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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **November 2, 2017 5:30 PM (Site Walk, On-Site)**
5 **November 2, 2017 6:00 PM (Workshop, Council Chambers)**
6

7 **Site Walk (5:30 PM, on-site)**

8 **Proposal:** **Conditional Use: Single-family residential use in the Industrial District and create**
9 **Estate Lot in the Rural District**

10 **Owner:** **Kristen Barth**

11 **Location:** **101 Ross Rd., MBL: 107-2-21**
12

13 **Attendance at Site-Walk:**

14
15 *PB Members: Ryan Kelly & Mike Fortunato.*

16 Notes: Steep slope across the culvert area, Bill mentioned the potential for a guardrail or some
17 type of fencing in this area for safety purposes.

18 Thank you,

19 Megan
20

21 CALL WORKSHOP TO ORDER 6:04 pm
22

23 **Roll Call:** Vice Chair Eber Weinstein, Ryan Kelly, Robin Dube, Mike Fortunato, Win Winch, Mark
24 Koenigs. **Absent:** Chair Linda Mailhot. **Staff Present:** Asst. Planner Megan McLaughlin.
25

26 Approval of Minutes: 10/5/17; 10/12/17
27

28 **Public Hearings (To be held on 11/9/17, 7:00 PM)***

29 **ITEM 1**

30 **Proposal:** **Conditional Use: Single-family residential use in the Industrial District and create**
31 **Estate Lot in the Rural District**

32 **Owner:** **Kristen Barth**

33 **Location:** **101 Ross Rd., MBL: 107-2-21**
34

34 **Regular Business***

35 **ITEM 2**

36 **Proposal:** **Conditional Use: Single-family residential use in the Industrial District and create**
37 **Estate Lot in the Rural District**

38 **Action:** **Discussion; Ruling**

39 **Owner:** **Kristen Barth**

40 **Location:** **101 Ross Rd., MBL: 107-2-21**
41

42 No major concerns at the site walk. There was a bit of a dip in the culvert on each side talked
43 about putting up a guardrail for safety purposes. The public hearing is scheduled for next week at the
44 regular meeting. Don't see any problems with this proposal. Staff is recommending that the Board go
45 through the 3 items listed in the ordinance to authorize conditional uses in the Industrial Zone and the 12
46 conditional use standards.
47
48
49
50

1 **ITEM 3**

2 **Proposal:** Subdivision Amendment: Amend Cherry Hills Estates drainage easement adjacent
3 to lot B24

4 **Action:** Discussion; Ruling

5 **Applicant:** Cary Seamans

6 **Location:** Cherry Hills Estates, Cherry Hills Rd., MBL: 105A-1-B24

7
8 They have submitted a new plan. There is more detail and drainage paving and buffering. Planner
9 Hinderliter stated that he doesn't see any problem with those changes and is recommending that it goes
10 through. This is basically an easement into the drainage area because they built the house in the wrong
11 place.

12
13 **ITEM 4**

14 **Proposal:** Mobile Food Vendor Ordinance Amendments

15 **Action:** Discussion; Schedule Public Hearing

16 **Applicant:** Town of Old Orchard Beach

17
18 We are under a moratorium on mobile food businesses. Staff prepared a draft with some ordinance
19 amendments and presented it to the board. The board asked for some changes to be made including a
20 breakdown of mobile food business definition and a turn for takeout businesses. Planner Hinderliter
21 made these changes and have been included in a second draft. Would like to schedule a public hearing in
22 December because the moratorium expires in January. Then this could go to the Town Council in January
23 before the moratorium expires.

24
25 **ITEM 5**

26 **Proposal:** Subdivision Amendment: Amend Sandy Meadows Plan: revise lot lines to lots 5-8,
27 18, 21, 22; revised building locations; revised parking

28 **Action:** Discussion; Ruling

29 **Owner:** Lacosta Development, LLC

30 **Location:** Lacosta Dr., Sandy Meadows, MBL: 105A-1-A

31
32 They have provided impervious surface calculation changes. They are still working on permission from
33 the property owners that are affected by this. May have to table this item. The Board needs more time to
34 look at this.

