

**TOWN OF OLD ORCHARD BEACH
PUBLIC HEARING/PLANNING BOARD MEETING
Thursday, June 11, 2009**

Call to Order	Call to Order
Pledge to the Flag	
Roll Call: Win Winch, Tianna Higgins, Mark Koenigs, Karen Anderson, Ken Mac Auley. Absent: Don Cote, Eber Weinstein. Staff: Jessica Wagner & Gary Lamb.	
Acceptance of Minutes: Ms. Higgins motioned to accept the minutes from the May 7, 2009 Workshop & May 14, 2009 Meeting. Mr. Mac Auley seconded motion. <i>Motion carried 4-0 (Mark Koenigs had not arrived yet).</i>	Motion Vote
ITEM 1: Conditional Use Application: Determination of Completeness: Proposal to establish a Home Occupation for the making and selling Hot Sauce at 40 Park Avenue. MBL 315-10-2 in the R2 District. Applicant is Sarah Santos.	ITEM 1
Mr. Winch stated that a site walk will be held on July 2, 2009. Ms. Santos stated that she has had her kitchen approved by the State. She will be making the hot sauce product and transporting it, no customers will be coming to the house. There may be a UPS truck now and then. There will be no sign. Ms. Higgins motioned to determine the application complete for the proposal to establish a Home Occupation for the making and selling Hot Sauce at 40 Park Avenue. Mr. Mac Auley seconded the motion. <i>Motion carries 5-0</i>	Motion Vote
ITEM 2: Conditional Use Application: Determination of Completeness: Proposal to establish a Home Occupation for the sale of fire arms at 2 Willow Avenue. MBL 105-3-4 in the R1 District. Applicant Gordon Murphy.	ITEM 2
Mr. Murphy stated that he has approval from the ATF (Bureau of Alcohol, Tobacco and Firearms) to expand the existing locksmith business to sell firearms. I will not be advertising or hanging a sign. This business will be all word of mouth. It will take place within my existing locksmith business. Ms. Anderson asked what type of firearms Mr. Murphy will be selling. Mr. Murphy stated that it will be whatever his customers are interested in purchasing. Customers will choose the firearm, fill out the paper work, complete a background check, and I will order it for them. Mr. Mac Auley asked if he will be storing a significant amount of firearms on site? Mr. Murphy stated that he may have a couple, but he will not have many to choose from at the house. It will primarily be through people ordering the firearms as needed. Ms. Anderson motioned to determine the application complete for the proposal to establish a Home Occupation for the sale of firearms at 2 Willow Avenue. Ms. Higgins seconded the motion. <i>Motion carries 5-0</i>	Motion Vote
ITEM 3: Conditional Use Application: Public Hearing: proposal to establish a furniture repair home occupation (<i>Seaside Caning</i>) at 231 East Grand Avenue. MBL 201-1-1 in the RBD District. Applicant is Marco Giancotti	ITEM 3
<i>Opened and closed with no one to speak at 7:15pm</i>	

