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3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **Public Hearing and Regular Meeting**
5 **November 9, 2017 7:00 PM**
6 **Town Council Chambers**
7

8 **CALL MEETING TO ORDER AT 7:06 PM**
9

10 **PLEDGE OF ALLEGIANCE**
11

12 **Roll Call:** Robin Dube, Win Winch, Mark Koenigs, Mike Fortunato, Vice Chair Eber Weinstein.

13 **Absent:** Chair Linda Mailhot, Ryan Kelly. **Staff Present:** Planner Jeffrey Hinderliter, Assistant Planner
14 Megan McLaughlin.
15

16 Alternates Mark Koenigs and Robin Dube will be full voting members tonight.
17

18 **Public Hearings**

19 **ITEM 1**

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

22 **Owner: Kristen Barth**

23 **Location: 101 Ross Rd., MBL: 107-2-21**
24

25 The public hearing opened at 7:07 pm. There was no one speaking for or against this item.

26 The public hearing closed at 7:07 pm.
27

28 **Approval of Minutes: 10/5/17; 10/12/17**
29

30 **10/5/2017:**

31 Mark Koenigs made a motion to approve the 10/05/17 workshop meeting minutes, seconded by Win
32 Winch.

33 **All approved (5-0).**
34

35 **10/12/2017:**

36 Mark Koenigs had some changes: Add Ryan Kelly (absent), add alternates to Mark Koenigs and Robin
37 Dube, and spelling error (change seize to cease).

38 Mark Koenigs moved to approve the meeting minutes with these corrections, seconded by Win Winch.

39 **Approved (5-0)**
40

41 **Regular Business**

42 **ITEM 2**

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

45 **Action: Discussion; Ruling**

46 **Owner: Kristen Barth**

47 **Location: 101 Ross Rd., MBL: 107-2-21**
48

49 The Planning Board had a site walk and the only item that was discussed was potentially adding a
50 guardrail or fencing to the driveway because of the steep slope. Staff doesn't see any problems with this

1 proposal. Meets all of the requirements.
2

3 Robin Dube made a motion to approve the application to allow for a single family Residential use in the
4 Industrial District and create Estate Lot in the Rural District owned by Kristen Barth, 101 Ross Rd.,
5 MBL: 107-2-21, seconded by Win Winch.

6 Chair Eber Weinstein went over the Industrial District Standards and 12 conditions:
7

8 **Industrial District Standards –**

- 9 *a. The Planning Board determines that the character of the surrounding neighborhood precludes*
10 *the use of the site for industrial uses as permitted in this zone.*

11 The entire area along the Ross Road is residential. The immediate area is existing homes and there is
12 a proposed 20 lot residential subdivision directly across from 101 Ross Road.
13

- 14 *b. Residential density shall be no less than one unit per 75,000 s.f. of net residential area.*

15 The proposed lot area is 90,767 s.f. which exceeds the residential density being no less than 75,000
16 s.f.
17

- 18 *c. Principle dwelling units shall be set back a minimum of 50 feet from all property lines.*

19 Proposed building window shown on the plan represents a 50-foot setback from all property lines.
20

21 **12 CONDITIONAL USE RESPONSES (78-1240):**
22

23 The proposed use will...

- 24
25 *1. Not result in significant hazards to pedestrians or vehicular traffic, on-site or off-site.*

26 No significant hazards to pedestrian or vehicular traffic will result from this proposal to create one
27 new house lot utilizing an existing driveway from Ross Road. No additional curb cuts will result from
28 the new house lot.
29

- 30 *2. Not create or increase any fire hazard.*

31 No fire hazard will result from the development of one residential house. This is not a Commercial
32 Use.
33

- 34 *3. Provide adequate off-street parking and loading areas.*

35 Adequate off-street parking can be provided on this 2.083 acres house lot.
36

- 37 *4. Not cause water pollution, sedimentation, erosion or contamination of any water supply.*

38 The development of one house lot will include a subsurface disposal system meeting all State and
39 local codes and will not cause any water pollution or contamination of any water supply.
40

