

**Town of Old Orchard Beach  
 Planning Board Meeting and Public Hearing  
 February 12, 2015**

<b>Call to Order at 7:21pm</b>	<b>Call to Order</b>
<b>Pledge of Allegiance</b>	<b>Pledge of Allegiance</b>
<b>Roll Call:</b> Win Winch, Eber Weinstein Chair, Mark Koenigs Vice Chair Staff: Jeffery Hinderliter Town Planner, Molly Phillips Meeting Note Taker Town Attorney Phillip Saucier	<b>Roll Call</b>
<p><b>Item 1:</b>  <b>Proposal:</b> Subdivision: 31 lot Cluster Subdivision for single-family homes (Orchard Estates Subdivision)  <b>Owner:</b> Diversacorp LLC  <b>Location:</b> 202 Portland Ave., MBL: 103-1-45 &amp; 103-1-32</p> <p>Open to Public Comment: 7:23pm</p> <p>Laura Shafsna 204 Portland Ave: I spoke here a couple of months ago. I am mainly concerned about groundwater. We've been negatively impacted by Beachmont. I have had a chance to talk to Johnny Hall. We had water seeping in through our water main between Christmas and New Year's. That is something that started with Beachmont.</p> <p>Closed to Public Comment: 7:24pm</p>	<b>ITEM 1</b>
<p><b>Item 2:</b>  <b>Proposal:</b> Subdivision and Conditional Use: Establish 24 unit free-standing condominiums (The Turn Subdivision)  <b>Owner:</b> Dominator Golf LLC  <b>Location:</b> Wild Dunes Way, Adjacent to Dunegrass Section C, MBL: 105A-1-200</p> <p>Open to Public Comment: 7:25pm</p> <p>Danny McKinley 53 Wild Dunes Way: We were talking the other day with some other residents and we weren't sure how this project has progressed or what stage it's in. What we as neighbors are concerned about is the saturation of the community. General concepts are understood but we have concerns about load on infrastructure like traffic, water, and electricity. We have concerns that it's not good for the existing homeowners. If you happen to live on the first fairway, there's nothing stopping them from slapping houses in front of the view. There's a lot of folks that aren't interested in seeing this project move forward. There's more bad than good for the existing home owners.</p> <p>Barbara Boutet Owner of Dunegrass: I grew up in Old Orchard and graduated from the local high school. We received our approvals in 1988. In 1995 we restarted construction, and in 1998 we opened the course and the clubhouse was opened a year later. In Aug. 2007, Sharon was taken from us and our son Steven took over the golf course and clubhouse operations. In the Fall of 2008 we are approached by Dan Harahan who owned the Nonesuch Golf Course with a cash offer and we decided to sell. I am the owner of the remaining</p>	<b>ITEM 2</b>

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undeveloped sections of Dunegrass which are C, D, E, L, phase 2 M, and Q. My immediate concern is that the development will impact my abutting undeveloped sections that were not intended to be developed in the original plan. My husband, Ronnie, has retained an engineer to evaluate the impact of this development on our already existing developments. The impacts include: connection to the public sewer system, alteration of drainage patterns, development of an area that is supposed to be abutting open space to our properties, capacity of the existing infrastructure to handle unplanned units, and other impacts that my result from this development. I have long-range concerns about a precedent being set for development of the golf course. That was not the intent of the original design and approval. And I would ask the Planning Board to consider the impacts of an approval for this development on Dunegrass.

Ed McColl Legal Representative: I submitted a letter addressing the concerns of the Boutet's. I think they should be treated as parties in this proceeding. My understanding is that this application is to amend the approvals of 1988. We have looked at how this development through our engineer and it isn't clear how it will tie in to the rest of the proposal or the rest of the Boutet's properties. We would like to be recognized as parties with respect to any plan that my client's obtained approval for in 1988. So that what we can be certain that an amendment doesn't harm our clients. What we've seen of the amendment is that it doesn't address a number of things. Our understanding that the applicant wants to leave Hole 9 in its temporary position and build a housing plan where the green was designed to go. My sense is that currently the temporary tee for Hole 9 is partially on Boutet land and partially on the pond site that should be used for drainage. Whatever analysis has been done to the unit count has not been submitted to us. We hope that comment will be kept open.

