

1  
2  
3 OLD ORCHARD BEACH PLANNING BOARD  
4 Regular Meeting  
5 September 14, 2017 7:00 PM  
6 Town Council Chambers  
7

8 **PLEDGE OF ALLEGIANCE**  
9

10 **CALL MEETING TO ORDER (7:00 PM)**  
11

12 **Roll Call:** Robin Dube, Ryan Kelly, Win Winch, Mike Fortunato, Mark Koenigs, Vice Chair Eber Weinstein, Chair  
13 Linda Mailhot. **Staff Present:** Planner Jeffery Hinderliter, Assistant Planner Megan McLaughlin.  
14

15 **Approval of Minutes: 8/3/17; 8/10/17**  
16

17 **8/10/2017 minutes:**

18 Eber Weinstein corrections:

19 Page 11 line 32, Mr. Weinstein voted to abstain on motion to approve a conditional use for a home occupation, psychic  
20 readings. And add his name “Eber Weinstein” as Vice Chair.

21 Also change “Neil” Weinstein to “Neal” Weinstein.  
22

23 Chair Mailhot corrections:

24 Page 3 line 1 “uses” should be “used”.

25 Page 3 line 5 “loses” should be “losses”.

26 Page 3 line 38 “paring” should be “parking”.  
27

28 **8/3/2017 minutes:**

29 Chair Mailhot corrections:

30 Page 1 line 32 “resided” should be “revised”.  
31

32 **MOTION:**

33 Motion to approve both the 8/2/2017 and 8/10/2017 with changes noted by Win Winch, seconded by Ryan Kelly.  
34

35 **VOTE:**  
36

37 Mike Fortunato – Yes

38 Win Winch – Yes

39 Ryan Kelly – Yes

40 Vice Chair Weinstein – Yes

41 Chair Mailhot – Yes  
42

43 **MOTION CARRIES (5-0)**  
44

45 **Regular Business**

46 **ITEM 1**

47 **Proposal:** Site Plan Review: Expansion of existing nonresidential (retail) building

48 **Action:** Discussion; Final Ruling

49 **Owner:** Harold H. Harrisburg, Phylis I Harrisburg and Harrisburg Group Gen Partnership

50 **Location:** 9 East Grand Ave., MBL: 306-2-6  
51

52 New agent of owner requested a 30 day extension for consideration.  
53

54 **MOTION:**

1 Win Winch made a motion to table this until the next meeting in October noting to the applicant that they are allowed  
2 (2) 30 day extensions so the next meeting has to be the final ruling, seconded by Vice Chair Eber Weinstein.  
3

4 **VOTE:**  
5

6 Mike Fortunato – Yes  
7 Win Winch – Yes  
8 Ryan Kelly – Yes  
9 Vice Chair Weinstein – Yes  
10 Chair Mailhot – Yes  
11

12 **MOTION CARRIES (5-0)**  
13

14 **ITEM 2**

15 **Proposal: Major Subdivision: 20 lot cluster subdivision for single-family residential use (Eastern Trail**  
16 **Estates)**  
17 **Action: Discussion; Waiver Ruling; Preliminary Plan Ruling**  
18 **Owner: Ross Road LLC**  
19 **Location: Ross Rd, MBL: 107-1-4, 14 & 16**  
20

21 Assistant Planner McLaughlin stated that there are 6 items included in PB Packets:  
22 Email from our Town Attorney (the town wanted to consult with the Attorney whether Easy Street can be used as a  
23 second means of egress. Also some questions about a deed.  
24 The Town Attorney stated that if this project crossed a municipal border it triggers joint review between both Saco and  
25 Old Orchard Beach PB.  
26 He recommends that Saco Town Planner provide input to Old Orchard Beach PB whether he thinks this project requires  
27 a joint review. Saco is not overly concerned with Old Orchard Beach PB moving forward and doesn't see a need for a  
28 meeting at this time.  
29 If they make any changes to the plan that will affect the Saco portion, the Saco Planner asks that the Old Orchard Beach  
30 PB note that it will require full Saco review at that time.  
31

32 Tonight there is a waiver request associated with the 18 lots proposed on Mary's Way. There are 4 recommendations:  
33 • Not grant the waiver request and to limit the number of lots to develop that will use that single access to 14 until  
34 a second means of egress is approved and constructed.  
35 • Not grant the waiver request and cap the lots that will use that single access to 14 however there has to be a  
36 reason why and that needs to be stated.  
37 • Grant the waiver for the 18 lots contingent on the use of Easy Street.  
38 • Grant the waiver for the 18 lots without requiring the second means of egress.  
39

