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2 OLD ORCHARD BEACH PLANNING BOARD
3 Public Hearing & Regular Meeting MINUTES
4 February 10, 2022 6:30 PM
5 Town Hall Council Chambers
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9 *MINUTES MAY NOT BE TRANSCRIBED VERBTIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A*
10 *COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE TOWN CLERK AT 207-934-4042 OR*
11 kmclaughlin@oobmaine.com
12
13

14 CALL MEETING TO ORDER
15

16 PLEDGE TO THE FLAG
17

18 ROLL CALL

19 Marianne Hubert

20 Win Winch

21 Robin Dube

22 Jay Kelley

23 Chair Walker

24 Vice Chair Hitchcock
25

26 Chair Walker thanked the members of the Board for electing him as Chair, and he stated that it is an honor and he
27 appreciates being elected for such a position.
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30 Public Hearings

31 PH 1

32 Proposal: Amend Medical Marijuana Ordinance Dispensary Standards: Ch. 78, Art. I, Sec. 78-1, Medical
33 Marijuana Registered Dispensary definition; Ch. 78, Art. VI, Secs. 78-803, 904 and 1135; Ch. 78,
34 Art. VII, Sec. 78-1277

35 Applicant: Town of Old Orchard Beach
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37 Chair Walker asked if there were anyone wishing to speak on this proposal and hearing no one, stated that this Public
38 Hearing was opened at 6:31pm and closed at 6:32pm.
39

40 PH 2

41 Proposal: Contract Zoning Application: Establish a Contract Zone, named Contract Zone-4, in accordance with
42 Town of Old Orchard Beach Code of Ordinances Chapter 78, Article IX (Contract Zoning) for the
43 property located at 60 Saco Ave., MBL: 206-10-1. The purpose of the Contract Zone is to allow the
44 establishment of an 8-unit residential condominium building.

45 Applicant: Land Matters, LLC
46

47 Chair Walker opened this Public Hearing at 6:33pm, and asked if anyone in the audience wished to speak on this
48 matter, and if so, to please approach the podium and identify yourself and state your address. Brian O'Donnell
49 approached the podium, stated that he and his wife Gina live at 4 Fern Park Avenue, 2nd house in, right around the
50 corner. He stated that they are very concerned with this, that originally it was originally proposed as a 6 unit, now
51 it's an 8 unit, in an area that is zoned for 2 family homes. He feels that it is just too big for the neighborhood, that it
52 will overpower the area. He also has concerns about the possibility of a balcony on the rooftop. He feels that a few
53 townhouses makes more sense in the area, not an 8 unit, and the height of 35 feet will tower over the area. He also
54 pointed out that the plan has very little detail about the size of the units and the landscaping plan doesn't seem to

