

TOWN OF OLD ORCHARD BEACH  
**PUBLIC HEARING/PLANNING BOARD MEETING MINUTES**  
**Thursday, October 8, 2009**

<b>Call to Order at 7:03pm</b>	<b>Call to Order</b>
<b>Pledge to the Flag</b>	
<b>Roll Call:</b> Win Winch, Don Cote, Tianna Higgins, Mark Koenigs, Karen Anderson. <b>Absent:</b> Eber Weinstein <b>Staff:</b> Jessica Wagner & Gary Lamb.	
<b>APPROVAL OF MINUTES:</b> August 4, 2009 Site Walk & Workshop; August 13, 2009 Meeting; August 24, 2009 Special Meeting; September 3, 2009 Site Walk & Workshop; September 10, 2009 Meeting.	
<p><b>Ms. Anderson</b> motioned to accept all minutes as written,  <b>Mr. Cote</b> seconded  <i>Motion Carries 4-0 (Ms. Higgins had not yet arrived)</i></p>	<p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>ITEM 1: Subdivision Amendment: Public Hearing:</b> Proposal to amend J &amp; J Surfside Condominium (originally approved April 2006). Located at 180 East Grand Avenue, MBL 301-7-1 in the BRD district. Applicant is Scott Curley, Agent is Mitchell &amp; Associates.</p>	<b>ITEM 1</b>
Public Hearing opened and closed at 7:05pm no one to speak.	
<p><b>ITEM 2: Subdivision Amendment: final review:</b> Proposal to amend J &amp; J Surfside Condominium (originally approved April 2006). Located at 180 East Grand Avenue, MBL 301-7-1 in the BRD district. Applicant is Scott Curley, Agent is Mitchell &amp; Associates.</p>	<b>ITEM 2</b>
<p><b>Mr. Winch</b> read down through each amendment proposal, and the board unanimously voted to approve the following amendments:</p> <ol style="list-style-type: none"> <li>1. The addition of the 4 A/C compressors and underground propane tank in the rear yard.</li> <li>2. The amended length of the wood guardrail south side of the property (from 66ft to 48ft 5in)</li> <li>3. The amended vegetation plan as shown on the submitted plan and approved by the DEP.</li> <li>4. The amendment of the solid fence detail (shown on sheet 5) to be a chainlink fence bordering three sides of the property, with plastic slats along the north and south sides of the property.</li> <li>5. The removal of curbing along the front driveway.</li> </ol> <p><b>Mr. Koenigs:</b> I am opposed to applicants being able to come back to the Board to and amend the plans to match the condition of the finished site. I understand that things happen and change, but it is that changing the plans from the way the Board originally approved that is not good. This project looks good, but it is the principle of not building what was approved that I take issue with. It is not only this applicant to come before the board with this dilemma. Others are guilty of it as well. Applicants and developers need to think about their plan before they submit it for approval.</p> <p><b>The board</b> unanimously agreed that the five changes to the site plan were acceptable.</p> <p><b>Mr. Lamb:</b> the applicant has not yet submitted the site plan on Datum, as required by Ordinance.</p> <p><b>Mr. Koenigs</b> made a motion to table this item until the plans were submitted on Datum.</p> <p><b>Mr. Curley (Applicant):</b> I have done everything that I have been required to do. I have worked with DEP and been through the entire process. I am asking the board to waive the Datum requirement.</p> <p><b>Mr. Lamb:</b> it is an ordinance requirement to put the plans on datum. This is an expense that the tax payers will be required to cover if the applicant does not.</p> <p><b>Mr. King Weinstein (member of the public):</b> I posted a bond for the street curbing</p>	