- 41 *5. Not create unhealthful conditions because of smoke, dust or other airborne contaminants.*

42 There will be no activities associated with this residential use that would result in unhealthy
43 conditions because of smoke, dust or airborne contaminants.
44

1 6. *Not create nuisances to neighboring properties because of odors, fumes, glare, hours of*
2 *operation, noise, vibration or fire hazard, or unreasonably restrict access of light and air to*
3 *neighboring properties.*

4 This residential use will not create nuisances to neighboring properties because of odors, fumes, glare
5 etc.

6
7 7. *Will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.*

8 This residential use will participate in the Town curb side trash removal for all solid waste. No liquid
9 waste is anticipated from this site.

10
11 8. *Will not adversely affect the value of adjacent properties.*

12 This residential house will be compatible with existing homes along Ross Road. This house will be
13 approximately 600' from Ross Road on a wooded site.

14
15 9. *Be compatible with existing uses in the neighborhood, with respect to the generation of noise and*
16 *hours of operation.*

17 This residential house will be compatible with existing uses in the neighborhood. All abutting uses
18 are residential homes.

19
20 10. *The Applicant's proposal must include any screening or buffering necessary to visually obstruct*
21 *the subject property from abutting uses or to assure the continued enjoyment of abutting uses.*

22 The existing perimeter is a mix of trees and vegetation. With the siting of the house 600' from Ross
23 Road there are no immediate buildings surrounding this site.

24
25 11. *The Applicant's proposal must adequately provide for drainage through and for preservation of*
26 *existing topography within its location, particularly in minimizing any cut, fill or paving*
27 *intended.*

28 This house site is very flat with little earth moving to complete this project. The driveway access is
29 existing and requires minimal improvements for widening. All construction will conform to BMP for
30 erosion and site stabilization.

31
32 12. *The Applicant must be found to have adequate financial and technical capacity to satisfy the*
33 *foregoing criteria and to develop and thereafter maintain the proposed project or use in*
34 *accordance with all applicable requirements.*

35 Applicant will secure financing for this house. The driveway into the property is existing up to the
36 building location. Very little site costs will be incurred.

37
38 **Planner Jeffrey Hinderliter called for the vote:**

39
40 Robin Dube – Yes

41 Win Winch – Yes

42 Mark Koenigs – Yes

43 Mike Fortunato – Yes

44 Vice Chair Eber Weinstein – Yes

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MOTION CARRIES: (5-0)

ITEM 3

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

Action: Discussion; Ruling

Applicant: Cary Seamans

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

The subdivision amendment proposing to change the setbacks for lot B24 and is also proposing to change the dimensions associated with the drainage and utility easement that is adjacent to lot B24 and Wild Dunes Way.

The Planning Boards outstanding concern is the drainage easement (the pump station that exists within). There is currently a temporary pump station and was planned that when Cherry Hills was approved that a permanent pump station would replace it if there was a need.

Our Town Engineer and Bill Thompson from BH2M came up with a resolution:

- Add a note to the pump station layout that a final design will be developed before construction.
- A temporary construction easement note to be added to lot B24.
-

The only question in regards to the temporary construction easement is there some way to memorialize this instead of being just a note on the plan. Staff thinks that it should be added to the deed for lot B24.

Planner Hinderliter stated that the problem exists because the house on lot B24 was constructed within the setback. The setback was established by the Planning Board. The structure was built within this setback and the structure encroached within the drainage and utility easement and this prevented the owners from moving forward with getting a clear title.

Vice Chair Eber Weinstein suggested to make it a condition that before they get approval that the deed is presented to the Town Planner.

Robin Dube suggested that the contractors should be more conscientious and stay on top of their plans going forward.

Win Winch moved approval of the amended Cherry Hills Estate plan dated October 2017 which details the drainage easement adjacent to lot B24 and there will be a change in the deed to reflect this and brought to the Planning Board, seconded by Mark Koenigs.