40 BH2M provided a summary of the drainage issues.  
41 Planner Hinderliter and Assistant Planner McLaughlin recommends that the driveway locations be located as indicated  
42 on the plan for lots 19 & 20 instead of being just a suggestion.  
43  
44

45 Bill Thompson, Engineer from BH2M introduced himself.  
46 Discussed site distance which is 360.  
47 Stormwater  
48 Would keep the 50' x 50' easement next to the end lot for snow storage and also the cul-de-sac. Joe Cooper, Public  
49 Works Director is fine with this.  
50 If Saco is able to develop their portion of the project, they have the right to develop Easy Street and meet Old Orchard  
51 Beach and Saco's standards.  
52  
53

54 **MOTION: WAIVER REQUEST**

1 Win Winch made a motion not to grant the waiver of the required second means of egress over the 14 lots and add what  
2 The 14 lots are by placing a note on the plan and the infrastructure and utilities abutting those 4 lots should still be built,  
3 Seconded by Ryan Kelly.  
4

5 **VOTE:**

- 6 Mike Fortunato – Yes
- 7 Win Winch – Yes
- 8 Ryan Kelly – Yes
- 9 Vice Chair Weinstein – Yes
- 10 Chair Mailhot – Yes

11  
12  
13 **MOTION CARRIES (5-0)**

14  
15 **MOTION: PRELIMINARY PLAN APPROVAL WITH SUGGESTED CONDITIONS:**

- 16
- 17 1. The applicant should identify the 14 lots to be developed by placing a note on the signed plan;
- 18 2. The sight distance for lot #20 shall be changed to meet the 360' requirement;
- 19 3. Note #24 on the plan: “driveway opening for lots 19 and 20 are a suggestion only” should be updated to say the  
20 driveway locations are fixed;
- 21 4. The utilities abutting the excluded 4 lots must still be built;
- 22 5. The 50x50 temporary turnaround shall become permanent once the Saco piece of the development is constructed.

23  
24 Vice Chair Eber Weinstein moved to accept the Preliminary Plan with the given conditions, seconded by Win Winch.  
25

26 **VOTE:**

- 27
- 28 Mike Fortunato – Yes
- 29 Win Winch – Yes
- 30 Ryan Kelly – Yes
- 31 Vice Chair Weinstein – Yes
- 32 Chair Mailhot – Yes

33  
34 **MOTION CARRIES (5-0)**

35  
36 **ITEM 3**

37 **Proposal: Site Plan Review: Expansion of existing corps and admin building, parking lot construction,**  
38 **building demo, landscaping, site work**  
39 **Action: Discussion; Final Ruling**  
40 **Owner: The Salvation Army**  
41 **Location: 6<sup>th</sup> St, Union Ave, Church St, Oakland Ave, 15<sup>th</sup> St; MBL: 311-6-1,12, 8; MBL: 311-4-1,2,3,4,5**  
42

43 Planning Board held a public hearing in August. We received written comments from the public and a lot of the  
44 comments have been addressed.  
45

46 There are some outstanding issues:

- 47 • Public Works input regarding ponding of stormwater in one of the parking lots.
- 48 • Access to utility lines.
- 49 • Accuracy of the boundary survey.
- 50 • Plan for vehicles during events. Concern about Trolley’s/idling noise.

51  
52 The Planning Board has responses from the Salvation Army which includes the summary of the stormwater and it has  
53 been reviewed by our consulting engineer and public works.  
54 Information from a land surveyor stating that the survey is accurate.

1 The applicants are conducting a brand new boundary survey.  
2 Plan addressing the trolley.  
3 Planner Hinderliter suggested to have a traffic plan from Frank the architect.  
4  
5

6 Other issues concerning blasting/fire safety/code safety are items that are addressed during the building permit  
7 application process.  
8 Planning Board doesn't have the standards that regulate concerns about the drug issue.  
9

10 Neil Raposa, Salvation Army Consultant stated that they are addressing the trolley issue.  
11 There were deeded easements to the town for the section that the public works were concerned with.  
12 The area on Oakland Avenue with the catch basin and maintenance, the Salvation Army will make sure that this area is  
13 maintained and cleaned up.  
14

15 Frank Elliot from Salvation Army talked about the dealing with the Trolley Transportation System. The trolley will start  
16 at the high school and end at the high school and concentrate on major roads to arrive at the site.  
17

18 Eber Weinstein mentioned that they need to make sure that the heating and air conditioning units meet the sound  
19 requirement for both day and night.  
20 Mr. Elliot stated that the HVAC units were relocated to cut back on noise.  
21

22 Planner Hinderliter stated that DEP permit has been approved prior to the construction.  
23

24 *Eber Weinstein read the 9 Site Plan Review Criteria:*

25 (1) The proposed project conforms to all standards of the zoning district and meets or exceeds performance  
26 standards specified in this article and article VIII of this chapter.

