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2 OLD ORCHARD BEACH PLANNING BOARD
3 Public Hearing & Regular Meeting
4 October 13, 2022 6:30 PM
5 Town Hall Council Chambers
6
7
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9 *MINUTES MAY NOT BE TRANSCRIBED VERBTIM. SECTIONS MAY BE PARAPHRASED FOR*
10 *CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE TOWN CLERK AT*
11 *207-934-4042 OR kmclaughlin@oobmaine.com*
12
13

14 CALL MEETING TO ORDER

15
16 PLEDGE TO THE FLAG

17
18 ROLL CALL

19
20 Chair Walker stated that there is a full house for Planning Board members and asked Town Planner Jeffrey
21 Hinderliter for the roll call. Jeffrey took the roll call as follows:
22

23 Win Winch
24 Sam Dupuis
25 Jay Kelley
26 Robin Dube
27 Marianne Hubert
28 Chair Walker
29 Vice Chair Hitchcock
30

31 Chair Walker then stated that Mr. Dupuis and Mr. Kelley will be alternates tonight but will be participating
32 fully.
33

34
35 Public Hearings

36
37 PH 1

38 Proposal: Ordinance Amendments: Amend Adult Use Marijuana Conditional Use Ordinance Ch. 78,
39 Art. VII, Sec. 78-1279 (5) b, (5) h, and re-letter (5)
40 Applicant: Town of Old Orchard Beach
41

42 Chair Walker opened up the Public Hearing at 6:31pm. Seeing no one was wishing to speak on this, Chair
43 Walker closed this Public Hearing at 6:32pm.
44

45
46 Minutes: 8/11/22; 9/8/22
47

48 Chair Walker asked if there was any discussion on any of the Minutes from Board members. Seeing none,
49 motion to approve was made by Mr. Winch, seconded by Ms. Dube.
50

1 Chair Walker then asked Town Planner Jeffrey Hinderliter to call for the vote, and the vote was as follows:
2
3
4 Win Winch YES
5 Robin Dube YES
6 Marianne Hubert YES
7 Chair Walker YES
8 Vice Chair Hitchcock YES
9

10 Chair Walker then stated that motion carries 5-0.
11
12

13 Regular Business

14 ITEM 1

15 Proposal: Ordinance Amendments: Amend Adult Use Marijuana Conditional Use Ordinance Ch. 78,
16 Art. VII, Sec. 78-1279 (5) b, (5) h, and re-letter (5)
17 Action: Council Recommendation
18 Applicant: Town of Old Orchard Beach
19

20 Town Planner Jeffrey Hinderliter updated the Board as follows:
21

- This item proposes to amend the adult use marijuana conditional use ordinance
- The amendments include 2 changes:
 1. 78-1279 (5) b: As part of the conditional use submission requirements, the applicant must provide documentation showing they possess or are entitled to possess the property or building where the proposed medical marijuana store will be located. The current ordinance requires this earlier in the process- during initial license application submission
 2. 78-1279 (5) h: This is a new standard which proposes that as part of the conditional use submission requirements, the applicant must submit a traffic impact analysis and assessment prepared by a traffic engineer. Right now this language is not included in the current ordinance
- In addition to these 2 conditional use changes Council is considering business license changes, Chapter 18. Since June, the Council has been reconsidering the process of the license selection, and one of the pieces that the Council has been concentrating on is the merit criteria for the selection process
- Public Hearing and Planning Board recommendation are scheduled for tonight. We request you do not make the recommendation this evening because future Council decisions may impact the ordinances that the Planning Board is considering tonight
- So we recommend the Planning Board table a decision on the recommendation