Planner Jeffrey Hinderliter called for the vote:

Robin Dube – Yes

Win Winch – Yes

Mark Koenigs – Yes

Mike Fortunato – Yes

Vice Chair Eber Weinstein – Yes

MOTION CARRIES: (5-0)

1 **ITEM 4**

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

3
4 **Action: Discussion; Schedule Public Hearing**

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

6
7 During August of 2017 the Council enacted a moratorium in order to address the concerns with primarily
8 food trucks but expanded into a mobile food business concerns as well.
9 Staff developed some ordinance amendments. Planning Board wanted to expand the definition of a
10 mobile food business.

11 Staff made a couple of changes with the second draft:

12 Mobile food business is no longer defined and came up with specific definitions for a food cart, food
13 truck and for a food stand.

14 Planning Board came out with a new use category which is “take-out food business” and developed a
15 definition for that and are allowed in the DD-1 and DD-2 district.

16
17 Food carts, food trucks and food stands, all separately defined and under the proposed language it allows
18 these 3 mobile food types of businesses to be allowed in the amusement overlay district and also the
19 campground overlay district, with a condition in the campground overlay district as long as it is serviced
20 to the people who are in the campground. Also mobile food type businesses are allowed if it is Council
21 sponsored or approved event.

22
23 The Planning Board Member scheduled a Public Hearing for December 14, 2017.

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 The Planning Board had 2 primary questions:

- 33
34 • This subdivision is now not under the exclusive ownership of the development and individuals
35 own a lot of this
36 land now. Space and lot lines required their permission. Just got the final documentation. The
37 developer got warranty deeds signed for every person in this development. Impervious surface.
38 • The amended plan reduces the impervious surface by 11,000 sf. Staff is satisfied with this.

39
40 2 other issues came up with the recent review:

- 41 • Concern from staff (primarily public safety) people are cutting into this development from Ross
42 Road.
43 • Can there be some reconsideration of the walking paths in order to improve connectivity.

44
45 Bill Thompson, Engineer from BH2M and George Gallagher, representative for Sandy Meadows in
46 attendance.

47 Mr. Thompson stated that he assigned additional common area on the map. The plan has been amended
48 and is fully developed. Has an adequate entrance and everybody’s parking is up front. The applicant
49 would “not” like to see a condition for any additional screening or buffering.

1 Mark Koenigs stated that he will not approve any items that come up in the future unless the Planning
2 Board gets the plans the way that they want them. Mark suggested that the developer should provide some
3 screening in the back of their properties.

4 Planning Board is concerned that conditions are made and the developer doesn't follow through.

5
6 Win Winch made a motion to table this without prejudice until the next meeting so we can meet with
7 Public Works and get this resolved, seconded by Mike Fortunato.

8
9 **Planner Jeffrey Hinderliter called for the vote:**

10
11 Robin Dube – Yes

12 Win Winch – Yes

13 Mark Koenigs – Yes

14 Mike Fortunato – Yes

15 Vice Chair Eber Weinstein – Yes

16
17 **MOTION CARRIES: (5-0)**

18 **ITEM 6**

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

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

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

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

23
24 This proposal was brought before the Planning Board in September but was tabled while the applicant
25 made a few revisions to the plan. It is for the establishment of a Private Way to serve one lot across from
26 the intersection of Portland Avenue and Cascade Road.

27
28 A little background information, a 7 lot division plan was prepared in 2001 for this area. It included a
29 private way to provide legal frontage for the proposed lots. However, the subdivision was never approved
30 by the PB and has since been used to divide the lots without construction of the private way. The lots
31 were divided through family transfers or in a matter that did not trigger subdivision review. The old 7-lot
32 plan has been included in your packets as part of the plan set that was submitted. Two of the lots were
33 dissolved into Paradise Park (205-1-32).

34
35 The reason this proposal is before the PB is because the applicant needs to obtain frontage for lot 37 in
36 order to be able to construct a single-family home and sell the lot.