1 make sense based on the area that is available there. He also has concerns about the parking, that there are not enough
2 spots for any guests, and the parking on the street becomes problematic for traffic turning onto Fern Park Avenue. He
3 feels that the proposed structure will make a bad situation worse. He thinks this proposed structure is just too big for
4 the neighborhood, that there is nothing in town close to the street like this with the height of the building; typically
5 those buildings are located along the beach in town. Ms. Dube wanted to clarify that the talk of the roof was just a
6 conversation, as is the subject of a sidewalk; that these are out of the picture. Carolyn Mehlman then spoke. She
7 stated that she and her husband live at 58 Saco Avenue, which is right across the street from the proposed building.
8 She agrees that something has to be done, and at a minimum, the owner should be required to clean up the area. She
9 feels that with the 8 units and 16 parking spaces, with guests, there will be parking issues on the road, which is a
10 narrow road, and she stated that it is a very busy corner there and it is at an odd diagonal angle. She stated that it is a
11 dangerous situation, and with increased traffic she feels that there will be more accidents, etc. She further stated that
12 it doesn't fit in with the neighborhood, it is an area of older houses, and feels that this structure is more like one that
13 belongs on the beach, on East Grand or West Grand, and that with this they will be changing the face of the
14 neighborhood. She agrees that something needs to be done with this property, but that this isn't the best solution. She
15 feels that 8 units is an awful lot in that particular part of town in that particular neighborhood. Rick Libit, of 17 Fern
16 Park, then spoke. He agrees that something needs to be done, but he is opposed to the proposal. He said with 8 units
17 and 3 bedrooms each, the parking lot of 16 spaces will be short, and that at times there will be excess cars. He stated
18 that GB-2 zoning says that for a building of this size, 100% of the parking has to be off street, and that certainly
19 won't be the case with this. He also stated that the current parking plan does not show a place for snow, and that will
20 eat up some spots. He said the street is a busy street, and there are already frequently cars parked on both sides of the
21 road, and additional vehicles will be parking on the road, which will increase congestion on an already congested
22 street. He stated that there are already near-miss situations on a regular basis, and with the additional on-street
23 parking, there will be more near misses for pedestrians wishing to walk in this area. He also questioned about the
24 ability of emergency vehicles to travel up this street, that with cars parked on both sides and snow accumulations
25 making the street narrower, it will be a hindrance to emergency vehicles. He feels that it is counterproductive to
26 change the zoning to make it less safe. He feels that a development should be a win-win for both neighbors and the
27 developer, but this proposal is a win for one person and the neighborhood loses. Chair Walker then clarified that this
28 is a Public Hearing for a contract zone, not for a final ruling on the project itself. The Planning Board will make a
29 recommendation to Council, either favorable or not, and then it will be up to the Town Council, so you will have an
30 opportunity to speak at Council as well. Tom Gillis, from Land Matters LLC, then wanted to speak. He stated that
31 he's just trying to help this neighborhood out. He feels that this will not increase traffic past Fern Park Avenue, past
32 this building. As far as the height, anyone in the zone can go up 35 feet, and all he is asking is to go up to the amount
33 that is allowed in this zoning district. As far as the sun restrictions, he doesn't feel that the sunlight will be affected
34 by the height of the building. Chair Walker then reminded him that this is a Public Hearing, that he could now speak
35 for or against the project, and Town Planner Jeffrey Hinderliter reminded Tom that he is actually not on the agenda,
36 and that he will be asked to address each of these comments in the future and will be given the opportunity to do so.
37 Chair Walker then closed the Public Hearing at 6:50pm.

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41 Minutes: 1/13/22

42 Chair Walker asked if anyone had additions or corrections to the Minutes proposed. Mr. Hitchcock made a motion to
43 accept the Minutes, seconded by Mr. Winch and Ms. Hubert. Vote was unanimous and Minutes were approved.

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46 Regular Business

47 ITEM 1

48 Proposal: Amend Medical Marijuana Ordinance Dispensary Standards: Ch. 78, Art. I, Sec. 78-1, Medical
49 Marijuana Registered Dispensary definition; Ch. 78, Art. VI, Secs. 78-803, 904 and 1135; Ch. 78,
50 Art. VII, Sec. 78-1277

51 Action: Discussion; Council Recommendation

52 Applicant: Town of Old Orchard Beach

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Town Planner Jeffrey Hinderliter updated the Board as follows:

- During December, the Council enacted a moratorium to address the regulation of medical marijuana registered dispensaries.
- The reason is due to recent changes to the medical marijuana state laws and the potential impacts the use could create as a result of these new laws. Also, the recently adopted adult use marijuana ordinances allow marijuana retail sales in the same district that allows medical marijuana dispensaries.
- Currently, the town regulates medical marijuana dispensaries through application of business license and zoning standards. We have a conditional use process for that.
- In order to address the concerns identified in the moratorium, we are proposing language that removes medical marijuana registered dispensaries as an allowed use anywhere in town.
- The amendments were introduced to the Board at the January meeting.
- No changes were proposed.
- At this month's meeting the Board is scheduled to make a recommendation to the Council.
- We recommend the Board recommends the Council approve the amendments as drafted.

Chair Walker asked the Board for any questions or comments. Ms. Dube asked about the language change, and Jeffrey clarified that. Ms. Dube then made the following motion:

I motion to recommend the Council approve the amendments to Ch. 78, Art. I, Sec. 78-1, Medical Marijuana Registered Dispensary definition; Ch. 78, Art. VI, Secs. 78-803, 904 and 1135; Ch. 78, Art. VII, Sec. 78-1277

The motion was seconded by Mr. Hitchcock, at which point Chair Walker asked Town Planner Jeffrey Hinderliter to call for the vote. Town Planner Jeffrey Hinderliter then called for the vote as follows:

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

Chair Walker then stated that the motion carries 5-0.