39
40 Mr. Winch then made a motion to table this item without prejudice, seconded by Vice Chair Hitchcock.
41 Chair Walker then asked for any discussion, and seeing none, asked Town Planner Jeffrey Hinderliter about
42 the memo that came out today re Council action on the 18th; Jeffrey then stated that the ordinance that the
43 Council is considering on the 18th is the medical marijuana ordinance, not this ordinance. Chair Walker
44 then shared that while at Landry's Plaza today, there was a group circulating a referendum to limit the
45 license to just a single license in town. Town Planner Jeffrey Hinderliter then stated that such may be a
46 new petition, one he was not aware of, and that he did become aware of one yesterday afternoon that seeks
47 to make changes to the conditional use ordinance by limiting the square footage of the retail area, to cap the
48 area, and to include a minimum lot size for where the use can be established. Jeffrey continued that because
49 this is a fluid situation still, he feels that postponing seems to be the best option at this point. Ms. Hubert

1 then made a request that next time, could they have the whole set of rules for the Chapter, that they have
2 been receiving piecemeal changes, and she doesn't really remember the whole thing, to which Jeffrey
3 Hinderliter replied sure. Chair Walker then stated that a motion has been made to table this item, and asked
4 Town Planner Jeffrey Hinderliter to call for the vote. Jeffrey Hinderliter called for the vote as follows:
5
6

7 Win Winch YES
8 Robin Dube YES
9 Marianne Hubert YES
10 Chair Walker YES
11 Vice Chair Hitchcock YES
12

13 Chair Walker then stated that motion carries 5-0.
14
15

16 ITEM 2

17 Proposal: Contract Zone
18 Action: Contract Zone Update from Applicant
19 Applicant: Land Matters, LLC
20 Location: 60 Saco Ave., MBL: 206-10-1; Zoning: GB2
21

22 Town Planner Jeffrey Hinderliter updated the Board as follows:
23

- 24 • This agenda item is at the request of the applicant who has questions and is seeking guidance from
25 the Board
- 26 • There is no formal proposal in front of the Board for tonight's meeting. The Board already
27 provided a recommendation on the contract zone and the applicant has not submitted site plan and
28 subdivision applications
- 29 • Because there is no formal proposal, the Board should not make any decisions but can certainly
30 provide general guidance
- 31 • Remember, no matter what guidance the Board provides the final decision on the contract zone is
32 up to the Town's elected legislative body, which is the Council
33
34
35

36 Chair Walker then wanted to clarify that nothing has changed, to which Jeffrey replied yes, nothing has
37 changed.

38 Tom Gillis then addressed the Board, and described the opposition he faced with his proposal by the Town
39 Council. Chair Walker stated that the Planning Board already recommended to Council an 8-unit building,
40 and Tom could act on their feedback, which sounds like they are asking for a site plan for a 6-unit building.
41 Tom then stated that he wanted to explain what's going to be different with a 6-unit building. Chair
42 Walker then asked if Tom could retract his original contract zone proposal, and submit a new request with a
43 site plan? Town Planner Jeffrey Hinderliter then answered that yes, he could. Ms. Hubert then asked what
44 was the justification for the 6 units as opposed to the 8 by the Council? Tom Gillis answered that he was
45 not given a reason, to which Town Planner Jeffrey Hinderliter stated that the primary concerns seemed to
46 be the amount of traffic generated and on-street parking. Tom Gillis then added that sidewalks also seemed
47 to be an issue, to which Ms. Dube stated that she agrees about there being no sidewalk there, that seemed to
48 be a foolish request to mandate sidewalks. Tom Gillis then said that the Council had an issue with parking,
49 that there was not enough parking, but Tom continued that he showed them that he did have adequate

1 parking and they ignored it. Tom also stated that one of the issues that the Council had was that the Council
2 said that a firetruck couldn't negotiate the turn at Fern Park Avenue, and stated that he had taken the fire
3 department's specs and showed that a firetruck could make the turn. Tom Gillis concluded that one of the
4 most discouraging things was that he was not given adequate reasons for their (the Town Council's)
5 opposition. Chair Walker clarified that if/when the contract zone were approved, Tom would have to
6 submit a complete site plan, and that Tom was not losing any additional time as a site plan would have to
7 be submitted in any case. Tom Gillis then asked when the next deadline was for site plan submission, to
8 which Town Planner Jeffrey Hinderliter indicated that such would be Monday, the 24th. Chair Walker then
9 asked if any Board members had anything further, to which Ms. Dube commented to Tom Gillis that he
10 would need to determine if 6 units would be financially feasible.

