

1 **Old Orchard Beach Planning Board**  
2 **WORKSHOP**  
3 **May 4, 2017 6:00 PM**  
4 **Town Council Chambers**  
5

6 **Present:** Eber Weinstein, Robin Dube, Win Winch, Mike Fortunato, Mark Koenigs, Chair Linda Mailhot.  
7 **Staff Present:** Planner Jeffrey Hinderliter, Assistant Planner Megan McLaughlin.  
8

9 Call workshop to order at 6:00 PM.  
10

11 **Regular Business**

12 **ITEM 1**

13 **Proposal:** **Conditional Use Amendment of Approved Plan/Appeals from Restrictions on**  
14 **Nonconforming Uses (Overnight Cabins): Change use of 7 units from seasonal to**  
15 **year-round Hotel (currently 5 year-round use for a total of 12)**

16 **Action:** **Final Ruling**

17 **Owner:** **SRA Varieties Inc., D.B.A. Paul's II**

18 **Location:** **141 Saco Ave., MBL: 311-1-10**  
19

20 Last week we met with the owners of Paul's II and set some conditions for the approval. There are ten  
21 conditions that are covered in the review criteria, some may not need to be conditions, but they are there  
22 for the planning board's approval.

23 Staff believes that our contributions should be limited to those that are land use and zoning related. Part of  
24 what we asked was to receive a phone number that we can reach them at. We will be recommending  
25 approval with these conditions.  
26

27 For reference, these are the conditions included in the review criteria:  
28

- 29 1. Curb stops shall be installed at the end of each parking space.
- 30 2. The Omni Inn parking area shall be paved on or before—staff recommends on or before 1 June  
31 2018.
- 32 3. Building #3, as identified on 02/05/2017 Parking Layout Plan, shall not exceed 2 units.
- 33 4. Accumulated snow shall be hauled off-site within a time frame that avoids stockpiling snow.
- 34 5. Individual parking spaces shall be marked/identified on-site in accordance with the 02/05/2017  
35 Parking Layout Plan. Temporary spaces shall be marked. Identified on or before 1 June 2017.  
36 Permanent spaces shall be painted immediately after the completion of paving.
- 37 6. Individual parking spaces shall be marked with unit numbers.
- 38 7. DO NOT ENTER sign shall be placed at the intersection of Omni Inn access and Union Ave on  
39 or before 1 June 2017.
- 40 8. DO NOT ENTER signs shall be placed at the access in front of building #5 on or before 1 June  
41 2017.
- 42 9. Tenant or Omni Inn Parking Only signs shall be placed at the access to the Omni Inn from Paul's  
43 II parking area on or before 1 June 2017.

1 10. A Knox box shall be installed on or before 1 June 2017.  
2  
3  
4

5 **ITEM 2**

6 **Proposal: Conditional Use: Establish a Café (Bakery) within an existing building**  
7 **Action: Determination of completeness; Schedule Site Walk and Public Hearing**  
8 **Owner: 4 Kidds LLC**  
9 **Location: 64 Saco Ave., MBL: 206-10-7**  
10

11 This proposal is for the establishment of a café within an existing building. The proposed location was  
12 formerly occupied by the “Curl Up and Die” business and is adjacent to the old post office. The café will  
13 provide seating for eight. Coffee, pastries, sandwiches and non-alcoholic drinks will be offered for  
14 customers. The Café will be open seven days out of the week from 6 AM to 2PM. Parking is available on-  
15 site for approximately nine vehicles (note: parking is allowed on Saco Ave in front of the business—this  
16 has been confirmed by the PD chief). There will be two deliveries each week. A dumpster, which will be  
17 emptied 1x/week, is provided at the rear of the property. The interior will be remodeled to accommodate  
18 the café use. A deck is proposed at the front of the building. A fence exists at the rear (northwest) and one  
19 side (southwest) of the property. Former uses of the property include restaurant, hair salon and retail. She  
20 wants to open by June of this year.

21 The proposal will use similar parking layout and entrance/exit used for prior uses. Interestingly, it is  
22 similar to what was approved by the planning board when this property was proposed to become a  
23 restaurant. Parking standards reduce this to 1 space because only 50% of what’s required for off-street  
24 spaces of the town allows parallel parking on Saco Ave. in front of the business (which it does).  
25

26 Planner Hinderliter believes that this is a straight forward proposal. The applicant will have a few changes  
27 to make.  
28

29 Staff recommends the applicant amend the plan by removing the proposed deck and (possibly) section of  
30 fence adjacent to dumpster; amend CU review criteria response #10 to state existing fence will be used as  
31 screening; Application to provide explanation concerning deliveries. Also, Staff feels the CU application  
32 can be determined complete subject to the applicant addressing the items stated above and we recommend  
33 scheduling a site walk (optional) and public hearing for the June meetings.