37
38 The proposal was originally presented in September and included a number of land conveyances between
39 the Applicant and the Abutter to realign the Private Way around the wetlands and streams located to the
40 south of the property. In the November submission, the proposed layout has been revised to maintain the
41 existing cul-de-sac shaped parcel which is owned by both the Applicant and the Abutter as “tenancy-in-
42 common.” The Applicant claims that the parcel was mislabeled as a ROW and instead should be looked at
43 as an “access parcel” which is co-owned by the Applicant and the Abutter. A letter from the Applicants
44 Attorney, Eaton Peabody has been included in the Planning Board's packets and what this letter indicates
45 is that the Applicant is a co-owner of the cul-de-sac shaped parcel, therefore, she does not need
46 permission from the Abutter to use or improve that parcel of land.

47
48 Megan McLaughlin read a letter from our town attorney.

49 Basically the owner issue should be handled between the applicant and the abutter.

1 Wright Pierce provided some comments in September and all of those have been addressed.
2 There was one comment by staff about the proximity of the septic system to the wetland. Planning Board
3 might want to consider this item.
4 There was a comment from assessing about naming the street which is a requirement that they have for
5 the private way.
6
7 Jason Haskell, Design Engineer and Project Mgr. from DM Rome Consulting Engineering introduced
8 himself.
9 The road meets the specifications from the Public Works Director.
10 The road will be built to the 2 lot private road standards.
11 The new road will utilize existing driveway entrance and has adequate site distance.
12 Maintenance of the proposed road will be done by Ms. Gray until she sells the lot, then it will be the new
13 owners responsibility.
14 They will be proposing underground utilities and on-site septic for lot #37.
15 They have a prepared a stormwater management report.
16 They have submitted a Natural Resource Protection Act Permit by Rule to DEP.
17 The stream has a 75' setback.
18 The neighboring development will be responsible for the installation of the sidewalks.
19 There will not be a cul-de-sac at the end of the road.
20 Chair Eber Weinstein questioned whether the sewer has to be hooked up to the town sewer within so
21 many feet. Megan McLaughlin stated that the closest sewer was well over the requirements of the town.
22 Why a well? Didn't want to cut into the recently paved Portland Ave. which is also under a moratorium
23 and also the cost.
24
25 Chair Eber Weinstein told the public that they would have a chance to speak at the public hearing and that
26 the site walk is open to the public.
27
28 Mark Koenigs made a motion to approve the application complete for a Conditional Use Private Way for
29 Southern Maine Modular, Inc. adjacent to Portland Ave., MBL: 205-1-37 and schedule the 1st. site walk
30 On December 7, 2017 at 4:30 pm. and the Public Hearing scheduled for the December 14, 2017 meeting,
31 seconded by Win Winch.
32

33 **Planner Jeffrey Hinderliter called for the vote:**

- 34
- 35 Robin Dube – Yes
- 36 Win Winch – Yes
- 37 Mark Koenigs – Yes
- 38 Mike Fortunato – Yes
- 39 Vice Chair Eber Weinstein – Yes
- 40

41 **MOTION CARRIES: (5-0)**

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43

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45 **ITEM 7**

46 **Proposal: Major Subdivision: 9 lot residential subdivision (Red Oak Phase III)**
47 **Action: Preliminary Plan Review/Determination of Completeness; Schedule Site Walk and**
48 **Public Hearing**
49 **Owner: Mark & Claire Bureau**

1 **Location: 141 Portland Ave, MBL: 104-2-2**

2
3 Megan McLaughlin stated that the applicant is proposing to extend the existing Red Oak Drive to serve
4 the existing additional lots.

5
6 The applicant has made a few adjustments to the plan.

- 7 • The adjacent parcel has been added to the subdivision and allowed them to create a 9th lot.
- 8 • This will no longer be a cluster subdivision.
- 9 • They converted the turnaround from a hammerhead to a cul-de-sac.
- 10 • Made some adjustments to the storm water plan.

11
12 There are some issues from Wright Pierce that still require further information and also some issues with
13 the stormwater management plan that will have to be updated before the Planning Board makes a ruling
14 on the preliminary plan.

15
16 There were comments from Maine Water about making sure that the water lines are shown on the plan.

17
18 Comments from Staff whether the project is intended to be public or private.

19 Assistant Planner Megan McLaughlin stated that we can address this at the next meeting. If it is private
20 there will be a note on the plan.

