

1
2
3 **OLD ORCHARD BEACH PLANNING BOARD**
4 **October 5, 2017 5:30 PM (Site Walks, On-Site)**
5 **October 5, 2017 6:00 PM (Workshop, Council Chambers)**
6

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

8 **Proposal:** Conditional Use (Shoreland Zoning): Reconstruction of a nonconforming structure
9 **Owner:** Kevin H & Marie Hedberg
10 **Location:** 10 Tioga Ave, MBL: 321-25-3
11

12 CALL WORKSHOP TO ORDER 6:00 PM
13

14 **Roll Call:** Chair Linda Mailhot, Robin Dube, Mike Fortunato, Win Winch, Mark Koenigs. **Absent:** Ryan
15 Kelly and Vice Chair Eber Weinstein. **Staff Present:** Planner Jeffrey Hinderliter, Asst. Planner Megan
16 McLaughlin.
17

18 **Public Hearings (To be held on 10/12/17, 7:00 PM)***

19 **ITEM 1**

20 **Proposal:** Zoning Map Amendment: Change Zoning District from Residential 1 to Downtown
21 District 2 for two lots located at 6-8 St. John St. and 10 St. John St.
22 **Owner:** Neal Weinstein
23 **Location:** 6-8 St. John St. (MBL: 206-24-32) and 10 St. John St. (MBL: 206-24-31)
24

25 Planner Hinderliter stated that nothing new has come up with this proposal. A pretty straightforward
26 proposal. Planner Hinderliter did get a visit from Peter and Thomas Mourmouras who are abutter's to this
27 property and they have no objections to this proposal.
28

29 **ITEM 2**

30 **Proposal:** Conditional Use (Shoreland Zoning): Reconstruction of a nonconforming structure
31 **Owner:** Kevin H & Marie Hedberg
32 **Location:** 10 Tioga Ave, MBL: 321-25-3
33

34 This proposal is to tear down the existing structure and put it up in the exact same footprint with the
35 garage underneath. Because it is the Shoreland Zone it has to be reviewed as a conditional use, non-
36 conforming structure. The recommendation is that the Planning Board members go over the responses to
37 the 12 conditional use standards and the 8 conditions in the Shoreland Zone, then make a final ruling.
38 This is pretty straightforward and they have addressed everything.
39

40 **Regular Business***

41
42 **ITEM 3**

43 **Proposal:** Site Plan Review: Expansion of existing nonresidential (retail) building
44 **Action:** Discussion; Final Ruling
45 **Owner:** Harold H. Harrisburg, Phylis I Harrisburg and Harrisburg Group Gen Partnership
46 **Location:** 9 East Grand Ave., MBL: 306-2-6
47

48 The Planning Board needs to make a decision on this proposal. Staff believes that there are still some
49 outstanding questions and we did not get a response on some of the important questions. Planner
50 Hinderliter cannot give a favorable recommendation to support this proposal. We have tried to give the

1 applicant good direction in order to bring this proposal into compliance with the standards (the 9 site plan
2 review criteria). We have been trying to bring this into compliance since last December.

3
4 **ITEM 4**

5 **Proposal: Major Subdivision: 20 lot cluster subdivision for single-family residential use**
6 **(Eastern Trail Estates)**

7 **Action: Discussion; Final Ruling**

8 **Owner: Ross Road LLC**

9 **Location: Ross Rd, MBL: 107-1-4, 14 & 16**

10
11 At the September meeting, the PB voted on the Preliminary Plan with the following conditions:

12 *1. The applicant should identify the 14 lots to be developed by placing a note on the signed plan;*

13 *2. The sight distance for lot #20 shall be changed to meet the 360' requirement;*

14 *3. Note #24 on the plan: "driveway opening for lots 19 and 20 are a suggestion only" should be updated*
15 *to say the driveway locations are fixed;*

16 *4. The utilities abutting the excluded 4 lots must still be built;*

17 *5. The 50x50 temporary turnaround shall become permanent once the Saco piece of the development is*
18 *constructed.*

19 The PB also chose not to grant the waiver request and to limit the number of lots developed to 14 and the
20 2 on Ross Road until the second means of egress is approved and constructed. The plan can still show the
21 4 additional lots, however, these cannot be built until that second means of egress is in place. As part of
22 the conditions, the applicant needs to identify the 14 lots by placing a note on the signed plan and the PB
23 added another condition that the infrastructure, utilities, etc. abutting the excluded 4 lots must still be
24 built.

