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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **May 3, 2018 (Site Walks, On-Site)**
5 **May 3, 2018 6:00 PM (Workshop, Council Chambers)**
6

7 **Site Walk (5:00 PM)**

8 **Proposal:** Subdivision/Site Plan Amendment: Amend Atlantic Park Condominium to allow
9 construction of 21 new units, sidewalks, parking, access ways, landscaping, and
10 other misc. improvements.

11 **Applicant:** KAP Atlantic, LLC

12 **Location:** 11 Smithwheel Rd., MBL: 210-1-7
13

14 **Site Walk (5:30 PM)**

15 **Proposal:** Major Subdivision: 10 lot residential subdivision (Red Oak Phase III)

16 **Applicant:** Mark & Claire Bureau

17 **Location:** End of Red Oak Dr.
18

19 **Present:** Chair Linda Mailhot, Win Winch, Robin Dube, David Walker, Gary Gannon and Marc
20 Guimont. **Absent:** Mark Koenigs. **Staff Present:** Planner Jeffrey Hinderliter, Associate Planner, Megan
21 McLaughlin.
22

23 **CALL WORKSHOP TO ORDER 6:00 PM**
24

25 **ITEM 1**

26 **Proposal:** Ordinance Amendments (Contractor Storage Yard 1): Amendment to Chapter 78 -
27 Zoning, Article VI - Districts, Division 12 – Rural District, Section 78-963 –
28 Conditional Uses; Amendment to Chapter 78, Article VII – Conditional Uses,
29 Division 2 - Conditions, Section 18-1278 – Contractor Storage Yard 1.

30 **Location:** Portion of Rural District: Parcels of land with road frontage along Portland Ave
31 between the Ross Rd/Portland Ave Intersection and the Old Orchard
32 Beach/Scarborough Town Boundary.
33

34 Jeffrey Hinderliter explained that this amendment is only associated with the Contractor Storage Yard 1
35 and not the Frack Tank.

36 At the April meeting, the PB made a few changes to the first draft of the proposed Contractor
37 Storage Yard 1 (CSY1) language.
38

39 The following is from a Fact Sheet prepared to assist with understanding the proposed ordinance
40 Amendments. The Fact Sheet will hopefully have people understand what the ordinance will do.
41

42 **1. If the Ordinance Amendments are adopted where will Contractor Storage Yard 1 be allowed?**

- 43 • Lots with road frontage along Portland Ave., between the Ross Rd./Portland Ave. intersection
44 and the OOB/Scarborough town line, that have an owner occupied residence and 1 acre or more
45 in lot area
46

47 **2. Which local ordinances will a Contractor Storage Yard 1 need to meet?**

- 48 • Contractor Storage Yard 1 Conditional Use standards (these are the proposed ordinance
49 amendments)
50 • Conditional Uses Ordinance

- 1 • Rural District performance standards
- 2 • Parking, Driveway, Off-Street Loading performance standards
- 3 • Sign performance standards
- 4 • Landscaping and buffering performance standards
- 5 • Erosion and Sedimentation Control performance standards
- 6 • Noise Ordinance

7

8 **3. What are some of the requirements a Contractor Storage Yard 1 (CSY1) must meet?**

- 9 • An owner occupied residence must be maintained on the same lot as the CSY1
- 10 • CSY1 lot must be a minimum of 1 acre
- 11 • CSY1 driveway entrances must be a minimum of 50’ from adjacent property boundaries
- 12 • Outdoor storage and parking of vehicles and equipment must be set back 50’ from front property
- 13 line and 25’ from side and rear property lines
- 14 • CSY1 parking and storage areas must be visually blocked from the street and abutting properties
- 15 • CSY1 will not result in significant hazards to pedestrian and vehicular traffic
- 16 • CSY1 will not cause water pollution or contamination of any water supply
- 17 • CSY1 will not create unhealthful conditions or nuisances because of odors, vibrations, smoke,
- 18 dust, glare, noise, hours of operation
- 19 • CSY1 will not adversely affect value of adjacent property
- 20 • A site plan must be prepared showing storage areas, parking, structures, loading and unloading
- 21 areas, buffering, and exterior lighting plan

22

23 **4. How does the proposed Contractor Storage Yard 1 “(C) Other Review Criteria” work?**

- 24 • The Other Review Criteria language is proposed because fitting a CSY1 proposal in one common
- 25 criteria set will not provide adequate regulation. The type of CSY1 may vary as well as its
- 26 potential impacts abutting properties. The Other Review Criteria will allow the PB to customize
- 27 their review to fit the proposal in a manner that the other standards may not allow. For example,
- 28 the Planning Board could require a more extensive buffer than what is typically required “so as to
- 29 prevent adverse impacts to adjacent property.”

