump station.  
27 Chair Walker then asked about the telephone pole at the end of Little River and East Grand Avenue, if that  
28 would have to be moved, to which Caleb replied that yes, they would be revisiting that comment. Mr.  
29 Hitchcock then asked about the deed on #10 which stated that such could not be subdivided. Caleb replied  
30 that he will look back at the plan but he recalls it's marked "not good" so that ultimately that lot never  
31 became its own lot, it remained part of Lot #10 and is not buildable, most likely due to the proximity to the  
32 wetlands.  
33  
34

## 35 ITEM 2

36 Proposal: Subdivision Amendment: Amend 9-Lots at Wild Dunes Way Plan to add a 10<sup>th</sup> lot  
37 Action: Review and rule on plan amendment  
38 Owner: Dominator Golf, LLC  
39 Location: Portion of 65 Wild Dunes Way, MBL: 105A-1-200; Zoning: PMUD  
40

41 Assistant Town Planner Michael Foster updated the Board as follows:  
42

- 43 • This is to amend the 9 lots at Wild Dunes Way subdivision plan to add a 10<sup>th</sup> lot.
- 44 • At last month's meeting this application was determined complete.
- 45 • The determination was subject to 1) showing the location of the recently approved golf cart path,  
46 and 2) providing an easement for the golf cart path and utilities.
- 47 • The location of the path and easement has been labeled on the updated plan. We recommend any  
48 approval be conditioned upon the golf cart path and utility easement language being submitted.
- 49 • The cover letter dated 22 November 2021 submitted by the applicant for December addressed  
50 previous staff comments.

- 1 • There was a question about the requirement of sidewalks for this subdivision:
  - 2 ○ Based on the original approval it appears a sidewalk was required to be installed along
  - 3 specific lot frontages along Wild Dunes Way. What isn't clear is who was responsible for
  - 4 the installation of these sidewalks. Was it the developer or the individual lot
  - 5 owners/builders?
  - 6 ○ I am not 100% confident it was the developer's responsibility, because the Town released
  - 7 the Performance Guarantee knowing some of the lots still needed the sidewalk installed.
  - 8 ○ The developer, Dominator Golf, LLC, reported he did install sidewalks along frontage of
  - 9 lots he either owned or developed. Sidewalks were confirmed as installed on lots 2, 7, and 8.
- 10 • We included recommended conditions to ensure that we receive some additional documentation for
- 11 the following:
  - 12 • Golf cart path and utility easement language – Section C had a golf cart path condition and
  - 13 the approved path crosses this lot.
  - 14 • Updated Maintenance Agreement for Post-Construction BMPs – to ensure BMPs are
  - 15 maintained and inspected annually.
  - 16 • Sewer connection details – there are multiple utility connections in this area and we want
  - 17 to review the sewer connection details before a building permit is issued.
  - 18 • Engineer certification of BMP construction – this is to ensure the required BMPs are
  - 19 constructed as required, and will need to be submitted before a certificate of occupancy is
  - 20 issued.

### 21

### 22

### Recommendations

24 The applicant has addressed previous staff comments and updated the plan. Planning staff supports  
25 conditional approval of this amendment and any approval should be conditioned upon submittal of the  
26 above items I mentioned. Applicant responses to criteria begin on page 15 and the recommended motion is  
27 on page 17 of your memo.

28  
29 Jason Vafiades of Atlantic Resource Consultants then spoke on behalf of the applicant. He stated that there  
30 are a number of issues that make sense to be on the conditional level. He mentioned that this lot is for the  
31 applicant's son, and that they are looking forward to getting going on breaking ground out there. Mr.  
32 Hitchcock mentioned that when they were reviewing the golf cart path on Tim Swenson's project he recalls  
33 seeing an image of a second cart path, and mentioned that when going around the back of the clubhouse  
34 and going over to hole 10, there is sort of a cart path there that should be dealt with. Jason then replied that  
35 such was already addressed and such already is an easement. Chair Walker then asked if the Board had any  
36 further comments. Seeing none, Chair Walker asked if the standards could be incorporated as written, to  
37 which Town Planner Jeffrey Hinderliter replied that if there are no changes to the standards, it is his  
38 opinion that such could be incorporated as written and submitted. Ms. Dube then made the following  
39 motion:

40 *I will make a motion to conditionally approve the subdivision amendment application to reestablish a*  
41 *former lot for 9 Lots at Wild Dunes Way Subdivision creating the 10th lot, location 65 Wild Dunes Way, on*  
42 *portion of MBL: 105A-1-200, in the PMUD Zone, applicant Dominator Golf, LLC, with the following*  
43 *conditions:*

- 44
- 45 1. *Subdivision amendment approval is dependent upon and limited to the proposal and plans*  
46 *contained in the application dated 10 October 2021, and all supporting documents and oral*  
47 *representations submitted and affirmed by the applicant and its agents, and conditions imposed by*  
48 *the Planning Board; any variation from such proposals, plans, supporting documents and*  
49 *representations are subject to review and approval by the Planning Board, provided that de*  
50 *minimis variation is subject to review and approval by the Town Planner.*

2. *Prior to the issuance of building permits the golf cart path and utility easement language shall be submitted to the satisfaction of Town staff.*
3. *Prior to the issuance of building permits an updated Maintenance Agreement for Post-Construction BMPs shall be submitted to the Town.*
4. *Prior to the issuance of building permits sewer connection details shall be submitted to the Town.*
5. *PE certification of BMP construction shall be submitted to the Planning Department prior to the issuance of a Certificate of Occupancy.*

The motion was seconded by Mr. Winch, at which point Chair Walker asked for the vote. Town Planner Jeffrey Hinderliter then called for the vote as follows:

- Ms. Hubert YES
- Mr. Winch YES
- Ms. Dube YES
- Vice Chair Hitchcock YES
- Chair Walker YES

Chair Walker then stated that passes 5-0.

### ITEM 3

- Proposal: Ordinance Amendment: Amend Ch. 78, Art. VI, Sec. 78-517 and Ch. 78, Art. VIII, Sec. 78-1382 to allow food trucks for Salvation Army events in the R2 District
- Action: Review and schedule public hearing
- Applicant: Salvation Army
- Location: Property owned by the Salvation Army in the R2 District

Jeffrey Hinderliter updated the Board as follows:

- This item is a zoning ordinance amendment proposing to allow food carts, food trucks, and food stands on property owned by the Salvation Army in the R2 District, only during Salvation Army sponsored events.
- Currently, food carts, food trucks and food stands are allowed only in the AO and CO Districts and for Council approved/sponsored events.
- The amendments identify food carts, trucks and stands as a permitted use in the R2 District “on property owned by the Salvation Army and serving only event attendees, event staff and performers, guests and employees of the Salvation Army and not the general public.”
- When reviewing zoning ordinance amendments, we consider how the amendment is consistent with current zoning, existing land use, and the comprehensive plan.
- Based on our analysis, the amendment is consistent with the above as long as food carts, trucks and standards are temporary, do not have fixed location, and are associated with specific events. This will ensure they are an accessory use and not a principal use of the property.
- We recommend the Planning Board schedule a public hearing to be held on 13 Jan.

Chair Walker then asked if anyone was there from the Salvation Army, and seeing no one, asked for a motion for a public hearing. Mr. Winch made a motion to schedule a Public Hearing for the next regular meeting, which is January 13. The motion was seconded by Ms. Hubert. Chair Walker then asked for the vote, at which point Town Planner Jeffrey Hinderliter called for the vote as follows:

- Ms. Hubert YES
- Mr. Winch YES
- Ms. Dube YES

1 Vice Chair Hitchcock YES

2 Chair Walker YES

3  
4 Chair Walker then stated that motion carries 5-0.