34 No alcoholic beverages. Breakfast and lunch.  
35

36 **ITEM 3**

37 **Proposal: Major subdivision: 21 lot cluster subdivision for single-family residential use**  
38 **(eastern Trail Estates)**  
39 **Action: Preliminary Plan Review; Schedule Site Walk and Public Hearing**  
40 **Owner: Kevin and Steven Beaulieu**  
41 **Location: Ross Rd. MBL: 107-1-4, 14 and 16**  
42

1 This project was brought before the PB in January as a sketch plan. At the time it was for the  
2 development of 20 lots off Ross Rd. adjacent to Easy St. They are now proposing to develop 21 lots  
3 which will be served by public water and natural gas from the Eastern Trail. There is a second phase of  
4 this project to be located in Saco with approximately 13 additional lots that abut the Eastern Trail.  
5

6 At the January meeting, BH2M stated that the roads will be constructed to be offered as public streets.  
7 The PB has some questions/concerns at that meeting to be followed up on.  
8

9 We feel there are still a number of outstanding items that needs to be addressed before the PB can rule on  
10 the preliminary plan. The PB can schedule a site walk for 1 June but a public hearing should not be  
11 scheduled until the application is determined complete.  
12

13 There are three primary items staff feels need to be addressed before the PB determines the proposal  
14 complete.  
15

- 16 1. Cluster subdivisions have specific standards in the subdivision ordinance (74-278). We  
17 recommend the applicant demonstrate how the proposal conforms to each standard. If the  
18 applicant feels a particular standard is not applicable we ask them to provide a brief explanation.  
19 Since this proposal is a cluster subdivision, we feel that it is critical the applicant demonstrate  
20 conformance to 74-278. Also, the PB needs this to properly evaluate the proposal.
- 21 2. Although we received Wright-Pierce comments, none of these pertain to storm water because we  
22 received the storm water report late (3 May). Because storm water is a significant part of Wright-  
23 Pierces' technical review, we feel this review must be completed before the proposal is  
24 determined complete
- 25 3. The proposal includes more than 15 lots and only one access. 78-309 (1) requires subdivisions  
26 with 15 or more lots to have at least two street connections. The applicant can seek a waiver but  
27 must provide a formal request in accordance with 74-34.  
28

29 They want to eventually use Easy Street as a second access. This would connect to the  
30 Saco part of the subdivision and the roads would continue onto Easy Street.  
31

32 Win Winch mentioned that they shouldn't get the CO until they get the second egress. Or  
33 Planner Hinderliter started that they can seek a waiver which is an option that they have.  
34

35 There are some concerns regarding Lot 21. We have been told this lot is currently under contract and may  
36 be sold before a final decision is made on the proposed subdivision. Town ordinances state "no person  
37 may convey, offer or agree to convey any land in a subdivision which has not been approved by the  
38 planning board and recorded in the registry of deeds. With the Language above, we wondered, is the sale  
39 of a lot that is in a proposed subdivision that has not yet been approved a violation of subdivision law. We  
40 researched this and based upon what we found (town attorney legal opinion), it appears this is not a  
41 violation as long as the contract or offer to sell the lot is contingent upon subdivision approval. If three or  
42 more lots associated with the subdivision were for sale before the subdivision was approved then this  
43 would be violation because three or more lots creates a subdivision. The Law Court ruled on a matter

1 similar to this (Paldac v. Rockland) because three or more lots must be created before a subdivision  
2 occurs, placing one housing unit did not create a subdivision since it was the “first lot”. The Court noted,  
3 until a property owner “actually creates a subdivision, the fact that it has filed an application for approval  
4 does not halt its freedom to pursue other legal uses of the land as well”. Having said the above, we do feel  
5 this could be questioned and delay the subdivision from moving forward. We felt an easy remedy was to  
6 remove Lot 21 from the subdivision as it can be sold separately without triggering subdivision review by  
7 itself (the creation of 1 lot). We received revised plans (11x17) showing the removal of Lot 21 which are  
8 included in this month’s submission.