21 Fire Chief and Town Manager had comments whether the road will be public and the requirement for
22 street lighting.

23
24 Jason Vafiadis, Engineer stated that they are working on the final revamp of the plan and to bring back to
25 the Planning Board in December. They have a new storm water plan. They went from a cluster sub
26 division to a standard subdivision to make the lots more private.

27
28 **ITEM 8**

29 **Proposal: Subdivision/Site Plan Amendment: Amend Atlantic Park Condominium to allow**
30 **construction of 20 new units, sidewalks, parking, access ways, landscaping, and**
31 **other misc. improvements.**

32 **Action: Discussion; Ruling**

33 **Owner: KAP Atlantic, LLC**

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

35
36 The proposed Atlantic Park amendments is essentially a re-approval of a proposal that received approval
37 during 2003 but because the 2003 approval was not recorded, it is not valid. So this is really an
38 amendment of the original plan which was approved during 1989

39
40 This approval was for a 92 unit condo project. During 2003 the development owner presented a plan that
41 reduced the number of units to 55 and made a number of other adjustments. The plan was approved by
42 the Planning Board but was not recorded within 90 days of the approval. Because the 2003 plan was not
43 recorded the approval is void. Problem is it appears construction took place after 2003 that was in
44 accordance with the 2003 plan. This should not have happened because the 2003 plan did not legally
45 exist. Another proposal was brought to the Planning Board during 2010 but did not secure final
46 approval.

47 It is our opinion the original 1989 approval is the only approval that is legally in-effect. A proposal was
48 approved in 2003 but the signed plan was not recorded which made the approval invalid. During 2010 a
49 proposal was submitted that was essentially the same as the one submitted during 2003. The 2010
50 proposal did not secure final approval. The 2017 proposal appears to reflect the 2010 proposal, which is

1 similar to what was approved during 2003. What complicates this more is construction activity moved
2 forward in accordance with the 2003 proposal.
3

4 The good news is the 2017 proposal seeks to remedy a situation that remained unresolved for years.
5 Unfortunately, construction did proceed in accordance with a plan that is not legally valid, but, that 2003
6 plan did receive full PB approval. The PB can't reverse construction that has taken place, especially that
7 which is associated with occupied buildings. But the PB can request some improvements to items that
8 exist such as surface pavement, sidewalks etc., approve the new updated construction and above all make
9 an invalid project valid. Why and how this happened we have no answers and can only speculate.
10

11 This never go past the Notice of Decision so there are some outstanding items that remain.
12 Staff supports this proposal but believes there are outstanding matters that must be resolved. We
13 recommend the applicant do the following:

- 14 • Address items in the 2010 Notice of Decision
- 15 • Address items in the 2010 Wright-Pierce Peer Review memo
- 16 • Address above-mentioned Department comments
- 17 • Submit a letter identifying modification, issues, etc.
- 18 • Submit 2 full plan sets and any additional info that's changed (e.g., stormwater)

19
20 Bill Thompson, BH2M Engineer stated that they have met with DEP and they need to update the
21 stormwater permit and come back to the town to get site approval.

22 Planner Hinderliter stated that the approval runs with the land and not with the owner.

23 There are 21 units to be built.

24 The Planning Board will wait to get more information on this project.
25
26

27 **ITEM 9**

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

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

31 **Owner: Deborah A. McGonagle**

32 **Location: 15 Tioga Ave, MBL: 321-23-3**
33

34 This is a proposal for the replacement and expansion of a single-family structure located within the
35 Residential Activity Shoreland Zone. This proposal is similar to the one that was approved last month for
36 10 Tioga. Again, since the structure at 15 Tioga is within a Shoreland Zone (Residential Activity) and
37 because the structure is nonconforming (it is within the 100' setback) of the Highest Annual Tide,
38 expansion and/or relocation requires Planning Board (PB) review as a Conditional Use and Shoreland
39 Nonconforming Structure Expansion/Relocation. The applicant is not proposing to expand the footprint of
40 the dwelling, however, they are planning on adding a third floor to the structure, increasing the floor area
41 and volume by 14.3%.
42

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

44 **Comments from Staff:**

45 *Town Manager:*

46 With respect to the application for a new residential structure at 15 Tioga, the driveway should be built to
47 Town standards with no more than a 20' wide entrance.
48

49 Win Winch moved to determine this a complete application and schedule a site walk for December 7,
50 2017 at 5:00 pm. and a public hearing on December 14, 2017 seconded by Mike Fortunato.