11
12
13 ITEM 3

14 Proposal: Minor Subdivision: Add a single unit which creates a 3rd unit for subdivision purposes
15 Action: Preliminary Plan Review; Determination of Completeness; Schedule Public Hearing
16 Applicant: Windsor Construction LLC
17 Location: 41 Smithwheel Rd; MBL: 210-1-23; Zoning: R4
18

19 Chair Walker introduced this item and also noted that a site visit was done there last Thursday. Assistant
20 Town Planner Michael Foster then updated the Board as follows:

21
22 This proposal is to add an additional single family unit to a lot with an existing two-family. With three units
23 total proposed this requires subdivision review. For September a sketch plan was submitted and reviewed.
24 For this month the applicant has submitted a preliminary plan application.

25 Last month there were two primary matters staff highlighted and the Planning Board also requested
26 comments from the Fire Chief.

- 27 • First primary matter was legal access. We asked that the applicant ensure this extension will allow
28 legal access for all the units on the property.
 - 29 ○ A copy of the deed was included in the August 2022 submittal and the applicant responded
30 that the deed states all rights in common and includes rights of way.
 - 31 ○ It looks like the Exhibit A referenced in the applicants' cover letter wasn't included in the
32 submittal.
- 33 • Second primary matter was the internal access. Is this considered a private way, road, driveway, or
34 part of the parking lot?
 - 35 ○ Planning Staff would consider this a driveway for a couple reasons:
 - 36 1. The proposed accessway is less than 500 feet in length and serves one lot, which meets
37 our ordinance definition for a driveway
 - 38 2. The proposed accessway is for access to a single family dwelling and the parking for that
39 unit only
- 40 • The Planning Board requested to see comments from the Fire Chief. At the writing of the memo and
41 as of now we have not received additional comments. An email was received from the Fire Chief
42 asking Planning to determine if this was creating a private way or a driveway, and the response was
43 that it was a driveway and the 2 reasons for concluding such were provided
- 44 • The proposed driveway has been reduced to 18' wide at the rear and appears to only be 12' wide at
45 the entrance where the existing parking and existing tree are

- For single and two family residences the ordinance requires that the minimum driveway width shall not be less than 12 feet, with a minimum clearance of 15 feet to accommodate emergency vehicle access

Additional staff comments:

- We want to point out some things to consider regarding the proposed access and existing parking:
 - In review of the plan, the existing parking for the duplex is a large paved parking area/driveway and the proposed access for the single family unit will be next to this area, essentially creating a very wide driveway.
 - A question came up internally as to what parts of this plan the Planning Board is reviewing, and if an approval of the plan would essentially be approving the existing parking layout?
 - Although this is reviewed as a subdivision with the creation of the third unit, the existing duplex was already permitted through codes and has received certificates of occupancy. Code enforcement is responsible for their own permitting and approval.
 - The Planning Board can note that the existing duplex was previously permitted through codes and you are approving the new access driveway and additional unit with this proposal.
 - At last month's meeting, the applicant mentioned that re the private way, there is an agreement with the condo association to maintain the access
 - For addressing, the applicant stated that their address is 41 Smithwheel Road; they should confirm that with assessing to make sure it aligns with the E-911 addressing requirements
 - There was a note from Wright Pierce that stormwater calculations are needed to know that this will not alter off-site drainage patterns.

RECOMMENDATIONS:

This is a fairly complete application. One item to confirm is that this meets the required driveway width and access standards. The applicant will also want to provide updated responses to staff and Wright Pierce comments with final plan submittal. Planning staff supports determining this application complete if it can be confirmed this will meet the access standards, specifically the emergency vehicle clearance of 15', and if it doesn't meet the access standard referenced above a determination should not be made because the applicant will need to submit a waiver request.

