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2
3 OLD ORCHARD BEACH PLANNING BOARD
4 Workshop, Council Chambers
5 September 7, 2017 6:00 PM
6

7 **PRESENT:** Mark Koenigs, Win Winch, Robin Dube, Chair Linda Mailhot, Vice Chair Eber Weinstein, Mike
8 Fortunato. **ABSENT:** Ryan Kelly
9 **STAFF PRESENT:** Planner Jeffrey Hinderliter, Assistant Planner Megan McLaughlin.

10
11 CALL WORKSHOP TO ORDER at 6:00 PM

12
13 Planner Hinderliter introduced Samantha Powers, new intern from UNE. Samantha will concentrate on Planning Board
14 related items.

15
16 **Regular Business***

17 **ITEM 1**

18 **Proposal:** Site Plan Review: Expansion of existing nonresidential (retail) building
19 **Action:** Discussion; Final Ruling
20 **Owner:** Harold H. Harrisburg, Phylis I Harrisburg and Harrisburg Group Gen Partnership
21 **Location:** 9 East Grand Ave., MBL: 306-2-6
22

23 The Planning Board tabled this item at the last meeting and was requested by Attorney Neil Weinstein, applicant's
24 attorney because he was no longer representing Mr. Harrisburg.

25 Attorney John Bannen is the new representative for Mr. Harrisburg and he requested that this item be tabled until
26 October so that he can review and become familiar with the proposal.

27 The Planning Board needs to vote to extend this item.
28

29 **ITEM 2**

30 **Proposal:** Major Subdivision: 20 lot cluster subdivision for single-family residential use (Eastern Trail
31 Estates)
32 **Action:** Discussion; Waiver Ruling; Preliminary Plan Ruling
33 **Owner:** Ross Road LLC
34 **Location:** Ross Rd, MBL: 107-1-4, 14 & 16
35

36 Assistant Planner Megan Mclaughlin went over 6 new items:
37

- 38 • **Email from our Town Attorney regarding joint review for the use of Easy Street.**
39 The applicants are wanting to use Easy Street to get their second means of egress but the only way that they can
40 get access to Easy Street is to go through Saco. Our Town Attorney said that any project that crosses a
41 municipal border has to be reviewed jointly between both Saco and Old Orchard Beach Planning Board.
42
- 43 • **Email from City Planner in Saco about joint review.**
44 Bob Hamblen, Saco Planner said that unless they are going to use Easy Street as the second means of egress and
45 it is going to be shown on the plan that they don't see a need to have joint review at this time.
46
47
- 48 • **Supplemental storm water analysis that BH2M put together.**
49 Megan McLaughlin, Stephanie Hubbard and Joe Cooper went out to the site where the storm water goes and we
50 recommended that they provide us with a storm water analysis to us that says that there will not be any adverse
51 impacts to the abutters.
52
- 53 • **Memo from Wright Pierce regarding storm water and site distance.**

1 We believe that this issue has been resolved. They moved the stake from the centerline of the road. There is 500
2 ft. in both directions.
3

- 4
- 5 • **Letter from the applicant’s attorney about Easy Street and some deeds.**
- 6
- 7 • **Email from our Public Works Director about snow storage.**
- 8 Public Works Director Joe Cooper wants to see a designated area for snow storage.
9

10 They are wanting to use Easy Street to get their second means of egress but the only way that they can get access to Easy
11 Street is to go through Saco. Our Town Attorney said that any project that crosses a municipal border has to be reviewed
12 jointly between both Saco and Old Orchard Beach Planning Board.
13

14 Bob Hamblen, Saco Planner said that unless they are going to use Easy Street as the second means of egress and it is
15 going to be shown on the plan that they don’t see a need to have joint review at this time.
16

17 The biggest issue is to handle the waiver request for over 15 lots to be served by Mary’s Way and vote on the
18 preliminary plan.
19