Ronnie Boutet Owner of Dunegrass: I first want to say, we are not here to fight something, we are here to understand it. I think I have a basic understanding of the intent for that development. I also feel I made commitments to people who bought there. Change of course happens throughout life and we have to accept it, but it's tough to accept it if it isn't understood or explained. All I ask for a positive finding of fact. Thank you very much.

John Beady 21 Cherry Hills Road: I would like to thank Mr. Puligaris for one meeting with us before doing section C, this is first time Mr. & Mrs. Boutet in the time that I have been living here. Open space, what is it? It's never been explained at these meetings. I want to thank Mr. Puligaris for creating a project that will maintain the value of our homes in Dunegrass. Our home value is what we are looking for and the golf course is still one of the top ten courses in Maine. I would like to see this project go through. I think the people living at 53 Wild Dunes Way are confusing this project with Sawgrass. George Hazelton is the head of that organization and he has sent you folks a letter that the majority of abutters approve this project.

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<p>Eber Weinstein: The proposal to extend the public hearing is valid I think. But I don't know if we are going to find out anything else so it may not be worth it.</p> <p>Jeffery Hinderliter: I think if the board chooses to extend the public hearing I don't see any big projects for March.</p> <p>Eber Weinstein: I think because of the complexities of this project we need to extend it. If the board goes along with that, it might be worth going another round just to gather more information.</p> <p>Jeffery Hinderliter: I think if the board just closes this public hearing temporarily we can address that under the regular meeting item. We have only this week taken in comments that not only you need to consider, but also our legal council needs to review it.</p> <p>Phillip Saucier: I think you should close this public hearing. It's a regular agenda item and you could take comments later as the chair.</p> <p>Mark Koenigs: If we have it on the agenda do we have to republish it?</p> <p>Phillip Saucier: As long as it's an agenda item you wouldn't have to re-notice the public for a public hearing you could just recognize comment during the discussion.</p> <p>Mark Koenigs: So, if people see it on the agenda, they should know that they can come and comment on it. But not re-hash it.</p> <p>Phillip Saucier: You wouldn't be extending the public hearing, you would just be able to recognize anyone who wants to speak at the next meeting when you encounter that agenda item.</p> <p>Eber Weinstein: So, Jeffery on the next meeting, why don't we write that we will allow some public comment on this one.</p> <p>Close the Public Comment 7:47pm</p>	
<p><b>Consideration of the Meeting Minutes: 12/4/14, 12/11/14 and 1/8/15:</b>          Eber Weinstein: We'll have to table this one</p> <p>Mark Koenigs: The Roll Call should be included in the minutes</p>	<p><b>Meeting Minutes</b></p> <p style="text-align: center;"><b>Tabled</b></p>
<p><b>Item 3:</b>  <b>Proposal:</b> Subdivision: 31 lot Cluster Subdivision for single-family homes (Orchard Estates Subdivision)  <b>Action:</b> Site Walk Report; Review New Submissions; Discussion; Waiver Vote; Final Review</p>	<p style="text-align: center;"><b>ITEM 3</b></p>

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**Owner:** Diversacorp LLC

**Location:** 202 Portland Ave., MBL: 103-1-45 & 103-1-32

Bill Thompson: We are in a clustered situation with lots from 20,000sf to 30,000sf. It is a rural zone in which we are requesting a waiver on the minimum frontage. Some of which are 90 feet, smaller and up to 130 feet. The change in the plan is that we have a vegetation soil filter in this area instead of the level spreader. Those are a very shallow basin with a basic network of pipes that go down maybe 2 feet deep. It collects and treats the storm water and discharges it to a low point. They are very effect for water quality management and meets the DEP chapter 5 best practices.

Eber Weinstein: How do those work in the winter as opposed to the other?

Bill Thompson: A little bit of an issue as far as freezing and thawing. They are pretty effective. They get inspected every year and make sure the infiltration is working. The other thing is the 6.6 acres of open space. We are protecting the two streams from development with a 75 foot setback. No grading, no change to the conditions. We have 5,000sf of roads with 20' wide pavement. There is a section of the road that is at 8% that we are asking for a waiver on. My feeling is that it's 250 feet and there are no safety issues. The other thing about this project is the big brick house, very historic and very old. There has been a real desire on the town's part to protect that and convey that. There have not been many changes. I hope tonight we could move forward with these waivers and get them accepted. We would like to ask for the preliminary approval with a condition for DEP approval.