ITEM 2

Proposal: Site Plan and Major Subdivision: 24-unit townhouse condo units and 1 single-family condo unit
Action: Review Updates; Final Ruling
Applicant: Gorrill Palmer
Location: 2, 4, 8, 10 Little River Rd., MBL: 201-3-2, 4, 5 6; Zoning: RBD & Shoreland RA

Town Planner Jeffrey Hinderliter updated the Board as follows:

- At the January meeting the Planning Board granted a 30-day extension request for final review
- This month the Board is scheduled to conduct final review
- This proposal has been reviewed for over a year now. It began as a single high rise building with over 50 dwelling units
- Now we have a 25-unit multifamily building project scheduled for final review. (Jeffrey commended the Board for their work to think this proposal through and to come up with a much better proposal than the original)
- The last time we performed a detailed review was at the December meeting
- At that meeting, a public hearing was held and we identified items for the applicant to address before the Planning Board issued a final ruling. The items are identified in our staff memo

- 1 • Overall, we feel the applicant did a solid job addressing staff and public comments and improving the
2 submission. Changes include:
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- 4 *Restricting unit rentals to a minimum of 1 month
- 5 *Sidewalk on Little River Road is now proposed
- 6 *Widening Little River Road to project second access
- 7 *Additional geotechnical review to address flooding concerns
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- 9 • Although the applicant did a good job addressing outstanding questions and concerns, we have a few
10 additional.
- 11 • The primary concern is the easement. In order to widen Little River Road and install a sidewalk, the
12 applicant is proposing to grant an easement to the Town. We feel we need the easement language and for it
13 to be reviewed by the Town attorney to ensure the Town understands what it is acquiring.
- 14 • Other items include E911 addressing, DEP permitting, tip down at sidewalk and new Wright-Pierce
15 comments.
- 16 • Three additional comments not in your memo are: 1. Submission of the property legal description now that
17 the survey work is complete; 2. Submission of Schedule B which is referenced in the condo docs but not
18 included; 3. Article III of the condo docs states the max units allowed are 40.
- 19 • Although many of our concerns can be addressed by conditions (if the Board choose to approve), submission
20 of the easement language and review by our Town attorney is critical and a Planning Board vote should be
21 held off until that is complete.
- 22 • Nonetheless, we do provide several options for the Planning Board: table, approve with conditions, deny
23

24 Chair Walker then asked for any comments from the Board. Mr. Hitchcock asked about the flow of water in this
25 area, and whether the applicant's engineer and Wright Pierce have agreed on the way the model should be run. He
26 further stated that typically at this point in a project, the engineers are in agreement with the approach, and
27 questioned if it would be appropriate to insist that they run it the way that Wright Pierce suggests. Town Planner
28 Jeffrey Hinderliter stated that yes, unless our Town engineer is gravely wrong with something, with a
29 recommendation, he suggests that the Planning Board support our Town engineer and require that the applicant
30 follow the Town engineer's recommendations. Chair Walker asked Town Planner Jeffrey Hinderliter to have Wright
31 Pierce take a look at the modeling and make a recommendation.

