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2  
3 OLD ORCHARD BEACH PLANNING BOARD  
4 Public Hearing & Regular Meeting MINUTES  
5 July 8, 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 Chris Hitchcock

21 Win Winch

22 Robin Dube

23 Vice Chair Walker

24 Chair Mailhot  
25

26  
27 Public Hearing

28 PH 1

29 Proposal: Conditional Use: Child Care Facility (Family Day Care)

30 Applicant: Phoebe Cram

31 Location: 188 Portland Ave; MBL: 103-1-23; Zoning: RD  
32

33 No discussions Closed Public Hearing at 6:31 PM  
34

35 Regular Business

36 ITEM 1

37 Proposal: Minor Subdivision and Site Plan: 4-lot subdivision for single-family use

38 Action: Discussion; Final Ruling

39 Applicant: Estates at Bay View, LLC

40 Location: 211 East Grand Ave., MBL: 202-2-2; Zoning: Proposed Contract Zone and Shoreland RA  
41

42 Town Planner Jeffrey Hinderliter provided the Board with the following:

- 43 • This subdivision and site plan proposal is associated with the recently proposed contract zone
- 44 • At the March Planning Board meeting the Board recommended the Council approve the contract  
45 zone
- 46 • On 4 May, the Council approved the contract zoning agreement. This approval included changes  
47 to the language recommended by the Board, and most notably, it added stronger enforcement  
48 language
- 49 • The contract zone agreement now has full town approval; although, DEP must approve before it  
50 becomes official

- In regards to DEP approval, the DEP has determined a special local condition is required. The Town has submitted the paperwork for that and is working with DEP to secure that approval
- Regarding the actual subdivision and site plan project, the Planning Board began review as a sketch plan during April, determined the preliminary plan complete at the May meeting, held a public hearing and site walk during June, and conducted the first final plan review during June. Tonight is our second final plan review, and it's in response to the Planning Board's request for the applicant to address some of the outstanding items in the June staff memo, which included staff comments and Fire Department and Wright-Pierce comments
- The applicant did a really nice job addressing those comments with the July submission
- Staff and Wright Pierce had a few follow-up comments and as a follow-up to the July submission, we received additional plans and supporting documents when I was out of town. These additional plans and documents address our remaining follow-up comments with the exception of the 25' setback on lot 4; we have the one remaining comment re the 25' rear setback on lot 4 from one of the neighbors. Jeffrey wanted to note that the structure where it exists will be at 23' so it is close to meeting that requested setback. There were also some questions about which setback was applicable, and Jeffrey explained that the contract zoning ordinance, right in it's opening statement, states that there are times when variances or ordinances need to be amended to allow special types of development within the Town. So even if this did not meet the setback requirements through the contract zone, it was actually permitted at 20 feet and the building footprint was shown at 15 feet
- We recommend conditional approval with the following changes to the condition written in the staff memo:
  - \*Condition #3: in the second sentence, add "2 July 2021" to reflect the most recent information
- Final note regarding conditions- at the June Planning Board meeting, the Board contemplated adding a condition concerning the existing house and ensuring it's preservation. This is not a condition because a note was added to the plan stating "The existing historic structure may be relocated but shall be preserved as it exists." We feel that this is not a condition because the note is binding, but if the Planning Board feels it should be a condition, feel free to add it as Condition #5; and also, we recommend removing the existing Condition #5 re the ladder truck template as it is shown on the July 2<sup>nd</sup> plan.

Applicant Timothy Swenson then spoke. He stated that to accommodate the neighbor's concern re the setbacks, the garage was not a historic part so he will take 2 feet off the garage. Chair Mailhot then asked if there were any questions or comments from the Board. Mr. Winch asked Town Planner Jeffrey Hinderliter if all questions re the fence were answered adequately, to which Jeffrey replied yes because there was detail added to the final plan.

Chair Mailhot then read the site plan criteria and responses:

Site Plan Applicant Responses

- 1) *The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in this article and article VIII of this chapter.*

**RESPONSE: The project conforms to the standards of the zoning district, contract zone, and performance standards.**

1 2) *The proposed project has received all required zoning board of appeals and/or design review permits*  
2 *as specified in division 2 of article II and article V of this chapter, if applicable, and has or will receive*  
3 *all applicable federal and state permits.*

4 **RESPONSE:** The contract zone has been accepted by the Planning Board and Town Council  
5 and is currently under final review by DEP. Otherwise, there are no appeals and is not located  
6 in historic or downtown districts.  
7

8 3) *The proposed project will not have an adverse impact upon the quality of surficial or groundwater*  
9 *resources.*

10 **RESPONSE:** The proposed subdivision will be served by public water; groundwater will not be  
11 impacted by water use as no wells are proposed. The project also proposes to provide a net  
12 reduction in impervious area, allowing a greater volume of water to infiltrate.  
13

14 4) *The project provides adequate stormwater management facilities to produce no additional peak runoff*  
15 *from the site during a 25-year storm event or any other event so required by the planning board, and*  
16 *will not have an undue impact on municipal stormwater facilities or downstream properties.*

17 **RESPONSE:** The project proposes a net reduction in stormwater run off.  
18

19 5) *The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and*  
20 *pedestrian circulation systems within the community or neighborhood.*

21 **RESPONSE:** The proposed project will not cause unreasonable highway or public road  
22 congestion or unsafe conditions.  
23