<p>ITEM 4: Conditional Use Application: Conditional Use Ruling: proposal to establish a furniture repair home occupation (<i>Seaside Caning</i>) at 231 East Grand Avenue. MBL 201-1-1 in the RBD District. Applicant is Marco Giancotti.</p>	<p>ITEM 4</p>
<p>Mr. Giancotti stated that he is doing this as a hobby. This is not a way of making a living. Ms. Anderson asked how he learned the craft of caning? Mr. Giancotti stated that he picked caning up over the years; it is relaxing. Mr. Koenigs made a motion to grant Conditional Use approval for the proposal to establish a furniture repair home occupation (<i>Seaside Caning</i>) at 231 East Grand Avenue. MBL 201-1-1 in the RBD District. Applicant is Marco Giancotti. Ms. Anderson seconded the motion. <i>Motion carries 5-0.</i></p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 5: Amendment to Approved Site Plan: Public Hearing: Proposal to amend the 5/12/2005 Planning Board approved site plan at 130 Saco Ave to show a proposed lot split and parking plan amendment. MBL 207-3-5 in the GB2 district. Applicant is William Rogers.</p>	<p>ITEM 5</p>
<p><i>Open and Closed with no one to speak at 7:20pm.</i></p>	
<p>ITEM 6: Amendment to Approved Site Plan: Final Review: Proposal to amend the 5/12/2005 Planning Board approved site plan at 130 Saco Ave to show a proposed lot split and parking plan amendment. MBL 207-3-5 in the GB2 district. Applicant is William Rogers.</p>	<p>ITEM 6</p>
<p>Mr. Rogers stated that the work will be done to have the plan put on GIS. The surveyor is working on having this completed later this week. Mr. Koenigs asked if the fence will be installed now, or when the divided lots are sold off separately. Mr. Rogers stated that he will only put the fence up if one of the lots is sold, or if they are sold to separate owners. I will note this on the final site plan. Mr. Koenigs stated that the addition of this note should be a condition of approval. Ms. Anderson made a motion to grant final approval with conditions for the proposal to amend the 5/12/2005 Planning Board approved site plan at 130 Saco Ave to show a proposed lot split and parking plan amendment; MBL 207-3-5 in the GB2 district; Applicant is William Rogers. The following conditions shall be attached to this approval:</p> <ol style="list-style-type: none"> 1. The Applicant shall submit the site plan on Datum within 60 days of final approval. If the Applicant fails to do this, this Site Plan Review Approval will be considered null and void. 2. A note will be included on the final plan stating “the proposed fence shall be installed upon selling one or both parcels to separate owners”. <p>Ms. Higgins seconded the motion. <i>Motion carries 5-0</i></p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 7: Amendment to a previously approved subdivision: Preliminary Review & Determination of Complete Application: Proposal to amend Dunegrass Subdivision to move 5 single-family style condominium units from Section B to Wild Dunes Way adjacent to existing Section H. MBL 105A-1-200 in the PMUD District. Owner and Applicant is Ron Boutet, Agent is BH2M.</p>	<p>ITEM 7</p>
<p>Mr. Thompson (BH2M) representing the Applicant, Pine Ridge Realty. The Applicant is proposing to add 5 new lots to an area previously apart of the Golf Course with units taken from previously approved Section B. The roadway is built and utilities is in place. We will do our best to not dig up the road to create a problem on Wild Dunes Way. We have an existing sanitary sewer manhole. We will have a forced sewer main go to that manhole and then it will flow through gravity. Each lot will have an individual grinder -- and the</p>	<p>Units from B</p> <p>Sewer</p>