Jeffery Hinderliter: Thank you for the level of participation that the engineers and developers have had and allowing us to be involved in the design of it. This relationship has continued, although it is noted on the agenda for Final Review, part of my recommendation is that we not vote on Final Review. It's not because of the design or anything, but because of the gift. It's still in discussion and the 19<sup>th</sup> of February at the Town Council Workshop is when we will get Town approval. I think this is ready for approval, other than that. In regards to the waivers, I recommend Planning Board approval of them. This is after careful consideration after speaking with Bill Robertson of Public Works. The only concern he had was the maximum grade from 6% to 8%. We asked that the engineer can look to reduce that grade, but considering the ledge and the blasting costs associated with it. It's not a throughway and is limited to 14 lots of access. They tried and found that the 8% grade is the best case scenario. The waiver request was submitted in January, but I made copies for this month. I am recommending that the Planning Board approve these waiver requests. But Final Review will be held off until the March 12th meeting, when we have an agreement on the gift.

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Eber Weinstein: Since we are going to be waiting for one more meeting anyway, I would like to get something specific from Public Works before approving the waiver.

Win Winch: Well most of them have to do with the cluster development? I mean the lot frontage and square footage of the lot are part and parcel with the whole approval.

Jeffery Hinderliter: It's still part of the waivers. They could vote for all waivers except for the 6-8% grade.

Win Winch: What's the issue? It looks like a lot of cut and fill.

Jeffery Hinderliter: It's a lot of ledge in that area and to reduce it, would affect beyond the area where the grade changes and it's a considerable cost.

Bill Thompson: Just to put it into perspective, an 8% grade is an 8 foot change over a 100 feet area. It's really not that steep.

Eber Weinstein: If Public Works agrees with it, then I'll agree with that. I would just want to wait one more meeting on that. Then as far as connecting I think we proposed a breakaway gate.

Jeffery Hinderliter: I looked at that and looked over my notes but there's really no where to connect it to, to the Beachmont access road. All of this has been submitted to Public Safety and we have received no objections.

Mark Koenigs: Has the Town Planner received the Town Engineer comments back?

Jeffery Hinderliter: In terms of the 6-8% grade, after the applicant tried and couldn't make that, I have not heard back from the engineer. We have received comments from the engineer regarding the hammer head, which is allowed and not a waiver as long as it meets the street standards.

Eber Weinstein: By going from 24' wide paved roads to 20' wide, would they still be eligible for public roads later in time?

Jeffery Hinderliter: Yes, we met with them last week and Public Works did not have a concern. Especially because they are putting a full ADA accessible sidewalk.

Win Winch: I think I hear what you are saying is that the sidewalk being built makes the reduced road width possible.

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Jeffery Hinderliter: The side walk takes up 4-5 feet and also when you see the perimeter there is going to be a buffer that is installed of 20 feet. Plus, it's a rural area.

Mark Koenigs: I am not prepared to move on the waivers tonight. I would vote no if we brought it to the floor.

Eber Weinstein: So then, I would move that we table this for the next meeting. It seems to be more opportune for you to wait and we have to wait anyway. My own feeling is that if Public Works agrees, I have no problem.

Mark Koenigs: The subdivision that this abuts had to get a waiver for not connecting to the sewer system over 15,000 sf. Why is this project different? What is the town's consideration for connection in the future? Because this is putting 31 house lots and one of the abutters brought up the concern about groundwater and I would like to hear the Town Engineers opinion. Because this development is right on the water way, when it breaks out, it's going to break out right there. Downstream is conservation type land.

Jeffery Hinderliter: Mark, I think you are correct. I think the requirement is that clustered subdivisions do require a common system. I think we can easily add that to the application with justification to the waiver list. As for the town's plans for sewer extension...

Mark Koenigs: My thought here, listening to the comments of the abutters, the rural district should be low density. Therefore if you are putting septic systems in this more high density cluster subdivision, and this is the second development to do that, and take into account Homewood, there are financial and future conflicts. As a Planning Board we are passing these things and not really working in concert with the Town as far as the Sewer Department, which I think creates a problem. Once the sewer goes past your house you should really be connecting to it.