30

31 **5. Who would be responsible for local review of a Contractor Storage Yard 1 proposal?**

- 32 • A CSY1 proposal will require a Conditional Use Permit which is reviewed by the Planning
- 33 Board. This permitting process includes site walks and public hearings which provides an
- 34 opportunity for abutting property owners to review and comment
- 35 • Permit review by Code Enforcement if any structures, plumbing or electrical work is proposed
- 36 • Business License review by Town Council

37

38 Planner Hinderliter also mentioned that staff received some common questions:

- 39 • What will this do to property values?
- 40 • The misconception that this will change the district from Rural to Commercial. (not true)
- 41 We are amending the ordinance to allow for Contractor Storage Yard 1 as a conditional use
- 42 within a certain area of the district.

43

44 Marc Guimont asked where is a Contractor Storage Yard 1 presently permitted.

45 Planner Hinderliter will get that information for the members.

46

47 A map was presented that shows the areas of the Rural District that will be impacted by this proposal.

48

49 There are 2 primary items with this:

- It is for properties that have frontage along Portland Ave. from the Ross Road intersection to the Scarborough / OOB town line.
- It requires the lot to have 1 acre or more of land.

The notice process was extended out to properties that would not only be included in the Contractor Storage Yard 1 but those that directly abut these properties also because they potentially have the most impact.

Staff received public comments from the attorney representing the MacDonald’s and also a letter from an abutter.

The Planning Board will be responsible for holding the public hearing and also providing a recommendation to the council.

A discussion on the Frack Tank by the Board Members agreed that it was more appropriate to call it a Septic Storage Tank.

ITEM 2

Proposal: Ordinance Amendments (Medical Marijuana Storefronts): Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility Amendments, title; Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Division 1 - Generally, Section 18-601 – Definitions; Amendment to Chapter 18 - Businesses, Article XI - Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Division 1 - Generally, Section 18-604 – Prohibition on Medical Marijuana Storefronts; Amendment to Chapter 78 - Zoning, Article I – In General, Section 78-1 – Definitions; Amendment to Chapter 78 - Zoning, Article VII – Conditional Uses, Division 2 - Conditions, Section 78-1277 – Medical Marijuana.

Location: Town Wide

We were proposing to change 2 ordinances: Chapter 18- Businesses and Chapter 78- Zoning. Both of these ordinances identify what a medical marijuana storefront is and they prohibit it town wide. The language we had at the last meeting was agreed upon to go to the public hearing. The Board members also received some information from the Mourmouras that was submitted.

Marc Guimont asked if we should be waiting to see where the legislatures rule making may be going. Planner Hinderliter stated that the Council has asked the Planning Board to only look at the medical marijuana storefronts through the moratorium. Working under the moratorium language we have a limited amount of time. We also have somewhat of a direction that is given to the board through the language in the moratorium so our scope is also relatively limited.

Chair Mailhot mentioned that it is important to note that anything that the board does doesn’t preclude anything from being changed in the future.

ITEM 3

Proposal: Subdivision/Site Plan Amendment: Amend Atlantic Park Condominium to allow construction of 21 new units, sidewalks, parking, access ways, landscaping, and other misc. improvements.

Location: 11 Smithwheel Rd., MBL: 210-1-7

Planner Hinderliter stated that there is no further information that we received. We have scheduled the

1 public hearing. We will wait to hear comments from the public and possibly make some
2 recommendations to the applicant based on those comments.
3 What was originally approved in the 1989 plan showed 92 units and a different development than what is
4 being proposed today. Because that original proposal is being changed, it needs to go back to the Planning
5 Board and get their approval.

6
7 David Walker asked if the DEP coordinates with us.

8 Planner Hinderliter said that the DEP usually operates independently however if it is a big project, we
9 usually get a letter from them approving the permit.