20 Also snow storage and easement for Eastern Trail to be shown on the plan.
21

22 There are 4 suggestions on how to handle the waiver requests:

- 23 • Give them the waiver request.
- 24 • Grant the waiver request but make it contingent on Easy Street, which would require joint review.
- 25 • Not grant the waiver request and limit the number of lots to 14 and cap it at that.
- 26 • Not grant the waiver request and limit the number of lots to 14 but they can still show the other 4 lots on the
27 plan but these lots cannot be developed until the plan has been approved by the Planning Board.
28

29 Assistant Planner McLaughlin recommends the snow storage and access to the Eastern Trail are the 2 conditions if
30 granting them preliminary plan approval.
31

32 They submitted the traffic analysis at the beginning of the project proposal. The report from their traffic engineer stated
33 that there was not going to be enough traffic to trigger a major study.
34

35 **ITEM 3**

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

42 The primary issues remaining outstanding are the Public Works input regarding utility line access and the conditions of
43 utility lines, ponding in the loading area, accuracy of the land survey and a plan for idling vehicles and plan during
44 events and noise generated by the delivery vehicles.
45

46 **Documents in the packet:**

47 Applicant prepared a site plan review criteria. Does the proposal meet the review criteria?
48 Document from Civil Consultants which includes the summery of the stormwater.
49 Information regarding a land survey.
50 Idling Trolley vehicle during events. There is a plan that addresses some of the concerns.
51 Public comments that we received.
52

- 53 • The ponding seems to be addressed because there is going to be new systems in that area.
54 It would be good for the Public Works Director to look at this in the future.

- In the same area there was a question about the utility line going through a narrow area. The applicants engineer discussed this with the Public Works Director and there are some conditions that are attached. One of the questions is should there be an easement to assure that Public Works has the ability to access this property. The Public Works Director was more concerned about an easement that goes across where the pavilion is. There already is an easement that exists there.

There is a condition attached to ensure that the setback is 15 ft. and the building is going right up to the setback to make sure there is no encroachment in that area.

There is also another condition attached to a final survey being submitted before construction begins.

One of the recommendations/conditions is that a trolley parking area be established and it is between 6th Avenue and the Tabernacle.

In addition to the requested info above, the PB heard several concerns at the public hearing (letters received in your packet). Concerns include:

- Setback along the back of Oakland Ave property.
- Stormwater including surface water run-off, capacity/condition of drainage system, roof drain discharge.
- Vehicle noise, idling, air pollution.
- Fire safety- building location in respect to properties along Oakland.
- Trespass on Salvation Army property for use of drugs.
- Blasting during construction.
- Noise from HVAC units.
- Exterior lighting to bright as proposed.

RECOMMENDATIONS: The PB's primary responsibility is to determine if the proposal complies with the 9 Site Plan Review Criteria. In order to comply, staff feels the following conditions are necessary:

1. Construction of a trolley parking area adjacent to the Sixth Street travelled way and Tabernacle. This area shall be shown on a revised site plan
2. Land Survey shall be completed and submitted to planning staff before construction begins.
3. The portion of the proposed building parallel to the southerly boundary lines of lots fronting Oakland Ave. shall be staked out and setbacks field verified before construction begins. This language shall be included as a note on the revised site plan.
4. The Salvation Army or their representatives shall work with OOB Public Works to help address blockages or maintenance items in the Oakland Ave. storm drain system before construction begins. This includes the drain line between the southerly line of Oakland Ave properties and the Salvation Army building.

ITEM 4

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

Action: Discuss Map Amendment; Schedule Public Hearing

Owner: Neal Weinstein

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

Behind Neal Weinstein's office are 2 buildings. A church and the other is a single family dwelling. Mr. Weinstein is trying to establish some higher density uses. 2-2 family on these lots, higher density than a single family then the current zoning allows. Mr. Weinstein's lot is DD-2 and the other 2 lots change to R-1. The proposal is to extend DD-2 to include both lots. Is it supported in the comprehensive plan?