27 **RESPONSE: The standards of the zoning district are met as indicated on the project drawings. A  
28 waiver has been requested to allow multiple instances to a street from a single lot for access to the  
29 separated parking lots to be located on Church Street.**

30 (2) The proposed project has received all required zoning board of appeals and/or design review permits as  
31 specified in division 2 of article II and article V of this chapter, if applicable, and has or will receive all  
32 applicable federal and state permits.

33 **RESPONSE: The proposed site improvements will not require ZBA permitting as submitted. A  
34 MEDEP Basic Standards Stormwater Permit (Permit by Rule) has been submitted to the DEP per  
35 Chapter 500 of the Stormwater law.**

36 (3) The proposed project will not have an adverse impact upon the quality of surficial or groundwater  
37 resources.

38 **RESPONSE: The areas that are to be modified will be converting existing developed area to buildings,  
39 parking or landscaping. Areas of existing parking lots that are converted to building coverage will  
40 produce a lower pollutant load than the previous use. Areas of existing lawn that are converted to  
41 buildings or paved parking will be directed to rain gardens (bio retention cells) or to existing drainage  
42 structures if sufficiently sized. The intent is to decrease the overall pollutant load from the site  
43 compared to the existing conditions.**

44 (4) The project provides adequate stormwater management facilities to produce no additional peak runoff  
45 from the site during a 25-year storm event or any other event so required by the planning board, and will not  
46 have an undue impact on municipal stormwater facilities or downstream properties.

47 **RESPONSE: Due to the fact that the site will experience a minimal increase in impervious area, along  
48 with implementation of new BMP's to slow runoff from developed areas, no increase in peak runoff**

1 **during the 25-year storm event is expected. Refer to Stormwater Management Plan for additional**  
2 **information.**

3 (5) The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and  
4 pedestrian circulation systems within the community or neighborhood.

5 **RESPONSE: The project proposes to limit direct access to and from the site off of Union Avenue and**  
6 **direct the site-associated traffic to Church Street. This will produce a safer environment for the**  
7 **surrounding community.**

8 **New crosswalks and pedestrian paths are proposed to create a safer situation for users of the new**  
9 **parking areas and facilities on Church Street.**

10 (6) The proposed project will not have an adverse impact upon environmental quality, critical wildlife  
11 habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding  
12 environs, or the community.

13 **RESPONSE: The project is located in an urban area with no critical wildlife habitats or other**  
14 **significant resources.**

15 The site and building modifications are intended to improve the visual quality of the campus and surrounding  
16 neighborhood, as shown in the renderings provided by Elliott Architects. Woodburn & Company has prepared  
17 a landscaping plan that will promote a balanced and natural appearance for the portion of the campus within  
18 the project area.

19 (7) The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances  
20 that will adversely impact the quality of life, character, or the stability of property values of surrounding  
21 parcels.

22 **RESPONSE: The proposed buildings and parking lots will not produce the nuisances listed during**  
23 **normal use. The improvements are expected to have little effect on the surrounding property values,**  
24 **and any impact is expected to be positive.**

25 (8) The proposed project will not have a negative fiscal impact on municipal government.

26 **RESPONSE: The project will not negatively impact the municipality due to the fact that it will not**  
27 **increase any demand on any of the municipal systems affected.**

28 (9) The proposed project will not have an adverse impact upon surrounding property values.

29 **RESPONSE: As noted previously, the intent is to improve the campus and surrounding areas, both in**  
30 **functionality and aesthetics. A positive impact on surrounding property values is expected.**

31  
32 **2 CONDITIONS:**

- 33 • The portion of the proposed building parallel to the southerly boundary lines of lots running open avenue should  
34 be staked out and setbacks field verified before construction begins and that this language should also be  
35 included as a note on the revised site plan.
- 36 • The Salvation Army or their representative shall work with the Old Orchard Beach Public Works to help if there  
37 are blockages or maintenance items in the open avenue storm drainage system before construction begins. This  
38 includes the drain lines between the southerly line of Oakland Avenue properties and the Salvation Army  
39 building.

40  
41 Eber Weinstein made a motion that the Planning Board accepts the final plan as given with the previous 2 conditions,  
42 seconded by Win Winch.