Jeffery Hinderliter: Yes, and one thing about Homewood is that it has early 1960's engineering. It goes beyond 2015 engineering with very detailed plans for storm water and septic but none the less, the Rural District is the last area in town available for development. Of course it is something the Town must consider in its Comprehensive Plan.

Mark Koenigs: I did prepare a plan for the site to coordinate with the Conservation Committee trying to get grant money for the Milliken Mill project and allow connection and access to that land that would be a proposed gift to the Town. At the site walk, the abutter from Beachmont, brought up the point that he was wanting the buffer space to be a no cut area with no trails and the 10 foot border would be protecting him from development coming too close to his property. It opened my eyes, abutters might not want a trail, and I have met

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<p>with the Conservation Committee Chair and he has already talked to Bill Robertson, we had a meeting for the location of the crossing and where it would be. I will email the Town Planner and hopefully we can work together to make this a part of the design of this project, otherwise it won't happen.</p> <p>Motion to Table: Eber Weinstein          Seconded: Win Winch</p> <p>Call to Vote:          Mark Koenigs: Yes          Win Winch: Yes          Eber Weinstein: Yes          3-0 passes</p>	<p style="text-align: center;"><b>Motion</b></p>  <p style="text-align: center;"><b>Vote</b></p>  <p style="text-align: center;"><b>3 Yes – 0 No</b></p>
<p><b>Item 4:</b>  <b>Proposal:</b> Subdivision and Conditional Use: Establish 24 unit free-standing condominiums (The Turn Subdivision)  <b>Action:</b> Site Walk Report; Review New Submissions; Discussion; Final Review  <b>Owner:</b> Dominator Golf LLC  <b>Location:</b> Wild Dunes Way, Adjacent to Dunegrass Section C, MBL: 105A-1-200</p> <p>Eber Weinstein: I don't if we should go through the legal issues before we have a presentation?</p> <p>Jeffery Hinderliter: What I recommend is that we have a presentation to the board, and then I think that because these legal issues are new, we should give Phil our legal representative some time with the information. So, I think we should listen to the presentation and table further consideration until the next meeting.</p> <p>Matt Warner: I would respectfully push back slightly on that recommendation. I would contend that the parties are all represented by their legal counsel here at this time and we should be able to speak about these issues rather than table it to March.</p> <p>Eber Weinstein: We are willing to listen to the presentation.</p> <p>Phillip Saucier: I have already presented a memo on some of these things. I am seeing the application for the first time tonight. So, if there's anything specific I don't want to answer on that because I don't want to answer on the fly. I have read the submissions from the two attorneys.</p> <p>Bill Thompson: The Turn at Dunegrass, we were last here in January and presented the plan pretty much as you see here. 24 units on 5.3 acres, the site is next to Hole 9 just off Wild Dunes Way. The big change with the DEP was the wetland at the end of the development and so we moved one unit up to Wild Dunes Way and another in the rear of this lot to accommodate the DEP request.</p>	<p style="text-align: center;"><b>ITEM 4</b></p>

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We have the public water coming in from Wild Dunes Way and pressure sewer system with an E1 pump system. We will pump to the existing pump station which goes up the hill and around the corner. Then it goes into a gravity system and it becomes a public system at that point. All underground utilities coming into the development. We are managing our own storm water. We have a curbed storm system that will be directed to a new retention pond to manage water quality. The report now, with these changes, is in at the DEP. 20 foot wide roadway serving the 24 units. We are hoping for a preliminary approval.

Eber Weinstein: As far as the sewer to the pumping station, is that for everyone?

Bill Thompson: The pump station is owned by Dominic. With this sewer coming into it, it would require more controls to pump more often.

Eber Weinstein: It was brought up in the public hearing and it was one of my questions was, how does this affect the golf course or Hole 9? Can we get a better explanation of that?

Dominic Puligaris: There are no holes that need to be moved. We are don't need to move the holes, it plays fine. Whether or not we can build more housing around it, absolutely but we aren't moving any of the holes. Quite frankly it was a ridiculous comment. It's my golf course, if I want to change the holes, I can change the holes but I am choosing not to change them.