Chair Walker then wanted to confirm the requirements re the driveway width and emergency vehicle clearance, to which Assistant Town Planner Michael Foster replied that the requirements are 12' and 15' respectively. Bill Thompson, of BH2M Engineers, then approached the Board. Bill stated that the site is conducive to this project, the site is flat, and we're basically building a single family house next to a duplex. Bill stated that re the tree in question at the entrance, the tree will be eliminated so there is no issue with the width of access at the entrance, and re the legal access, the back of the deed mentions the rights and easements and talks specifically about the access for this piece being across Smithwheel Road and having full access and utilities. Bill then continued that like staff they are considering this a driveway, not a private way, and that he is currently waiting for the Fire Chief to respond re this. Bill Thompson continued that utilities were extended when the 2 units were built, and both water and sewer have been inspected and approved. Re stormwater, this was approved and now with the 1 house going in with the driveway, there's about 3400 square feet of new impervious surface. Bill continued that there was a house and gravel driveway here earlier so they are starting with an existing impervious, so he will be looking at pre and post to make sure there is no or low impact. Chair Walker then asked when the utilities were stubbed in, to which Bill replied last spring; Chair Walker then asked if we would have letters re ability to serve for water and sewer. Assistant Town Planner Michael Foster then stated that he wasn't sure if ability

1 to serve letters were required from Maine Water but that he would check. Bill then added that Maine Water
2 was on site for inspection and guidance so they will get something to support that. Chair Walker then asked
3 if any Board members had comments, and seeing none, asked if anyone would like to make a
4 recommendation. Vice Chair Hitchcock then asked for clarification on what was expected re stormwater, if
5 not what Wright Pierce had said. Bill explained that he was hoping to not get into a full stormwater report,
6 and continued that he feels confident that he can satisfy what they are looking for. Ms. Dube then made the
7 following motion:

8 *I make a motion to determine the preliminary plan application as complete for a minor subdivision to add a*
9 *single unit which creates a 3rd unit, located at 41 Smithwheel Road, MBL 210-1-23; Zoning R4, applicant*
10 *Windsor Construction LLC, subject to receiving the following:*

- 11 1. *Satisfactory responses to staff and Wright Pierce comments, concerns, and questions.*
- 12 2. *Addressing meeting the requirements of Sec. 74-153. – Submissions, 15.*
- 13 3. *Maintenance agreement for the Smithwheel Farm Condo private way access.*

14
15 Vice Chair Hitchcock seconded the motion, at which point Chair Walker asked Town Planner Jeffrey
16 Hinderliter to call for the vote. Jeffrey Hinderliter called for the vote as follows:

- 17
- 18
- 19 Win Winch YES
- 20 Robin Dube YES
- 21 Marianne Hubert YES
- 22 Chair Walker YES
- 23 Vice Chair Hitchcock YES

24
25 Chair Walker then stated that motion carries 5-0, and asked Town Planner Jeffrey Hinderliter to schedule a
26 Public Hearing for November 10th on this item.

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28
29
30 **ITEM 4**

31 Proposal: Site Plan: 4 dwelling unit residential building
32 Action: Determination of Completeness; Schedule Public Hearing
33 Applicant: Coastal Real Estate Holdings LLC
34 Location: 58 Portland Ave., MBL: 205-1-30; Zoning: GB1
35

36 Town Planner Jeffrey Hinderliter updated the Board as follows:

- 37
- 38 • At the September meeting, the Planning Board began determination of completeness review. It was
39 decided the applicant needed to address comments and submit a number of items before the
40 proposal was determined complete
- 41 • The October submission is an improvement from September and addresses most items requested,
42 but there are additional items that need to be addressed before the Board issues a final decision
- 43 • Two important items up for discussion are the driveway waiver requests and short-term rentals
- 44 • Regarding the driveway waivers, the applicant requests the Board waive the minimum separation
45 distance between driveways and the minimum separation between a driveway and intersection
46 arterial and collector streets