The current comp plan shows the subject area as B-2, which is basically the same as DD2 (maybe the B-2 name was changed to DD2). B-2 allows for a variety of retail, business and residential uses, including higher density residential- similar to DD2. The draft plan shows the subject area as Downtown Residential which will allow higher density for residential uses compared to the current R1 zoning.

1
2 The subject area abuts the DD2 so this proposal will extend the DD2 district (no leapfrog of lots or districts).
3 Single-family is the current land use for both properties. One of the subject lots was at one time used as a
4 church. Uses surrounding the subject area vary- businesses, campground, multi-unit residential, single-family
5 residential. Public utilities serve the area.

6 Because the proposal is a zoning map amendment, it requires a public hearing to be held by the Planning
7 Board (PB) as well as a PB recommendation to the Council. Amendments such as these can be formally
8 adopted only after a favorable vote of a majority of Council members.

9
10 **RECOMMENDATIONS:** Staff recommends the PB schedule a public hearing for October.

11
12 **ITEM 5**

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

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

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

16 **Location:** 10 Tioga Ave, MBL: 321-25-3
17

18 This has to go before the Planning Board because it is considered non-conforming because the structure at 10 Tioga is
19 within a Shoreland Zone (Residential Activity) and because the structure is nonconforming (it is within the
20 100' setback) of the Highest Annual Tide, expansion and/or relocation requires Planning Board (PB) review as
21 a Conditional Use and Shoreland Nonconforming Structure Expansion/Relocation. The applicant is not
22 proposing to expand the footprint of the dwelling, however, they are planning to increase the floor area and
23 volume by 30% by expanding the dwelling upward with a garage underneath.

24
25 They are proposing to expand the dwelling upward and putting a garage underneath. A NRPA permit has been
26 submitted and approved by the DEP.

27
28 To rule on this proposal, the Planning Board has a few considerations:

- 29 • This proposal must demonstrate compliance with the 12 Conditional Use Standards (78-1240).
30 Responses to each of these have been provided in the application materials submitted for September.
- 31 • This proposal must also demonstrate compliance with the 8 standard conditions in the Shoreland Zone
32 (78-34(e)). Responses to each have been provided in the application materials submitted or September.
- 33 • Because the structure is nonconforming, the existing floor area or volume cannot increase by more
34 than 30% (78-1181(c)(1)). Floor area is the square footage of all floors, porches and decks. Volume is
35 the space within a roof and fixed exterior walls. Calculations for floor area and volume have been
36 included in the application materials for September.
- 37 • Relocation of the structure away from the “water” (Highest Annual Tide) to the greatest extent
38 possible (78-1181(c)(2)). Shoreland standards seek to make nonconforming structures as conforming
39 as possible so one standard requires nonconforming structures to be moved as far away from the water
40 as possible. The Applicant has indicated that reconstruction of the existing dwelling will be in the
41 existing footprint so the proposed dwelling will conform to the setback standards to the greatest extent
42 possible.
- 43 • Typically with Shoreland Zone proposals a plot plan (scaled) showing existing conditions and
44 proposed changes is submitted. The plan generally includes property boundaries, where the “water” is
45 located on the property, structure footprint, driveway, vegetation, fences, etc. However, because this
46 project is not changing the footprint of the structure, Planning Staff is leaving the decision on the
47 submission of a plot plan up to the PB. Note that a GIS print out showing the HAT in relation to the
48 property has been included in your packet for September as well as a boundary survey and
49 floor/building plans.

- An Erosion Control and Sedimentation Plan is required for all projects in the Shoreland Zone (78-1215). Since the footprint of the existing and proposed structure is not changing, this does not have to be particularly detailed but should list the type of BMPs to be used on the site. This has been included as part of the cover letter in your September application materials.
- The proposal includes lifting the structure up and putting a garage underneath which will be accessed from Tioga. To the right of the structure is a gravel area that is currently used for parking. The Applicant has indicated that this is the only spot on the street that is not paved and they were hoping it would be. There is a grassy esplanade in front of the property. The Applicant intends to use the existing gravel area for parking as well as the future garage. An appeal process for a second opening will have to happen with Public Works as only one drive way opening is allowed.