Win Winch: All those driveway cuts on the curb on Wild Dunes Way don't seem safe with low visibility of that curb. I know it well and I drive through it, but it's not a low speed road, traffic moves through there pretty good. It's a concern.

Mark Koenig: Did you put on the plans the calculations for open space?

Bill Thompson: Well, this project is an amendment to the original plan and when it was approved, the 312 acres of Dunegrass, it needed 109.2 acres or 35% open space. The remaining open space is 159 acres is 50% of the project.

Phillip Saucier: If I may, I actually agree with the applicant that this is not a standalone project, it's an amendment. So we are looking at the whole thing.

Mark Koenigs: I want to read for the board and the rest of the public what the definition of open space is: Section 78 under zoning: Use of open space is not involving a structure, moving of earth, or the removal or destruction of vegetation. Spawning grounds of fish, aquatic life, birds and other wild life habitat. Are you saying the golf course meets that definition of open space? You have already cut down the trees on the golf course so for me, that doesn't qualify as open space.

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Jeffery Hinderliter: Actually the original report from the DEP does mention the golf course as the open space.

Mark Koenigs: So, I want to see his letter stating that calculations for open space as a whole for the project.

Phillip Saucier: I would have to go back and look, but I do think that in previous approvals the board has considered the golf course open space. The calculations that everyone has used do include the golf course including Mr. Boutet's amendments. I would just be careful about that in terms of treating the entirety of the project. If you take away the entire golf course it changes everything.

Mark Koenigs: Something has to be tried up or squared up here. This is the project to do it. I have asked to have it addressed every time you have been here.

Matt Warner: I understand your point about the golf course not being traditional in open space. But it is an accepted open space by this board since 1988. If you remove the golf course, it puts all the other projects in jeopardy of not meeting open space requirements.

Mark Koenigs: In my opinion, open space would have to be accounted and calculated in all those proposed projects, this one included.

Matt Warner: I guess if we could just ask for more clarity then?

Mark Koenigs: I'm saying there is open space within the golf course. It excludes ponds, that shouldn't count as open space. It excludes fairways, greens, pathways, and any type of structures like the clubhouse and the parking lot. There is space, it's on the fringe, and it's where everyone is afraid you are going to build houses. And that's my point, do you understand? It's your land and you can develop it any way you want, but you have to stay within the PMUD requirements and I am just trying to make it very clear going forward.

Win Winch: This is a town ordinance.

Dominic Puligaris: The DEP has made it very clear since 1988 and all the subsequent amendments have all been done using the golf course as open space. So to come here tonight, just because there is some hoopla going on, is wrong.

Mark Koenigs: I didn't start tonight. I've brought it up every time we talked about Dunegrass.

Dominic Puligaris: If there wasn't a big deal here you would vote on it as open space and approve it as open space. You're just bringing it up tonight because

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someone who used to own this property is trying to stop me from developing my land. My land, not his land, my land. And for you to put the line in the sand right now, is wrong. It's wrong.

Mark Koenigs: All I am asking for is information.

Dominic Puligaris: You know what, you already have it. The DEP and the Town have both approved this as open space, you know that Mark. All of sudden now, because Ronnie Boutet doesn't want me to develop my land, you want to stop the process.

Mark Koenigs: You are asking for an amendment.

Dominic Puligaris: We're asking for an amendment that's the same as all those down the line.

Phillip Saucier: I recommend maybe this is one of those issues that we can have people submit something on for next time and discuss it. I would just say that we should be very consistent. I don't agree that you should change how approvals have been a handled in regards to open space with current projects looking for that approval. If you do change that, you would be jeopardizing other projects and future projects other than tonight. I am not a decision maker, that's you. But I am advising you, since I would be representing you if it were challenged. You would be looking at the 1988 approval as amended and building upon that.

Mark Koenigs: The thing about change is that the definition of open space can change as well. The DEP might have considered the golf course as open space in 1988, but they might not now. And if they do, I would like to know that.

Dominic Puligaris: Well, they clearly do because they approved my last two developments that way and Ronnie's development that way.

Mark Koenigs: Are they looking at open space as whole?

Phillip Saucier: I believe they do look at that.

Mark Koenigs: See, that's all I wanted to know.

Eber Weinstein: Can we get a quick, one page, legal something like that? Just something simple so that we can see what precedent's been set and how it relates to definition. That way the Town and the board is protected.