24 6) *The proposed project will not have an adverse impact upon environmental quality, critical wildlife*  
25 *habitats, marine resources, important cultural resources, or visual quality of the neighborhood,*  
26 *surrounding environs, or the community.*

27 **RESPONSE:** The proposed subdivision will not have an undue adverse effect on the scenic or  
28 natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. The  
29 project proposes to improve these by relocating the existing structure outside of the back dune zone.  
30

31 7) *The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other*  
32 *nuisances that will adversely impact the quality of life, character, or the stability of property values of*  
33 *surrounding parcels.*

34 **RESPONSE:** The project proposes to develop single family homes on the parcel that will be  
35 compatible with the existing uses on neighboring parcels.  
36

37 8) *The proposed project will not have a negative fiscal impact on municipal government.*

38 **RESPONSE:** The creation of 3 additional single-family homes will not have a negative fiscal  
39 impact on municipal government.  
40

41 9) *The proposed project will not have an adverse impact upon surrounding property values.*

42 **RESPONSE:** The project seeks to create a subdivision that respects the surrounding properties  
43 by proposing to develop higher end properties on the parcel.  
44

45 Subdivision Applicant Responses

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;*

**RESPONSE: The developed area of the project will be outside of the effective floodplain.**

*b. The nature of soils and subsoils and their ability to adequately support waste disposal;*

**RESPONSE: The proposed subdivision will be served by public sewer.**

*c. The slope of the land and its effect on effluents; and*

**RESPONSE: Grades on site are generally below 20%**

*d. The applicable state and local health and water resources regulations;*

**RESPONSE: The proposed subdivision will be served by public water and sewer.**

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

**RESPONSE: The proposed subdivision will be served by public water. See previously provided correspondence with Maine Water Company confirming the adequacy of water supply.**

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

**RESPONSE: The proposed subdivision will not cause an unreasonable burden on an existing water supply. Refer to previously provided correspondence with Maine Water Company.**

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 impervious area on site will be reduced from existing, providing an improvement to run off conditions. All disturbed areas will be revegetated or paved in final conditions.**

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 proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions.**

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

**RESPONSE: The proposed subdivision will be served by public sewer.**

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 proposed subdivision will not cause an unreasonable burden on an existing sewage municipal service. Solid waste is proposed to utilize curb side pick up along East Grand Avenue.**

1  
2 8) *The proposed subdivision will not place an unreasonable burden upon local,*  
3 *municipal or governmental services;*

4 **RESPONSE: It is not anticipated that the proposed subdivision will place an**  
5 **unreasonable burden upon local, municipal or governmental services.**  
6

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

10 **RESPONSE: The proposed subdivision will not have an undue adverse effect on the**  
11 **scenic or natural beauty of the area, aesthetics, historic sites or rare and**  
12 **irreplaceable natural areas. The project proposes to improve these by relocating the**  
13 **existing structure outside of the back dune zone.**  
14

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

17 **RESPONSE: The proposed subdivision conforms to the underlying zoning,**  
18 **subdivision regulations, and the comprehensive plan.**  
19

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

22 **RESPONSE: The subdivider has adequate financial and technical capacity. Refer to**  
23 **previously provided letter from lender.**  
24

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

28 **RESPONSE: The project proposes to reduce the amount of impervious area on site**  
29 **and move an existing structure outside of the back dune area. Both of these will**  
30 **provide improvements to the shoreline and runoff.**  
31

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

34 **RESPONSE: The proposed subdivision will be served by public water; groundwater**  
35 **will not be impacted by water use as no wells are proposed. The project also**  
36 **proposes to provide a net reduction in impervious area, allowing a greater volume of**  
37 **water to infiltrate.**  
38

39 14) *The proposed subdivision will not reasonably interfere with access to direct sunlight*  
40 *for solar energy systems.*

41 **RESPONSE: The proposed construction of new homes is not expected to**  
42 **unreasonably interfere with access to direct sunlight for solar energy systems.**  
43

44 Vice Chair Walker then made the following motion: *I will make a motion to conditionally approve a Site Plan and*  
45 *Subdivision application for a 4-lot single-family residential subdivision located at 211 East Grand Ave., MBL: 202-*  
46 *2-2, located in the Contract Zone 3, applicant Estates at Bay View, LLC with the following conditions:*

- 1 1. Any construction activity including, but not limited to, site work and infrastructure installation, shall not  
2 begin until applicable DEP approvals are secured by the applicant or their agent and the Town of Old  
3 Orchard Beach.
- 4 2. Proposal shall meet all terms, conditions and restrictions in the Contract Zoning Agreement by and  
5 between the Town of Old Orchard Beach and Estates at Bay View, LLC., adopted by the Old Orchard Beach  
6 Town Council on 4 May 2021.
- 7 3. Site Plan and Subdivision approval is dependent upon and limited to the proposal and plans contained in  
8 the application dated 23 April 2021, 24 May 2021, 21 June 2021, and 8 July 2021, all supporting  
9 documents and oral representations submitted and affirmed by the applicant and its agents, and  
10 conditions imposed by the Planning Board; any variation from such proposals, plans, supporting  
11 documents and representations are subject to review and approval by the Planning Board, provided that  
12 de minimis variation is subject to review and approval by the Town Planner.
- 13 4. Violation of "No Parking" on the common access private way and fire lane shall be a violation of this  
14 subdivision and site plan approval and shall be punishable under 30-A M.R.S.A. §4452. The civil penalties  
15 provided in that statute shall be assessed on a per-day basis. In addition to the above, if the property or  
16 building has a business license and the Town finds a violation, the licensee shall be subject to the  
17 standards in Old Orchard Beach Code of Ordinances, Chapter 18, Article II, Secs. 18-26 – 18-39.