25 The purpose of the October meeting is to make a ruling on the final plan. Looking through the materials
26 submitted for October, it appears that all of the conditions and outstanding issues have been addressed.

- 27
- 28 • A note was added to the plan (#25) that identifies the 14 lots to be developed. Lots 1, 2, 3, and 4
 - 29 are going to be excluded until the second means of egress is constructed. The note also includes
 - 30 that all roadways and utilities serving these 4 lots shall be constructed as part of the main project.
 - 31 • Sight Distance for lot 20 has been updated. It is 360 feet.
 - 32 • Note #24 on the plan was updated to say that the driveway openings for lots 19 and 20 shall meet
 - 33 the minimum sight distance and that the location shall be approved by CEO prior to the start of
 - 34 construction.
 - 35 • A "T-Turn around" has been designed at the end of Mary's Way at the Town line and has been
 - 36 designed as a 50x50 easement for permanent turn around and snow storage.

37 The final plan has been submitted to Wright Pierce for any final comments, we expect to receive these by
38 October 10th and will pass these along to the Planning Board for the October 12th meeting.

39 Planning Staff recommends that the PB review the responses to the Subdivision Standards and make a
40 ruling on the application.

1
2 **ITEM 5**

3 **Proposal: Zoning Map Amendment: Change Zoning District from Residential 1 to Downtown**
4 **District 2 for two lots located at 6-8 St. John St. and 10 St. John St.**

5 **Action: Discussion; Council Recommendation**

6 **Owner: Neal Weinstein**

7 **Location: 6-8 St. John St. (MBL: 206-24-32) and 10 St. John St. (MBL: 206-24-31)**

8
9 (SEE ABOVE)

10
11 **ITEM 6**

12 **Proposal: Conditional Use (Shoreland Zoning): Reconstruction of a nonconforming structure**

13 **Action: Discussion; Final Ruling**

14 **Owner: Kevin H & Marie Hedberg**

15 **Location: 10 Tioga Ave, MBL: 321-25-3**

16
17 (SEE ABOVE)

18
19 **ITEM 7**

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

22 **Action: Discussion, Ruling**

23 **Applicant: Cary Seamans**

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

25
26 At the September meeting, the PB decided that before they could approve the amendment they want to
27 see a revised plan showing any drainage, equipment, paving, and buffer changes within the drainage and
28 utility easement. A plan showing the requested info has been submitted. Staff has no issues with the
29 proposed changes.

30
31 **RECOMMENDATIONS:** Motion to approve the Cherry Hills Subdivision Plan Amendment to amend
32 the setbacks for lot B24 and drainage and utility easement along Cherry Hills Dr. and Wild Dunes Way as
33 shown on the revised plan dated 9/18/17.

34
35 Planning Board now has the drainage and utility easement plan. Staff is recommending approval.

36
37 **ITEM 8**

38 **Proposal: Mobile Food Vendor Ordinances**

39 **Action: Discussion**

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

41
42 On 2 August 2017, the Council enacted a moratorium on mobile food businesses. The moratorium
43 defines mobile food businesses as “any business not qualifying as a restaurant or convenience store and
44 offering for sale foodstuffs to be consumed by the public off premises, as the term Food Stand is defined
45 in Chapter 78 of the Code of Ordinances of the Town of Old Orchard Beach, and including, in addition to
46 food stands, food trucks and food carts.” The moratorium was enacted in response to concerns associated
47 with food trucks and how mobile food businesses are regulated.

