

TOWN OF OLD ORCHARD BEACH
PUBLIC HEARING/PLANNING BOARD MEETING
Thursday, August 13, 2009

Call to Order	Call to Order
Pledge to the Flag	
Roll Call: Win Winch (Chair), Don Cote, Tianna Higgins, Mark Koenigs, Eber Weinstein. Absent: Karen Anderson. Staff: Jessica Wagner & Gary Lamb.	
Acceptance of Minutes July 2, 2009 Planning Board Site Walk Minutes approved with a 4-0 unanimous vote. July 2, 2009 Planning Board Workshop Minutes approved with a 4-0 unanimous vote. July 9, 2009 Planning Board Meeting Minutes approved with a 4-0 unanimous vote.	Vote Vote Vote
ITEM 1: Conditional Use Application: Public Hearing: Proposal to establish a Home Occupation Hair Salon at 5 Spring Street. MBL 211-3-2 in the R2 District. Owner and Applicant is Gina Palmitessa.	ITEM 1
Public hearing opened at 7:02pm - No one present to speak - Public hearing closed at 7:02pm	
ITEM 2: Conditional Use Application: Final Review: Proposal to establish a Home Occupation Hair Salon at 5 Spring Street. MBL 211-3-2 in the R2 District. Owner and Applicant is Gina Palmitessa.	ITEM 2
Mr. Winch stated that there appears to be sufficient parking at this property location. Ms. Higgins motioned to grant final Conditional Use approval for the proposal to establish a Home Occupation Hair Salon at 5 Spring Street. MBL 211-3-2 in the R2 District. Owner and Applicant is Gina Palmitessa. Mr. Cote seconded Motion carried 5-0	Motion Vote
ITEM 3: Conditional Use Application: Determination of a Complete Application: Proposal to approve an existing Accessory Dwelling Unit at 188 Portland Ave. MBL 103-1-23 in the Rural District. Owner and Applicant is Janie Newcomb.	ITEM 3
Mr. Koenigs motion to determine the application complete for the proposal to approve an existing Accessory Dwelling Unit at 188 Portland Ave. MBL 103-1-23 in the Rural District. Owner and Applicant is Janie Newcomb. Mr. Weinstein seconded Motion Carried 5-0	Motion Vote
<i>Site Walk at 188 Portland Avenue is scheduled for September 3rd at 5:30pm. Public Hearing is scheduled for September 10th at 7:00pm.</i>	
ITEM 4: Conditional Use & Site Plan Review: Determination of a Complete Application: Powderhorn Campground (MBL 104-1-1) proposes expand the maintenance area into MBL 104-1-11 in the Rural District, Applicant is David Ahearn, Agent is BH2M.	ITEM 4
Mr. Thompson explained that the proposed storage area will be about 1 acre in size, small enough to not require a DEP stormwater permit. This new area will be used to store sand, bark mulch and do necessary maintenance tasks within. This area will be loamed and seeded. Mr. Weinstein asked if it was a problem that there were still no comments from the peer review engineer. Ms. Wagner stated that we would have those comments in before a final Board vote. Ms. Higgins motioned to determine the application complete for Powderhorn Campground	