18  
19 This motion was seconded by Ms. Dube. Ms. Hubert then requested that the motion also include the  
20 condition that the house of Lot 1 be relocated so that there is a 25 ft setback. Chair Mailhot then asked  
21 Ms. Dube to remove her second and asked Vice Chair Walker to amend his motion to add that condition;  
22 Ms. Dube did not remove her second and Vice Chair Walker did not amend his motion as the applicant  
23 already stated that he would do that. Chair Mailhot confirmed that it was Vice Chair Walker's impression  
24 that his motion allowed the applicant to change the garage structure (reduce footage) to allow the  
25 setback to be the 25 feet that the neighbor requested. Vice Chair Walker replied yes, that was his  
26 impression. Chair Mailhot then asked for any more discussion on it; seeing that there was none, she asked  
27 that Town Planner Jeffrey Hinderliter call for the vote:

- 28  
29 Ms. Hubert - NO  
30 Mr. Winch - YES  
31 Ms. Dube - YES  
32 Vice Chair Walker - YES  
33 Chair Mailhot – NO

34  
35 Chair Mailhot stated that vote carries 3-2.

36  
37  
38 ITEM 2

39 Proposal: Major Subdivision: 20-lot cluster subdivision for single-family dwellings  
40 Action: Discussion; Final Ruling  
41 Owner: Timothy Swenson & Cary Seamans  
42 Location: Wild Dunes Way, Section C of Dunegrass (MBL: 105A-1-C); Zoning: PMUD  
43  
44

45 Assistant Town Planner Michael Foster updated the Board as follows:

- 46
- 47 • This 20-lot subdivision application was determined as complete in May. Last month the Planning  
48 Board held the site walk and public hearing.

- For July this application is at the point in the timeline where a decision needs to be made because within 30 days of public hearing or within 60 days of application being determined complete, our ordinance requires approval, modification and approval, or disapproval of the final plan.
- The updated Wright Pierce review memo dated 30<sup>th</sup> June is in the Planning Board packets and there are some remaining memo items to address.
- Other items with remaining questions or info needed are regarding the golf cart path, E-911 ordinance addressing requirements, stormwater, and screening & buffering.
- Any approval should be conditioned to resolve those remaining items.

#### 9 Sewer

10 Bill Thompson with BH2M met with the E/One engineer for analysis of the 20 lots that connect to the  
11 existing 3-inch force main which is owned by the Turn. Updated information was submitted for review,  
12 and comments in the Wright Pierce memo recommended documentation be submitted detailing the  
13 agreement with the Turn for connection to their line and long-term maintenance since this is a private line.

#### 14 Golf cart path

15 There have been ongoing questions about how the golf cart path being displaced by this subdivision will  
16 be interconnected to the existing golf cart path. Easements and recommended golf cart path locations have  
17 been shown on the plans. At our development review meeting where these proposals were discussed with  
18 other Town departments, there were several questions about where this ties in with the current golf cart  
19 path, and without seeing these offsite connections, this is essentially a path to nowhere. At a previous  
20 Planning Board meeting Cary Seamans stated that Domenic Pugliares of Dunegrass was working with an  
21 engineer on these paths. These connections and how they connect should be discussed.

- How will the Planning Board ensure that this new cart path and connections are completed where they are not on the property of this proposal?
- Should requiring submittal of the off-site golf cart connections and path be included as a condition of approval?

22 We did receive an email from Domenic Pugliares with Dunegrass today:

27 *Jeffrey*

28 *I understand that there will be a final vote on Country Club Estates tonight. I want to start by saying I am*  
29 *in favor of this project as I am of any development at Dunegrass. There is one issue which I think needs to*  
30 *be addressed. I have spoken with Cary about this and in concept I know he is in agreement with me. I*  
31 *believe we can shift the beginning of the road over 10 or 15 feet. This would also reduce the amount the*  
32 *cart path would have to be moved. I have attached a plan that Jason Vafiades drew up. Also I understand*  
33 *that they want to tie into the 3 inch force main from The Turn. In concept I do not have an issue with that*  
34 *as well. Obviously at their expense they will have to at their expense legally set up a maintenance*  
35 *agreement between the two HOA's. If these two issues are addressed with a conditional approval I would*  
36 *be in total support of the project.*

37 *Thanks for your time.*

38 *Domenic*

#### 41 E-911 addressing requirements

42 I did receive an email from Assessor William DiDonato that the street name for Magnolia Drive was  
43 accepted. The numbering of lots, which is required, should be a condition of approval.

1 **Stormwater**

2 There were previous concerns in regards to stormwater and how Willow Ave properties are impacted. At  
3 the June meeting Bill Thompson with BH2M provided an update that the proposed lots will be graded  
4 towards the proposed road and with the existing conditions stormwater sheet flows towards Willow Ave.  
5 There is an existing storm drain that discharges to the low point on the applicant's property and they plan  
6 to install a field inlet so this can connect to the existing system. It appears this addressed previous  
7 comments but the grading and flows are still in question in the latest 6/30/21 Wright Pierce memo. And  
8 there were still a couple comments that should be addressed in regards to storm drain line construction.