<p>maintenance will be the responsibility of each lot owner. On the original plan, this area was considered a “mowed field”, so it is already disturbed in the eyes of the DEP. The volume of runoff is not an issue, since it will not be changing. However, since they were not part of the original DEP permit, the water quality for these lots will have to satisfy DEP standards. In order to manage the increase in stormwater runoff, we are proposing a drip edge treatment for each proposed house lot. On the plans, we show an example of what the house will look like with the drip system. There will also be a system for the driveway. The house and driveway drip systems will treat the water to meet the DEP quality standards. The building footprints on sheet 4 are there to show an example of this drip system. These footprints are merely examples of what may be there, we do not want the building footprints to be tied to the approval. We have a meeting with DEP on June 24th to ensure they approve this stormwater system. These 5 lots will still drain to the same drainage area within Dunegrass. There is a possibility that the original DEP stormwater permit will handle the quality and quantity of the water without the drip system because we are reducing the total amount of units in this system. In regards to survey monuments, these lots do not represent the corners of the subdivision, so we will not have granite monuments installed. Instead, we will put iron monuments to show the lot lines and points of curvature.</p> <p>Mr. Lamb stated that Staff is okay with determining the application as complete and classifying this is a major subdivision. He added that this is an amendment and is fairly straight forward, the does not feel this application constitutes a need for preliminary and final review. If the Board makes a motion, this will go to a single final review from this point forward.</p> <p>Mr. David Ordway (legal counsel for Applicant) stated that the waterlines in this area of Dunegrass are not plastic. They were put in by the water company. There is no water issue here. With respect to the home Owners Association documents, there is a Home Owners Association for the H and I lots that these lots will be included in this grouping. This documentation allows these 5 additional lots to be brought into that Home Owners Association.</p> <p>Mr. Lamb asked if the Home Owner Association documents would show the definition/designation of responsibility of the drainage systems and sewer systems.</p> <p>Mr. Ordway responded, stating that seven lots in the existing ten lot area (Sections H and I) of the subdivision have a pump station. Three of these lots feed through gravity down through the Birches sewer line. The other seven do not go immediately to gravity - they wrap into a pump station that is located near section B. This is a forced main that goes down to the main Dunegrass pump station. If the five new lots go to this pump station, there are already documents in place that that these homes share the pump station.</p> <p>Ms. Higgins asked if the gradation would change if DEP determines that the individual drainage system are not necessary.</p> <p>Mr. Mac Auley made a motion to determine the application complete and subject to a single final review for the proposal to amend Dunegrass Subdivision to move 5 single-family style condominium units from Section B to Wild Dunes Way adjacent to existing Section H. MBL 105A-1-200 in the PMUD District. Owner and Applicant is Ron Boutet, Agent is BH2M.</p> <p>Ms. Anderson seconded.</p> <p>Motion carries 5-0 <i>Site Walk was scheduled for 6:00pm on July 2, 2009</i></p>	<p>Stormwater</p> <p>DEP</p> <p>Monuments</p> <p>Home Owners Association Documents</p> <p>Motion</p> <p>Vote</p>
<p>ITEM 8: Conditional Use & Site Plan Review: Public Hearing: Hid’n Pines Campground proposes to add 54 new full-service campsites at 8 Cascade Road and to expand existing campground in MBL 104-1-4 into MBL 104-1-30 in the Rural District. Owner and Applicant</p>	<p>ITEM 8</p>

<p>is DGA Enterprises, Agent is BH2M.</p>	
<p>Public Hearing opened at 7:50pm</p> <p>Mr. Thompson stated that this proposal is for 55 sites (net 54 since we will be eliminating one existing campsite). The lot area is 24.92 acres. There will be underground electric, with no new curb cuts. Stormwater will be managed through 4 vegetated soil filters. We will be obtaining a DEP stormwater permit for this project. The new impervious area (roads and sites) represents 2.31 acres – 9% of the total acres. Disturbed area = 18% of the whole site. This means 82% will remain undisturbed. The DEP meeting for the stormwater and NRPA permit needed for crossing wetlands is on June 24th.</p> <p>Ms. Levonne Harris (abutter at 114 Portland Avenue) stated that she has no objection to the project, but she would like to know if the elevation of the land will change at all for this construction? What direction will be runoff be? Will there be any change to the wetlands?</p> <p>Ms. Linda Maloy (abutter at 124 Portland Ave) stated that her family will be the most severely impacted by this expansion. First off, I'd like the Board to think about the issue of a fence. The Ahearns have stated that they have no problem putting a fence up around the campground, but this has never shown up on the plans. We want to ensure this is on the plans and we want to see details. I would also ask the board to think about visual buffering. Ms. Maloy handed out a cut sheet of a Jayco camper model and pointed out that the current campers are up over 13 feet. Even at the minimum of 75% buffer, eight foot trees will not provide a buffer for campers at this height. They should be required to be install 10ft trees to provide a sound buffer. The Board has the authority to make 100% buffering. Noise is also a concern. These people are going to be on vacation everyday that they are there. The gate to Hid'n Pines does not lock until 1am. This means people will be behind our house partying at 1am 125ft from my opened bedroom windows, and this noise is not going to be buffered. The Ahearns run a tight shift, but they can't patrol every site 24/7. The Ahearns run a family oriented campground and they should be commended for this. But what is going to keep them from selling this campground to owners that create more of a party-oriented campground. Smoke is also an issue. No matter how many trees you put in for the buffer, this will not stop the campfire smoke. We shouldn't have to live with campfire smoke. This is a Conditional Use, and it should meet the required Conditional Use standards. I am also concerned with this reducing the value of my property. My house is more valuable with wooded area around it than a house adjacent to a campground. I'm not against any expansion of Hid'n Pines, I just think they should be able to find a way to expand without negatively impacting our property. We shouldn't have to have our life change and our health put at risk so that they can increase their business.</p> <p>Larry Pinette (abutter at 114 Portland Avenue) stated that he has been thinking about the term "nuisance". The dictionary defines "nuisance" as anything that annoys, bothers or irritates. This includes sound, smell and sight. Presently, the smell of campfires is already an issue. It is not offensive, but we smell it now. With the proximity of these proposed sites, the campfires will negatively impact the enjoyment of our property. People in the campground are on vacation, I understand they want to have fun, but the proximity to my house is an issue. It is the 14 sites around the outer loop that are really an issue for me. In talking to the previous Planning Board Chairman 15+ years ago when we moved our house to this location on the property, we were told that the land could not be developed because this was in tree growth. We were misadvised at that time.</p> <p>Mr. David Ordway (Legal Counsel for Applicant) stated that Jason Ahearn lives directly across the street from the Hid'n Pines and Powderhorn campgrounds. Ryan Ahearn lives within 30 feet from a campground. Their father, David Ahearn has lived in the campground</p>	<p>Ms. Harris</p> <p>Ms. Maloy</p> <p>Mr. Pinette</p> <p>Mr. Ordway</p>

