

1 OLD ORCHARD BEACH PLANNING BOARD

2 Workshop Notice

3 February 2, 2017 6:00 PM

4 Town Council Chambers

5
6 **Call to Order at 6:05 pm**

7
8 **Roll Call:** Linda Mailhot, Ryan Kelly, Win Winch, Eber Weinstein, Mark Koenigs. Absent:
9 Robin Dube, Mike Fortunato. **Staff:** Town Planner, Jeffrey Hinderliter, Town Assistant
10 Planner, Megan McLaughlin. Others Present: Town Manager Larry Mead.
11

12 **CALL TO ORDER (6:09 PM)**

13 Workshop Discussion

14
15 **APPROVAL OF MINUTES: 12/1/16; 1/5/17; 1/12/17**

16 Planner Jeffrey Hinderliter mentioned that he is still working on the site walk minutes and will
17 have them soon.

18 Linda Mailhot asked about numbering the meeting minute lines.

19 Assistant Planner McLaughlin mentioned that because it is in a table we couldn't do it.

20 Linda Mailhot suggested that we take it out of table format.

21
22 Ryan Kelly stated that the 1/12/2017 minutes, Page 4 Item 3 should have been Eber Weinstein
23 who voted and not Robin Dube.

24 **Regular Business**

25 **ITEM 1**

26 **Proposal: Determination of parcels inclusion with 2004 Campground Registration**

27 **Action: Discussion; Decision**

28 **Owner: Paradise Acquisitions LLC**

29 **Location: 60 Portland Ave, MBL: 205-1-32; 50 Adelaide Rd, MBL: 106-2-2 (portion of)**
30

31 Planner Hinderliter mentioned that the only new information that we have is in the memo
32 regarding new writing and we also have a town attorney coming to the meeting. He also
33 mentioned to the board members to bring their material from last month's meeting to this
34 month's meeting.

35 He explained that what we are doing is basically a correction on this project.

36 Our attorney says that we are moving in the right direction.

37 The condo association's attorney said that our Code Enforcement is the one who is supposed to
38 make the determination on this because he has authority of interpretation of the ordinance, but
39 both our town's attorney and Planner Hinderliter both agree that it isn't correct because you are
40 not interpreting the ordinance. You are determining whether something was or was not
41 included within an application that was before the board.

1 Planner Hinderliter states that he thinks that we are ready for a decision.

2
3
4 **ITEM 2**

5 **Proposal: Major Subdivision Amendment: 9-unit residential development**

6 **Action: Sketch Plan review**

7 **Owner: Tom Gillis**

8 **Location: 1-3 Cascade Rd, MBL: 205-16-1**

9
10 We have a cover letter from owner Tom Gillis. We also have a plan that was originally
11 approved in 2007 along with a proposed amendment. We only received a sketch plan at this
12 point only because the owner was not prepared for a full application submission.

13 Planner Hinderliter stated that what is changing is:

- 14 • 1 Duplex incorrectly numbered. Goes up to 9 but has 10 units.
- 15 • The 2 Duplexes that are across from Seaglass Terrace Rd. proposing to change those
16 into single
17 family dwellings.

18 There are no additional units proposed. The road remains the same.

19 It was approved as a condo and will continue to be a condo but now looks like they are creating
20 the limited common elements for the condo lots for each. Parking has changed a bit.

21
22 In the memo we go through and identify what the primary changes are. We asked Mr. Gillis to
23 provide us with an update on the completeness status of the project.

24 We have miscellaneous comments and also we have received Department Head comment from
25 the Fire Chief.

26 Planner Hinderliter explained that they had a Development Committee meeting last week and
27 asked for submission of comments.

28 Linda Mailhot mentioned that on the previously approved plan there were 6 actual buildings
29 that were approved and on the new one he is proposing 8 buildings.

30 No drastic changes and the Planner believes that this can move forward.

31 Eber Weinstein mentioned that the biggest problem will be the drainage/impervious surface,
32 and it may not even be a problem.

33 Planner Hinderliter also mentioned that they were required to do sidewalk work along Cascade
34 Road.

35
36 **Other Business**

37 **1. Discussion: Appeals from Restrictions on Nonconforming Uses (78-180)**

38 78-180 allows a nonconforming use of land or a nonconforming use of a structure to be enlarged,
39 increased, extended, moved, reconstructed, structurally altered, converted to another
40 nonconforming use, or resumed after cessation for a period of more than two years but less ten
41 years upon approval by the PB as a Conditional Use.