48
49 The PB is tasked with developing ordinance language that limits licensing of food trucks and other
50 mobile food businesses. Current ordinance language regulates food stands which have been interpreted
51 by some to include food trucks and all mobile food businesses. In order to change this language and

1 develop standards that follow the Council's direction we offer a few discussion points:

- 2 • What should we do with the current Food Stand definition? Current standards?
- 3 • New definitions- Mobile Food Business, Food Truck, Food Stand, Food Vendor?, anything else?
- 4 • What are other names of food prep and servicing businesses that are temporary and not mobile?
- 5 • How will we be sure that regulations do not impact businesses like Lisa's Pizza and Bills that
- 6 have no seating, are similar to a food stand, and yet are in permanent structures?
- 7 • Should there be separate land use classifications for each mobile food business?
- 8 • Where should they be permitted? Not permitted? We can allow a use but not in the entire district
- 9 (similar to food stands in DD1).
- 10 • Who should be responsible for reviewing and approving? Should it be a conditional use?
- 11 • Should there be specific performance standards, setbacks, etc. requirements for each use?
- 12 • If in design districts should DRC review?
- 13 • Food consumed off premises? What is off premises? This is something that could be included in
- 14 a performance standard.

15
16 Planning staff requested input on this from town departments. We asked the following questions (MFB-
17 mobile food business):

- 18 • Will MFB's impact your departments operations? If so, how?
- 19 • What are your experiences with MFB's?
- 20 • If MFB's are allowed, what regulations should apply?
- 21 • Should MFB's have separate use categories (e.g., food trucks and food stands have different
- 22 regs)?
- 23 • Where should MFB's be allowed to operate? Private property only? The public ROW?
- 24 • Should they be allowed but with limited numbers and operation days?
- 25 • Should there be design guidelines? Operation guidelines?
- 26 • How about use of power, sewer, water, etc?
- 27 • Exemptions from the ordinance such as those that operate as part of a special event permit, cater a
- 28 private event, operate in a restricted access area for use of that areas customers only (e.g.
- 29 campground)?
- 30 • How should MFB's be licensed and/or permitted?

31
32 At the PB's September meeting, staff requests the Board provide guidance to assist us with development
33 of ordinance standards. Guidance includes your responses to the discussion bullet points above.

34
35 We are working under a moratorium which means our consideration has time limits. Moratorium
36 expiration can be extended but we should ensure our work is complete within a reasonable amount of
37 time. Proposed schedule:

- 38 • September: PB provide guidance to staff
- 39 • October: PB discuss draft ordinance, offer recommendations
- 40 • November: PB review second draft, schedule a public hearing
- 41 • December: PB hold a public hearing and provide recommendation to Council

42
43 **ITEM 9**

44 **Proposal: Subdivision Amendment: Amend Sawgrass Plan: Change building footprints to**
45 **building envelopes; revise lot lines; remove 2 lots**

46 **Action: Discussion; Ruling**

47 **Owner: Daily Double, LLC**

48 **Location: Ponte Vedra Dr. and Island Dr., Sawgrass, MBL: 105A-1-L**

49

1 This is currently under construction. At one time this was a multi building 40 unit proposal, then a 22 unit
2 single family lot proposal, and with this amendment it is proposed to go down to a 20 unit single family
3 and to change from building footprints to building envelopes
4

5 **RECOMMENDATIONS:** Motion to conditionally approve the Sawgrass Subdivision Amendments to
6 eliminate 2 approved lots (3 & 18); Revise lot lines as shown on the 9/27/17 Sawgrass Subdivision Plan;
7 Remove building footprints and replace with building envelopes for each lot. Conditions to add the
8 following states to the General Notes:

- 9 1. Proposed driveways for each lot shall meet Town of Old Orchard Beach Zoning Ordinance
10 driveway location, dimensions and design specification standards.
- 11 2. Project impervious surface, including that which is allocated for lot development, shall not
12 exceed the amount permitted by Maine DEP Site Location of Development Permit.
13

14 **ITEM 10**

15 **Proposal:** Subdivision Amendment: Amend Sandy Meadows Plan: revise lot lines to lots 5-8,
16 18, 21, 22; revised building locations; revised parking