5  
6  
7 ITEM 4

8 Proposal: Conditional Use: Shoreland Zoning nonconforming structure 30% expansion on single-family

9 Action: Determination of Completeness; Schedule Site Walk and Public Hearing

10 Applicant: Paul D. Weinstein

11 Location: 10 Tunis Ave; MBL: 319-7-6; Zoning: R3 and RA

12  
13 Assistant Town Planner Michael Foster updated the Board as follows:

- 14
- 15 • This is a new Conditional Use application for a 6' x 17' deck expansion on a multifamily 3 unit at
  - 16 10 Tunis Ave.
  - 17 • This in the RA Shoreland Zone, and the entire structure is located within the 100' HAT setback.
  - 18 • The applicant has provided a survey for the existing structure, a map showing the location of the
  - 19 structure relevant to the Highest Annual Tide (HAT), expansion calculations, and responses to the
  - 20 Conditional Use and Shoreland Zoning standards and conditions.
  - 21 • 30% expansions of nonconforming structures in the shoreland zone must meet 5 primary ordinance
  - 22 requirements:
    - 23 1. Removed and replaced structures must be relocated so they are set back 100' from the water
    - 24 (in this case the HAT) to the greatest practical extent.
    - 25 2. Structure expansion does not exceed 30% of the existing square footage or volume.
    - 26 3. Structure expansion does not increase the nonconformity (e.g., building the structure closer
    - 27 to the water setback).
    - 28 4. Proposal conforms to the 12 Conditional Use criteria.
    - 29 5. Proposal conforms to the 8 standard conditions in the shoreland zone.
  - 30
  - 31 • Regarding this proposal's conformance with each of the above:
    - 32 1. This proposal is for an expansion of floor area only (a deck extension) and the existing
    - 33 structure is not being removed or replaced, so this standard does not apply in this instance.
    - 34 2. The proposed expansion does not exceed the 30% of existing square footage or volume.
    - 35 Since this is for a deck, this only adds additional square footage. Prior to the previous
    - 36 expansions for square footage the structure had 3,848 sq. ft. The 30% calculation would
    - 37 have allowed for an expansion of 1,154.4 sq. ft. for the lifetime of the structure. When
    - 38 including the proposed expansion and previous expansions, these total 606 sq. ft. This is
    - 39 under the total square footage expansion allowed.
    - 40 Regarding volume, no expansion of volume is proposed with this deck. Since there was a
    - 41 previous volume expansion in the Code file this will need to be included in the calculations,
    - 42 but doesn't impact the calculations needed to consider this proposal to add square footage
    - 43 only.
    - 44 3. The applicant submitted a map from our GIS that shows the HAT location. The boundary
    - 45 survey for the existing structure shows the area of expansion is clearly not closer than the
    - 46 existing structure is where portions of the structure are closer to the HAT than this area for
    - 47 the proposed deck expansion. In looking at the HAT map and boundary survey together, you
    - 48 can see that the area of expansion is not towards the waterbody. We didn't feel an additional
    - 49 survey is needed to confirm what was submitted.
    - 50 4. The applicant submitted responses to the 12 Conditional Use criteria and they appear
    - 51 satisfactory.

1 5. The applicant submitted responses to the 8 Standard Conditions in Shoreland Zone and these  
2 also appear satisfactory.  
3

- 4 • **Parking and Driveway** - One concern staff has with this proposed deck expansion is the potential  
5 impact on the ability for vehicles to fit and park in the driveway that this deck will be placed over.
- 6 • Parking for this 3 unit is already limited and the proposed height of the deck isn't clear.
- 7 • In the images provided with the application, the top of the vehicle in the image looks close to the  
8 deck.
- 9 • Based on the survey a large portion of the driveway is actually within the Town Right of Way  
10 (ROW) and it should be determined that this deck wouldn't impact parking for this lot.  
11

### 12 **Recommendations**

13 This is a straight forward proposal. Staff recommends the Planning Board determine the application  
14 complete. This expansion cannot reduce the amount of parking. We recommend a site walk so the Planning  
15 Board can get a better idea of the potential parking impact. A determination is subject to the previous  
16 volume expansion being included with the calculations. We recommend a public hearing is scheduled for  
17 13 January and a site walk on 6 January.  
18  
19