at Powderhorn for over 30 years, so to suggest that they lived somewhere else is factually incorrect. They live at the property they operate, and have run it as a family business for all these years and they are not distant owners. The notion that people take “being on vacation” as a license to misbehave is incorrect. I can tell you, as a previous campground owner, that campgrounds have a vested interest in having their campers observe quiet hours that are strictly enforced. If you allow one campsite to have parties, you will lose the repeat customers that enjoy the quiet. Mr. Thompson stated that 82% of this site will remain undisturbed. This means there will be no cutting or disturbance of vegetation; this is a significant point that should be recognized by the Board. In regards to the proposed use constituting a nuisance - This is before you as a Conditional Use Application. A Conditional Use is a form of Permitted Use. The Ordinance defines a Conditional Use as a ‘Permitted Use with conditions’. The Town Council has already determined that this particular form of use is clearly not a nuisance because it is listed among conditional uses in the Rural Zone. He stated that based on a recent court case, the definition of nuisance is a legislative issue. The planning board is a quasi-judicial, so it is not up to the Planning Board to define what qualifies as a nuisance. In regards to smoke, he mentioned that the prevailing weather conditions taken at the Portland weather station between 1961 and 1990. The prevailing winds in this area are from the south. This is a statistical average, so of course there will be days that the winds may come from different directions, but the prevailing winds will be from the south to the north, which is not in the direction from the campground to the Maloy property. In regards to property values, typically, this claim needs to take into account more than speculation. It needs to take into account any conditions you attached to this conditional application. The Town has already determined that this is a Conditional Use, permitted in the Rural District. Any change in property value must be relative to the other uses that are permitted on this 25 acre parcel. Among the other permitted uses. For example, Permitted Uses in this district include: timber harvesting is allowed (all timber could be taken from this property), municipal uses, agricultural uses, community living arrangements – halfway houses, elderly housing. Other conditional uses include: nursing homes, mineral extraction, auto service and repair. All of these uses would change this wooded lot into a different use. I understand where the abutters are coming from, but I think they are going to a place they should not take the Board by insisting on an absolute right to the enjoyment of the property. They are indicating that their right to enjoying their property trumps the Ahearns’ right to use their property in a reasonable way.

Mr. MacDonald (abutter at 130 Portland Ave) stated that he has had problems with the smoke. The smoke detectors do go off at times because of smoke. Noise may be a little bit of a problem and we have had some people wandering through.

Ms. Anderson asked when quiet hours are.