43  
44 **VOTE:**

45  
46 Mike Fortunato – Yes

- 1 Win Winch – Yes
- 2 Ryan Kelly – Yes
- 3 Vice Chair Weinstein – Yes
- 4 Chair Mailhot – Yes

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

7  
8 **ITEM 4**

- 9 **Proposal: Zoning Map Amendment: Change Zoning District from Residential 1 to Downtown District 2 for**
- 10 **two lots located at 6-8 St. John St. and 10 St. John St.**
- 11 **Action: Discuss Map Amendment; Schedule Public Hearing**
- 12 **Owner: Neal Weinstein**
- 13 **Location: 6-8 St. John St. (MBL: 206-24-32) and 10 St. John St. (MBL:206-24-31)**

14  
15 Currently the DD-2 District is adjacent to these lots. This proposal will extend the DD-2 District to include both of these  
16 lots. The applicant would like to increase the density and would like to do 2 / 2 family units on both of these lots.  
17 Currently they are assessed as 2 single family dwellings.  
18 The Comprehensive Plan that is currently being worked is that they are proposing this area to be in the Downtown  
19 Residential District which will have a higher density use. We feel that this is consistent with the soon to be completed  
20 Comprehensive Plan.

21  
22 A public hearing is scheduled for October 12, 2017.

23  
24 **VOTE:**

- 25
- 26 Mike Fortunato – Yes
- 27 Win Winch – Yes
- 28 Ryan Kelly – Yes
- 29 Vice Chair Weinstein – Yes
- 30 Chair Mailhot – Yes

31  
32 **MOTION CARRIES: (5-0)**

33  
34 **ITEM 5**

- 35 **Proposal: Conditional Use (Shoreland Zoning): Reconstruction of a nonconforming structure**
- 36 **Action: Determination of Completeness; Schedule Site Walk and Public Hearing**
- 37 **Owner: Kevin H & Marie Hedberg**
- 38 **Location: 10 Tioga Ave, MBL: 321-25-3**

39  
40 The Towns Ordinance is if a property is located within 100 ft. of the highest annual tide then expansion requires  
41 Planning Board review as a conditional use in Shoreland Non-Conforming Structure. The applicant is not proposing to  
42 expand or to change the footprint of the dwelling but they are planning to increase the floor area and volume by 30% by  
43 expanding the structure upward and putting a garage underneath.  
44 Win Winch made a motion to determine the application complete and schedule a site walk for October 5, 2017 (time to  
45 be determined) and a Public Hearing on October 12, 2017, seconded by Ryan Kelly.

46  
47 **VOTE:**

- 48
- 49 Mike Fortunato – Yes
- 50 Win Winch – Yes
- 51 Ryan Kelly – Yes
- 52 Vice Chair Weinstein – Yes
- 53 Chair Mailhot – Yes

54

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

2  
3 **ITEM 6**

4 **Proposal:** Subdivision Amendment: Amend Cherry Hills Estates drainage easement adjacent to lot B24  
5 **Action:** Discussion, Ruling  
6 **Applicant:** Cary Seamans  
7 **Location:** Cherry Hills Estates, Cherry Hills Rd., MBL: 105A-1-B24  
8

9 The building was constructed within the easement area and in order to correct that, the applicant is here to request that  
10 the setback is reduced and that the easement area be reduced and reconfigured. The easement area contains a pump  
11 station (an approved temporary pump station) but at some point in the future they are required to put in a permanent  
12 pump station.

13 One of the concerns with this is that if you reduce the area associated with the drainage and utility easement how will  
14 that impact the pump station and the facilities associated with the pump station. BH2M stated that the area will still  
15 allow for the construction of a permanent pump station if it is ever needed, it just needs to shift into the direction of  
16 Wild Dunes Way a little more than where it was laid out during the 2009 plan review.

17  
18 A minor setback change and adjustment to the drainage and utility easement, and the Planning Board's biggest concern  
19 is to ensure that what is planned for that drainage and utility easement can still be planned and functioned properly.  
20 We are requesting that another plan be submitted to show any changes associated with this easement and its location and  
21 the utilities within the easement as well as a buffer.