RECOMMENDATIONS: Schedule site walk and public hearing for October and if the Planning Board wants the plot plan submitted that can be a condition of the application vote that it is complete.

ITEM 6

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

There is a drainage and utility easement that is associated with the temporary pump station. There is also a lot where this easement is located.

The Cherry Hills subdivision amendment proposed to amend the setbacks for lot B24 and drainage and utility easement. The reason for the proposed amendment is the home was built within the setback and easement. The proposed amendments include:

- Amend lot B24 setback fronting Wild Dunes Way and Cherry Hills Dr. Wild Dunes Way: approved plans show 40', amended plans request 30'. Cherry Hills Dr.: approved plan shows 30', amended plan 28'.
- Amend drainage and utility easement along Wild Dunes Way and Cherry Hills Dr. Wild Dunes Way: approved plans show 40', amended plans request 30'. Cherry Hills Dr.: approved plan shows 30', amended plan 28'.

This utility and drainage easement is associated with the pump station located adjacent to Cherry Hills.

The current pump station is temporary and a larger pump station is proposed. Our concern is how will the permanent pump station and its associated equipment (electrical, etc.) be installed with the reduction in the easements size.

Staff has no problem supporting this amendment as long as the adjustments to the easement continue to allow for the installation of the permanent pump station and associated equipment. This includes satisfying Stephanie's comments.

Note this is a setback and easement set by the PB (the PB can do for some instances in the PMUD) so ZBA is not required.

The problem with putting the permanent pump station in now is that there is not enough flow to the pump station to work properly.

The temporary pump station is designed and able to flow up to 40 units and there are 32/34 units.

Linda Mailhot asked about the physical size of the current pump station vs. the permanent one in terms of physical exterior size.

Planner Hinderliter said not much because the equipment is mostly underground.

Physically nothing outside is going to change. Just the pump size and the discharge pipe size and its underground.

RECOMMENDATIONS: As long the PB receives assurances that the changes will allow for the installation of the permanent pump station and associated equipment staff recommend approval with the following conditions:

- 1 1. Revised plan needs to include drainage, equipment, buffer changes within the easement.
- 2 2. Access to the pump station shall be constructed as shown on the revised plan.

3
4 **ITEM 7**

5 **Proposal:** Subdivision Amendment: Amend The Turn Findings of Fact
6 **Action:** Discussion; Ruling
7 **Owner:** Dominator Golf, LLC
8 **Location:** The Turn Subdivision, Woods Lane & Mickelson Way, MBL: 105A-1-800 & 200
9

10 The plan change proposes to remove individual building footprints shown on each lot and replace with building
11 envelopes; add a note (#18) stating all driveways must meet applicable OOB driveway standards; add a note (the second
12 #21) stating impervious surface for each lot. The FOF change includes removal of the condominium language and
13 replacing with residential subdivision.

14
15 The applicant is asking if we can amend the findings of fact to move the statement of “condo” and put “residential”
16 subdivision. No changes to unit counts, etc.

17
18 Eber Weinstein suggested to have the town lawyer look at this.

19
20 **ITEM 8**

21 **Proposal:** Designation of Amusement Overlay District on a parcel located at 25 West Grand Ave
22
23 **Action:** Review submissions; Ruling
24 **Applicant:** Palace Playland. **Owner:** Ocean Parking Inc
25 **Location:** 25 West Grand Ave, MBL: 307-1-2
26

27 This item proposes to designate the Amusement Overlay (AO) on the property located at 25 West Grand Ave. The
28 current use of this property is parking and an eating establishment. Granting the AO designation will allow Palace
29 Playland owners to move forward with their plan to expand the amusement park onto this parcel.

30
31 If you have a lot that is 1 acre or more and is in the DD1 district, the Planning Board has the right to place the AO
32 district on a parcel if it meets these 2 requirements. The applicant needs to show that their proposal will meet the AO
33 district standards. The PB must receive a written petition from the property owner certifying proposed operations
34 conform to all sections of the AO ordinance.