20 Paul Weinstein, the applicant, then addressed the Board to ask if they had any questions. Ms. Dube asked  
21 if he knew what the height of the deck was going to be, to which Paul Weinstein replied that he did not  
22 know the proposed height, but that it is going to match the existing deck, and that he had mentioned to the  
23 owners that parking was going to be a problem, but he also did indicate that currently the owners are  
24 parking under the deck and wish to continue to do so. Chair Walker then asked if he knew how many  
25 parking spaces are there on their land only, not including the Town's ROW, to which Paul Weinstein  
26 replied that he would find out that information from the owners. Mr. Winch then stated that parking is a  
27 major issue in that area, and with 3 apartments, the owner should perhaps consider taking away some of the  
28 lawn and provide for more parking on their lot, especially where the town ordinance states adequate  
29 parking needs to be provided. Ms. Hubert then stated that they need to look at the property, and Chair  
30 Walker then asked the Board if they wanted to schedule a site walk or if they wanted to go look on their  
31 own as such could be a drive by. It was agreed the Board would look at the property on their own. Chair  
32 Walker then asked for a motion, to which Ms. Dube made the following motion:  
33

34 *I will make a motion to determine the application complete for a Conditional Use Shoreland Zoning*  
35 *nonconforming structure 30% expansion, to add a 6' x 17' deck extension, located at 10 Tunis Avenue,*  
36 *MBL 319-7-6, subject to the following:*

37 *The applicant shall submit updated calculations reflecting the previous volume expansion.*  
38

39 Chair Walker added that current parking should be added as a condition. Motion was seconded by Mr. Hitchcock, at  
40 which point Chair Walker asked for the vote. Assistant Town Planner Michael Foster then called for the vote as  
41 follows:  
42

43 Ms. Hubert YES

44 Mr. Winch YES

45 Ms. Dube YES

46 Vice Chair Hitchcock YES

47 Chair Walker YES  
48

49 Chair Walker then stated that carries 5-0, and there will be a public hearing on January 13.  
50  
51



1 ITEM 5

2 Proposal: Major Subdivision: Red Oak Phase III, 28 Lots with 45 units residential subdivision  
3 Action: Determination of Completeness; Schedule Site Walk and Public Hearing  
4 Owner: Mark & Claire Bureau  
5 Location: 139 Portland Ave. & Red Oak Dr.; MBL: 104-2-3 & 104-2-23 - 31; Zoning: RD & Shoreland RP  
6

7 Assistant Town Planner Michael Foster updated the Board as follows:  
8

9 This application was last before the Planning Board in October, and a site walk was conducted back in  
10 September. The feedback given to the applicant was that this needed to meet our ordinance by having at  
11 least two street connections with existing public streets. Since then this application has been updated to  
12 include a full second roadway and an additional 12 residential units. Three lots were added consisting of  
13 two single family home lots, and another lot with 10 proposed condo units. A total of 45 units are being  
14 proposed. The applicant has addressed most of the previous staff comments. The applicant will want to  
15 respond to any remaining staff comments and we did receive Wright Pierce comments and a memo from  
16 the Fire Department as well.  
17

18 Remaining staff questions and items to be addressed are listed below.

- 19 • Driveway offset from intersections distancing needs to be considered with the new proposed street  
20 connection. This appears close to the existing driveway.
  - 21 ○ To determine the distance required for the offset from intersection we need to know what the  
22 existing driveway accesses (it appears there is an excavating and landscaping business).
    - 23 ▪ 50' is required for Single- and Two-Family Residences
    - 24 ▪ A minimal 100' is required for Multifamily and Nonresidential Uses
- 25 • The setback from Portland Ave appears to be less than required. It looks like the setback from  
26 Portland Ave should be 50'. The building envelope for the lot 26 condo units should be adjusted.
- 27 • The net development density calculations should be updated to reflect the number of proposed units.
- 28 • Staff recommends a sidewalk be included along Portland Ave for the frontage of this development,  
29 from the existing Red Oak Drive to the shared property line with 137 Portland Ave.
- 30 • We need updated responses to the Planned unit development and cluster development criteria.
- 31 • We need info on the 20 single-family home condo portions of this development. We would need  
32 some idea of what is being proposed to determine that this proposal meets Sec. 74-2 Subdivision  
33 criteria #10, that this subdivision will not have an undue adverse effect on the scenic or natural  
34 beauty of the area, and cluster standards (3) Each building shall be an element of an overall plan for  
35 site development, and (8) Buildings shall be oriented with respect to scenic vistas, natural  
36 landscape features, topography.
- 37 • Also for the condo lots access, driveways should be discussed. The ordinance allows one driveway  
38 per lot, and the proposed condo lots 26 and 27 have multiple driveways to access the units.
- 39 • Are street lights proposed? Street lights should be included on the plan and would need to meet Sec.  
40 78-965. – Rural Performance standards.
- 41 • A traffic analysis was previously requested. This submittal includes a traffic impact memo that  
42 indicates a more thorough memo will be included once the proposed layout is reviewed by the  
43 Planning Board and found acceptable. It is noted this proposal will add an additional 450 daily trips  
44 and 45 AM and PM peak hour trips.
- 45 • The applicant will want to consult with the assessor to meet the requirements of Sec. 74-207  
46 Submissions, #26 Addressing Requirement to determine lot numbering and street name for E-911  
47 addressing. This needs to be done before the plan is determined as complete.  
48  
49  
50