Phillip Saucier: I think that you leaving it open to public comment may be the best course because they may have comments on the open space. I think both

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of these parties would have something to say about that. I think I will simply do is say what's happened in the past.

Eber Weinstein: Just a definition of what open space seems to mean and what is accepted.

Mark Koenigs: I am an engineer, as one I need to see the calculations and tabulations to make a good decision as the one judging this.

Dominic Puligaris: I understand and respect that. But nothing has changed since we got the approvals for Legends Cove, the 11 lots. All that information was in that packet that you signed off on.

Mark Koenigs: And to that, I asked for that at that time too.

Eber Weinstein: I think he just wants a resubmission of that. With any additions since then and updates.

Mark Koenigs: The other thing I have written down is density. What is the density as far as housing units per plan?

Bill Thompson: Now we are talking about units coming out of the total 589 unit count.

Mark Koenigs: But as far as acreage, the total is 312 acres, so what you are saying you are taking that from the total.

Bill Thompson: Yes, the density if 589 units with in this development.

Matt Warner: If I could just speak on this issue, because it will be coming up shortly. As we discussed in earlier meetings this unit count is a very useful proxy for density. 589 units with 312 acres is the proxy for density. As you know and as this notion has been asserted by applicants to the Planning Board. Virtually all developments approved in recent years have reduced their unit count from incredibly dense multifamily homes to single-family homes. Density as we see it, is well below, accounting for all other approvals out there and built out today.

Mark Koenigs: If you still have the 35% open space, you can actually take some of his open space and keep building units until all the units are used up. And all the subdivisions that haven't been developed can be built out however they want but they are taking up the space. Somebody has to think that through, both applicants, since they are the owners of the property. If they can't agree I don't want to have them come to me over and over.

Matt Warner: We certainly don't assert that those who already have approval can't build at Dunegrass. What's approved is approved.

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Mark Koenigs: So, you are saying that the projects on this plan can be built as is and they don't have to come before us.

Matt Warner: Although, that's not the way that it has worked out because of economics. These multifamily unit homes are not profitable anymore. Single family homes are the way of today. As you most certainly know, my client and the Boutet Family are engaged in several lawsuits at the Superior Court, all of them about Dunegrass. One of them is involved in this issue of units, the Planning Board does not have jurisdiction in these matters and probably has no interest. We are here for you to consider this proposal, as allowed by the ordinance, with a very straight forward set of factors. We will provide the open space table for you at the next meeting. We have right, title and interest to the property and that should be that.

Eber Weinstein: Personally I am basically in favor of it. I just want to make sure that the Town is covered. I would like the open space calculations and the letter from our lawyer on the open space definitions.

Win Winch: I just want to add, I want to see no more of this stuff when I get here. Luckily the meeting started late and I tried to look this over, but I need time. And, I'm going to say this right now, next planning board meeting I come to, if there's any more of these statements and written comments that could have been submitted earlier, I quit. Get that stuff in! Enforce the deadline. We're volunteers, I spent the whole afternoon on this and get here and there's a whole other bunch. Unless that's public testimony, in advance, I'm out of here. I have been on this board a long time, in Scarborough it was strictly enforced, we have to do that here. Jeffery is so nice, he keeps taking it in, but I'm giving him the authority to say no. The deadline is here, it's in or it's not, or it's off the agenda.

Eber Weinstein: As chairman I think we have discussed this before. I know you have a hard job, it's a toughie. You have to do it every day, we don't. But, if Winn goes there may not be a quorum ever. We don't want that. Maybe you could just tell people that if they don't make it in time, they are going to have to wait 1 more time.

Jeffery Hinderliter: Thank you. If I can just add, there was additional information submitted tonight that was more application related that you do not have. You have the public comment in light of the public hearing. There is no deadline on public comment. We can work that into our ordinance, easy enough. I have been trying, and I don't want you to quit Winn, and it's come to a head a couple meetings ago where it's reached a point where I've had to.

Eber Weinstein: Alright, thanks. We all have tough jobs. Do we have a motion here?

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Mark Koenigs: Where it says on our agenda, Action? I guess I have brought this up before. When you show on the agenda public hearing and final review at the same time, and at the same meeting we have the public hearing it's confusing. I am not prepared to make a final review on this item as well. So, as I understand it, we have a waiver vote, and final review. I'm going to ask that both of those things be tabled.