22  
23 The consensus of the Planning Board is to wait until they get the new plan.  
24

25 **ITEM 7**

26 **Proposal:** Subdivision Amendment: Amend The Turn Plan and Findings of Fact (units to lots, no increase to  
27 numbers)  
28 **Action:** Discussion; Ruling  
29 **Owner:** Dominator Golf, LLC  
30 **Location:** The Turn Subdivision, Woods Lane & Mickelson Way, MBL: 105A-1-800 & 200  
31

32 Staff recommends the PB approve the proposed subdivision amendment to The Turn by amending the FOF to remove  
33 condominium and replace with residential subdivision (and other language adjustments to clarify the change) and  
34 amending the plan to remove building footprints and replacing with building envelopes as well as the addition of two  
35 notes (renumber the second #21 to #23). As a recommendation, we request the developer/applicant/owner to develop a  
36 plan to insure each lot developer and future owner is aware of the driveway requirement and the allowable impervious  
37 surface square footage for each lot.

38  
39 Applicant and owner Domenic Pugliares stated that there were never any condo documents, they were homeowner  
40 association documents. The word condominium documents was put in there by mistake.  
41

42 Eber Weinstein made a motion that the Planning Board accept the amendment to the subdivision and allow for building  
43 envelopes rather than previous building footprints with the notes given except that the second #21 should be changed to  
44 #23 and as long as the Town Attorney has no problem changing Condo to Residential and also to change the language in  
45 the findings of facts. Also any reference to condominium be stricken and substituted with residential subdivision.  
46 Win Winch seconded the motion noting that the plans are dated September 2017.  
47

48 **VOTE:**

49  
50 Mike Fortunato – Yes  
51 Win Winch – Yes  
52 Ryan Kelly – Yes  
53 Vice Chair Weinstein – Yes  
54 Chair Mailhot – Yes

1  
2 **MOTION CARRIES: (5-0)**  
3

4 **ITEM 8**

5 **Proposal: Designation of Amusement Overlay District on a parcel located at 25 West Grand Ave**

6  
7 **Action: Review submissions; Ruling**

8 **Applicant: Palace Playland. Owner: Ocean Parking Inc**

9 **Location: 25 West Grand Ave, MBL: 307-1-2**  
10

11 The AO is permissible for lots within the DD1 that have one-acre or more of land. Properties may be designated by the  
12 PB as being within the AO provided that the PB receives a written petition from the property owner and certifies that the  
13 proposed operation conforms to all sections of the AO ordinance. So, to designate a lot within the AO:

- 14 • It must be within the DD1
- 15 • It must have 1 acre or more of land. (The lot in question currently does not have a one acre lot so they need to  
16 combine the adjacent property.)
- 17 • The PB must receive a written petition from the property owner certifying proposed operations conform to all  
18 sections of the AO ordinance.

19  
20 Once the Planning Board feels that they are comfortable with this and can designate this as an AO, they can then grant  
21 the Amusement Overlay designation.  
22

23 Although they do not require a public hearing for this item, there are some interested people that have some concerns  
24 about this proposal and Planner Hinderliter recommends that the Planning Board offers them the chance to speak before  
25 any decision is made.  
26

27 The Planning Board has sole authority to designate a property in the AO as long as it meets these certain requirements.  
28

29 John Cloutier, owner and operator of the Beachmont Hotel and an abutter to the proposed expansion of the AO District.  
30 He very much supports Palace Playland to install a new rollercoaster, however the expansion the rules and regulations  
31 for the AO District are very different than those that apply to the surrounding DD-1 properties. The AO is exempted  
32 from our sound ordinance.

33 Would like to see them make an effort to place the rollercoaster in a location that can work in harmony with the  
34 surrounding properties. He would like to see some kind of buffer.  
35

36 (Included in these minutes, letter by Mr. Cloutier):  
37

38 **RE: Palace Play land petition for expansion of the Amusement Overlay District**

39 *Dear Jeffrey,*

40 *Thank you for allowing me to review the petition relating to Item 8 of the Planning*  
41 *Board Workshop Agenda scheduled for September 7th, 2017 at 6:00 PM. As an abutter to the*  
42 *proposed change to the Zoning Map that would expand the Amusement Overlay zoning*  
43 *district, I have specific concerns relating to this petition as outlined below.*

44 *One of my primary concerns is that this petition significantly expands the scope and*  
45 *nature of permitted uses that adds a significant risk to my business and property*  
46 *value/marketability. Over the years, my family and I have made considerable investments in*  
47 *The Beachwood, a longstanding motel in Town. Expanding the Amusement Overlay district*  
48 *all the way to my property line creates a situation that puts the very existence of my business at*  
49 *risk.*

50 *The Downtown District 1 (DD-1 ), where my property and the one subject to the*  
51 *petition are located, does not allow amusement rides or other amusement activities as*  
52 *permitted uses. The DD-1 does allow lodging establishments, such as my family business -*



