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OLD ORCHARD BEACH PLANNING BOARD
Regular Meeting
March 9, 2023, 6:30 PM
Town Hall Council Chambers

CALL MEETING TO ORDER

Dave Walker, Chair called the meeting to order and stated that he would lead the meeting tonight.

PLEDGE TO THE FLAG

ROLL CALL

Chair Walker asked Town Planner Jeffrey Hinderliter for the roll call and the roll call was as follows:

Ms. Hubert
Ms. Dube
Mr. Winch
Chair Walker

Chair Walker announced that Chris Hitchcock, Sam Dupuis, and Jay Kelley are absent for tonight's meeting, but our four-member board still meets our legal standards.

MINUTES

Chair Walker expressed regret that the minutes from the previous meeting were not available due to staff shortages in the office. I would like to take a moment to commend the board for their outstanding preparation during the previous meeting, which I missed. Great job, everyone!

ITEM 1

Proposal: Ordinance Amendments: Ch. 78, Art. VI, Secs. 78-518, 717, 747, 803, 833, 869, 993, 1023, 1134 and Art. VII, Sec. 78-1281 (Lodging Condominium Conversion Ordinance)
Action: Discussion; Schedule Public Hearing
Applicant: Town of Old Orchard Beach

According to Town Planner Jeffrey Hinderliter, this proposal aims to establish a new ordinance for regulating the conversion of lodging establishments into condominiums. The purpose of this ordinance is to set appropriate standards for conversions, as the current regulations are minimal. Without adequate standards, there could be negative effects on abutting property owners, the town, and those who buy units in converted lodging establishments, both in the short and long term.

Since the pandemic and during it we have had an increase in conversions of these lodging establishments. This is concerning since for decades before this we had none. We presented our concerns to the council but since there were a few of these proposals pending, they enacted a moratorium. This moratorium was created to prevent those conversions until the town has appropriate actions in place to manage and regulate these conversions. The ordinances that are contained in

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your packet are what we decided would be the most appropriate actions to manage this. There is a brand new use which is lodging condominiums and will be permitted in all zoning districts where lodging establishments are allowed. The zoning district amendments that identify the new use are also included in your packet. Part two is a lengthier piece and that is the actual new conditional use ordinance. Under this new ordinance, the planning board is required to review these proposals to make sure that they meet the new standards.

The new standards aim to ensure that lodging condominiums are being operated as lodging establishments rather than multi-family dwellings, which is against zoning regulations. Currently, lodging use has more lenient standards compared to dwelling units, which has created a loophole that these new ordinances aim to address. The key points of these new standards are:

- All lodging establishments looking to convert to condominiums will require planning board review as a conditional use.
- Unit owners must rent their unit or make it available for rental for 305 days every calendar year.
- Unit owners can only use their unit for personal use for a maximum of 60 days every calendar year. If they use their allotted 60 days, the unit must remain unoccupied and available for rent.
- Rentals are limited to less than 30 consecutive calendar days or portions of those days.
- All unit owners must obtain rental licenses within 60 days of closing on the unit. License renewal requires providing documentation that they are following the rental and occupancy requirements of the ordinance.

This particular provision is crucial and distinct from our other ordinances. I included it to facilitate monitoring of the units and ensure compliance with the ordinance standards. One way to achieve this is by requiring unit owners to demonstrate adherence to the rules when renewing their license.

In order to ensure that unit owners are aware of their obligations, I have developed specific condominium declaration requirements that take into account their individual needs and restrictions. While enforcement of these declarations is not typically within the purview of the planning board, I have added standards to the ordinance to ensure that everyone is on the same page. These standards have been incorporated into the condo declaration to prevent any misunderstandings or disputes regarding building conversion requirements.

Some of the key highlights of the new standards include:

- The establishment of a condominium association.
- The building must be operational 365 days a year, with services like front desk and lobby operations, housekeeping, and short-term rental reservation services available seven days a week.
- The front desk and lobby area must be open to the public.
- Each unit must have two on-site parking spaces.
- The association and management company must provide at least one contact who is available 24/7.

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We would then need to ask the planning board to set up a public hearing. It's important to remember that we are operating under a moratorium which means we have time constraints to this.

It is important to note that under the Maine State Condo Act, condominiums are not a use in themselves, but rather a form of ownership. While individual towns cannot prevent the creation of condominiums, they can regulate ownership in relation to a specific use, such as dwelling or lodging. Those looking to operate or convert condominium buildings must follow these rules.

During the meeting, Chair Walker proposed scheduling a workshop on April 6 to discuss ordinance amendments before the upcoming meeting. This was agreed upon by all board members. Additionally, Town Planner Hinderliter suggested scheduling a public meeting, which Chair Walker also agreed to. The public meeting is scheduled for April 13, during our regular meeting time, in council chambers. Town Planner Hinderliter will confirm the room's availability, and if it is unavailable, he will notify everyone by email.

ITEM 2

Proposal: Certificate of Appropriateness: Building modifications

Action: Ruling on Certificate of Appropriateness

Applicant: Durp, LLC

Location: 93 West Grand Ave., MBL: 313-4-3, DD2

Assistant Town Planner Foster has recommended that the planning board issue a Design Review Certificate for the proposal regarding the former Venetia's Restaurant located at 93 West Grand Ave. The DRC has reviewed the proposal and recommended it for approval based on its adherence to the design standards. However, the applicant is still in the process of preparing the application for a site plan review that is required by the ordinance. Once the application is received, a more informed decision will be made by the planning board.