17 **Action:** Discussion; Ruling

18 **Owner:** Lacosta Development, LLC

19 **Location:** Lacosta Dr., Sandy Meadows, MBL: 105A-1-A
20

21 This proposal includes: lot line revisions; as built and revised building locations; as-built and revised
22 parking space locations and assignments; addition of driveways. Overall this plan is a step in the right
23 direction as it offers us the ability to more accurately see where final construction exists and where
24 proposed construction will be built.
25

26 According to the applicant, the proposed changes to lot lines are associated with lots 5-8, 18, 21, and 22.
27 After review of the plan, lot 19 is changing too. Planner Hinderliter checked with the assessor and
28 Lacosta does not own lots 21 and 22 so we must ask the question- can Lacosta Development LLC change
29 these lot lines without the owner's permission?
30

31 The proposed amendment changes common area, too. Changes to lots 5, 7 and 8 lot lines cause changes
32 to the common area. We assume each lot owner has some kind of ownership of the common area. Can
33 Lacosta Development LLC change common area without authorization from all owners in Sandy
34 Meadows?
35

36 **RECOMMENDATIONS:** Our recommendation depends on the applicant's response and PB's
37 satisfaction to the permission/authorization and impervious surface questions. At this time, staff feels
38 these matters are not resolved and recommend the PB motion to table pending resolution. It's possible
39 the owner or applicant has knowledge and/or documentation that can resolve the outstanding matters to
40 the PB's satisfaction. If this is the case staff recommends the PB motion to approve the Sandy Meadows
41 Subdivision Amendment representing the following changes: lot boundary line revisions for lots 5 – 8,
42 18, 19, 21, 22; as built and revised building locations; as-built and revised parking space locations and
43 assignments; addition of driveways for lots 6, 10 and 22.
44

45 Chair Mailhot, in her opinion be constantly changing people's plans and granting permission for them
46 because they went against what was approved but did whatever they wanted to. In her opinion this is not
47 acceptable after already being built.
48
49
50
51

1 **ITEM 11**

2 **Proposal: Conditional Use: Single-family residential use and Estate Lot in the Industrial**
3 **Zoning District**
4 **Action: Discussion; Schedule Site Walk and Public Hearing**
5 **Owner: Kristen Barth**
6 **Location: 101 Ross Rd., MBL: 107-2-21**
7

8 This project is for a lot division on the Ross Road. The current parcel is 9.298 acres and is located in
9 both the Rural and Industrial districts. The current home will remain on one lot in the rural district as a
10 7.215 acre estate lot and a new lot will be conveyed to Kristen Barth and be 2.073 acres in the
11 industrial district.

12
13 The rural district allows for “*estate lots*” which are defined in the ordinance as “...building lot[s] with
14 legal access to a public street or approved private way via a minimum 50-foot-wide access strip which
15 is in fee part of the lot.”

16
17 In the Industrial District, residential uses can be authorized as conditional uses through the PB (78-903)
18 provided the following:

- 19 a. *The Planning Board determines that site constraints, vehicle access, or character of the*
20 *surrounding neighborhood precludes the use of the site for industrial uses as permitted in this*
21 *zone;*
22 b. *Residential density shall be no less than one unit per 75,000 square feet of net residential area;*
23 c. *Principal dwelling units shall be set back a minimum of 50 feet from all property lines.*

24 The applicant has provided responses to these three requirements in your application materials.
25 They have also provided responses to the 12 CU Standards.

26
27 **RECOMMENDATIONS:** Planning Staff recommends that the Planning Board schedule a Site Walk
28 for November 2nd and a Public Hearing for November 9th. Staff also recommends that the Planning
29 Board review the three items listed in the ordinance to be able to authorize residential uses as a
30 conditional use in the Industrial District and the 12 CU responses.