1 *The Beachwood. The DD-1 specifically excluded amusement activities such as those listed in*  
2 *the Amusement Overlay District for good reason - they are conflicting uses with those that are*  
3 *allowed in the DD-1 such as lodging establishments. Because of this conflict, it is important to*  
4 *maintain buffer areas between these types of uses - such as the existing 0.8 acre Ocean*  
5 *Parking, Inc. parking lot (Tax Map 307, Block 1, Lot 1) between my property and Palace*  
6 *Playland. This is particularly true given that Palace Playland, according to a recent article,*  
7 *intends to install a new roller coaster that is twice as tall and much wider and longer than the*  
8 *existing coaster. See enclosed article as Exhibit A.*

9 *The existing size of the Ocean Parking lot (0.8 acres) is significant. In 2001, when the*  
10 *Town Council created the Amusement Overlay District, it stated that it shall only apply to*  
11 *properties that are 1 acre or greater. See Section 78-1082 (adopted on September 18, 2001).*  
12 *Since the Ocean Property parcel is less than 1 acre, it is clear that the Town Council (as well as*  
13 *myself) did not specifically contemplate or consider this parcel as being eligible to be included*  
14 *in the Amusement Overlay District or expansion of this District. In 2001, and as it currently*  
15 *exists today, it does not meet this area requirement. It therefore should not be "designated" as*  
16 *being within the Amusement Overlay District.*

17 *Moreover, allowing a property owner to purchase adjacent properties (or a number of*  
18 *properties adjacent to each other) to exceed the 1 acre threshold was not contemplated by the*  
19 *enactment of the Amusement Overlay District in 2001, and is also not consistent with how*  
20 *legislative authority is exercised in the Town with respect to Zoning Map amendments.*

21 *Individual property owners do not have this authority to aggregate properties, especially those*  
22 *that are less than 1 acre, to change the Zoning Map without Town Council action. Indeed, the*  
23 *Town Charter is clear that only the Town Council has the authority to exercise the Town's*  
24 *legislative power - such as when it amends the Zoning Ordinance or Zoning Map. See Section*  
25 *409-13 ("Act as the general legislative body of the Town with all the powers of a Town*  
26 *Meeting. The Town Council may not delegate any of the legislative powers conferred by this*  
27 *Charter or by law to any official of the Town or to any statuto1y or advisory board,*  
28 *commission. committee or person. ")*

29 *The Town Charter also calls into question whether the Planning Board has the authority*  
30 *to amend the Town's Zoning Map by modifying the boundaries of the Amusement Overlay*  
31 *District - particularly in this manner for a property that did not, and does not currently, meet*  
32 *the 1 acre size requirement. Based on the Charter language quoted above, Section 78-1 082(b)*  
33 *of the Zoning Ordinance, which attempts to authorize the Planning Board to designate*  
34 *properties in the Amusement Overlay District by amending/modifying the Zoning Map, is*  
35 *directly contrary to the Town Charter. I would note that the Town's Historic Overlay District*  
36 *and Campground Overlay District do not contain this type of "designation authority" to change*  
37 *the Zoning Map. See Sections 78-1132 and 78-1221. It is also noteworthy that the Zoning*  
38 *Ordinance amendment process and Contract Zoning process all contemplate that the Planning*  
39 *Board review and provide recommendations to the Town Council on any amendments, such as*  
40 *a change to the Town's Zoning Map. See Section 787-31 ("Amendments to this chapter shall*  
41 *be adopted only after favorable vote of a majority of the Town Council"); see also Sections 78-*  
42 *2136-2137 (regarding contract zone adoption procedures). It is the Town Council that then*  
43 *exercises the Town's legislative authority on whether or not to adopt an amendment or change*  
44 *to the Zoning Ordinance - including changes to the Town's Zoning Map. The Town Charter is*  
45 *clear on this point.*

46 *The Zoning Ordinance provisions cited above also require specific procedures to be*  
47 *followed - namely proper notice and a public hearing - before consideration of any*  
48 *amendment to the Zoning Ordinance, including changes to the Town's Zoning Map. This is*  
49 *required by State law under Title 30-A M.R.S.A. Section 4352. Based on my understanding of*  
50 *how the Planning Board may intend to consider the petition before it, none of these procedures*

1 *(notice and public hearing) have or will be used.*

2 *In my view, the above authority/process concerns necessitate a careful and thoughtful*  
3 *review of the Town authority and processes regarding this petition by the Planning Board,*  
4 *Town Staff, and Town Council - and it may be prudent to get the Town Attorney's opinion on*  
5 *these matters before proceeding further.*