- 1 • We are leaning towards recommending the Board approve both waivers but feel this decision
2 should be made after public comment is received at the public hearing, and we are recommending
3 the public hearing be scheduled for next month
- 4 • Regarding the short-term rentals, there was discussion regarding preventing short term rentals,
5 meaning rentals for less than 30 days. To this matter, the applicant includes a letter which argues
6 why short-term rentals should be allowed. The reasoning to allow is solid but we also feel the
7 Board can place reasonable conditions as long as they are directly related to the site plan review
8 standards
- 9 • Because the Board needs to evaluate through administration of the site plan ordinance, the Board
10 needs the applicant's responses to the site plan criteria to see how the applicant demonstrates short
11 term rentals, as well as the rest of the proposal, conform to the site plan criteria
- 12 • In addition to the waiver and short-term rental discussion, there are staff, Maine Water and Wright-
13 Pierce comments. We ask the applicant to address these comments at the time of final plan
14 submission
- 15 • We recommend the Board determine the application complete with the condition that at the time of
16 final plan submission the applicant submit responses to site plan criteria and comments received.
- 17 • Also, we recommend a public hearing is scheduled for 10 November
18

19 Chair Walker then asked the applicant to speak, at which point Bill Thompson of BH2M Engineers
20 approached the Board. Bill stated that they have revised some items based on Wright Pierce comments,
21 and received additional comments this past Friday. Bill also stated that the applicant wrote a letter asking
22 for support of the waiver, and a letter was received from an attorney re short term rentals and the town's
23 ordinance and state statutes. Re other comments, they are proposing a sprinkler system and Maine Water
24 has weighed in, the dumpster is relocated and screened, and re utilities, they will bring the sewer manholes
25 up a bit so ground water does not infiltrate. Re stormwater management, tweaks have been made in the
26 design of the detention pond, and a stormwater report is available. Bill then asked for a dialogue re the
27 waiver requests and the short term rentals. Chair Walker then stated that the site plan criteria is important
28 for next month, to which Bill agreed, and then Chair Walker asked if any Board members had comments.
29 Ms. Hubert wanted to clarify that unlike other projects, this is definitely not a driveway, and that having 2
30 driveways next to each other is not ok on a main road in Old Orchard Beach. She stated that she endorses
31 the project, but is not going to support the project with the driveways. Chair Walker then stated that they
32 will be weighing in on that next month, to which Ms. Hubert said that she wished to introduce the issue
33 now. Town Planner Jeffrey Hinderliter then wanted to weigh in re the driveway and stated that under our
34 performance standards, we have access for multi-family defined and this is defined as a driveway, not as a
35 private way, and this is actually part of the parking area that is required for the multi-family and has its own
36 separate standard. Nazrin Dixon, one of the members of Coastal Real Estate Holdings LLC, then addressed
37 the Board and described that the existing driveway services the existing 2 units and the curb cut that is
38 proposed would service the 4 units, and would be separate from the driveway on the left. It is really one
39 plot of land but it services 2 different buildings. Chair Walker then asked if any Board members had
40 questions, and seeing none, confirmed that Town Planner Jeffrey Hinderliter would schedule a public
41 hearing for next month, November 10th. Town Planner Jeffrey Hinderliter replied yes, but that first the
42 Planning Board needs a determination of completeness, to which Chair Walker stated that he is waiting for
43 a motion for that. Vice Chair Hitchcock then made the following motion:
44

45 *I make a motion that we determine Coastal Real Estate Holdings site plan review application complete*
46 *with the following condition:*

- 47 1. *At the time of final plan submission, the applicant shall submit responses to the site plan criteria for*
48 *approval, Planning Board comments, Fire Department comments, and Wright-Pierce comments in*
49 *their 5 October memo.*

1 Motion was seconded by Ms. Dube, at which point Chair Walker asked Town Planner Jeffrey Hinderliter to
2 call for the vote. Jeffrey Hinderliter called for the vote as follows:

- 3
- 4 Win Winch YES
- 5 Robin Dube YES
- 6 Marianne Hubert NO
- 7 Chair Walker YES
- 8 Vice Chair Hitchcock YES
- 9

10 Chair Walker then stated that motion carries 4-1, and we will schedule a Public Hearing for November 10th.

11
12 Chair Walker then mentioned that as a point of reference, Saco schedules just a limited number of items for
13 their monthly meetings. Town Planner Jeffrey Hinderliter then stated that they have a policy, and he thinks
14 that the policy caps the number of items. Chair Walker stated that he thinks the policy has a time
15 constraint, to which Jeffrey Hinderliter then stated that the policy says 17 items is the cap. Mr. Winch then
16 stated that he thinks the cut-off time is 9:30pm.

17
18
19 ITEM 5

- 20 Proposal: Subdivision Amendment: Two additional infill lots with a shared driveway access from
- 21 Ross Rd
- 22 Action: Determination of Completeness; Schedule Public Hearing
- 23 Applicant: Dominator Golf LLC
- 24 Location: Ross Rd, MBL:105A-1-200; Zoning: PMUD
- 25

26 Chair Walker introduced this item and stated that there had been a site visit out there. Assistant Town
27 Planner Michael Foster then addressed the Board as follows:

28
29 This was last before the Planning Board in August. Last month in September the Planning Board held a site
30 walk. From the August review there were several primary questions needing resolution regarding the
31 setbacks, buffering, and stormwater requirements:

- 32 1. **What is the required project setback?** - The applicant was originally proposing a 35' front
33 setback but has increased this proposed front setback for these units to 50' from the Ross Rd Right
34 of Way (ROW). This meets the Planned Mixed Use Development (PMUD) project setback for the
35 front setback, but this minimum project setback applies to all property lines and should also be
36 included for where this abuts the Rural District. We need confirmation that the required DEP
37 buffering setback doesn't impact this.
- 38 2. **What is the required buffering?** - The original DEP approval order required a 100' vegetated
39 buffer.
40 The applicant has responded that the MDEP has previously waived a number of these items in
41 previous amendments. The applicant has requested verification from MDEP but we haven't
42 received any updates on that.
- 43 3. **Is this exempt from review for Site Location of Development by Maine Department of**
44 **Environmental Protection?** – The applicant responded that this proposal falls under the 10,000
45 square foot exemption and that the plan has been revised to include no land divisions, but to create
46 the homes as condominiums. They have asked for written verification from MDEP for this item as
47 well. Wright Pierce also provided comments in their memo that this proposal didn't appear to meet
48 this exemption.

1
2 **Additional staff comments below:**

- 3
- 4 • There were a number of Wright Pierce comments and some that still need to be addressed
 - 5 • Wetlands are shown on the updated plans. Please note that Wright Pierce had additional comments
6 regarding where the required DEP setbacks should be measured from, whether from the upland
7 edge of wetlands or from the stream.
 - 8 • For sewer and water, the applicant has requested ability to serve but responses from the Wastewater
9 Department and Maine Water have not been provided.
 - 10 • The applicant will need to contact the assessor to review addresses to be make sure they meet the E-
11 911 requirements.
 - 12 • Resolution is needed on the stormwater items to know that the proposed layout on the plan isn't
13 going to need to change.

14 **RECOMMENDATIONS:**

15 With the outstanding questions on the required DEP setback and buffering requirements, and remaining
16 info needed regarding stormwater management, planning staff does not recommend determining this
17 application as complete at this time. If the DEP setbacks are different than what is depicted on the plan this
18 could change the location of the proposed units and layout. You have the option to schedule a public
19 hearing but without the determination of completeness you would need to hold another public hearing
20 before the final decision. The reason we don't advise you to determine this as complete at this time is
21 because once determined complete the Planning Board needs to make a final decision within a set
22 timeframe; within 60 days of receiving the completed application or within 30 days of the public hearing. If
23 a resolution on the above items isn't completed in the required timeframe this proposal could be denied.
24 Also, with subdivisions, a decision on the completeness needs to be made on the preliminary plan within 30
25 days.