31
32 **ITEM 12**

33 **Proposal: Conditional Use (Shoreland Zoning): Construct bandstand**
34 **Action: Discussion; Schedule Site Walk and Public Hearing**
35 **Owner: Ocean Park Association**
36 **Location: 11 Temple Ave., MBL: 324-14-1**
37

38 This proposal is to construct a band stand on the east side of the library lawn in Ocean Park at 11 Temple
39 Ave.

40 Planning Staff was looking through the ZBA materials and noted that the project received approval to
41 “construct a band stand on the ocean park library lawn.” However, nothing was noted about it being in the
42 Shoreland Zone and that was why the variance was required. In addition, when we contacted DEP to
43 receive a copy of their findings, they did not know about the project and said that because they were not
44 notified 20 days prior to the ZBA’s decision, the decision is not legally valid.

45
46 At this point, without a ZBA decision, there is nothing that Planning Staff or the Planning Board can do
47 with the proposal. Planning Staff is going to attempt to work with the applicant and DEP to try and get
48 them on the October 30th ZBA agenda so they can get their variance.
49

1 Nonetheless, even after they get their variance, it is unclear how the PB could review this proposal for
2 Shoreland Zoning purposes because our ordinance for projects in the Shoreland assumes that a structure
3 exists and does not include information about a NEW nonconforming structure in the Shoreland Zone. It
4 would, however, be required to be reviewed as an administrative site plan and Planning Staff could
5 choose to have it reviewed by the PB.
6

7 We will have an update to the board for the November meeting.
8

9 CERTIFICATES OF APPROPRIATENESS

10 ITEM 1

11 **Proposal:** Construct new elevator/lobby building and enclosed staircase; changes to portions
12 of building exterior including siding, windows, doors, light fixtures.

13 **Owner:** Lafayette Hotels

14 **Location:** 87 West Grand Ave., MBL: 313-5-1, 4, 5, DD2
15

16 On 2 October, the DRC unanimously recommended the PB conditionally approve a Certificate of
17 Appropriateness. Staff recommends the PB motion to conditionally approve Lafayette Hotels Certificate
18 of Appropriateness for the construction of a new elevator/lobby building between two buildings, new
19 enclosed staircase at the end of one building, new skywalk connecting two buildings, and changes to
20 portions of the building exterior including siding, windows, doors, and light fixtures for the property
21 located at 87 West Grand Ave.

22 Conditions:

- 23 1. All improvements will be implemented in accordance with application, plans and proposal
24 received. Any additional changes must be approved by staff prior to completion.
- 25 2. A building permit is required to complete all improvements.
26

27 ITEM 2

28 **Proposal:** New siding, trim, deck railing, decking

29 **Owner:** Lamplighter Condominium

30 **Location:** 15 Francis St., MBL: 205-7-1, DD2
31

32 On 2 October, the DRC unanimously recommended the PB conditionally approve a Certificate of
33 Appropriateness (Note: conditions 3 & 4 have been complied with). Staff recommends the PB motion to
34 conditionally approve Lamplighter Condominium of Appropriateness for vinyl siding, Trex decking,
35 vinyl deck railings, and historic-type lantern light fixtures for the property located at 15 Francis St., MBL;
36 205-7-1. Conditions:
37

- 38 1. All improvements will be implemented in accordance with application, plans and proposal
39 received. Any additional changes must be approved by staff prior to completion.
- 40 2. A building permit is required to complete all improvements.
- 41 3. The siding color is proposed to be changed to arctic gray, this shall be updated on the submission
42 materials.
43 * (Note the proposal will move forward with the harbor grey as identified in the application).
- 44 4. Planning Staff shall administratively approve the lighting.
45

46 These conditions have already been met.
47

48 Other Business

- 49 1. Sign The Turn Findings of Fact and Mylar
- 50 2. Sign Palace Playland Findings of Fact
- 51 3. Salvation Army Findings of Fact

1
2
3
4
5
6
7
8
9
10
11

ADJOURNMENT 7:00 pm

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

I, Valdine Camire, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of Eight (8) pages is a true copy of the original minutes of the Planning Board Workshop Meeting of October 5, 2017.