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Planner Jeffrey Hinderliter called for the vote:

- Robin Dube – Yes
- Win Winch – Yes
- Mark Koenigs – Yes
- Mike Fortunato – Yes
- Vice Chair Eber Weinstein – Yes

MOTION CARRIES: (5-0)

ITEM 10

Proposal: Conditional Use: Accessory Dwelling Unit
Action: Determination of Completeness; Schedule Site Walk and Public Hearing
Owner: Peter M. Gammo and Judith Balzano
Location: 91 Union Ave, MBL: 314-15-3

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

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

- This comes down to 4 of these:
- Shared electrical meter.
 - Square footage requirements.
 - Common entrance.
 - Can only have 1 Accessory Dwelling per property.

This proposal meets all of these requirements.

Win Winch made a motion to determine the application complete and schedule a site walk on December 7, 2017 at 5:15 pm. and a public hearing for December 14, 2017, seconded by Mike Fortunato.

Planner Jeffrey Hinderliter called for the vote:

- Robin Dube – Yes
- Win Winch – Yes
- Mark Koenigs – Yes
- Mike Fortunato – Yes
- Vice Chair Eber Weinstein – Yes

MOTION CARRIES: (5-0)

ITEM 11

Proposal: Conditional Use/Appeals from restrictions on nonconforming uses: Convert business into ground floor residential unit
Action: Determination of Completeness; Schedule Site Walk and Public Hearing

1 **Owner: James C. Timmins**
2 **Location: 22 Washington Ave, MBL: 308-2-1**

3
4 This proposal is to convert a 900 square foot commercial space into a residential apartment at 22
5 Washington Avenue. Currently, the building is set up for three residential units and a commercial unit that
6 was last used in 2008.

7
8 This proposal has a couple of different moving components. First, multifamily dwelling units are
9 permissible in the Neighborhood Commercial-3 (NC-3) District, however, not on the sidewalk level.
10 Having said this, it appears that a dwelling unit on the first floor was legally established in the same
11 building adjacent to the area in question. It could be stated that the legal establishment of this dwelling
12 unit on the first floor created a nonconforming use of the buildings first floor. Due to the nonconforming
13 condition, it appears the owner has the ability to request approval for an increase of the nonconformity
14 under *Sec. 78-180* of the ordinance.

15
16 The Applicant has the ability to apply for a Conditional Use, Appeals from Restrictions on
17 Nonconforming Uses through the Planning Board under *78-180*. Section *78-180* allows for appeals from
18 the restrictions on nonconforming uses granted the use will not be substantially different from or greater
19 than the impacts and effects of the nonconforming use before the proposed enlargement, expansion,
20 resumption, or conversion to another nonconforming use.

21
22 Applicant has submitted the following materials for the Planning Board to review:

- 23 1. Conditional Use Application and Subsequent Materials.
- 24 2. Responses to the 12 Conditional Use Standards (Sec. 78-1240).
- 25 3. Responses to the Nonconforming Use Standard (Sec. 78-180).
- 26 4. Current layout vs. proposed layout of the interior of the building.

27
28 Planner Hinderliter said that the big restriction is that dwelling units are not allowed on the first floor.

29
30 Staff is recommending the PB vote on the completeness of the materials and schedule and site walk and
31 public hearing for December.

32 Win Winch made a motion to determine the application complete and schedule a site walk on
33 December 7, 2017 at 5:30 pm. and a public hearing for December 14, 2017, seconded by Mike Fortunato.