10 David Walker asked if the Planning Board authorizes construction of units independent of DEP?

11 Planner Hinderliter stated that if the DEP permits are not secured we can condition the approval and say
12 no construction can begin until all DEP permits are secured.

13
14 There will be no formal action from the Planning Board just public comment.

15
16 **ITEM 4**

17 **Proposal: Site Plan Review: Demo existing building and construct new 7,225 sq. ft. retail**
18 **building including associated parking, sidewalks and other site improvements**

19 **Action: Discussion; Reschedule Site Walk and Public Hearing**

20 **Applicant: Zaremba Group**

21 **Location: 19 Heath St., MBL: 309-9-33**

22
23 Megan McLaughlin stated that the Planning Board tabled this at the last meeting per the Applicant's
24 request.

25 The Planning Board received comments from Wright Pierce. Megan sat down with Wright Pierce and
26 reviewed all of the comments with the Applicant, as well as the Town Manager and Public Works
27 Director.

28
29 Planning Staff is still waiting for a cost estimate from the Applicant to establish an Escrow Account for
30 the installation of sidewalks/crosswalks at the intersection of Fort Hill, Heath and Saco. We have also
31 requested a Maintenance Agreement and Easement from the Applicant for construction/maintenance
32 purposes and for public access of the sidewalk. Planning Staff also discussed the possibility of a Transfer
33 of Ownership with the Applicant. We are still waiting for their thoughts on this.

34
35 There are some issues with petroleum and Wright Pierce is a little concerned about that.

36 The applicant stated that they are coordinating with DEP and expect DEP to provide a no action insurance
37 letter for the project. We recommended that if this letter is not received before the Planning Board makes
38 a decision that it be added as a condition that the town get that letter from DEP for our files.

39
40 Within 30 days of the public hearing or within 60 days after designating the application complete the
41 Planning Board has to make a decision. Megan McLaughlin recommended having them write a letter
42 requesting an extension if needed.

43
44 Staff is still waiting for some language on a maintenance agreement or an easement for construction and
45 public access of the sidewalk which will be partially on their property.

46
47 Robin Dube mentioned about adding a fence, especially in the back for safety.

48
49 **ITEM 5**

50 **Proposal: Major Subdivision: 10 lot residential subdivision (Red Oak Phase III)**

1 **Action: Determination of Completeness, Schedule Public Hearing, Schedule Final Plan**
2 **Review**
3 **Owner: Mark & Claire Bureau**
4 **Location: End of Red Oak Dr.**
5

6 At the April meeting, the Planning Board decided to hold off on Determining the Application complete
7 until clarification about the deed associated with Lot #7 was submitted.

8 When we consulted our Town Attorney, his response was: “as you know an applicant must have
9 sufficient ‘right, title or interest’ in the property that will give the person a ‘legally cognizable
10 expectation’ of having the power to use the property in the ways that would be authorized by any
11 approval. The Planning Board has **no authority**, however, to resolve title disputes or **to interpret** or
12 enforce **a private deed covenant** as part of its decision on an application.” The Town Attorney
13 recommended a condition be added to the plan and a part of that condition stood out to Staff as one that
14 could potentially apply to this situation as well.

15
16 We didn’t received anything new besides the information from our Town Attorney.
17

18 There are a few additional items that need to be submitted/addressed:

- 19 • WP review of the most recent submission materials and response to their comments.
- 20 • Clarification on the locations of test pits.
- 21 • Minor revisions needed to the Performance Guarantee worksheet.
- 22 • Discussion about the recommended condition concerning Codes Staff reviewing a residential site
23 plan that includes stormwater management.
24

25 **Other Business**

- 26 1. Findings of Fact Signatures: 8 Lot Subdivision Amendment (Dunegrass); Church Street Station
27 Re-Approval, Church Street Station Subdivision Amendment
28

29 **ADJOURNMENT AT 6:47 PM**
30

31 *Note: Workshop Agenda Public Hearings and Regular Business items are for discussion purposes only.
32 Formal decisions on these items are not made until the Regular Meeting.
33

34 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
35 *Beach, do hereby certify that the foregoing document consisting of Five (5) pages is a true copy*
36 *of the original minutes of the Planning Board Workshop Meeting of May 3, 2018.*
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