35
36 **ITEM 6**

37 **Proposal:** Conditional Use: Private Way Application

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

39 **Owner:** Southern Maine Modular, Inc

40 **Location:** Adjacent to Portland Ave., MBL: 205-1-37

41
42 This proposal came up in September but they tabled it because the applicant had to make some
43 adjustments to the plan. They are trying to create a private way off of Portland Ave. to serve 2 lots. This
44 area was originally part of that 7 lot plan of the Boudreau subdivision that was prepared in 2001 but was
45 never approved. This applicant needs to get frontage for lot #37 to construct a single family home and sell
46 off the lot. It has been revised to maintain the existing cul-de-sac shaped parcel which is owned jointly
47 between the applicant and the abutter (letter in the packet from the lawyer). It appears that the comments
48 have been addressed from Wright Pierce in this new submission.

49
50 Eber Weinstein would like for our town attorney to look over if there is a legal problem to make sure
51 that they are addressing it correctly.

1
2 In regards to the site distances between the driveways, Public Works Director Joe Cooper provided
3 comment that he would be ok to leave the curb cuts as is, however if there are any more lots to be added,
4 he would want the driveway that is associated with the house that is there now, to go off of the
5 private way.
6

7 **ITEM 7**

8 **Proposal:** Major Subdivision: 9 lot residential subdivision (Red Oak Phase III)
9 **Action:** Preliminary Plan Review/Determination of Completeness; Schedule Site Walk and
10 **Public Hearing**
11 **Owner:** Mark & Claire Bureau
12 **Location:** 141 Portland Ave, MBL: 104-2-2
13

14 This project was brought before the Planning Board in January as a Sketch Plan and was back before the
15 PB in July as a Preliminary Plan. Since July, the Applicant has made some changes to the materials after a
16 review by DEP. Some of these changes include:

- 17 • Adding the adjacent parcel to the subdivision which added more land to the project area;
- 18 • Creation of a 9th lot;
- 19 • This project is no longer a cluster subdivision, the lots will conform to the space and bulk
20 requirements of the Rural Zone;
- 21 • The turn-around has been converted from a hammerhead to a cul-de-sac;
- 22 • Some changes were made to the Stormwater Management Plan.
23

24 Currently, there are four lots with homes on Red Oak Drive that were approved back in 2004-2005. The
25 last lot was completed in the summer of 2016. There is a five foot sidewalk proposed as part of the new
26 phase and this will be a continuation of the sidewalk from the first and second phases. The project will be
27 served by public water and septic systems.
28

29 Originally, the Applicant was applying for a cluster subdivision with eight lots, now they have changed
30 the plans so that it is a subdivision that conforms to the space and bulk requirements of the rural zone and
31 has 9 lots.
32

33 The existing riprap pond at the end of the existing Red Oak Drive will be converted into an Underdrained
34 Soil Filter which will treat the existing roadway as well as a portion of the proposed roadway. The
35 remainder of the roadway will be treated by an underdrained soil filter at the end of the proposed
36 development.
37

38 Staff has a number of comments on the materials that Wright Pierce wanted to see addressed. This
39 meeting will just be an opportunity for the PB to discuss with the applicant and get a punch list of items
40 that they should start addressing before the PB makes any determination.
41

42 **ITEM 8**

43 **Proposal:** Subdivision/Site Plan Amendment: Amend Atlantic Park Condominium to allow
44 **construction of 20 new units, sidewalks, parking, access ways, landscaping, and**
45 **other misc. improvements.**
46 **Action:** Discussion; Ruling
47 **Owner:** KAP Atlantic, LLC
48 **Location:** 11 Smithwheel Rd., MBL: 210-1-7
49

50 This is an amendment to a condo project that already exists. They want to add 20 new units including

1 sidewalks, parking, access space, landscaping and other improvements.
2 Basically, it appears the 1989 approval is the only Planning Board approval that legally exists. This
3 approval was for a 92 unit condo project. During 2003 the development owner presented a plan that
4 reduced the number of units to 55 and made a number of other adjustments. The plan was approved by
5 the Planning Board but was not recorded within 90 days of the approval. Because the 2003 plan was not
6 recorded the approval is void. Problem is it appears construction took place after 2003 that was in
7 accordance with the 2003 plan. This should not have happened because the 2003 plan did not legally
8 exist. Another proposal was brought to the Planning Board during 2010 but did not secure final
9 approval.

10 Based on research and subdivision statute and ordinance language, the only plan that legally exists is the
11 1989.

12 Due to all that has happened since 1989 (the 2003 voided plan, zoning changes, etc.) we have informed
13 those that are interested in resurrecting Atlantic Park that, in our opinion, before additional units are
14 constructed a plan needs to be prepared and presented to the Planning Board.