35
36 The lot associated with the proposed designation is 0.80 acres. The applicant proposes to combine this lot with the
37 adjacent lot (1 Staples St.; MBL: 307-1-1) which is under their ownership. This will create a lot in excess of 1 acre. If
38 the PB grants AO designation, it must do so contingent upon both lots being combined to create a single lot.

39
40 It is our opinion that The Beachwood is an abutter who could experience the most impacts from this proposal. We
41 recommend that you read and consider the points discussed with these documents. If AO ordinances do not provide for
42 adequate buffers to reduce potential impacts perhaps Palace Playland can work with The Beachwood to address these
43 matters.

44
45 If the PB grants the AO we recommend the following condition: The property located at 25 West Grand Ave., MBL
46 307-1-2 shall be combined with the property located at 1 Staples St., MBL: 307-1-1 to create a single parcel of land.
47 Proof of the land combination shall be completed and submitted to the OOB planning office before development begins
48 on the property located at 25 West Grand Ave.

49
50 In addition to the condition, we make the following requests (some could be conditions):

- 51 • For the purpose of AO regulations, creation of plan showing a division line separating 25 West Grand Ave. and
52 1 Staples St. properties.
- 53 • Consulting with OOB Fire Chief in regards to future development.
- 54 • If needed, Palace Playland owner to work with The Beachwood owner to discuss and implement buffers.

1
2 The Planning Boards responsibility is to determine if the applicant’s petition supports the proposal to add this
3 into the amusement overlay.
4

5 The council, through their power of adoption of ordinances, gave the PB the authority to decide on these
6 matters.
7

8 If the height goes to 85’ then it is a special exception. Even if it is temporary it needs PB approval.
9

10 **ITEM 9**

11 **Proposal: Conditional Use: Private Way Application**
12 **Action: Determination of Completeness; Schedule Site Walk and Public Hearing**
13 **Owner: Southern Maine Modular, Inc**
14 **Location: Adjacent to Portland Ave., MBL: 205-1-37**
15

16 This proposal is for the establishment of a Private Way to serve two lots located across from the intersection
17 of
18 Portland Avenue and Cascade Road.
19

20 This property was originally part of a 7-lot division plan that was prepared in 2001 which included a private
21 way to provide legal street frontage for the proposed lots. This subdivision was never approved by the
22 Planning Board and has since been used to divide lots without construction of the private way. These lots were
23 divided through family transfers or in a matter that did not trigger subdivision review.
24

25 This proposal is before the PB because the Applicant needs to obtain frontage for lot 37 in order to be able to
26 construct a single-family home and sell the lot. The proposed private way is a 265 linear foot gravel road, 16
27 feet wide, which will follow the existing gravel driveway constructed by the owner of lot 36. A hammerhead
28 turnaround is provided at the end, the dimensions for this were provided by the DPW Director. There will not
29 be a new curb-cut on Cascade Road.
30

31 They will have underground electric, cable and telephone. The sewer is going to come from the private line
32 from lot 36. Proposing to use a well. They submitted a permit by rule to DEP.
33

34 This will basically dissolve into buildable lots.
35

36 Wright Pierce has some concerns about site distance on Portland Ave. They want more review on the setbacks
37 for the driveway and intersecting streets. Further review would be helpful.
38

39 If the PB decides to determine the application complete, a site walk should be scheduled for October 5th and a
40 public hearing for October 12th.
41

42 If the PB decides that the application is not complete, a site walk can still be scheduled for October 5th,
43 however, the public hearing would have to wait until the November 9th meeting. Note: A decision could still
44 be made at the November meeting.
45

46 In addition, communications with the Abutter, Alan Hess have not been included in the submission materials,
47 this is something that the PB may want to see for the October meeting.
48

49 The PB is responsible for reviewing private ways. This is a private way to access two lots.
50 Private way is proposed to be gravel. 16’ wide.

