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3 OLD ORCHARD BEACH PLANNING BOARD  
4 Public Hearing & Regular Meeting MINUTES  
5 October 14, 2021 6:30 PM  
6 Town Hall Council Chambers  
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10 *MINUTES MAY NOT BE TRANSCRIBED VERBTIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A*  
11 *COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE TOWN CLERK AT 207-934-4042 OR*  
12 [kmclaughlin@oobmaine.com](mailto:kmclaughlin@oobmaine.com)  
13

14  
15 CALL MEETING TO ORDER

16  
17 PLEDGE TO THE FLAG

18  
19 ROLL CALL

20 Marianne Hubert

21 Win Winch

22 Robin Dube

23 Vice Chair Walker

24 Chair Mailhot  
25

26  
27 Minutes: 9/9/21  
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29 Chair Mailhot asked if anyone had any items to note re the September Minutes, and seeing none, she asked for a  
30 motion to accept the Minutes. Ms. Hubert made a motion and Mr. Winch seconded. Seeing no discussion, Chair  
31 Mailhot then stated that it passes 5-0.  
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34 Chair Mailhot then stated that next month's meeting will be on Tuesday, November 9 as opposed to Thursday,  
35 November 11, in honor of Veteran's Day on November 11.  
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37  
38 Regular Business

39 ITEM 1

40 Proposal: Ordinance Amendments (DD2 Lodging Use): Ch. 78, Art. VI, Sec. 78-747 (1) i

41 Action: Discussion; Schedule Public Hearing

42 Applicant: J. Peter Guidi Jr.

43 Location: Downtown District 2 Zoning District  
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46 Town Planner Jeffrey Hinderliter updated the Board as follows:  
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- 48 • This item is a zoning ordinance amendment proposing to add "lodging establishment" as an allowed use in the
- 49 DD2 Zoning District and remove "hotel" and "motel"
- 50 • The ultimate purpose of this zoning ordinance amendment is to allow the bed & breakfast use in DD2 zoning
- 51 district
- 52 • Currently, the DD2 only allows hotels and motels
- 53 • The "lodging establishment" definition includes hotels, motels, bed & breakfast, and inns

- Because the lodging establishment definition includes bed & breakfast, as well as other lodging uses such as hotel and motel, it made sense to allow all lodging uses through application of the lodging establishment definition rather than list each lodging use individually
- When reviewing zoning ordinance amendments, we typically focus primarily on 3 items: current zoning, existing land uses in the district, and support for the amendment in the comprehensive plan
- First, regarding current zoning, the lodging establishment term is already used in the DD2 district, and it's used when calculating density. So the questions comes to mind - if the intent was not to allow lodging establishments, then why is the term used to calculate density? It would be just as easy to use hotel and motel for density requirements.
- Also, why would B & B's be excluded when more intensive lodging uses are allowed? With so many lodging uses already in existence in the DD2, I cannot find solid justification why B & B's should not be allowed.
- Second, regarding existing land uses in the DD2, the District includes a variety of lodging establishments. In fact lodging establishments are one of the most predominant uses, so it's certainly consistent with the existing uses in this area
- Third, regarding the comprehensive plan, in this particular area of town the plan encourages a variety of business uses and seeks to promote the tourist economy. I believe it's hard to argue B & B's are a use that's not consistent with the comprehensive plan objectives for this area.
- So we wonder why the ordinance does not currently say lodging establishments. We recommend the Board schedule a Public Hearing for November

Chair Mailhot then asked the applicant, J. Peter Guidi, if he had anything to add. He stated that he agrees with everything that Jeffrey said and he thinks it would be a fantastic thing for the Town. Chair Mailhot then asked the Board if they had any questions or comments, and seeing none, asked the Board to make a motion. Ms. Dube then made the following motion: I motion to schedule a public hearing to be held on 9th November, 2021 for public comment on DD2 lodging establishment ordinance amendment of Ch. 78, Art. VI, Sec. 78-747 (1) i . Motion was seconded by Mr. Winch, and sensing no discussion, Chair Mailhot called for the vote. Town Planner Jeffrey Hinderliter then called for the vote:

- Ms. Hubert YES
- Mr. Winch YES
- Ms. Dube YES
- Vice Chair Walker YES
- Chair Mailhot YES

Chair Mailhot then stated that carries 5-0.