26 Considering the subdivision timelines, we think it is in the best interest of the applicant for the Planning
27 Board to table the review of this preliminary plan application, without prejudice, until the following are
28 submitted:

- 29
- 30 1. Satisfactory responses to comments, concerns, and questions in the Wright Pierce memo.
 - 31 2. Written verification from DEP on the required buffering and setbacks.
 - 32 3. Written verification from DEP on the Site Location of Development exemption.
 - 33 4. E911 addressing meeting the requirements of Sec. 74-153. – Submissions, 15.

34 Ms. Dube then began to make a motion to postpone, at which point Chair Walker asked if the applicant's
35 representative wished to speak. Jason Fabianos of Atlantic Resource Consultants then addressed the Board.
36 He stated that getting written verification from the DEP is tough these days, and we don't have a dedicated
37 project manager for Dunegrass, and that process will take much longer than your process. Jason wanted the
38 Board to know that the setback was moved back to 50', and the building setback is far in excess of 50' as
39 the stream is the property line and that is at 75'. Chair Walker then stated that at the site walk there were
40 some questions from the abutters about their setback requirements and the setback requirements for
41 Dominator Golf. Jason then explained that this was resolved, that the 50' matches the rural zone and also
42 matches Section A, which is the corner of Ross and Wild Dunes Way, so the setbacks of the town and the
43 DEP are in agreement. Chair Walker then stated that as long as they are in agreement, he suggests that they
44 table the item with a motion. Vice Chair Hitchcock then made the following motion:
45

1 *I make a motion to table review of the preliminary plan application for subdivision amendment for two*
2 *additional infill lots with a shared driveway access from Ross Road, location Ross Road, MBL 105A-1-200;*
3 *Zoning PMUD, applicant Dominator Golf LLC, subject to the submittal of the following:*

- 4 1. *Satisfactory responses to comments, concerns, and questions in the Wright Pierce memo.*
- 5 2. *Written verification from DEP on the required buffering and setbacks.*
- 6 3. *Written verification from DEP on the Site Location of Development exemption.*
- 7 4. *E911 addressing meeting the requirements of Sec. 74-153. – Submissions, 15.*

8
9 The motion was seconded by Ms. Dube, at which point Chair Walker asked Town Planner Jeffrey
10 Hinderliter to call for the vote. Jeffrey Hinderliter called for the vote as follows:

11
12 Win Winch YES
13 Robin Dube YES
14 Marianne Hubert YES
15 Chair Walker YES
16 Vice Chair Hitchcock YES
17

18 Chair Walker then stated that motion carries 5-0. Chair Walker then asked Jason Fabianos about the DEP
19 process, to which Jason answered that they recently sent a 3rd email asking for a pre-application conference
20 and asked for a project manager, and that he hoped such would be within the next couple of weeks. Jason
21 then continued that as a point of order, this is technically an amendment, so re scheduling, if we get
22 completeness next meeting and schedule a public hearing, we could go to final vote at that point. Chair
23 Walker stated that yes, that is correct.
24
25

26 ITEM 6

27 Proposal: Conditional Use Shoreland Zoning: Removal, Relocation, 30% expansion of two
28 nonconforming structures
29 Action: Determination of Completeness; Schedule Site Walk; Schedule Public Hearing
30 Applicant: David and Kristin Fournier
31 Location: 16 Walnut St., MBL: 104-3-1; Zoning: BRD, RA (Shoreland)
32
33