42 As you can probably see, this standard provides a lot of flexibility in regards to what someone
43 can do with a nonconforming use after the use ceases for more than 2 years. In fact, this
44 standard allows you to change the nonconforming use into another nonconforming use so it can
45 be said that all uses, even those that are not permissible by ordinance, are in fact permissible if
46 you have a nonconforming use and you cease the use for more than 2 years. A proposal for

1 conversion, resumption, expansion, etc. does require PB consideration but it gives the PB rather
2 broad standards for review which are wide open for interpretation- this makes it difficult for the
3 PB and applicant

4
5 A standard such as 78-180 does have some positives but its current language leaves the town
6 open to potentially undesirable uses which could create considerable impacts. The language
7 could be tightened up while still allowing reasonable leniency for conversions, expansions, etc.
8 of nonconforming uses of land and structures. Points to consider:

- 9
10 • The town already has standards in place that deal with nonconforming use of land (78-
11 177) and structures (78-179). The standard we're considering allows an owner of a
12 nonconforming use or structure to essentially "waive" the standards in 78-177 and 179 as
13 long as the PB finds a proposal is acceptable. Really, one of the primary differences is
14 78-180 allows the nonconforming use of land and structure standards to be extended to
15 10 years.

16
17 Eber Weinstein asked how many places that haven't been changed after 10 years.

18 Mark Koenigs stated that they would have to go out of business or what they have is non-
19 conforming use. The two that we have done is Paul's II and Summerwinds.

20 Linda Mailhot stated that they currently they can still be operating as a non-conforming use.
21 We would have to have a list of every non-conforming currently operating parcel in order to answer
22 that question. The use of land as an example might be to go from residential to something else.

23
24 Planner Hinderliter stated that the standard has the potential to be a problem. If we didn't have this
25 standard, we wouldn't be reviewing Paul's II/Red Rocket.

26
27 *Linda Mailhot suggested some of her own changes:*

28 78-180 allows a nonconforming use of land or a nonconforming use of a structure to be enlarged,
29 increased, extended, moved, reconstructed, structurally altered, ~~converted to another~~
30 ~~nonconforming use~~, or resumed after cessation for a period of ~~more~~ **less** than two years ~~but less~~
31 ~~ten years~~ upon approval by the PB as a Conditional Use.

32
33 Planner Hinderliter stated that it is important for the Board Members to read over Section 78-177-179
34 because we do have non-conforming use of land and non-conforming use of structure standards, but they
35 are applied to 2 years. Then when you get to the 2-10 years is when Section 78-180 applies.

36 You could say it's a change to a non-conforming use, maybe say it could be changed to another non-
37 conforming use except those uses specifically prohibited in that district.

38 39 **2. Discussion: Planning Board approval expiration for subdivision, site plan and conditional use**

40 As you may know, we've found that our subdivision, site plan and conditional use ordinances
41 project approval expiration standards may be lacking. For example, our CU standards do not
42 have a project approval expiration date which basically means a CU project approved by the PB
43 can pretty much run indefinitely before construction begins. Another example is subdivision
44 which has project expiration standards but they're tied to plan recording (74-234 a) and a rather
45 odd one that appears to be tied to phased development (74-234 b)

1 Common project expiration standards are one year to begin construction and two years to
2 substantially complete construction. This requires solid, clear definitions of begin construction
3 and substantially complete construction. Our site plan ordinance includes standards similar to
4 the above but the key language, project commencement and substantially completed, is not
5 defined. “Substantial Start” is defined (“completion of 30 percent of a permitted structure or use
6 measured as a percentage of estimated total cost”) but that language is not used.

7
8 Adding definitions for project commencement and substantially completed but also taking that
9 language for all three.

10 And have an expiration date for conditional use.

11
12 Planner Hinderliter stated that we had 2 projects around the high school. Dirigo Woods (40 unit)
13 and the other one was across the street from the high school on E. Emerson Cummings.

14
15 We would like to bring some language back at the next meeting and the language would be similar to
16 what the site plan review would say with definition for all three.

17
18 **3. Update and Discussion: Comprehensive Plan, Future Land Use Plan**

19 What the Board Members have is still a draft but a lot of hard work went into and is very close to being
20 part of the final draft on what is called the Future Land Use Plan which is probably the most important
21 section of the Comprehensive Plan. The Future Land Use Plan is a document as well as a map. It is the
22 creation for the foundation of how land use will exist over the next 10 years. It is the foundation for the
23 development of new ordinances. Organized growth for a number of reasons. Protecting our natural
24 resources, our quality of life etc. The Future Land Use Plan is the guidance for future zoning
25 ordinances so it is very important.

26
27 *Planner Hinderliter went over the future land use plan districts:*

28 **R1 (Residential 1)**

29 The residential 1 district (R-1) is established as a zoning district in which the principal use of the
30 land is for low density single-family and two-family residences and limited, compatible non-
31 residential uses that contribute to a wholesome residential neighborhood environment.