9 **Screening and Buffering**

10 There have been concerns about screening and buffering for Willow Ave, and Wright Pierce also pointed  
11 out how much higher some of the proposed homes will sit above these existing homes. Sheet 3 of the  
12 plans has a note to "protect existing vegetation" and it extends from the rear of lot 4 through the rear of lot  
13 6, but then ends.

- 14 • What is being done to existing screening/buffering beyond this protected area and is any additional  
15 screening/buffering proposed?

16 **RECOMENDATIONS:**

17 The applicant has been working with Town staff and Wright Pierce to resolve remaining comments.  
18 Planning staff supports conditional final approval at this time. Since the E-911 addressing requirement for  
19 street name was met but numbering wasn't included, this should remain a condition of final approval.  
20 Remaining Wright Pierce comments need to be resolved and that should be a condition of approval. The  
21 Applicant responses to subdivision criteria are listed on page 15 of the July Planning Board memo  
22 followed by the recommended motion at the bottom of page 16. Also, as mentioned you may want to  
23 include a condition about the golf cart path connections which was not included the motion.

24  
25 Chair Mailhot then turned the presentation over to the applicant. Bill Thompson, of BH2M then spoke:  
26 On the sewer, he mentioned a force main coming out of their project which will connect with the existing  
27 force main coming out of the Turn. There will be an agreement being worked on re connecting the sewer  
28 coming out of the Turn for the construction and longterm maintenance. There is now an easement for the  
29 golf cart path behind Lots 1,2, and 3 to get over to hole 10. The addressing requirements have been met  
30 with the naming of Magnolia Drive, and this will be submitted to the assessor to assign house numbers.  
31 Easements between Lots 10 and 11 have been established and will be identified and labelled. Sewer  
32 comments have been answered, the pedestrian/bicycle pathway has been addressed, grading issues have  
33 been resolved, the guard rail location has been established, the mistake re piping labelling has been  
34 corrected, and re the water pressure, the water company weighed in, there is the ability to serve, and they  
35 did a pressure test on Section B and there is adequate pressure to serve this project.

36 Chair Mailhot then asked for any questions or comments from the Board, and Vice Chair Walker inquired  
37 about the golf cart paths, if it was off Wild Dunes Way and through the Turn. Vice Chair Walker stated  
38 that he believes that Dominic thinks he has a right of way to travel on the roadway through the Master  
39 Plan; Timothy Swenson replied that he is working with Dominic to accommodate a path from the ninth  
40 green to the 10<sup>th</sup>, and not have to go down Wild Dunes Way. Vice Chair Walker asked if such an  
41 agreement now exists. Chair Mailhot added that she did not see anything about that listed on the plan,  
42 and the path that she does see is a different path. It was clarified that one of the golf cart paths will be  
43 relocated and one is being added. Timothy Swenson then stated that he, Carey, are Dominic are working  
44 together and that Dominic will provide an easement to allow the paths to be relocated and the outline of  
45 the right of way will be adjusted. Chair Mailhot then confirmed that the existing plan will change a little  
46 bit, and asked that if we have a condition that cart paths will be relocated to the satisfaction of Dominic,



1 town staff, and the developer would that be satisfactory for Vice Chair Walker; Vice Chair Walker  
2 agreed.  
3 Ms. Hubert then inquired about the embankment near Lots 9 and 10; Bill Thompson replied that such  
4 embankment would be loamed and seeded. Mr. Winch then asked about the water pressure issue, if  
5 consideration was being given to using the right of way at Cascade Road to equalize water pressure even  
6 more. Bill Thompson stated that Maine Water does want to talk to the applicant, the Fire Department  
7 would like that, and such would be worked out as part of the construction.  
8 Chair Mailhot then asked if the Board had any additional questions or comments, and seeing none, she  
9 read the questions and comments as follows:

10  
11 **Section 74-2 subdivision applicant responses below followed by motion:**

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

14 a. The elevation of the land above sea level and its relation to the floodplains;  
15 *Applicant response: There are no regulated flood boundaries located in the project area.*

16 b. The nature of soils and subsoils and their ability to adequately support waste disposal;  
17 *Applicant response: The proposed subdivision will be served by public sewer from Wild Dunes Way (see Sheet 4 of*  
18 *Plans).*

19 c. The slope of the land and its effect on effluents; and  
20 *Applicant response: The proposed subdivision will be served by public sewer from Wild Dunes Way (see Sheet 4 of*  
21 *Plans).*

22 d. The applicable state and local health and water resources regulations;  
23 *Applicant response: The proposed subdivision will be served by public water and sewer.*

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

26 *Applicant response: The proposed subdivision will be served by public water from Wild Dunes Way.*

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

29 *Applicant response: The proposed subdivision will be served by public water from Wild Dunes Way.*

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

32 *Applicant response: The project has been designed in conformance with the Town's Post-Construction Stormwater*  
33 *Management Ordinance as well as the Chapter 500 requirements from Maine DEP. Construction of stormwater*  
34 *BMP's will be in accordance with the State of Maine BMP Manual.*

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

37 *Applicant response: Wild Dunes Way has been designed to handle traffic flows from this 20 lot subdivision.*

38 (6) The proposed subdivision will provide for adequate solid and sewage waste disposal;  
39 *Applicant response: Solid waste will be collected by the Town and sewage waste will be served by public sewer.*