<p>(MBL 104-1-1) that proposes expand the maintenance area into MBL 104-1-11 in the Rural District, Applicant is David Ahearn, Agent is BH2M Mr. Cote seconded. Motion carried 5-0</p> <p><i>Site Walk at Powderhorn Campground is scheduled for September 3rd at 5:40pm. Public Hearing is scheduled for September 10th at 7:00pm.</i></p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 5: Subdivision Amendment: Public Hearing: 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 5</p>
<p>Public hearing opened at 7:12pm - No one present to speak - Public hearing closed at 7:12pm</p>	
<p>ITEM 6: Subdivision Amendment: Final Review: 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 6</p>
<p>Mr. Thompson stated that these lots are being relocated from section B. He explained the sewer system. The DEP is presently reviewing the minor amendment to the original stormwater management report. Mr. Weinstein asked if this area was open space before this amendment? Mr. Thompson stated that it was golf course or vegetated area prior to this amendment. Mr. Weinstein motioned to approve 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 with the following conditions of approval:</p> <ol style="list-style-type: none"> 1. DEP Stormwater permit must be approved and submitted to the Planning Department according to plans reviewed and approved by the Planning Board. 2. The Homeowners Declarations must be amended per the review comments of the Town Attorney and recorded with the amended plans at the Registry of Deeds. 3. <u>Prior to the commencement of construction</u>, the performance assurance shall be established in the form of a Bond or letter of Credit, and the inspection amount shall be put in an escrow account with the Town. The amount for this performance assurance or guarantee shall be approved by the Town’s peer review engineer. 4. <u>Prior to the commencement of construction</u>, the Applicant shall put money in an escrow account to be used for inspections by the Town’s engineer. This amount shall be 2% of the estimated cost of construction. <p>Mr. Cote seconded Motion carried 5-0</p>	<p>Motion</p> <p>Vote</p>
<p>ITEM 7: Subdivision Amendment: Sketch Plan Review: 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>ITEM 7</p>
<p>Mr. Thompson explained that Section B was originally approved for 76 units. We are now proposing 24 single family style lots. This is proposed to better meet market conditions. Mr. Winch asked where the remaining units will go. Mr. Thompson stated that they are not sure where the remaining units will go yet. There are still sections in Dunegrass that are not built out, and it is possible that those sections could be amended to have a higher density than originally planned for. This amendment is with the DEP permit review for the amendment to section H as well. This will be considered a minor amendment to the existing stormwater permit by DEP. There will be a new pump station 600</p>	

<p>at section B. We are working with the OOB Wastewater Director to insure the pump station meets town standards. Mr. Winch confirmed that the lots will be single family. Mr. Weinstein asked how many buildings there were in the original plan? Mr. Thompson stated that he was not 100% sure. Mr. Weinstein asked if the declarations will need to be amended and rerecorded as they were done in the section H amendment. Mr. Ordway stated that the documents for each section of Dunegrass are recorded as they are built out. There are no existing documents for section B (as there was for Section H). When the declarations are completed, it will be the first time recording.</p>	
<p>ITEM 8: Subdivision Amendment: Preliminary Review: 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>ITEM 8</p>
<p>Mr. Lamb stated that we need to have wetlands mapped to ensure that the lots approved will be 40,000sf of developable area. Ms. Higgins stated the eventual owner of lot 5 will not appreciate the entire lot being covered in a drainage easement. She asked that the next set of plans have some more clarification. Eventually during a large rain event, they water will overrun the easement. Mr. Regis stated that his agent, Northeast civil solutions had not yet arrived at the meeting. Mr. Lamb suggested this item be suspended this until the completion of Item 9 to give the agent time to arrive.</p> <p><i>ITEM 8 was suspended at 7:32pm to leave time for engineer to arrive.</i></p> <p>-----</p> <p><i>ITEM 8 returned after the completion of ITEM 9 at 8:45pm.</i></p> <p>Mr. Lee Allen, PE (Northeast Civil Solutions) explained the stormwater proposal. He stated that there is currently a 12 inch culvert that goes across Ross Road. Currently, when it rains the water backs up into the areas around the culvert, creating a pond in and around the proposed lot 5. Our thought is to create a drainage area for the water to run on to. If it rains, the water will be in the drainage easement areas for a short time and then dissipate. The utilities for the proposed lots are as follows: lot 3 will be on septic; lot 5 will connect to the existing force main on Ross Road; lot 6 will also connect to public sewer via a gravity main. Ms. Higgins stated that there must be a better way of dealing with the drainage around lot 5. The owners of lot 5 should be able to use the land. Technically they can do nothing in the easement area. Mr. Allen stated that the water will not be here often. However, we can revisit the stormwater area to place it in a more appropriate space on the property. Mr. Lamb stated that we need either the wetlands mapped or a letter from the wetlands scientist confirming that there are no wetlands on this property. Ms. Higgins made a motion to grant preliminary approval for the 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. Mr. Cote seconded. <i>Motion carries 4-0-1 (Mr. Koenigs abstained)</i></p>	<p style="text-align: center;">Motion</p> <p style="text-align: center;">Vote</p>