Jeffery Hinderliter: If I may, I actually tried to adjust this, to make it a bit more complete. It doesn't mean that you have to take these actions.

Mark Koenigs: In the past before you were here it said on the agenda, "Action" and then there was a memo with a recommendation for this meeting. And it was more put together, so that I actually had it when it was happening. We would take in the testimony, give the applicant our comments as a preliminary review of the application. If we've said the application is complete, but then they make changes. We still have to have time to review it, get stuff from the engineer and department heads. On the previous agenda item I moved to table it. Regardless of what's going on in the background, it says it on the agenda and so the applicant thinks things should be moving forward.

Bill Thompson: I just have one comment, I don't believe we have any waiver requests on this project. And my understanding was that you were going to go through the presentations, then set the date for final approval but vote on a preliminary approval. That's how it has worked in the past.

Dominic Puligaris: We spent a lot of time and effort to make sure this plan is right and perfect, not to be delayed another month after another. There is nothing that isn't right, correct, or ready to vote on.

Checklist for Subdivision Article 1 – Sec. 74-2: as per the Application-

1. The proposed project will not result in undue water or air pollution:

**Response:** The development of a residential units will not result in undue water or air pollution.

2. The proposed project has sufficient water available for the needs of the site plan project:

**Response:** Public water is available for this site. We will secure a letter stating "ability to serve" from Maine Water.

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3. The proposed project will not cause an unreasonable burden on the existing water supply.

**Response:** There will be no unreasonable burden on the existing public water supply with an existing 12" water main.

4. The proposed project will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed both on-site and off-site:

**Response:** The proposed units will access from Wild Dunes Way with a 90 degree intersection. Sight distances in both directions exceeds 300 feet.

5. The proposed project will provide for adequate solid and sewage waste disposal:

**Response:** Solid waste will be handled under the existing Town's collection system with licensed haulers. Sewage waste will be pumped to the Town's Municipal Sewage Treatment Plant.

6. The proposed project will not cause an unreasonable burden on the ability of OOB to dispose of solid waste and sewerage:

**Response:** There are no known issues with the ability of the municipality to handle the solid waste from these 24 units. The municipality will be handling any sewage waste.

7. The proposed project will not place an unreasonable burden on local municipal or governmental services:

**Response:** There will be no unreasonable burden on local municipal or governmental services from 24 residential units.

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8. The proposed project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic use, or rare and irreplaceable natural areas:

**Response:** The proposed development has been designed so as to not impact the scenic or historic significance of this site. The units are bordered by Golf Hole 9 and 10.

9. The proposed project is in conformance with the OOB Comprehensive Plan, the Zoning Ordinance, the Site Plan project Ordinance, and all other pertinent regulations of OOB:

**Response:** This project will conform to subdivision regulations for the PMUD zone.

10. The proposed project will not adversely impact the water quality or unreasonably affect the shoreline of any waterbody, watercourse, wetland, or tidal waters located within 250 linear feet of the proposed project:

**Response:** N/A

11. The proposed project will not, alone or in conjunction with existing land use activities, adversely affect the quality and quantity of ground water:

**Response:** The approval of this residential project will in no way adversely affect the quantity or quality of groundwater.

12. The proposed project will not unreasonably interfere with access to direct sunlight for solar energy systems:

**Response:** The proposed construction of homes under the current zoning of height limits will not unreasonably interfere with access to direct sunlight for solar energy systems.

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Section 74.2 as per the ordinance: Sec. 74-2. - Purpose.