1 **RECOMMENDATION:**

2 This is a fairly solid submittal. Besides the new street connection and additional units, the layout of this  
3 proposal is very similar to what we have been reviewing. We have the fire department memo and Wright  
4 Pierce comments that need to be addressed, especially in regards to the street connection, sewer, and  
5 stormwater. Planning staff doesn't support a determination of completeness this month, but we feel if the  
6 applicant can address comments for our next meeting this will have a better chance at being determined  
7 complete. The applicant will need to connect with the assessor for E-911 addressing requirements on the  
8 plan.  
9

10 Jason Vafiades of Atlantic Resource Consultants then addressed the Board. He showed the Board the  
11 current plan, and stated that because of the substantial change with the plan, a new DEP application has to  
12 be submitted so they will need to refile, and wants to be sure that the Board is comfortable with the basic  
13 layout of plan before he does refile. Chair Walker stated that a concern was re the driveway next to the  
14 new road, what is the proximity, to which Jason replied that the driveway will be taken off and pulled into  
15 the new road. Ms. Hubert then thanked Jason for adding the second access, even though it added new  
16 units. Mr. Winch then asked whether Lot 26, potentially the 10 condo units, would have direct access to the  
17 public road, and stated that per our ordinance, there is a limit of 1 access per unit. Jason then asked that  
18 because this will not be a public road, but would remain private in perpetuity, would it be a requirement to  
19 share driveways? Assistant Town Planner Michael Foster stated that there are different access standards  
20 for single and 2-family residences, and different access standards for multi-family and nonresidential uses,  
21 and read the ordinance sections that pertained to the # of driveways permissible and also what the distance  
22 between driveways needed to be. He stated that in this area, with a 30 MPH speed limit, it appears that  
23 there needs to be 125' between driveways. That same section of the ordinance does note that shared or  
24 joint driveways providing access to 2 adjacent properties shall be encouraged. Michael did state that this  
25 still appears to be a question, and did find a couple of examples in town that have their own driveways, and  
26 some in town that don't have driveways but have parking along the front. Because of these questions, this  
27 need to be further considered. Chair Walker then asked if the same standards apply to private ways and  
28 public roads, to which Michael Foster replied yes, and Chair Walker then asked if the applicant could  
29 request a waiver of that standard, to which Michael Foster replied yes. Jason then said they could perhaps  
30 have every 2 units share a driveway, which could be a good compromise to reduce the number of conflict  
31 points on that road. Ms. Dube then asked about the second road, to which Jason showed the location of the  
32 new road on the plans. Chair Walker then asked if the Board had any further questions, and how the Board  
33 feels about a waiver for the driveways. The Board discussed the issues, and with the road being 25', a  
34 waiver would be considered. Mr. Hitchcock then asked about sidewalks, to which Chair Walker and Jason  
35 indicated that yes, sidewalks are being included. Ms. Dube then asked about sewer connection and the  
36 backlog with Walnut Street; Jason replied that the timing won't be an issue because the improvements with  
37 Walnut Street should be completed in the spring. Assistant Town Planner Michael Foster indicated that the  
38 connection issue has been an ongoing engineering comment with Town staff and Wright Pierce, and it has  
39 been determined already that no C.O.'s will be issued until that is done. Mr. Hitchcock then asked about  
40 the condo docs, and would be interested in what the docs are saying about rentals. Jason replied that his  
41 understanding is rentals will not be allowed, that these will be people's homes, and that issue will be  
42 addressed as they move along.