<p><i>Site Walk at Regis Acres is scheduled for September 3rd at 6:00pm.</i></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 showed the site plan on sheet 1 & the landscaping plan on sheet 12. He pointed out the pedestrian fence around the property. There are a total 54 trees and we are very comfortable that we have met the buffering requirements for this campground expansion. Mr. Winch stated that we need to read through all of the standards in Site Plan Review (Sec. 78-216), Conditional Use Review (Sec 78-1240) and Campground Overlay zoning requirements (Ch. 78-1229). Beginning with Section 78-216, Mr. Winch read through the Ordinance and polled the Planning Board on each item prior to continuing.</p> <p style="text-align: center;">SITE PLAN REVIEW STANDARDS (Section 78-216)</p> <p>78-216 (1) the Chair polled the board for unanimous agreement. 78-216 (2) the Chair polled the board for unanimous agreement. 78-216 (3) Discussion, unanimous agreement: Mr. Winch stated that the sewer capacity appears to be an issue. Mr. Lamb stated that there are sewage capacity issues with the town, and when it is raining in the summer there are capacity issues everywhere. The Wastewater Director has been stating this for 2 years that there are capacity issues with every development when it rains. If we said no to development because of capacity issues, there would be no development in town. Mr. Winch polled the board for unanimous agreement. 78-216 (4) the Chair polled the board for unanimous agreement. 78-216 (5) Discussion, motion, vote: Mr. Winch stated that this is where we need to discuss the traffic impact fee. Referencing the comments in the Staff Notes document, he stated that Gorrill Palmer reviewed the proposal in relation to the 2007 OOB Transportation Improvement Plan and suggested a traffic impact fee of \$36,423.45. This does not take into account the seasonal nature of the campground and the large number of Hidn Pines customers who walk to the beach. Since the 2007 OOB Transportation Study has not been adopted as Town Ordinance, Staff has informed us that the Board must determine the appropriate amount for a traffic impact fee as a condition of approval. The Public Works Director has indicated that the Ross and Cascade intersection needs a \$12,000 signal light upgrade. If an impact fee is assessed, the amount chosen by the Planning Board will be used toward these improvements. He suggested that there be a 50% payment reduction in the \$12,000, so the applicant would only pay half. Ms. Higgins stated she doesn't agree with the \$36,000 and does not feel they should pay the full \$12,000 for the light improvement. She would suggested a traffic impact fee of \$8,000 be paid. Mr. Cote asked what the traffic impact fee situation was for Castle Estates and the Dunegrass subdivision on Cascade Road? Mr. Lamb stated that Castle Estates was required to pay \$2,500 (though this has not yet been paid). Dunegrass paid up until 334 units. This unit threshold has not yet been met. After more than 334 units are built out, they will begin to pay traffic impact fees. This is due to the significant improvements this subdivision has already made to the road infrastructure in this area. Ms. Higgins made a motion for the traffic impact fee to be \$8,000. Mr. Cote seconded <i>Motion carried 5-0</i> 78-216 (6) Discussion, unanimous agreement:</p>	<p>Motion</p> <p>Vote</p>

Mr. Cote stated that he doesn't feel it has a severe impact on wildlife.
Mr. Weinstein stated that he feels this is a reasonable use of the property, as far as the impact on the environment and wildlife.

Mr. Winch polled the board for unanimous agreement.

78-216 (7) Discussion, motion, vote:

Mr. Winch stated that with this section, the bottom line of this is to decide if this is a nuisance or not. He stated that he came across the collection of comments from several abutters stating that they did not have a problem with the campfire smoke. This alleviated my fears about the smoke issue. I felt pretty strongly that smoke was a nuisance for abutters until I read the testimonials provided to us last October.

Ms. Higgins stated that she has been close to Paradise Park Campground for 9 years and she has never smelled smoke once. This would be a short period of time that people may feel it is a nuisance, but I don't feel this is an odor issue.

Mr. Cote stated that he was originally against adding 54 campsites in the beginning of this review process, remembering the old campground at Acorn Village behind the house. However, I realized this summer, that I have a fire pit behind his house. My fire pit may have an impact on my neighbors in the condos. As a homeowner, nothing stops the next homeowner from producing campfire. Since we don't regulate campfires with homeowners I don't see how we can deny the existence of a campground due to the impacts of campfires.

Mr. Koenigs stated that he feels Old Orchard Beach's quality, life and character is campgrounds. He stated that he has no problems with the smoke.