Mr. Jason Ahearn stated that quiet hours are 11pm-11am. All campfires must be open at this time.

Mr. Thompson answered Ms. Harris’ drainage questions, stating there is a fairly flat consistent slope. All improvements will be graded to be collected and put into the four vegetated soil filters. So, there will be no increased runoff from this development.

Mr. Pinette asked if there would be runoff in the stream. Since they have done work on the culverts at Portland Avenue, there has been an increased wet area on my property. I believe this is because the culverts are at a higher level.

Mr. Thompson stated that no, this water will be taken care of through the vegetative soil filter.

Ms. Higgins asked how the Applicant decided to locate the lots as shown on the plans.

Mr. MacDonald

<p>Mr. Thompson stated that he determined the constraints of the site, and then fit them in with the opportunities they are provided. The density in the zoning ordinance states that we have enough room on this parcel for over 230 sites. We are only proposing 54 sites. This is due to a high level of constraints on this property.</p> <p>Ms. Anderson asked if the 14 sites that are a disturbance to the residents are 124 Portland Avenue could be relocated to a different area of the campground.</p> <p>Mr. Winch closed the public hearing at 8:42pm.</p>	
<p>ITEM 9: Conditional Use & Site Plan Review: Final Review: Hid'n Pines Campground proposes to add 54 new full-service campsites at 8 Cascade Road and to expand existing campground in MBL 104-1-4 into MBL 104-1-30 in the Rural District. Owner and Applicant is DGA Enterprises, Agent is BH2M.</p>	<p>ITEM 9</p>
<p>Mr. Thompson read through the Staff Recommendation portion of the Staff Notes.</p> <p><i>Landscaping:</i> We are determining between hemlocks or arborvitae.</p> <p><i>Lighting:</i> we will have the lighting shown, shoebox. The proposed lighting locations will be at the proposed intersections. There will be no street lights along the loop.</p> <p><i>DPW:</i> We'd be happy to do a site walk with Mary Ann Conroy.</p> <p><i>Traffic Impact fee:</i> This needs to be reexamined and we'd like to discuss the number with the Town.</p> <p>Ms. Higgins asked what it would mean for the Applicant as a business, to make that 14 site loop that may bother the abutters a "campfire free" zone.</p> <p>Mr. Jason Ahearn stated that there are people who don't have campfires, but that is because they are downtown instead of having a campfire. But campfires are a part of camping. Family memories are made around a campfire; it would not be desirable to have a campfire free zone. Our season is really 6-7 weeks when we are in full force. For example, we have 4 campers right now.</p> <p>Mr. Lamb stated that the traffic impact fee needs to be further reviewed; the landscape and fencing needs to be worked out; the DPW director would like to go out with the application to discuss drainage at Portland Ave. Due to these items, this application is not ready for a vote. Staff recommends this be tabled for 30 days.</p> <p>Mr. Thompson stated that we would like to hear what the Board would like for buffering so that they have direction of where to go.</p> <p>Ms. Anderson asked if it would be possible to move the three sites closest to the Maloy property away from this area.</p> <p>Mr. Thompson stated that they would look into this as a possibility.</p> <p>Mr. Winch asked if the abutters at 124 Portland Avenue has considered the fact that houses could be built there?</p> <p>Mr. Pinette stated that a house would be a tough thing to swallow too. It is a good question. We'd be looking that 365 days a year.</p> <p>Mr. Lamb stated that the Board should determine where the vantage point should be located. This is some that should be determined before the next meeting.</p> <p>Mr. Mac Auley asked when the campground was established.</p> <p>Mr. Jason Ahearn stated that it was founded in 1963.</p> <p>Mr. Mac Auley asked when the abutters purchased their property at 124 Portland Avenue.</p> <p>Ms. Maloy stated that her family bought the property in 1973. The house was moved 13 years ago.</p> <p>Ms. Higgins asked why the current buffering proposal was curved around the sites.</p> <p>Mr. Thompson stated that there was no particular reason, but that they initially thought this would provide sufficient buffering.</p>	