34
35 **Planner Jeffrey Hinderliter called for the vote:**

36
37 Robin Dube – Yes
38 Win Winch – Yes
39 Mark Koenigs – Yes
40 Mike Fortunato – Yes
41 Vice Chair Eber Weinstein – Yes

42
43 **MOTION CARRIES: (5-0)**

44
45 **Other Business**

- 46 1. **Sign The Turn Findings of Fact and Mylar**
- 47 2. **Sign Palace Playland Findings of Fact**
- 48 3. **Salvation Army Findings of Fact**

1 **4. Eastern Trail Estates Findings of Fact and Mylar**

2 **5. Sawgrass Findings of Fact and Mylar**

3 **6. 10 Tioga Findings of Fact**

4
5 **Good and Welfare**

6
7 Alan Hess from 56 Portland Avenue abuts the property adjacent and owned by Casey Gray MBL: 205-1-
8 37 introduced himself to the Board Members.

9
10 Mr. Hess brought up some discrepancies on a plan and map that was prepared by Planning.
11 The paragraph on page 13 which says “Re-align the private way around the wetland and streams located
12 to the south of the property”. Mr. Hess stated that the primary reason was to gain a 50’x 300’ 15,000 sf.
13 transfer of property to high ground, not wetlands. Wetlands would expand the size of lot 37 and expand
14 the building site options.

15
16 The proposal Mr. Hess was given by Ms. Gray and her engineer on September 5, 2017, and the first time
17 he had met with Ms. Gray on this proposal read:

18 “That we revert part of what was originally considered the right of way, which is now being considered a
19 half interest access.

20 Mr. Hess was going to grant an easement onto Ms. Gray’s plan. She was going to get 1,000 sf. of high
21 ground in order to expand her building lot and Mr. Hess was going to receive the cul-de-sac portion.

22
23 On page 13 there is not a dispute that Ms. Gray does not have permission from Mr. and Mrs. Hess to use
24 or improve access through tenancy in common. Mr. Hess states that he never said that.

25
26 On page 14 paragraph 1 it does not include language that lot 30 would share in the future cost of the
27 private way if there is future development. It basically says that lots 36 & 37 will continue to pay the cost
28 of the roadway, but if there is additional property in that area, then her present driveway would be
29 eliminated and that she would use the other roadway.

30
31 On page 14 paragraph 3 there is no mention of a similar easement for lot 36 to use this access.

32
33 On page 15 it should be changed to specify the private ways to serve lots 36 & 37, not just 2 lots since
34 there were lots in the back that were sold to Paradise Park.

35
36 On page 16, paragraph 2 is incorrect. The applicant said that they will install a septic system for lot 37.
37 Page 15 paragraph 1 & 2 says that they would use the existing private sewer line that Mr. Hess installed.

38
39 On page 16, paragraph 4 says a draft copy of declaration of maintenance has not been received or
40 coordinated with Mr. and Mrs. Hess.

41
42 On page 16, paragraph 5 (item 3)
43 The existing private sewer line was upgraded to SDR 35 pvc to replace the existing substandard pipe.

44
45 On October 24th Mr. Hess received a letter from Ms. Gray’s lawyer.
46 She expressed concerns about vehicle access as well as the sewer lines.

47
48 Mr. Hess is in hopes that these items can be worked out and things can be as accurate as can be.

49
50 Chair Weinstein recommends that Mr. Hess send an email to the Town Planner with his concerns.

51

1
2 Mark Koenigs mentioned that he was concerned about the Beachmont Subdivision that the Planning
3 Board approved a while back. They have started cutting timber adjacent to the town owned property
4 (formally the animal shelter).

5
6 The Conservation Committee has built trails there. He was thinking of maybe relocating the trails or
7 change the map.

8
9 The property lines on the original map shows undesignated lot lines that abuts the town owned property.
10 Along the property lines there are pins.
11 The Developer had talked about there being open space.

12
13 Planner Hinderliter said that it specifically stated that it is identified as a no cut buffer strip.
14 It was agreed to contact the developer.

15
16 **ADJOURNMENT 9:25 pm.**

17
18 *I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard*
19 *Beach, do hereby certify that the foregoing document consisting of THIRTEEN (13) pages is a*
20 *true copy of the original minutes of the Planning Board Meeting of November 9, 2017.*

Valdine Camire

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22
23
24