6 *In addition to the above authority/process concerns, I also have concerns regarding*  
7 *whether other sections of the Zoning Ordinance are being followed/complied with.*  
8 *Specifically, based on the petition as submitted, there is no actual documentation that other*  
9 *provisions of the Zoning Ordinance are, or can be, complied with. Stated differently, a letter*  
10 *from an attorney stating certain floor area and other dimensional criteria are met is not*  
11 *sufficient information to base a decision upon. Such determinations require actual site*  
12 *information - such as a site plan. I have detailed some of my concerns in this respect below*  
13 *regarding the petition:*

14 *1) The Petition states that a portion of the property will be used as a Commercial*  
15 *Parking lot. Commercial Parking is not a primary or complimentary use within the*  
16 *Amusement Overlay district. As such, it's hard to reconcile the Net Amusement*  
17 *Area and Cumulative Floor Area calculations that were provided by the petitioner.*

18 *It would be helpful to review a site plan, sketch or really anything of a similar*  
19 *nature that details the proposed use and supports this calculation. It would also be*  
20 *helpful to see how this Commercial Parking Lot, if allowed, will conform to the*  
21 *specifications of Division 4, Article VIII of Chapter 78 of the town ordinance.*

22 *2) The petitioner remains silent on how the proposed use and combined lot will satisfy*  
23 *the maximum impervious standards for a Frontal Dune outlined in 78-1086 of*  
24 *Article VI, Division 15.*

25 *3) The Petitioner does not comment on how many parking spaces are required for the*  
26 *proposed use as per Sec. 78-1566 - Parking Standards, which requires One Space*  
27 *per four persons rated capacity of all rides, plus one space per 200 sq. ft. of*  
28 *enclosed area.*

29 *I plan to attend the September 7 workshop, but it is also unclear to me whether there will*  
30 *be time allotted for public comment, so I decided to provide my written analysis to you and the*  
31 *Petitioner in advance with this letter. I'm also attaching a copy of what I would intend to say,*  
32 *should I be given the opportunity, as Exhibit B.*

33 *Thank you for your review and consideration of these items. I would also like to express*  
34 *my sincere gratitude to this Board for its efforts, as well as efforts by the Town Staff, to help*  
35 *make our Town a better place. Please know that you have my respect for taking an*  
36 *active/informed role in our government.*

37  
38 *President, The Beachwood*

39 *Cc:*

40 *Joel Goulder - CEO, Palace Playland*

41  
42  
43 John B. Shumadine, Attorney with Murray Plumb & Murray, representing Palace Playland introduced himself along  
44 with Paul and Joel Goulder, owners of Palace Playland. The owners purchased the rollercoaster before they knew that  
45 the additional parking lot was up for sale. The owners were going to take away a few rides to fit the rollercoaster,  
46 however they have enough room with the additional land to put the roller coaster so no need to take away rides.  
47 The rollercoaster there now is 60' wide, 35' high and 165' in length. The new rollercoaster will be 90' wide, 70' height  
48 and 210' in length.

49  
50 The property in question is .8 of an acre, combine with abutting property that is approximately 1.9 acres to result in a  
51 piece of property that is well over the acre threshold.

1 He doesn't feel that the Planning Board cannot say that it can't be located there. The Planning Board has to follow what  
2 the ordinance says.

3  
4 The Town Council adopted an ordinance and as part of that ordinance they established a DD-1 Zone and within that DD-  
5 1 Zone there is an AO district. It also says that the AO can be expanded by the Planning Board under these 3 conditions.

6 There is nothing in the ordinance that says only the existing one lot.  
7 There is no impervious surface issue because they are buying a lot that is existing impervious surface. There is no new  
8 impervious surface expansions contemplated.

9 They will comply with the setbacks in the ordinance.

10  
11 Eber Weinstein would like to have the town's attorney to state whether the purchase and sale is enough to go through  
12 with this proposal.

13 It would be helpful for the Planning Board to see what the new roller coaster looks like.

14  
15 Chair Mailhot asked the Planner if the Planning Board has the right to request some sort of buffering.

16 Planner Hinderliter stated that it is hard to apply a buffer when you don't what you're buffering. If there are standards  
17 within the AO ordinance that are related to buffering, then he believes that the Planning Board can require some sort of  
18 buffering as long as it is tied to a standard in the AO ordinance.