## ITEM 2

Proposal: Conditional Use: Shoreland Zoning nonconforming structure 30% expansion on single-family  
 Action: Determination of Completeness; Schedule Site Walk; Schedule Public Hearing  
 Applicant: Susan and Stephen Fitts  
 Location: 47 Winona Ave; MBL: 320-6-4; Zoning: R3 and RA

Town Planner Jeffrey Hinderliter presented the Board with the following:

- This item is a proposed expansion of a nonconforming structure in the shoreland zone
- The expansion is a 150 sq. ft. 2<sup>nd</sup> floor enclosed addition to a single-family structure
- The expansion is over an existing deck
- Because the existing structure and addition are within the 100' waterbody setback, the proposal must meet applicable nonconforming structure expansion standards

- In the case of this proposal, there are two primary standards. The first is whether the proposed structure is going closer to the regulated resource than the existing structure, and the second is if the proposed structure sq. footage and volume is 30% or more of the existing structure square footage and volume
- This proposal is not closer to the resource and is well under the 30% volume and sq. ft. allowed.
- We recommend that the Planning Board determine this complete and schedule a Public Hearing for Nov. 9, and that a Site Walk is optional.

Chair Mailhot asked the applicant if there were anything they wished to add. Susan Fitts thanked the Board and Jeffrey, and stated that they would not be able to attend the next month's meeting. Chair Mailhot replied that such would not pose a problem. Chair Mailhot then asked for questions and comments from the Board. Mr. Winch made a motion that the application is complete, and this motion was seconded by Ms. Dube. Chair Mailhot then confirmed that this motion was made with the inclusion of a Public Hearing set for November 9. Vice Chair Walker then asked if anyone felt a Site Walk would be necessary, to which all agree such would not be necessary. Chair Mailhot then asked for the vote and Town Planner Jeffrey Hinderliter called for the vote:

Ms. Hubert YES  
Mr. Winch YES  
Ms. Dube YES  
Vice Chair Walker YES  
Chair Mailhot YES

Chair Mailhot then stated that carries 5-0.

### ITEM 3

Proposal: Minor Subdivision: Add a single unit which creates a 3<sup>rd</sup> unit for subdivision purposes  
Action: Sketch Plan review  
Applicant: Windsor Construction LLC  
Location: 41 Smithwheel Rd; MBL: 210-1-23; Zoning: R4

Town Planner Jeffrey Hinderliter noted that Assistant Town Planner Michael Foster has been reviewing this proposal but is away at a conference. Jeffrey condensed some of Mike's comments, and presented the Board with the following:

- This is a proposal to add a single-family dwelling unit to a lot where there is an existing two-family dwelling. Creating a third unit within 5 years requires review as a subdivision, though it's a minor subdivision because it's under 15 lots/15 units
- Proposal is located off an extension off of Smithwheel Rd, abutting Smithwheel Farm condos. This extension appears to be the primary access for Smithwheel Farms and appears to be a private way
- A proposed 15' wide driveway is proposed as the internal access to this development. Two parking spaces for each unit are located off the driveway
- Public water and sewer will serve the units
- Property is in the R4 District. A 75' stream setback is noted on the plan but this is due to DEP requirements as the property is not within a town shoreland district
- Town GIS shows a portion of the property is within the current 500 year floodplain. This should not impact the proposal but should be shown on future plans
- A sketch plan was submitted for this month and this is an opportunity for the Planning Board to provide feedback on this proposal.
- You'll find comments in our staff memo and the Wright-Pierce memo.
- At this time we have three primary matters we'd like to point out:

- First is legal access. Because the former use of the lot was a single-family dwelling and this proposal seeks to increase the use to a total of 3 units, we ask the applicant to ensure this extension will allow legal access for all the units on the property
- Second is meeting density requirements. The lot size shown on the plans is 20,000 sq ft. The R4 District has a 5,000 sq. ft. minimum net lot area per family unit for density. 3 units equal 15,000 sq. ft. of needed lot area so based on this the lot does have enough sq. ft. to meet the density requirement. One thing that is missing is that the applicant must calculate the net lot area to determine density. Note: the plan shows net development density which is used for calculating minimum lot size. Because the lot already exists and new lots are not being created, the net lot area calculation is used to calculate density within the lot.
- Third is the internal access. Should the internal access be considered a private way, road, driveway, or part of the parking lot. There are different standards for each of these so we need to know what it is so we can apply the appropriate standards.
- We request the applicant address any Board comments, staff comments and Wright-Pierce comments as part of their next submission
- No action is required from the Board at this time