The proposal includes the renovation of the existing structure to create a first-floor restaurant and a second-floor residential unit with a rooftop deck. The exterior will be updated with new fenestration on the first floor, contrasting siding and trim, a rod-supported canopy, and new decks and stairs. Originally, there was a proposal for adding a take-out window on the West Grand side. This addition was approved by the DRC, but after discussing potential reviews with the DRC, the applicant decided not to add the takeout window at this time.

Included in your packets are the application, site plan, and existing concept elevations so that you have a better understanding of what the DRC reviewed. The planning board has the authority to issue the Design Review Certificate, and it is their responsibility to do so. The applicant's responses to the design standards were also reviewed by the DRC and they are included in the application. At this time the DRC recommends that the planning board issue the Design Review Certificate. As stated before this would still need to have an administrative or site plan review. I believe that there are some interested members of the audience who have questions about this project.

Chair Walker reminds speakers to identify themselves by name and address and invites them to step up to the podium to speak.

A member of the audience, Valerie Senter, introduces herself and states that she resides at 98 West Grand, which is located across from Venetia's restaurant. Valerie expresses her concern regarding parking and questions if it has been taken into account in the proposed plan. During Venetia's restaurant operation, there were three designated parking spaces for patrons in the adjacent parking

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lot. Additionally, there were 3-4 cars parked there for the staff. As there is no extra parking available on the street, Valerie believes it is necessary to consider this matter in the current plan. She suggests that parking should be allocated specifically for restaurant patrons and believes two spaces are needed for the residential unit. Valerie acknowledges that the parking is good for ten months of the year but is horrendous for the remaining two, and she hopes this issue will be addressed in any plans going forward.

Chair Walker mentions that parking will be considered during the administrative review. Valerie expresses gratitude and takes a seat.

According to Jim Landherr, a resident of 98 West Grand Ave, the project began last year with some necessary demolition work. In the summer, many property owners in the area rent out their properties, and Jim reports that some renters were unhappy about the noise from the project, which would start at 7:30 A.M. and continue until 5:00 P.M. Some renters are paying over \$2000 per week, and the noise is disrupting their stay. It's unfortunate, and Jim hopes that the project won't continue during June, July, and August.

Chair Walker has expressed uncertainty about the start of the project due to the absence of plans. Nevertheless, the operation hours are determined by ordinance. Although it may be unfortunate, the demolition and construction will be completed within the set hours. The board has no jurisdiction over this matter as long as it complies with the ordinance. In case of any disturbance, one can contact the police department or the office for code enforcement. If construction vehicles block the road, it becomes a police matter. Jim Landherr requested that the board consider this while reviewing the property. Jim thanks the board and then takes a seat.

Ms. Dube has inquired about the ownership of a property after the passing of the owner. Assistant Town Planner Foster has confirmed that the property has been sold. Chair Walker informed Ms. Dube that a copy of the deed can be found in the packet.

Ms. Dube also noted the presence of a parking lot on the plans. Ms. Dube states that she would like to make a motion and states:

I motion to conditionally approve and issue a Design Review Certificate recommended by the DRC for building modifications at 93 West Grand Ave., MBL: 313-4-3, DD2 with the following conditions:

- *All improvements be implemented following the application plans and proposal received.*
- *Any additional changes must be approved by staff before completion.*
- *Before the commencement of any construction activities all applicable Federal, State, and local permits must be secured.*

Chair Walker states that the motion is made by Ms. Dube and seconded by Mr. Winch.

Chair Walker asked Assistant Town Planner Foster if he had any idea when they would like to start construction, I know you do not have any plans yet.

Assistant Town Planner Foster states that he does not and we would have to have the board review it first when we get the site plan.

Call for Vote

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Chair Walker requests to have Town Planner Hinderliter call for the vote which is the following:

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

Chair Walker states that the motion carries 4 – 0.

Other Business

During the meeting, Ms. Dube expressed concern that we are currently two months behind in recommending board members. She inquired whether Chair Walker had been voted in as chair, to which he confirmed that he had been. When asked about the vice chair, Chair Walker informed Ms. Dube that Chris had been voted in for the role. Chair Walker then requested that Town Planner Hinderliter review the minutes from the vote and send all board members the results, which the planner agreed to do.

Moving on to other business, Town Planner Hinderliter informed the group that this week marks the acceptance period for adult use marijuana licensing. As the board has only received one application, they should expect to review it soon. When Chair Walker asked how many applications had been received, Town Planner Hinderliter confirmed that only one had been submitted. Ms. Hubert then asked when the application acceptance period would end, and Town Planner Hinderliter reported that tomorrow is the final day.

Good and Welfare


Chair Walker asked if there was any discussion concerning good and welfare and there was none.

ADJOURNMENT

Chair Walker calls a motion to adjourn and the motion is seconded by multiple members of the board.

Meeting adjourned @ 6:50 P.M.

Minutes approved by Planning Board on 14 Sept. 2023


Jeffrey Hinderliter, Town Planner