15 Planner Hinderliter intends to have additional information for the PB.

16
17 **ITEM 9**

18 **Proposal: Conditional Use (Shoreland Zoning): Reconstruction and Expansion of a**
19 **nonconforming structure**

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

21 **Owner: Deborah A. McGonagle**

22 **Location: 15 Tioga Ave, MBL: 321-23-3**

23
24 Since the structure at 15 Tioga is within a Shoreland Zone (Residential Activity) and because the structure
25 is nonconforming (it is within the 100' setback) of the Highest Annual Tide, expansion and/or relocation
26 requires Planning Board (PB) review as a Conditional Use and Shoreland Nonconforming Structure
27 Expansion/Relocation. The applicant is not proposing to expand the footprint of the dwelling, however,
28 they are planning on adding a third floor to the structure, increasing the floor area and volume by 14.3%.

29
30 A NRPA permit has been submitted and approved by the DEP.

31 Received one comment from staff that when they construct the new structure, they wanted to see the
32 driveway built to town standards with no more than a 20' wide entrance.

33
34 **ITEM 10**

35 **Proposal: Conditional Use: Accessory Dwelling Unit**

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

37 **Owner: Peter M. Gammo and Judith Balzano**

38 **Location: 91 Union Ave, MBL: 314-15-3**

39
40 This proposal is for the conversion of existing space into an Accessory Dwelling Unit. Accessory
41 Dwelling Units are permissible as long as they meet the Conditional Use Accessory Dwelling standards
42 and Conditional Use Review Criteria. The purpose of Accessory Dwelling Units is to provide a diversity
43 of housing for residents while protecting the single-family character of residential neighborhoods.

44
45 Regarding this proposals conformance with the 5 Accessory Dwelling Unit (ADU) Standards:

46
47 The applicant has indicated that this is a 2 family and not an accessory dwelling unit. These are 2 different
48 land classifications so the conditional use responses should be revised to say that it is an accessory
49 dwelling unit and not a 2 family. Also recommend that the applicant provide a revised floor plan that
50 shows where the accessory dwelling will be located.

51

1 **ITEM 11**

2 **Proposal:** Conditional Use/Appeals from restrictions on nonconforming uses: Convert
3 **business into ground floor residential unit**
4 **Action:** Determination of Completeness; Schedule Site Walk and Public Hearing
5 **Owner:** James C. Timmins
6 **Location:** 22 Washington Ave, MBL: 308-2-1
7

8 This proposal is to convert a 900 square foot commercial space into a residential apartment at 22
9 Washington Avenue. Currently, the building is set up for three residential units and a commercial unit that
10 was last used in 2008.

11 First, multifamily dwelling units are permissible in the Neighborhood Commercial-3 (NC-3) District,
12 however, not on the sidewalk level. It appears that a dwelling unit on the first floor was legally
13 established in the same building adjacent to the area in question. It could be stated that the legal
14 establishment of this dwelling unit on the first floor created a nonconforming use of the buildings first
15 floor. Due to the nonconforming condition, it appears the owner has the ability to request approval for an
16 increase of the nonconformity under *Sec. 78-180* of the ordinance.
17

18 Our thoughts on this are that since the first floor itself is already nonconforming, the Applicant has the
19 ability to apply for a Conditional Use, Appeals from Restrictions on Nonconforming Uses through the
20 Planning Board under *78-180*. Section *78-180* allows for appeals from the restrictions on nonconforming
21 uses granted the use will not be substantially different from or greater than the impacts and effects of the
22 nonconforming use before the proposed enlargement, expansion, resumption, or conversion to another
23 nonconforming use.
24
25

26 Other Business

- 27 1. Sign The Turn Findings of Fact and Mylar
- 28 2. Sign Palace Playland Findings of Fact
- 29 3. Salvation Army Findings of Fact
- 30 4. Eastern Trail Estates Findings of Fact and Mylar
- 31 5. Sawgrass Findings of Fact and Mylar
- 32 6. 10 Tioga Findings of Fact
33

34 **ADJOURNMENT AT 6:41 PM**
35

36 *Note: Workshop Agenda Public Hearings and Regular Business items are for discussion purposes only.
37 Formal decisions on these items are not made until the Regular Meeting.
38

39 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
40 *Beach, do hereby certify that the foregoing document consisting of Five (5) pages is a true copy*
41 *of the original minutes of the Planning Board Workshop Meeting of November 2, 2017.*
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