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

42 *Applicant response: Solid waste will be collected by the Town and sewage waste will be served by public sewer.*

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

45 *Applicant response: It is not anticipated that the proposed subdivision will place an unreasonable burden upon*  
46 *local, municipal or governmental services.*

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

3 *Applicant response: The proposed subdivision will not have an undue adverse effect on the scenic or natural  
4 beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.*

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

7 *Applicant response: The proposed subdivision conforms to the PMUD zone subdivision regulations and the  
8 comprehensive plan.*

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

11 *Applicant response: The applicant has adequate Financial Capacity to take on this project. The applicant  
12 developed Section B at Dunegrass a handful of years ago as well as many other developments in Southern  
13 Maine. The applicant has adequate technical capacity to take on this project.*

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

17 *Applicant response: The proposed project is not situated within 250 feet of any pond, lake, river, or tidal waters.*

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

20 *Applicant response: The proposed subdivision will be served by public water and sewer.*

21 And

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

24 *Applicant response: The proposed construction of new homes is not expected to unreasonably interfere with access  
25 to direct sunlight for solar energy systems.*

26  
27 Vice Chair Walker then made the following motion: *I will make a motion to conditionally approve the  
28 Subdivision application for a 20-lot single-family residential subdivision located in Section C Dunegrass,  
29 MBL: 105A-1-C, located in the PMUD Zone, applicants Timothy Swenson & Cary Seamans, with the  
30 following conditions:*

- 31 1. *Any construction activity including, but not limited to, site work and infrastructure installation,  
32 shall not begin until applicable DEP approvals are secured by the applicant or their agent and the  
33 Town of Old Orchard Beach.*
- 34 2. *Site Plan and Subdivision approval is dependent upon and limited to the proposal and plans  
35 contained in the application dated 26 February 2021, and all supporting documents and oral  
36 representations submitted and affirmed by the applicant and its agents, and conditions imposed by  
37 the Planning Board; any variation from such proposals, plans, supporting documents and  
38 representations are subject to review and approval by the Planning Board, provided that de  
39 minimis variation is subject to review and approval by the Town Planner.*
- 40 3. *The golf cart safety and relocation off of Wild Dunes Way shall be approved to the satisfaction of  
41 the Town Planning Staff and Board prior to the construction.*
- 42 4. *Before the plan is recorded at the York County Registry of Deeds, remaining Wright-Pierce  
43 comments shall be addressed by the applicant and its agents and submitted to the Town, and shall  
44 be reviewed to satisfaction of Town staff.*
- 45 5. *The applicant or their agent shall submit documentation detailing the agreement with the Turn for  
46 connection to their line and long-term maintenance due to this connecting to a private sewer line.*

1 6. E-911 addressing shall be completed before the plan is recorded at the York County Registry of  
2 Deeds.  
3

4 Chair Mailhot then asked for a second; Mr. Winch seconded the motion. Chair Mailhot then asked if there  
5 were any questions by the Board; seeing none, she called for the vote. Town Planner Jeffrey Hinderliter  
6 called for the vote:

7 Ms. Hubert - YES

8 Mr. Winch - YES

9 Ms. Dube - YES

10 Vice Chair Walker - YES

11 Chair Mailhot – YES

12  
13 Chair Mailhot stated that carries 5-0.

14  
15 **ITEM 3**

16 Proposal: Conditional Use: Child Care Facility (Family Day Care)

17 Action: Discussion; Final Ruling

18 Applicant: Phoebe Cram

19 Location: 188 Portland Ave; MBL: 103-1-23; Zoning: RD  
20

21 Last month this application for a child care facility – Family day care home to care for one to six children,  
22 was determined as complete. The Planning Board held a site walk on July 1<sup>st</sup> and the public hearing was  
23 tonight. The applicant submitted the required responses to standards and conditions. The applicant  
24 submitted the updated application and updated the Conditional use standards responses for a family day  
25 care home and response for trash pick-up/disposal.

26 There were two items in question that were to be reviewed at the site walk:

- 27 • Vehicle access and turnaround
- 28 • Sight distance for driveway  
29

30 **Vehicle access and turnaround**

31 For the vehicle access and turnaround, the Planning Board should verify that there is parking available for  
32 vehicles dropping/picking up children and space to turn around. Child care parking requirements are one  
33 parking space per each nonresident employee and a minimum of one parking space per every four  
34 children. For a family day care home that allows up to six children, a total of three parking spaces would  
35 be required. At the site walk the applicant pointed out the driveway parking and area for turnaround.

36 **Sight distance for driveway**

37 The minimum sight distance requirement listed in *Sec. 78-1466. - Driveway location*, for a 35 MPH  
38 posted speed limit, is at least 360 feet. This daycare proposal will be in an existing single-family home  
39 with existing driveway. Sight distance is so the vision between a motor vehicle preparing to enter traffic  
40 and oncoming vehicles on the roadway is unobstructed. Sight lines in both directions should have been  
41 reviewed but the area of concern is seeing vehicles that are coming into Town over the hill.