19  
20 Eber Weinstein made a motion to grant the designation of Amusement Overlay District on a parcel located at 25 West  
21 Grand Ave with the following conditions:

- 22 • That this is in the DD-1 District.
- 23 • When this lot which is under purchase and sale agreement is purchased and combined with the existing lot  
24 which is in the current AO District that it will meet the 1 acre criteria.
- 25 • Creation of a plan showing a division line separating 25 West Grand Ave. and 1 Staples St. properties to be  
26 submitted by the applicant.

27 Win Winch seconded the motion.

28  
29 Eber Weinstein also wanted these following suggestions as part of the official record:

- 30 • That the applicant consult with the OOB Fire Chief in regards to future development and that Palace Playland  
31 owner to work with the Beachwood Motel owner to discuss and implement buffers.

32  
33 **VOTE:**

34  
35 Mike Fortunato – Yes

36 Win Winch – Yes

37 Ryan Kelly – Yes

38 Vice Chair Weinstein – Yes

39 Chair Mailhot – Yes

40  
41 **MOTION CARRIES: (5-0)**

42  
43  
44 **ITEM 9**

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

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

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

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

49  
50 We have a formal request to table this proposal because the applicant and intends to submit a revised plan in October  
51 2017.

52  
53 Motion by Ryan Kelly to table this item, seconded by Mike Fortunato.

1 **VOTE:**

2  
3 Mike Fortunato – Yes  
4 Win Winch – Yes  
5 Ryan Kelly – Yes  
6 Vice Chair Weinstein – Yes  
7 Chair Mailhot – Yes

8  
9 **MOTION CARRIES: (5-0)**

10  
11 **ITEM 10**

12 **Proposal: Mobile Food Vendor Ordinances**

13 **Action: Discussion**

14 **Applicant: Town of OOB**

15  
16 Planner Hinderliter would like for the Planning Board members to provide feedback for each of the following standards  
17 and to email Staff by September 22, 2017 so that at the October PB meeting this will be included as part of the  
18 discussion:

- 19  
20
- What should we do with the current Food Stand definition? Current standards?
  - New definitions- Mobile Food Business, Food Truck, Food Stand, Food Vendor?, anything else?
  - What are other names of food prep and servicing businesses that are temporary and not mobile?
  - How will we be sure that regulations do not impact businesses like Lisa's Pizza and Bills that have no seating, are similar to a food stand, yet are in permanent structures?
  - Should there be separate land use classifications for each mobile food business?
  - Where should they be permitted? Not permitted? We can allow a use but not in the entire district (similar to food stands in DD1).
  - Who should be responsible for reviewing and approving? Should it be a conditional use?
  - Should there be specific performance standards, setbacks, etc. requirements for each use?
  - If in design districts should DRC review?
  - Food consumed off premises? What is off premises? This is something that could be included in a performance standard.
- 32

33  
34 **Other Business**

35  
36 **Good & Welfare**

37  
38 Alan Hess from 56 Portland Ave. introduced himself and stated that Casey Gray from Southern Maine Modular, Inc.  
39 came to Mr. Hess with a proposal and she is asking to change a deeded R.O.W. Mr. Hess has no interest in changed the  
40 deeded R.O.W.

41  
42 Diane Fredette, who resides at 81 Portland Avenue, right behind the Landry project. She attended the March 2014  
43 meeting where the Planning Board agreed with the site plan with a couple of amendments:

- 44
- Snow storage
  - Parking
  - Had assurances from Mr. Landry about trash trucks, noise pollution and screening.
- 47

48 She could not find evidence that the site plan was actually signed off on at the April meeting.

49 The ordinance calls for 8' plantings of conifers.

50 Her concern is that they weren't given adequate time to discover the lack of effective screening.

51 If they cannot produce a signed site plan, does she have some recourse to ask that the ordinance (screening/buffering) be  
52 followed at an 8' conifer screen?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

Chair Mailhot stated that the Planning Board Staff will look into this.

Eber Weinstein stated that they were paving at Red Rocket. Mr. Weinstein also mentioned that there are garbage trucks at Landry's at 3:00 AM.

Planner Hinderliter stated that trash trucks are exempt from our ordinances.

Win Winch would like to strike out Good and Welfare from the Workshop Agendas.

Update on the Red Brick house. Planner Hinderliter spoke with one of the owners and it appears that there was some miscommunication. Planner Hinderliter will make sure that he has the right information so there will be clear direction moving forward. We have reassurance that he will comply with the request.

**ADJOURNMENT**

Mike Fortunato made a motion to adjourn the meeting at 10:25 pm. seconded by Ryan Kelly.

*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 thirteen (13) pages is a true copy of the original minutes of the Planning Board Meeting of September 14, 2017.*