32 Caleb Barasso from Gorrill Palmer then asked to speak on this piece. He stated that they have had extensive
33 conversations with Wright Pierce and wanted the Board to know that he feels that they have reached an agreement
34 with the modeling and feels there are no real disagreements. Mr. Hitchcock then replied that Caleb still isn't really
35 saying that they are using the right methodology according to Wright Pierce, that Caleb agrees with her (at Wright
36 Pierce) or that she agrees with Caleb, to which Caleb replied that generally she does agree with us based on the
37 information at hand. Caleb feels they can close the loop with Wright Pierce and can finalize things. Mr. Hitchcock
38 feels that the Board will follow Wright Pierce's recommendation. Ms. Dube then asked if there is currently a lot of
39 runoff in the area; Caleb replied that there is no doubt that they are in a flood zone, and that there is no issue at the
40 site that should be causing any ponding. Chair Walker then asked Town Planner Jeffrey Hinderliter if he could circle
41 back with Wright Pierce to ensure that the stormwater management plan is agreeable to them, and Ms. Dube added
42 that they would like that on paper. Ms. Hubert stated that she has a strong aversion to a lot of conditions, and feels
43 that the Board should knock off some of the conditions before they approve the project, so the project should be
44 tabled. Mr. Kelley then asked how many acres does this project encompass, and if any of that land borders the marsh
45 or wetlands or is into the marsh. Caleb and the other Board members answered that the acreage is 3 ¼ acres and the
46 marsh is at the far end, but the development is not in that area. Mr. Kelley then asked if all of that has been approved
47 by the DEP, to which Caleb answered they have submitted their permit by rule for activity close to a wetland. Mr.
48 Kelley then added that there seemed to still be a lot of unanswered questions. Chair Walker then asked Jeffrey
49 Hinderliter about the permit by rule process, if it was just a paper process, to which Jeffrey replied yes, that it is a
50 pretty simple process. Jeffrey then asked Caleb if there were any other DEP permitting, to which Caleb replied no,
51 just the permit by rule. Chair Walker then asked if there were any other comments. Allan Shepard, attorney for the
52 applicant, then asked to speak to address a couple of comments. He stated that re the easement, it's not clear where
53 the idea originated that there would be an easement granted, he thinks what is being contemplated here is a
54 conveyance of the fee title of the land, that there is no reason for the developer to retain any ownership, it will be a

1 conveyance without restriction. He feels that there won't be a lot of intricacies and not a lot to review, but that the
2 town attorney review the deed to be sure it adequately describes the parcel. Re the condo docs, there was no Schedule
3 A, there is just the legal description, but they have proven right title and interest, and nothing that the Planning Board
4 needs to review. Re Exhibit B, that is merely the allocation of ownership interests, no other information is included in
5 that. He also stated that they cleaned up the condo docs re typos etc. Re the mention of 40 units maximum, he stated
6 that such language is typically included in condo docs so that in the future, if there were any ability to add additional
7 land or units, the developer has the right to add more units. He added that this is being approved by the number of
8 units that are here, 25, and there will be no amending of the plan without Planning Board approval. He then stated
9 that they seem to be close to meeting Wright Pierce's recommendations and that conditional approval at this point
10 seems like a viable option. Chair Walker then asked Town Planner Jeffrey Hinderliter if he were satisfied, to which
11 Jeffrey Hinderliter replied that he feels like it should be tabled until the applicant provide all requested and needed
12 information. Mr. Winch then made a motion to table, seconded by Ms. Hubert. Ms. Dube then asked about the
13 conditions, to which Jeffrey Hinderliter replied that there are currently 5 conditions, with a change in language to
14 condition #1, replacing "easement" with "conveyance". Chair Walker then stated that it was unanimous, the proposal
15 will be tabled until next month for final ruling.

16
17 Other Business

18 Chair Walker asked Town Planner Jeffrey Hinderliter if there were any new business, to which Jeffrey replied that
19 yes, there is one thing. They have been discussing a stipend for the Board, and Jeffrey is proposing a stipend but the
20 tricky piece with this is that according to the Town Charter, the Council must approve that compensation, to make a
21 specific order, and perhaps require ordinance language changes, in order to include it in the budget, and that the
22 Town Manager is currently working on that with legal. Jeffrey also stated that they are trying to get it in this
23 upcoming fiscal year budget. Chair Walker stated that they did a canvas of all municipalities in Maine, and for all
24 that responded, at least 20 or 30 municipalities, the average of what those municipalities are offering will most likely
25 be proposed. He further stated that it was interesting to note that for those municipalities that responded that they
26 currently are not offering stipends, those municipalities want to be kept informed about the outcome of Old
27 Orchard's request for compensation as they are currently considering stipends as well. Chair Walker then asked if
28 there was any new business, and seeing none, asked for a motion to adjourn.

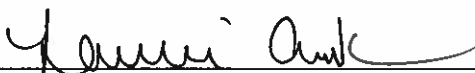
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30 Good and Welfare

31 NONE

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34 ADJOURNMENT

35 Motion to adjourn was unanimous. Meeting adjourned at 7:34pm.

36
37 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*
38 *certify that the foregoing document consisting of Five (5) pages is a true copy of the original minutes of the Planning*
39 *Board Meeting of February 10, 2022.*

40
41
42 X 
43 _____
44 Laurie Aberizk
45