<p>approximately 10 years ago for Delta Bay, and I don't believe it was ever released.  <b>Ms. Anderson</b> asked what would happen if we made the submission on Datum a condition of approval and the condition of approval was not ever done.  <b>Mr. Lamb</b> stated that if he did not satisfy the conditional of approval, there would be a notice of violation and the applicant could accrue fees up to \$100/day that he is in violation. We like to stay away from conditional approvals like this because it requires a significant amount of staff time to issue notices and violations and chase people down.  <b>Mr. Koenigs</b> motioned again to table the item until the application submits the Datum to the Town.  <b>Ms. Higgins</b> seconded  <i>Motion fails 3-2</i>  <b>Ms. Anderson</b> motioned to grant conditional approval to the proposal to amend J &amp; J Surfside Condominium, located at 180 East Grand Avenue, MBL 301-7-1 in the BRD district, with the condition that the applicant submits the site plan information on Datum within 30 days.  <b>Seconded</b> by Mr. Cote.  <i>Motion carries 3-2.</i></p>	<p><b>Motion</b>   <b>Vote (fails)</b>   <b>Motion</b>   <b>Vote (passes)</b></p>
<p><b>ITEM 3: Subdivision Amendment: <i>Public Hearing</i>:</b> Proposal to amend Dunegrass Section B from 76 multi-family style condo units to 24 single-family style condo units. Located on Wild Dunes Way, MBL 105A-1-B in the PMUD. Applicant is Ron Boutet, Agent is BH2M.</p>	<p><b>ITEM 3</b></p>
<p>Public Hearing opened and closed 7:25pm with no one present to speak.</p>	
<p><b>ITEM 4: Subdivision Amendment: <i>Preliminary review</i>:</b> Proposal to amend Dunegrass Section B from 76 multi-family style condo units to 24 single-family style condo units. Located on Wild Dunes Way, MBL 105A-1-B in the PMUD. Applicant is Ron Boutet, Agent is BH2M.</p>	<p><b>ITEM 4</b></p>
<p><b>Mr. Thompson (BH2M):</b> this is an amendment due to the change in the housing type (multi-family housing to single-family housing). The sidewalk is outside of the road right-of-way. The sidewalk will meander in a 30ft easement on one side of the street. When and if this roadway is accepted by the town, everything within this ROW would be accepted with the road. Maintenance of the sidewalk easement and everything within it will remain the responsibility of the Homeowners Association. Chris White is still reviewing the pump station PS600. We are hoping to get comments back as soon as possible, but we need his sign off on that. The mailbox location still needs to be resolved – we are going to speak with the post office to see what they would like to see. The applicant is open to whatever the post office desires.  <b>Mr. Winch:</b> It is important for people to be able to stop and get mail at the front of the street on their way home.  <b>Mr. Thompson:</b> street lighting is also necessary to add to the plans. Mr. Boutet's goal would be for each home owner to have lights on the individual houses that would light the street. We could propose putting one on the cul-de-sac and one in the middle of the street.  <b>Mr. Winch:</b> The suggestion was made at the workshop that there be a light every 300ft.  <b>Mr. Lamb:</b> the Public Works would like the streetlights to fall within the 30ft easement, not to be town maintained.  <b>Mr. Thompson:</b> okay, and the lights will be located within the 30ft sidewalk easement. We can submit a photometrics plan for the Board to review.  <b>Ms. Higgins:</b> lighting near the mailbox would also be a nice feature. Perhaps looking at how the mailboxes are treated in the rest of the Dunegrass development.  <b>Mr. Lamb:</b> is the existing 12 inch water main on Wild Dunes Way sized for all 589 units?</p>	