42 **Solid waste removal response update**

43 The response for Conditional use standard #7 was updated from curbside trash pick-up to “The trash and  
44 recycling we produce will be properly disposed of and will be taken to the transfer station OR picked up  
45 by a hired trash removal service.” Is taking the garbage to the transfer station an adequate plan for solid  
46 waste removal? The ordinance requires private collection and disposal of solid waste from the premises  
47 and that the operator of the business shall provide and utilize dumpsters whenever solid waste material is  
48 accumulated and/or stored outdoors pending disposal. Planning staff believes that as long as covered

1 latched garbage bins are utilized and trash is picked up regularly, that individual garbage bins instead of a  
2 dumpster would be appropriate, where this is located in a residential area of the Rural district. If the Board  
3 thinks solid waste storage/removal specifics need to be stated in approval, this could be included as a  
4 condition.

5  
6 **RECOMMENDATIONS:**

7 The remaining staff concerns were seeing at the site walk that vehicles aren't required to backout onto  
8 Portland Ave and that there are adequate sight lines. Sight lines were not measured on site, but the board  
9 got to see the driveway in person at the site walk. The applicant stated they are working to improve a  
10 turnaround area. Staff supports final approval if the Planning Board determines these final items in  
11 regards to access are addressed. The applicant responses to required standards begin on page 26 of the  
12 July memo followed by the recommended motion. If a solid waste condition is needed one was not  
13 included in the motion.

14 Chair Mailhot then asked the applicant if she had anything to add at this time. Applicant Phoebe Cram  
15 stated that she is currently working with Jim Butler to work on the culvert for the turnaround.  
16 Chair Mailhot then stated that the applicant is doing an excellent job in making the improvements but that  
17 the situation still appears unsafe and insufficient due to the existing sight lines and the dangerous backout  
18 situation.

19 Vice Chair Walker then asked Staff if it would be appropriate to request a traffic study. Chair Mailhot  
20 stated that it may not have to be a full blown study but perhaps an assessment by a professional. Ms.  
21 Dube added that a traffic study may be quite an expense to the applicant and may be a bit overboard. Mr.  
22 Winch suggested maybe an opinion by the police would be helpful. Applicant Phoebe Cram then asked  
23 why there isn't a blind drive sign there now and/or a mirror on the opposite side of driveway; Chair  
24 Mailhot stated that would be something to ask Public Works about.

25 Assistant Town Planner Michael Foster then read the email from Chief Kelley after asking him about the  
26 sight distance: *Mike, I would agree that sight distance is a bit of an issue here, but I don't know what you*  
27 *could do other than realigning the driveway, removing the tree and cutting back some of the vegetation*  
28 *on the left which would provide a clearer view. We could also have some signage placed in the area*  
29 *warning of the blind driveway. There isn't a lot of traffic there so I don't really think it would be a huge*  
30 *issue but it should certainly be discussed.* Assistant Town Planner then added that based on the site walk  
31 it was noted that the applicant has removed all of the vegetation that they can on their property.

32 Chair Mailhot then asked the Board for any additional questions or comments. Mr. Winch discussed the  
33 concerns about the area and stated that some signage would be a good compromise in this area. Ms. Dube  
34 then asked the applicant if they could fill over the culvert to improve visibility. Applicant Phoebe Cram  
35 stated that their plan is to push the culvert backwards so they can fill in over it and have a larger  
36 turnaround there. Town Planner Jeffrey Hinderliter added although he knows that time is an issue as the  
37 applicant hopes to open in September, that to increase the possibility of a favorable vote, the applicants  
38 take the time to address the issues, such as the signage, the mirror and the turnaround. Chair Mailhot  
39 discussed taking a straw poll to gain insight into the Board's concerns, and recommended that the  
40 applicant address the concerns before the Board votes to avoid what may be an unfavorable outcome if it  
41 were voted on as is. The applicant then asked if a motion could be made with conditions. Mr. Winch  
42 stated that if the applicant could prove to staff that you could turn around and come out head first then  
43 he'd feel pretty good about it. Vice Chair Walker then added that when he parked there and came out head  
44 first, it was still difficult to see oncoming cars from the left. He also added that because there would most  
45 likely be many cars arriving at the same time for drop off and pick up, that the applicant should consider a  
46 schedule for drop offs and pickups so that it is staggered; he would like to see that presented by the  
47 applicant. The applicant replied that because there would be a maximum of 6 children, cars could park in  
48 their driveway and take turns using the turnaround to exit onto Portland Ave.

1 Ms. Dube stated that she would like to make a motion to table this; Vice Chair Walker asked Town  
2 Planner Jeffrey Hinderliter if Staff could work with the applicant to address some of the Board's concerns  
3 and Jeffrey replied yes, that Assistant Town Planner Michael Foster has been doing that all along. Ms.  
4 Dube then made a motion to table this; this was seconded by Mr. Winch, and because there is no  
5 discussion on a tabling motion, Chair Mailhot called for the vote. Town Planner Jeffrey Hinderliter called  
6 for the tabling motion vote:  
7