43 Chair Walker then asked if this should be tabled for now, Assistant Town Planner Michael Foster agreed, and it was  
44 determined that an additional site walk would not be necessary.  
45

46  
47 **Other Business**

48 Mr. Winch apologized about his volume and the new sound system, to which Michael Foster replied that the town  
49 knows about the 1 second delay, and a way to fix that delay is being looked into. Chair Walker then asked for any  
50 other business. Seeing none, asked for anything re Good and Welfare.

1  
2  
3 Good and Welfare

4 Chair Walker did see that per the Minutes, Jeffrey had included the request for a stipend for the Planning Board  
5 members.  
6

7 **ADJOURNMENT**

8 Motion to adjourn was made by Ms. Dube and seconded by Ms. Hubert. Meeting adjourned at 8:13pm.  
9

10  
11 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*  
12 *certify that the foregoing document consisting of Thirteen (13) pages is a true copy of the original minutes of the*  
13 *Planning Board Meeting of December 9, 2021.*  
14

15  
16 x   
17 \_\_\_\_\_  
18 Laurie Aberizk  
19  
20  
21  
22

23 **PUBLIC HEARING SUBMITTED COMMENTS RE SITE PLAN AND MAJOR SUBDIVISION: 24-UNIT**  
24 **TOWNHOUSE CONDO UNITS AND 1 SINGLE-FAMILY CONDO UNIT**  
25

26 **Chair Walker read this letter received:**

27 **“Ten reasons why not to allow the project proposed for #2 and #4 Little River Road” submitted by Margaret**  
28 **Varney**

- 29 1. **It does not fulfill the #1 requirement for the RBD neighborhood: “proposed construction should be in**  
30 **keeping with the general character of the area”**
- 31 2. **Density calculations were based on unusual practices that were questionable, perhaps allowing**  
32 **quantity to deflect from quality, the units are extremely small, hardly more living space than a large**  
33 **motel suite**
- 34 3. **Units will offer the opportunity for investors to advertise cheap vacations at a well-known resort area**
- 35 4. **Little River Road cannot be widened without filling in the marshlands, which is taking away from the**  
36 **natural habitat from many examples of wildlife. Furthermore, without a sidewalk, residents in the**  
37 **area will be unable to enjoy the natural vista of the marshland**
- 38 5. **Very few visitor parking spaces means that people will attempt to use the street for parking, for which**  
39 **it is not zoned. This will cause problems with the flow of traffic**
- 40 6. **The driveways are too narrow to allow easy access to the garage, backing out of a garage could become**  
41 **difficult should a neighbor try to enter at the same time**
- 42 7. **Access to the beaches will only be by foot to the public access north and/or south on East Grand Ave**
- 43 8. **The 24-unit development is proposed to be built on property that has housed 1 family home and a**  
44 **guest house for 75 years. I am dismayed at the additional noise and light pollution to which the**  
45 **neighborhood will be subjected if this project is given permission to proceed**
- 46 9. **Should a fire take place anywhere in the projected area, it will be difficult at best to access and save all**  
47 **24-25 units. This will in turn place surrounding homes in jeopardy**
- 48 10. **Flooding becomes a real problem for adjacent property caused by raising the grade, foundation**  
49 **obstruction and ground compaction. This just is not good neighborhood quality development. It was**  
50 **based on a misrepresentation of what the developers plan to do with the property. It would be**  
51 **unfortunate to allow the destruction of all flora and fauna in the area in order to allow this proposal,**  
52 **at the expense of peace and serenity.**