<p>That was installed so recently, that I am hoping was done for full build out.</p> <p><b>Mr. Thompson:</b> I was not the engineer on the project, but I assume a 12 inch water main can serve all 589 units.</p> <p><b>Mr. Koenigs:</b> I didn't see any stop sign or street sign located on the plans. I'd like those added to the plans. I am assuming the sidewalk is for walking. Currently, the golf carts use this area. Will the home owners have a path of golf carts? Will golf carts use the street or sidewalk?</p> <p><b>Mr. Thompson:</b> I'm not sure what the frequency of golf course usage is amongst the current residents of Dunegrass.</p> <p><b>Mr. Koenigs:</b> you have changed the density of this area from 76 units to 24 units. What happens to the removed units? Is there a chance there remaining 43 units might never be built?</p> <p><b>Mr. Thompson:</b> The units may be used in a different sections of the Dunegrass development. However, we don't know how the development patterns will be in the upcoming years. It will likely change with the market.</p> <p><b>Mr. Koenigs:</b> the open space in Dunegrass is not for the public to use. This is a concern of mine, and I think that since the roads are public, the open space should be public.</p> <p><b>Ms. Higgins</b> motioned to grant preliminary approval for the proposal to amend Dunegrass Section B from 76 multi-family style condo units to 24 single-family style condo units. Located on Wild Dunes Way, MBL 105A-1-B in the PMUD</p> <p><b>Ms. Anderson</b> seconded</p> <p><b>Motion carries 5-0</b></p>	<p><b>Motion</b></p> <p><b>Vote</b></p>
<p><b>ITEM 5: Subdivision Amendment: Public Hearing:</b> Proposal to amend Regis Acres Subdivision (approved 11/8/2007, amended 3/12/2009) from a 4-lot subdivision to a 6-lot subdivision. Located at Ross Rd. and Portland Ave, MBL 103-6-6 in the RD district. Applicant is Ronald Regis, Agent is Northeast Civil Solutions.</p>	<p><b>ITEM 5</b></p>
<p>Opened at 7:50pm</p> <p><b>Bruce Savoy</b> (Ross Road abutter): I received a phone call from Mr. Regis, indicating that I was in jeopardy of losing the right to my 2" forced main on Ross Road. I don't oppose this project, but I was told by Mr. Regis that my forced main would be taken from me. I have one lot that abuts Ross Road and another that shares a ROW with Shari MacDonald. When the Mailhots put in the forced main for the Seacoast RV project, I spoke with Sandra Lie and decided that I would connect to the sewer line with another forced main. I have not paid a sewer impact fee. I will pay this when I go for a building permit for my home. When the Mailhot's force main sewer was installed, I installed a force main as well. This 2 inch force main was intended to only serve my lot. At the time, Mr. Regis did not own the lot; Carter Radley did. I wanted a license agreement and Mr. Mike Mailhot wanted an easement. I had a discussion with Sandra Lie, the Town Planner at the time, and we talked about Section 58-90, which would require that my property hook into the sewer if I ever wanted to build there. (<i>Mr. Savoy handed out the ordinance requirements that require connections within 200ft of the sewer by State law and OOB ordinances</i>). On May 29, 2005 we paid \$2,000 to install a 2" line. On August 18, 2005 we paid \$1,500 for the street opening. I paid \$2,000 for the Ross Road project to come across the road and install the force main. We have a January 19, 2006 warranty deed for the deed from Radley to Regis. My force main was in before Regis purchased the property. On November 12, 2007, we completed testing for the force main. (<i>Mr. Savoy gave a copy of the license agreement</i>). I am not here to speak against Ron Regis, but I do not want my force main to be removed from my home. We are hoping that the Planning Board makes a consideration that the 2" force main will not be taken from us if Ron</p>	

Regis decides to connect to the 2” force main.

**Mr. Winch:** to summarize your statement, you want consideration for your 2” force main. You are willing to share the 2” force main, but you want the condition that you will not be cut off from the 2” force main?

**Mr. Savoy:** yes, I don’t mind if Regis connects to the force main. I just don’t want to lose my right to connect to the force main.

**Mr. Mailhot** (2 Millbrook Dr.): it made sense for Mr. Savoy to tie in while we were constructing the force mains. He ran a force main directly on top of my force main into the man hole.

**Mr. Savoy:** Sandra did not want me to cut into the Mailhot’s force main, so I constructed my own.

**Mr. Lamb** stated that it is not in the intentions of Mr. Regis to connect to the FM.

**Mr. Savoy:** Mr. Lamb called me at work to tell me that today, and we have discussed this already. I thank him for that.

**Mr. Mailhot:** I wasn’t notified about this subdivision prior to this particular application. I am not opposed to this project. It took me 3.5 years for me to get my projects approved. I have \$100,000 into this road at my expense. What concerns me is the discussion about waiving requirements. I think sidewalks on Ross Road will make this area more appealing and obviously there are safety issues that would be satisfied with sidewalks. I was told the town does not want to maintain sidewalks. An easy solution would be for the town to require the sidewalk on his property. It makes sense to do it now, not wait until later when we want sidewalks and the town is required to pay for it. I do not want any waivers for his sewer plans. There were no waivers on my subdivision. I don’t have a problem with him tying in to the manhole that we installed. I do not want any waivers for Mr. Regis.

**King Weinstein** (Millbrook Estates abutter): I am a direct abutter. I have a large investment in this area for future owners of the Millbrook Estate lots. First thing, in the Rural Zone there are conditional and accessory uses that I would like to see prohibited in this subdivision. I would like to see a condition put on this subdivision that there are no accessory uses allowed in this subdivision, so that someone next to my house can not come back later and create a daycare or an auto repair facility. I’d like there to be a fence preventing people from disrupting the stream. I’d like to propose this subdivision include a bus stop on the corner. I would also like to add that the driveway locations cannot be changed for any of the homes to ensure there is no change in drainage. The driveways are currently not set in stone. Also, on the erosion control plan, it isn’t clear if it is just hail bails or erosion control. I received an approval for a multi-family home on Smithwheel, and was required to install a vegetative buffer. A vegetative buffer should also be required between this subdivision and Millbrook Estates. A report indicating the cost analysis of these added units is also required, I’d like to see this submitted prior to final approval. I’d also like to add that I was not notified about this subdivision prior to this application either.