The purpose of this chapter shall be to ensure the comfort, convenience, safety, health and welfare of the people; to protect the environment; and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the town, the planning board shall consider the following criteria and before granting approval shall determine the following:

- (1) The proposed subdivision will not result in undue water or air pollution. In making this determination it shall at least consider the following:
  - a. The elevation of the land above sea level and its relation to the floodplains;
  - b. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - c. The slope of the land and its effect on effluents; and
  - d. The applicable state and local health and water resources regulations;
- (2) The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (3) The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- (4) The proposed subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- (6) The proposed subdivision will provide for adequate solid and sewage waste disposal;
- (7) The proposed subdivision will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- (8) The proposed subdivision will not place an unreasonable burden upon local, municipal or governmental services;

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<p>(9) The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;</p> <p>(10) The proposed subdivision is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;</p> <p>(11) The subdivider has adequate financial and technical capacity to meet the standards stated in subsections (1) through (10) of this <b>section</b>;</p> <p>(12) Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, the proposed subdivision will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;</p> <p>(13) The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater; and</p> <p>(14) The proposed subdivision will not unreasonably interfere with access to direct sunlight for solar energy systems.</p> <p>d. of <b>2</b>-18-1986, art. 1)</p> <p>Motion Retracted 03/12/2015 as per board vote</p>	<p><b>Motion</b></p>
<p><b>Item 5:</b>  <b>Proposal:</b> Sawgrass Subdivision Amendment: Approved 40 unit condo project modified into a 22 unit single family house lot project  <b>Action:</b> Review New Submissions; Discussion; Waiver Vote; Final Review  <b>Owner:</b> Sawgrass LLC  <b>Location:</b> Wild Dunes Way (Dunegrass Sections J &amp; L) MBL: 105A, Lot 1</p> <p>Jason Vafiadas: Since last time we have had some issues to work through with Bill Robertson and the Public Works Department. They mostly had to do with roadway grades, sewer manholes and such. Since that last meeting Jeffery and I have met with Bill Robertson to go over a couple of things. One of those things is roadway grades in excess of 6%. I have gone back and re-designed those roads to not exceed 6% in any area. You proposed a break away gate there on Wild Dune's Way, and that's what we've done. There will be a couple ballards and a break away point at the fire department will have keys and the Home Owner's Association. The only waiver then that we would ask for is the driveways being within 100 feet of the intersection. Then there was a question about internal versus external manhole, and we switched that to internal. I think Bill was happy with these changes. Then Mark to your question, we have added sidewalks and tied that in here and here. Oh, and Dominic's concern was the golf hole, and the</p>	<p><b>ITEM 5</b></p>

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original plan called for some grading, the way we have redesigned it was to steepen it.

Eber Weinstein: What kind of problems are we going to have with this? In terms of any legal issues. The open space is going to be a problem here as well.

Jason Vafiadas: The development was in the original approval and we are actually adding to open space by reducing the number of units.

Phillip Saucier: This is the first time I am seeing this, Jeffery just asked me to stay because this is another Dunegrass. But, I have no familiarity with this. I would just say that if it's an amendment...

Win Winch: This is one thing that is on the original plan.

Mark Koenigs: We've already approved an amendment to this Sawgrass community.

Jeffery Hinderliter: Well, there was an application that the Planning Board considered and then the owner, Mr. Boutet, decided to table the item. But there was an amendment in the late 2000's that the Planning Board approved. There's no change to the boundary lines of the section and this is an original section of Dunegrass. The amendment is what is done internally within that section. As Jason has said, there were a number of comments that were remaining, since 2012-2013. Those items have been addressed. If the Planning Board feels that the applicant has addressed them satisfactorily they can get approval tonight.

Eber Weinstein: I'd like to just get it in writing and answer the same question about open space. It's not really fair to get everything last minute.

Jeffery Hinderliter: It's not actually last minute.

Mark Koenig: So the only thing that didn't happen, is that the abutter didn't get informed of this change. This applicant did make it to the Town Planner's Office.

Dominic Puligaris: This is not the plan that was submitted for public comment.

Jason Vafiadas: I guess I would have some questions about the procedures here. I would ask what procedural mechanisms put that on me.

Eber Weinstein: When you get down to it, the golf course is a very important part of the project. Obviously, it was received but there's a lack of public comment. I'd rather have everything solid. We want a comment from their engineer and if we don't like what they say, then there we are.

**Motion**



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Win Winch – Yes Mark Koenigs – Yes Eber Weinstein – Yes Passes 3-0	
<b>Good &amp; Welfare</b>	<b>Good &amp; Welfare</b>
<b>Adjournment at 10:17pm</b>	<b>Adjournment</b>

*I, Molly Phillips, Secretary to the Planning Board of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of twenty pages (20) is a true copy of the original minutes of the Planning Board Meeting of February 12, 2015.*

*Molly Phillips*