8 Ms. Hubert - YES

9 Mr. Winch - YES

10 Ms. Dube - YES

11 Vice Chair Walker - YES

12 Chair Mailhot - YES  
13

14 Chair Mailhot stated that carries 5-0, and that they will see the applicant next month.

15 ITEM 4

16 Proposal: Site Plan: Restaurant with drive-thru service

17 Action: Sketch Plan Discussion

18 Applicant: GCS Enterprises

19 Location: 2 Cascade Rd., MBL: 205-15-1; Zoning: GB1  
20

21 Town Planner Jeffrey Hinderliter presented the Board with the following:

- 22 • This proposal is for the establishment of a restaurant with a drive-through window (Aroma Joe's). The  
23 proposed location is at Landry's Plaza, on the end opposite Landry's grocery store
- 24 • The primary development associated with this proposal includes rehab of existing space, construction of a  
25 bump-out for the drive-through window, reconfigure parking area for establishment of drive-through lanes
- 26 • The business will be open year-round, seven days a week from 4:30 AM – 9:00 PM. A full kitchen will be  
27 installed as well as a dining area for 12- 18 seats
- 28 • For this meeting the proposal is presented as a sketch plan. No decisions are required of the Planning  
29 Board but it's a good opportunity for the Planning Board to provide some solid feedback to the applicant so  
30 they know what to focus on and they can make some of their decisions
- 31 • One of the major pieces of this was to get it to fit under the restaurant definition. We do have some  
32 precedence with this with the Dunkin Donuts in the same zoning district, but we have some of the same  
33 sorts of issues, safety requirements, and it is a bit of a different situation than with Dunkin Donuts.
- 34 • We think the primary issues will include drive-through design, drive-through queuing, traffic, parking lot  
35 circulation and safety  
36

37 Chair Mailhot then asked if the applicant would like to make a presentation to the Board. The applicant stated that  
38 she was one of the owners of the Aroma Joe's in Saco, and is the owner of the Aroma Joe's in Gorham. She stated  
39 that the Gorham location is similar in shape to the proposed location. One of her concerns is re developing a plan  
40 and then not being able to move forward so she would like to know any major concerns that the Board may have.  
41 She did look at some of the definitions of restaurant, did a walk-through of the proposed location, and presented to  
42 the Board the idea of having a full kitchen: sink, prep table, toaster ovens; that there is no grilling or frying or  
43 making  
44 anything from scratch. She then asked the Board for any questions, comments. Mr. Winch stated that the traffic  
45 study was an important piece of this, and Chair Mailhot agreed, that this area has 5 entrances total, with 4 of them  
46 connecting to the main parking lot in the front and that the only solution may be to allow one way in and one way  
47 out with angled parking.

48 Chair Mailhot also stated that a traffic study would have to be done, and that the owner of the plaza would have to  
49 be on board with the idea of redesigning the traffic flow of the entire plaza and redesigning the parking spots. The  
50 applicant then asked about the requirement in the ordinance about traffic moving counter clockwise, and stated  
51 their design had traffic moving clockwise. Ms. Dube mentioned the other entrance on the side street, Miles  
52 Avenue, which could be an entrance to allow for counter clockwise traffic. Vice Chair Walker then asked Town

1 Planner Jeffrey Hinderliter if the applicant would be able to ask for a waiver of the requirement for traffic to go  
2 counter clockwise; Jeffrey indicated that yes he did think that was a requirement that could be waived. Vice Chair  
3 Walker stated that he had a problem with delivery and trucks coming in early and disturbing the neighbors. The  
4 applicant stated that there was a time, 4 am – 9 am, within which no deliveries could be made. Chair Mailhot then  
5 stated that for the Board to consider the proposal, a fully engineered traffic study would have to be done.  
6 It was discussed that the parking lot fiasco was due to years of add-ons, there were no parking requirements  
7 because the property was grandfathered; after that discussion Ms. Dube questioned if it were fair that this business  
8 would be faced with solving the parking and traffic issues after years of prior add-ons not having to deal with the  
9 parking lot issues. Chair Mailhot then stated that perhaps the applicant could get the owner to assist with the  
10 solutions.

11  
12  
13 ITEM 5

14 Proposal: Site Plan and Major Subdivision: 26 Townhouse Condo Units  
15 Action: Preliminary Plan Determination of Completeness; Schedule Site Walk; Public Hearing  
16 Applicant: Gorrill Palmer  
17 Location: 2 – 4 Little River Rd., MBL: 201-3-2 & 6; Zoning: RBD & Shoreland RA  
18  
19

20 Town Planner Jeffrey Hinderliter updated the Board as follows:

- 21
- 22 • This major subdivision proposal is for the development of a 26-unit townhouse condo development. The  
23 proposed location is several lots along River Road, primarily being 2 and 4 Little River Road. Zoning is  
24 Resort Beachfront District (RBD) and shoreland zone Residential Activity (RA) district. Both lots are  
25 located in the regulated floodplain, the AO flood zone. Current use of the property is a single family at 2  
26 Little River Rd. and vacant wooded lot at 4 Little River Rd. This property abuts Scarborough and we did  
27 send the notification of the preliminary plan and all the materials that you have to the 2 Planners in  
28 Scarborough
  - 29 • Unfortunately, due to family matters I was away from the office, but I did have a couple of hours this  
30 afternoon to take a look at the proposal and provide comment, and I apologize to the Planning Board and to  
31 the applicant that I didn't have that opportunity
  - 32 • Although I was unable to provide a proper review, Stephanie Hubbard, our peer review engineer, provides  
33 excellent peer review comments in her 29 June memo. She identifies some critical items that should be  
34 addressed as part of the preliminary plan review
  - 35 • I have a few comments from my brief review this afternoon but please note this is not a comprehensive list
  - 36 • The applicant did an excellent job in reaching out to department heads, and this was a solid submission for  
37 a preliminary plan
  - 38 • Traffic impact assessment was mentioned to be provided at final submission
  - 39 • Proof of financial capacity is not included as the applicant is still working on final costs
  - 40 • Responses to subdivision standards state building height will be 35' or less, but a Table in the application  
41 states building height will be 47.68'. We need to ensure that we will get the exact height
  - 42 • Full stormwater management plan will need to be included. It appears the applicant intends to submit that  
43 for final review but stormwater is an extremely important component of development activity and is critical  
44 to the health of our community and our natural resources. That will be an important part and our peer  
45 review engineer specializes in stormwater, so in my opinion, we need that review as part of the preliminary  
46 plan.
  - 47 • According to the plans, it appears there are minimal improvements to Little River Rd. I expect this road  
48 will need to be improved to meet applicable subdivision standards like the collector street standards.
  - 49 • Sewer capacity is under review. General information is included with the plans but not the real details.
  - 50 • I see no sidewalks proposed along Little River Rd. or East Grand. I feel, at a minimum, sidewalks need to  
51 be on the frontage along Little River Rd