9  
10 **ITEM 4**

11 **Proposal: Zoning map amendment: Change zoning district from industrial district to rural**  
12 **district for lot identified as MBL 105-2-16**  
13 **Action: Discuss Map Amendment; schedule Public Hearing**  
14 **Owner: David Deshaies**  
15 **Location: 91 Ross Rd., MBL: 105-2-16**  
16

17 There is a parcel that has a lot of residential uses around it but is split between industrial and residential.  
18 The owner wants to make one parcel into two residential lots. Because part of the parcel is in the  
19 industrial zone, the industrial district has more restrictions on developing residential homes in the district.  
20 The owner wants to remove the sliver of industrial area and make it into a residential lot. The FLUP  
21 identifies this as an R-1 district, and should be a rural area according to the plan, why it wasn’t changed  
22 we do not know. The PB will review and make comments, then set a public hearing, if the planning board  
23 feels comfortable they will make a recommendation to the council.

24  
25 **ITEM 5**

26 **Proposal: Major Subdivision Amendment: Changes to lighting and landscaping and phasing**  
27 **of the project (Dirigo Woods Subdivision)**  
28 **Action: Discussion; ruling on amendment**  
29 **Owner: Andrew and James Parece**  
30 **Location: Dirigo Drive, MBL: 105-2-9**  
31

32 Dirigo Woods is a subdivision off of Dirigo Drive that was approved in 2007 by the PB for 42 lots; they  
33 are making three changes to the plan that was approved in '07. They want to phase it, for letter of credit  
34 purposes so they don’t require as much up front, in the escrow account. They also want to reduce the  
35 number of trees and the number of lights. We have some concerns that we have with the phasing because  
36 of the way they want to split it, there will be 22 lots as opposed to the 15 without having that second  
37 means of egress the way that they have the line going across instead of vertically on the plan. One of the  
38 big concerns was the timing of construction for the second phase, where it’s going to have 22 lots without  
39 that second form of egress; our concern was if the market tanked or if they didn’t build the second phase.  
40 The developers said that they would be willing to talk about moving the phasing line vertically but they  
41 don’t want to have construction equipment on the road.  
42

1 They are looking to cut back the trees from 116 to 66 because that the amount of trees they had was  
2 overkill. They want to reduce the number of lights from 39 to 21, the ordinance states that “street lights  
3 along private ways should provide an average of one foot candle of illumination.” It does not say shall,  
4 therefore this isn’t required.  
5

6 **Certificate of Appropriateness**

7 **ITEM 1**

8 **Proposal: Placement of A/C Unit and associated mechanicals (alteration of deck within view of  
9 Public Street)**

10 **Action: Certificate of Appropriateness Ruling**

11 **Owner: Sameer Hasan**

12 **Location: 39 West Grand Ave., MBL: 310-6-1 (Unit 36), DD1**  
13

14 The unit owner put in an A/C unit and received complaints. After going to the DRC, the unit owner has  
15 agreed to place the A/C unit inside.  
16

17 **ITEM 2**

18 **Proposal: Replacement of siding on the Brunswick**

19 **Action: Certificate of Appropriateness Ruling**

20 **Owner: Tom Lacasse**

21 **Location: 39 West Grand Ave., MBL: 310-6-1, DD1**  
22

23 The appendix to the Brunswick has added siding, not the entire building.  
24

25 **Other Business**

26  
27 The Appeals from Restrictions of Nonconforming Uses (78-180). We decided to do away with 78-180 all  
28 together and let the other nonconforming provisions control nonconforming uses; we would no longer  
29 have the 2-10 year standard. We would like to bring this to a formal meeting in June. A recommendation  
30 could be, instead of going to ten years, we old do 2-5, which could be mentioned in the June meeting.  
31

32 Dunkin’ Donuts received an extension and won’t start construction until May 15.  
33

34 For bike paths near Dirigo Drives, if they build roads, there has to be bike paths going up to Cherry Hill.  
35 Because they are phasing the property, we don’t want them to build half of the walk ways and then build  
36 the other half later.  
37

38 Cherry Hill pump station needs to be an agenda item.  
39

40 **Good and Welfare**

41  
42 **ADJOURNMENT**  
43

1 *I, Rebekka Joensen, Secretary to the Planning Board of the Town of Old Orchard Beach, do*  
2 *hereby certify that the foregoing document consisting of Six (6) pages is a true copy of the*  
3 *original minutes of the Planning Board Meeting of May 4, 2017.*  
4