Chair Mailhot then asked the applicant to present the latest proposal. Bill Thompson, project manager for BH2M Engineers, stated that a couple changes were made to the plan; one of these is re the driveway. Bill explained that the plan now shows an 18 ft wide driveway with 2 parking spaces in the back, with nothing at the end of the driveway for ease of backing out and exiting the parking area. There will be a water/sewer connection with a forced main and pump which will pump out to the existing sewer, and Maine Water has weighed in indicating a 2" water line can serve this complex. Bill said the applicant does have legal access to Smithwheel Farm Road and rights to add utilities to the area, that they have gone through the density calculations, and will continue answering all of Wright Pierce's and the staff comments. Bill also stated that his next submission will show utilities and the stormwater pre-and post- calculations. Vice Chair Walker then asked if they would be submitting a waiver request for the driveway, stating that Wright Pierce's requirement was for the driveway to be 20 ft. Vice Chair Walker then asked if the applicant has had the fire department out yet re hydrants, turning radius, etc. Bill stated that such would be the next step once the utilities were indicated on the plan. Chair Mailhot then asked if there were any further comments or questions from the Board. As there were none, she stated to the applicant that the next step would be for them to address the Wright Pierce comments and include the waiver request next time they submit.

**ITEM 4**

Proposal: Private Way: Private Way proposal to serve two residential house lots  
 Action: Determination of Completeness; Schedule Site Walk; Schedule Public Hearing  
 Applicant: Lyons Maine, LLC  
 Location: Portland Ave; MBL: 104-1-31; Zoning: RD

Town Planner Jeffrey Hinderliter presented the following to the Board:

- This proposal is for a private way to access two proposed lots, and it is likely these lots will be used for single family development
- The private way is approx. 490' long, improved surface of 20', and lots will have access to public water and sewer
- Private ways accessing 2 lots have less restrictive standards than private ways that access 3 or more lots. Private ways accessing 3 or more lots must meet subdivision road standards. Private Ways accessing 2 lots have their own standards which are identified in our memo
- Also note private ways are not reviewed as conditional uses or under site plan review. This means there is no determination of completeness and no review criteria that we see with conditional use and site plan proposals. The only ordinance criteria is that which is stated in Secs. 78-1411 – 1415 which is included in our memo

- 1 • As you've seen in your packets, there are a number of comments from Wright-Pierce and planning staff. We  
2 request the applicant address these comments in the next submission, before the Planning Board votes on the  
3 proposal
- 4 • We recommend the Planning Board schedule a site walk 5:30 PM, 4 Nov. A public hearing is optional. If the  
5 Board chooses to schedule a public hearing we recommend it be held on Nov 9<sup>th</sup>.

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8 Bill Thompson, project manager for BH2M Engineers, then spoke on behalf of the applicant. Bill stated that the plan  
9 is pretty near complete. The plans now show the entire holdings of the 5-acre parcel, including the lot sizes, locations  
10 and setbacks. Public water, sewer, and underground electric will be extended from Portland Avenue. The road will be  
11 just under 500 ft long, 20 ft wide, with 3 ft gravel shoulders. Bill also added that stormwater will never leave this  
12 property and they are proposing a culvert to bring the water back to the property. As part of the final design, they will  
13 look at stormwater design and will provide pre- and post- calculations. They will coordinate the sewer connection with  
14 the Town and are aware that those conditions exist. He also stated that the sight lines are ok, guard rails may be  
15 installed at the entrance, they are not proposing sidewalks, and the area will be served by 2 fire hydrants on Portland  
16 Avenue and 1 new to be cut in as they are not doing sprinkler systems.  
17 Chair Mailhot asked if the Board had any questions or comments, and seeing none, the Board scheduled a Site Walk  
18 for November 4 at 5:30PM

19  
20 Other Business

21 November Regular Meeting Date – this was discussed earlier and the meeting will be Tuesday November 9, 2021


22  
23 Good and Welfare

24 Chair Mailhot notified the Board that tonight's meeting will be her last meeting.

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26 **ADJOURNMENT**

27 Chair Mailhot adjourned the meeting at 7:30PM

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29 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify*  
30 *that the foregoing document consisting of Five (5) pages is a true copy of the original minutes of the Planning Board*  
31 *Meeting of October 14, 2021. -*

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33  
34 X   
35 Laurie Aberizk  
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