34 Town Planner Jeffrey Hinderliter updated the Board as follows:

- 35
36 • This proposal is for the removal, relocation, and 30% expansion of 2 cottages located at 16 Walnut
37 St.
- 38 • This is a shoreland zoning nonconforming proposal because both cottages are within the 100'
39 highest annual tide (HAT) and wetland setback.
- 40 • The primary standards these proposals must meet are:
41 *Conformance with the standard conditions in the shoreland zone
42 *Conformance with the conditional use criteria for approval
43 *Proposed structures must be relocated away from the HAT and wetlands to the greatest practical
44 extent
45 *Proposed structures' nonconformity cannot be increased (for example, closer to the HAT and
46 wetland than the existing structures)
47 *Proposed structure expansion cannot exceed 30% of the existing structures' volume and square
48 footage

- 1 • After review, I believe the proposal will likely conform to all standards. The applicant did an
- 2 excellent job in putting plans together, and I am quite confident that after meeting the applicant that
- 3 the standards will be met. A missing piece is just that we'll need the applicant to show on a plan the
- 4 distance the proposed cottages will be to the closest point of the HAT and wetland areas
- 5 • Also, we have a few additional comments we ask the applicant to address in the next submission.
- 6 Comments are in the Board's memo and include:
- 7 *More details on infrastructure work
- 8 *Snow storage and removal plan (currently it is seasonal but will become year round use)
- 9 *Trash removal plan
- 10 *Identify parking location for both cottages on the plan
- 11 • We recommend the Planning Board determine the application complete with the condition that
- 12 applicant show the proposed setback distance of the cottages to the HAT and wetlands and address
- 13 additional comments in the memo
- 14 • We recommend a public hearing is scheduled for 10 Nov and a 3 Nov site walk if the Board feels
- 15 one is needed (site walk is optional).
- 16
- 17

18 Chair Walker then asked if the applicant were present and wished to speak. Dave Fournier, one of the
 19 applicants, then addressed the Board. He stated that he had a couple of items to add that were updated: re
 20 trash removal, they have dumpsters and this will be documented, and they will work on the remaining items
 21 and will submit in time. Chair Walker stated that the applicants did a nice job and asked Board members if
 22 they had any questions. Ms. Dube then asked about the cottages, if they were going to be seasonal or year
 23 round. Town Planner Jeffrey Hinderliter replied that they are currently seasonal only but the use will be
 24 going to year round. Chair Walker then asked if the Board wanted to do a site visit, to which they agreed a
 25 drive-by would be sufficient. Chair Walker then stated that a public hearing could be scheduled pending a
 26 motion be made for completeness. Town Planner Jeffrey Hinderliter then asked the applicant if it would be
 27 ok for any Board members wishing to view the property to be on the property, and the applicant replied that
 28 yes, that would be fine. Ms. Dube then made the following motion:

29
 30 *I make a motion to determine David and Kristin Fournier conditional use and shoreland zoning*
 31 *nonconforming structure replacement and expansion application complete with the following condition:*
 32 *1. Before a final vote, the applicant shall submit a plan showing proposed cottages distance to the*
 33 *closest HAT and wetland area and address items identified in Additional Comments, above.*
 34

35 The motion was seconded by Vice Chair Hitchcock, and Chair Walker then asked Town Planner Jeffrey
 36 Hinderliter to call for the vote. Jeffrey Hinderliter called for the vote as follows:

37
 38 Win Winch YES
 39 Robin Dube YES
 40 Marianne Hubert YES
 41 Chair Walker YES
 42 Vice Chair Hitchcock YES
 43

44 Chair Walker then stated that motion carries 5-0, and there will be a public hearing next month.
 45
 46

47 Other Business

48 Chair Walker asked if there was any other business. Seeing none, he asked for a motion to adjourn.
 49

1 Good and Welfare

2 None

3

4 ADJOURNMENT

5 Motion to adjourn was unanimous. Meeting was adjourned at 8:05pm.

6

7

8 *I, Laurie Aberizk, Administrative Assistant to the Planning Board of the Town of Old Orchard Beach, do hereby*
9 *certify that the foregoing document consisting of Twelve (12) pages is a true copy of the original minutes of the*
10 *Planning Board Meeting of October 13, 2022.*

11

12

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14

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16

17

X 
Laurie Aberizk