53 Sincerely,  
54

1 Margaret G. Varney  
2  
3

4 Vice Chair Hitchcock then read the following email received by the Planning Board from Molly Anderson:  
5

6 I am writing you this letter because it has been brought to my attention that the beloved Little River Road in  
7 Old Orchard Beach will soon be taken over by an excess of condominium units. I understand that I am quite  
8 late in writing this but I have some concerns as you make the decision to extend the proposed project back  
9 even closer to the marshlands. I have watched several of the Town Planning Board meetings and I see that  
10 there has been talk of whether or not to add additional condo units to what is currently 8 River Road. As a  
11 young member of the Old Orchard Beach community who was born and raised here and currently lives  
12 nearby, I was shocked to learn about the proposed development on that road. Little River Road is a treasured  
13 area, being home to a small number of families, serving as a buffer between the marsh and residential homes,  
14 and offering a sense of seclusion from the main stretch of East Grand Avenue. I have always enjoyed taking  
15 walks down this road, and have friends who have lived on it for years. It saddens me to think of the massive  
16 change and disruption to such a beautiful, quaint, and untouched location. I am aware that the first 2 plots of  
17 land are already approved to be developed on, but why extend closer to the marsh and eliminate even more of  
18 the natural brush? I urge you to also consider all of the wildlife displacement that will occur just by  
19 continuing to add additional units back there. Don't you think that the first 2 plots will already create enough  
20 congestion? That road is so narrow and does not seem to be well suited for that much traffic. It seems that  
21 there are some questionable tactics in order to make this massive development come to life. I hope you will  
22 take these concerns into consideration before you move forward in approving this development. Thank you  
23 for taking the time to read this.  
24

25 Sincerely,

26  
27 Molly, a concerned OOB community member  
28  
29

30 Ms. Dube then read the following letter received by Assistant Town Planner Michael Foster from Roger and  
31 Mindy Smith:  
32

33 Dear Mr. Foster,  
34

35 Due to a medical condition, I was unable to attend the December 2<sup>nd</sup> Site Walk but my wife Mindy did, and  
36 you provided her with your card; hence, this letter addressed to you. I will not be able to attend the December  
37 9<sup>th</sup> Public Hearing, and would appreciate your distributing this letter to members of the Planning Board and  
38 others you feel should be aware of our concerns. We have concerns as to the number of proposed townhouse  
39 units and the effect it will have on what is currently and has been for many years a quiet neighborhood. We  
40 have concerns that the proposed road layout will hinder the flow of vehicles, fire, ambulance, and snow  
41 removal equipment, entering the project and exiting the narrow Little River Road, which apparently will  
42 become one-way. I do not know if the Board has the authority to impose rental restrictions, but if it does,  
43 please consider that due to its location, it will be an ideal project for nightly summer rentals for companies  
44 such as AirBnb. We urge the Board to consider the adverse effects the development will have on the wildlife  
45 residing in the marsh and surrounding woodlands. We wish to express our concern about beach access as the  
46 shortest distance is through our parking lot or our neighbor's driveway. In closing, we wish to thank you and  
47 the staff for your efforts on behalf of all the residents of Old Orchard, where we have resided in excess of 40  
48 years.

49 Sincerely, Roger & Mindy Smith  
50  
51

52 Ms. Hubert then read a message from Councilor Larry Meade:  
53

54 Chair Walker and members of the Planning Board,

1  
2 **I've watched the November 9<sup>th</sup> Planning Board meeting review of the Little River Road subdivision. The**  
3 **Board pointedly did not include a Site Walk in the conditions specified in the finding of completeness. I ask**  
4 **that you do include a Site Walk in your final proposal. The proposed development will have 25 units in close**  
5 **proximity to the beach and East Grand Avenue. It's about 1500 feet to the beach access on Parcher Avenue or**  
6 **about 1000 feet to access on 11<sup>th</sup> street in Scarborough. The residents and occupants will undoubtedly**  
7 **regularly be walking from their home to East Grand and the beach, and will often be carrying beach chairs,**  
8 **umbrellas, totes, etc., with them, and they may well have dogs on a leash or be accompanied with children. I**  
9 **live on a street with 24 residents and a cul de sac at the end, and it is notable just how much traffic takes place**  
10 **from 24 households coming and going, and I appreciate having a sidewalk available for me and my grandkids**  
11 **to walk on. I urge you to provide a sidewalk on Little River Road in order to safely separate pedestrians from**  
12 **motor vehicles. An alternative to a sidewalk on Little River Road could be a walkway through the**  
13 **development to East Grand Avenue. It is a priority to promote and improve livability in Old Orchard Beach,**  
14 **and an important component of that priority is to provide safe and abundant opportunities for people to walk.**  
15 **Please incorporate a sidewalk in this subdivision as part of your final approval.**

16  
17 **Larry Meade**  
18 **Town Council**  
19  
20