32
33 **R3 (Residential 3)**

34 The residential 3 district (R-3) is established as a zoning district where the principal use of the
35 land is for single-family, private residences on small lots. (Homewood Park Area and currently
36 the R-5).

37
38
39 **PRUD (Planned Residential Use Development)**

40 The intent of the PRUD district is to encourage creative and flexible residential, recreational and
41 limited nonresidential/care for people land uses that efficiently maximize the use of developable
42 land for residential and recreational use while allowing the integration of limited
43 nonresidential/care for people development that supports and is compatible with residential and
44 recreational uses—all within a quality community environment. (This was originally named the
45 Planned Mixed Use Development/Dunegrass).

46 **EG (East Grand District)**

1 The intent of the EG is to accommodate a mix of residential uses, resort accommodations and a
2 limited number of non-residential uses. Regulations should encourage these uses to exist and
3 grow in a manner that complements and enhances this area as well as the community image.
4 (This will be similar to the BRD district).

5
6 **DD1 (Downtown District 1)**

7 The purpose of the downtown district 1 (DD-1) is to maintain the historical downtown area as
8 the town's principal commercial, service, and entertainment center for year-round residents and
9 seasonal visitors, by promoting increased commercial diversity, vertical stratification of mixed
10 uses, improved infrastructure, and implementation of design standards targeted at creating a
11 visually exciting and harmonious environment attractive to the changing market demands.

12
13 **DD2 (Downtown District 2)**

14 The downtown district 2 (DD-2) represents a natural expansion of the DD-1 district into adjacent
15 underutilized parcels for the purpose of increasing the critical mass of commercial space and
16 diversity of goods and services essential to provide for a strong local economy. Since the DD-2
17 district is both visually and functionally related to the traditional downtown, many of the same
18 uses and design standards of the DD-1 district apply.

19
20 **OPD (Ocean Park District)**

21 The intent of the OPD is to provide an area that allows a variety of residential uses and a limited
22 number of low-impact, compatible non-residential uses and a visual style that compliments
23 Ocean Park's character. The district encourages standards that are in keeping with character of
24 this area and a pedestrian-friendly environment.

25
26 **CG (Campground Neighborhood District)**

27 The intent of the CG is to allow a variety of residential housing types at varying densities within
28 the context of a traditional, walkable neighborhood. Regulations will encourage thoughtful reuse
29 and redevelopment. A limited number of low-impact non-residential uses are permitted.

30
31 **PAD (Portland Ave District) (currently GB-1)**

32 The intent of the PAD is to provide a mixed-use area that allows for residential and non-
33 residential uses. Development and design standards should complement the architecture and
34 historic quality of the structures in the Historic Overlay (HO) and create a pedestrian friendly
35 environment and enhance the community's image. This district includes the HO district. The
36 HO district intent is to provide an area in town to formally recognize and protect its historic,
37 cultural and architectural resources. The regulations of the HO district supplement the
38 regulations of the PAD.

39
40 PAD will replace GB-1.

41
42 Eber Weinstein asked how this will differ from GB-1.

43
44 Planner Hinderliter explained that this takes into account that this area is more built out and also
45 has smaller lots and also has the heavy residential presence.

46 **C (Campground District)**

1 The purpose of the Campground District (C) is to establish all existing campgrounds as a
2 seasonal conforming uses, and to provide performance and design standards that permit the
3 expansion of existing campgrounds and creation of new campgrounds within the District while
4 mitigating the on and off-site impacts created by the use.

5
6 We are looking to make that district a bit different than a standalone district because this is an
7 area that the town has identified for economic development purposes and revitalization.

8 We are thinking about making these districts actually formal campground districts.

9 Win Winch mentioned about looking into spot zoning.

10 Planner Hinderliter stated that once we get this more definitive, we will have more workshop
11 meetings. This is just an introduction.

12 Planner Hinderliter welcomed all to attend the next Comprehensive Plan Committee meeting on
13 2/16/17.

14
15 There was talk as to what is happening with the Milliken Mills brick building that is
16 deteriorating. Planner Hinderliter will get back to the board on this issue and let them know what
17 will be taking place with this.

18
19 **GOOD AND WELFARE**

20
21 Chair Koenigs stated that he will draft a letter to Planner and Board Members to let them know
22 that he will not re apply for full time position on the board but will be available for an alternate
23 position.

24
25 **ADJOURNMENT**

26
27 Meeting adjourned at 7:34 pm

28
29 LINDA MAILHOT, CHAIRPERSON

30
31 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
32 *Beach, do hereby certify that the foregoing document consisting of Six (6) pages is a true copy of*
33 *the original minutes of the Planning Board Meeting of February 2, 2017.*

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