- 1 • At this time, we do not recommend the Planning Board issue a determination of completeness on the  
2 preliminary plan or schedule a Public Hearing. One of the primary reasons for that is because once you do  
3 that, the clock starts ticking and I suspect that with the level of review required on this project, the clock  
4 will run out before that information is done.  
5

6 Chair Mailhot then asked the applicant if he had anything to state. Caleb Barrassa, project engineer for  
7 Gorrill Palmer, then addressed the Board. Caleb indicated that they are working through the application  
8 process to provide the necessary information for the preliminary plan. He stated the applicants have  
9 interest in Lots 2,4, 8 and 10, and the project is completely located at Lots 2 and 4 but we will combine all  
10 4 lots to gain that density and continue with this condo development. Another piece that they looked at is  
11 the floodplain piece, and we have accommodated that ordinance. Caleb addressed the Wright Pierce  
12 comments regarding pedestrian access and sidewalks, the right of way, road conditions, sight distances,  
13 driveways, and parking. He stated that they will be looking to provide more detailed information on the  
14 comments as this project moves forward. He also clarified the height of the buildings and stated that they  
15 are staying within the height requirements, and that they are working with the different departments to  
16 coordinate the utilities design and reviews. Caleb then presented the utilities plan to the Board, stating that  
17 they will be utilizing public sewer and public water, that there is sufficient power to provide power to the  
18 buildings, and that there will be an 8'x10' dumpster pad for private collection for the site. He also  
19 discussed the grading plan and stormwater management plan, and stated that he is working with Stephanie  
20 at Wright Pierce re drainage issues.

21 Chair Mailhot then stated that as Jeffrey had mentioned, they did a good job with the plan but that as it  
22 stands, it does not contain all of the information necessary to determine the application complete.  
23 Mr. Winch then asked about the right of way to the beach; Caleb indicated that they have not yet located it  
24 and as such, it is not shown on the plans and the applicants will not be looking to claim that right of way.  
25 Mr. Winch also stated he has concerns about parking, that there would be more cars in the summer time,  
26 and snow removal in the winter. Ms. Hubert added that she also had concerns about parking and the space  
27 requirements; Caleb indicated that the parking spaces were designed to accommodate a midsize vehicle and  
28 a full length pickup truck. Vice Chair Walker asked if the applicant had reached out to the Fire Chief to  
29 determine if he had concerns about space requirements; Caleb replied that they had a meeting and had  
30 discussed the turning template with the Chief, and that he feels that there is no issue with entering or  
31 exiting, and Caleb answered that the buildings will have sprinklers. Vice Chair Walker then asked about the  
32 additional properties in the area; Caleb answered that the single family residences at Lots 8 and 10 will stay  
33 and become part of the condo association and that the property at Lot 2 will be demolished. Chair Mailhot  
34 asked if the land around Lots 8 and 10 will become space for all of the association to use; Caleb indicated  
35 that such would be determined by the homeowner's association and felt that each of those lots would  
36 belong to just the one particular condo. Chair Mailhot then stated that because of that, she feels that they  
37 cannot borrow net density from those lots if they are not actually going to be incorporated other than in  
38 theory. Chair Mailhot also indicated that with their next submission, the Board is going to want to see  
39 condo docs. She also stated that they would like to see additional snow storage areas, and that such areas  
40 could be used for visitor parking. She also indicated that in relation to parking inside the garages, because  
41 these units would not have basements, it should be taken into account that part of each garage would in all  
42 likelihood be used for storage, and therefore the remaining size of the garage should be considered, that it  
43 may not be feasible that 2 vehicles can park in the allotted garage space. Chair Mailhot had additional  
44 comments for Caleb to consider regarding the wetlands and impervious surfaces, using 8 and 10 Little  
45 River Road in calculations, parking for visitors and particularly if rentals are allowed, and the requirement  
46 for sidewalks on Little River Road and East Grand Avenue. Vice Chair Walker inquired about exterior  
47 lighting, on the sidewalks etc.; Caleb replied that exterior lighting is shown on the plan and would be happy  
48 to discuss that further.  
49

50  
51 Other Business Chair Mailhot asked that the Minutes of prior meetings be brought forth for approval  
52 Good and Welfare Nothing to discuss  
53

1 ADJOURNMENT

2 Seeing that there was nothing else for discussion, Chair Mailhot adjourned the meeting at 8:46PM

3

4

5 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*  
6 *certify that the foregoing document consisting of Sixteen (16) pages is a true copy of the original minutes of the*  
7 *Planning Board Meeting of July 8, 2021.*

8

9

10 X  \_\_\_\_\_  
11 Laurie Aberizk

12