**Mr. Lamb:** We recently realized there was a problem with our abutter tool on our ArcMap. Mr. Mailhot and Mr. Weinstein were not informed prior to this application because of this glitch. We believe this is error due to these lots having 4-digit Map Block Lot Units, as opposed to the standard 3-digit Map Block Lot. The program didn’t recognize the lots and so they were excluded from the list. We apologize for this and we have corrected this problem, and this is why these abutters are here now.

**Mr. Regis:** I have no plans in taking Mr. Savoy’s force main. The Millbrook Estates should also be on sewer because they are located within 1,500ft of public sewer. There are two force mains. One belongs to me. I have 6 septic systems for 6 lots. We can share the force main or

<p>I can use the septic and give the force main completely to Mr. Savoy. One of the lots is already sold, this review is only regards to the new amendments.  <b>Mr. King Weinstein:</b> whether or not he sold a lot is irrelevant. Any conditions you would put on the subdivisions could apply to the existing lots.</p> <p><b>Public Hearing closed at 8:27pm.</b></p>	
<p><b>ITEM 6: Subdivision Amendment: final review:</b> Proposal to amend Regis Acres Subdivision (approved 11/8/2007, amended 3/12/2009) from a 4-lot subdivision to a 6-lot subdivision. Located at Ross Rd. and Portland Ave, MBL 103-6-6 in the RD district. Applicant is Ronald Regis, Agent is Northeast Civil Solutions.</p>	
<p><b>Mr. Regis</b> asked to table the item until next month.  <b>Mr. Koenigs</b> made the motion to table without prejudice the proposal to amend Regis Acres Subdivision.  <b>Ms. Anderson</b> seconded the motion  <i>Motion carries 5-0</i>  <b>Mr. Lamb</b> stated there are several items that need to be addressed prior to final approval.</p>	
<p><b>ITEM 7:</b> Schedule Public Hearing for proposed amendment to Section 78-1 regarding ‘drug paraphernalia’ and ‘head shop’ definitions.</p>	<b>ITEM 7</b>
<p><b>Mr. Lamb:</b> The Town of Old Orchard Beach wishes to prohibit the sale of drug paraphernalia. The easiest way to disallow head shops is to define them in the Zoning ordinance and then not list them as a permitted or conditional use in any zoning district.</p>	
<p><b>ITEM 8:</b> Schedule Public Hearing for wind study tower height amendment to definition Section 78-1 and add new Section 78-2122.</p>	<b>ITEM 8</b>
<p><b>Mr. Lamb:</b> the Town of Old Orchard Beach Conservation Commission wishes to install anemometer wind power test towers at the Ballpark or RSU school property. This is currently not allowed by Ordinance. The Board has been given a draft of the proposed language for the proposed zoning amendment to allow these wind towers. We are still waiting to see if the RSU endorses the test tower idea and to determine the required height of the test towers.  <b>Mr. Winch</b> scheduled a Public Hearing for both Item 7 &amp; 8 on the November 12, 2009</p>	
<b>GOOD &amp; WELFARE</b>	
<p><b>Mr. Koenigs:</b> what was happening at 60 Fern Ave and another property across the street from that?  <b>Mr. Lamb:</b> 60 Fern Ave was awarded a density variance from the ZBA to construct a 2-family home with parking beneath the building. We do not know what is going on across the street, but will look into it.</p> <p><b>Mr. Lamb:</b> Mr. Lopresti of Castle Estates would like to phase out the \$2,500 traffic impact fee (that was a condition of his approval) because of the poor market. He has asked to phase the impact fee into \$500/lot. If the Board has no problem with this, I will prepare this as a formal agenda item to change this conditional approval of the subdivision.</p>	
<p>Meeting adjourned at 9:27pm</p>	<b>Adjournment</b>

*I, Jessica Wagner, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of five (5) is a true copy of the original minutes of the Planning Board Meeting of October 8, 2009.*