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5 **ITEM 10**

6 **Proposal: Mobile Food Vendor Ordinances**

7 **Action: Discussion**

8 **Applicant: Town of OOB**
9

10 On 2 August 2017, the Council enacted a moratorium on mobile food businesses. The moratorium defines
11 mobile food businesses as “any business not qualifying as a restaurant or convenience store and offering for
12 sale foodstuffs to be consumed by the public off premises, as the term Food Stand is defined in Chapter 78 of
13 the Code of Ordinances of the Town of Old Orchard Beach, and including, in addition to food stands, food
14 trucks and food carts.” The moratorium was enacted in response to concerns associated with food trucks and
15 how mobile food businesses are regulated. Below are comments concerning moratorium key points, current
16 language, current language interpretation, discussion points, and next steps.
17

18 Planner Hinderliter mentioned to the PB to be prepared to discuss these following bullets:
19

20 **DISCUSSION POINTS**
21

22 As discussed above, the PB is tasked with developing ordinance language that limits licensing of food trucks
23 and other mobile food businesses. Current ordinance language regulates food stands which have been
24 interpreted by some to include food trucks and all mobile food businesses. In order to change this language
25 and develop standards that follow the Council’s direction we offer a few discussion points:

- 26 • What should we do with the current Food Stand definition? Current standards?
- 27 • New definitions- Mobile Food Business, Food Truck, Food Stand, Food Vendor?, anything else?
- 28 • What are other names of food prep and servicing businesses that are temporary and not mobile?
- 29 • How will we be sure that regulations do not impact businesses like Lisa’s Pizza and Bills that have no
30 seating, are similar to a food stand, yet are in permanent structures?
- 31 • Should there be separate land use classifications for each mobile food business?
- 32 • Where should they be permitted? Not permitted? We can allow a use but not in the entire district
33 (similar to food stands in DD1).
- 34 • Who should be responsible for reviewing and approving? Should it be a conditional use?
- 35 • Should there be specific performance standards, setbacks, etc. requirements for each use?
- 36 • If in design districts should DRC review?
- 37 • Food consumed off premises? What is off premises? This is something that could be included in a
38 performance standard.
39

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

- 42 • Will MFB’s impact your departments operations? If so, how?
- 43 • What are your experiences with MFB’s?
- 44 • If MFB’s are allowed, what regulations should apply?
- 45 • Should MFB’s have separate use categories (e.g., food trucks and food stands have different regs)?
- 46 • Where should MFB’s be allowed to operate? Private property only? The public ROW?
- 47 • Should they be allowed but with limited numbers and operation days?
- 48 • Should there be design guidelines? Operation guidelines?
- 49 • How about use of power, sewer, water, etc?

- Exemptions from the ordinance such as those that operate as part of a special event permit, cater a private event, operate in a restricted access area for use of that areas customers only (e.g. campground)?
- How should MFB's be licensed and/or permitted?

One thing to remember is that we are under a moratorium. Planner Hinderliter will be going to the council to extend that moratorium to a 60 day extension.
Tasked with limiting the license of food trucks and other mobile food businesses.

Other Business

1. Discussion: Food Trucks/Food Stands
2. Discussion: Nonconforming use of land (78-177) and use of structure (78-179) amendments:
Eber Weinstein requested that we extend from 2 years to 5 years.
3. Sign Psychic Readings FOF

Good & Welfare

Mike Fortunato mentioned that the garage that Harold Harrisburg purchased and remodeled on East Grant is filled to the door with boxes.

Planner Hinderliter stated that it is not permitted and it is not grandfathered as any sort of warehousing storage use. Codes made that clear to Harold Harrisburg that wasn't allowed.

Chair Mailhot mentioned that codes will be getting a letter from PB regarding work not completed at:

- Red Rocket
- Red Brick house

ADJOURNMENT: The meeting adjourned at 8:00 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 nine (9) pages is a true copy of the original minutes of the Planning Board Meeting of September 7, 2017.