Mr. Weinstein stated that the testimonials from the majority of the abutters say it all. I don't see smoke as a nuisance.

Mr. Cote stated that we have had other campground expansions come across us before, and this has never been an issue before.

Ms. Higgins motioned that I believe seasonal campfire smoke during the operation of the campground will not adversely impact the quality of life, character, or the stability of property values of surrounding parcels.

Mr. Koenigs seconded

Motion carries 5-0

78-216 (8) the Chair polled the board for unanimous agreement.

78-216 (9) Discussion, unanimous agreement:

Mr. Cote stated that he agrees with this. When his property was surrounded by a campground, his assessment was higher. When the abutting parcel was converted to condominium, the assessment went down. Based on this, I believe campgrounds do not have a negative impact on the value of surrounding properties.

Mr. Winch polled the board for unanimous agreement.

CONDITIONAL USE STANDARDS (Section 78-1240)

Sec. 78-1240 (1) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (2) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (3) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (4) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (5) Discussion, motion, vote:

Mr. Koenigs made a motion that I believe that the seasonal nature of campfire smoke during the operation of campground will not create unhealthful conditions because of smoke, dust or other airborne contaminants.

Mr. Weinstein seconded the motion, adding that there will not be enough smoke to make it unhealthy.

Motion

Vote

Motion

Vote

Motion carried 5-0

Sec. 78-1240 (6) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (7) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (8) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (9) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (10) *Discussion, unanimous agreement:*

Mr. Winch stated that the board needs to decide if the buffering is sufficient.

Ms. Cote stated that cutting trees down to make room for this buffer will only add light to this buffer area that will help these trees grow. It is in my opinion that the landscape buffering plan will improve the 100ft buffer zone, and the buffering between the three sites and the neighboring properties. If it was just the fence, it would not provide as great of a visual buffer. This is much better than simply a fence.

Mr. Weinstein stated that he agrees with Mr. Cote.

Ms. Higgins stated that adding the buffer in the alternating pattern as shown will create a sufficient buffering system. With this buffer, more shrubbery naturally existing will grow with the more light created.

Mr. Winch stated that he feels that if you are going to have the trees in the buffer, they should be planted at 10 feet intervals in two rows.

Ms. Higgins stated that it is my opinion to keep all trees in the buffer all the same height for uniformity. This will ensure a healthier vegetative buffer.

Mr. Koenigs stated that we should have the discussion about planting trees in the required 100ft natural buffer when reviewing Sec. 78-1229 of the Ordinance.

Mr. Winch polled the board for unanimous agreement to Sec. 78-1240 (10).

Sec. 78-1240 (11) the Chair polled the board for unanimous agreement.

Sec. 78-1240 (12) the Chair polled the board for unanimous agreement.

CAMPGROUND OVERLAY STANDARDS (Section 78-1229)

Sec. 78-1229 (1) *Discussion, motion, vote:*

Mr. Weinstein stated that he feels that it would be incorrect to use the 6ft spacing between the Canadian Hemlock trees. The 10ft spacing would be a more appropriate spacing.

The board agreed that 10ft spacing is appropriate.

Mr. Lamb stated that to meet the ordinance, the trees planted need to be 8ft tall. If the Board would like to make them taller, that is at their discretion.

Mr. Weinstein stated that 8ft is sufficient, as they will continue to get taller. In time, the buffer will continue to improve.

Mr. Lamb stated that if you are going to have a debate about what is and what is not a naturally vegetative state, this is the time to have it.

Ms. Higgins stated that adding trees to a naturally vegetated area does not infringe on this area as a naturally vegetated state.

Mr. Cote, Mr. Koenigs, Mr. Weinstein, and Mr. Winch all agreed.

Mr. Koenigs stated that this is not an “improved area”, so there is not a problem with having these trees here.

Mr. Koenigs made a motion that the applicant has met the standards for buffering as read through Section 78-1229 (1) (a), (b) & (c), as shown on sheet 12. We accept the recommendation of Canadian hemlocks at 8ft tall and 10ft on center spacing.

Ms. Higgins seconded.

Motion carried 5-0

Sec. 78-1229 (2) the Chair polled the board for unanimous agreement.

Motion

