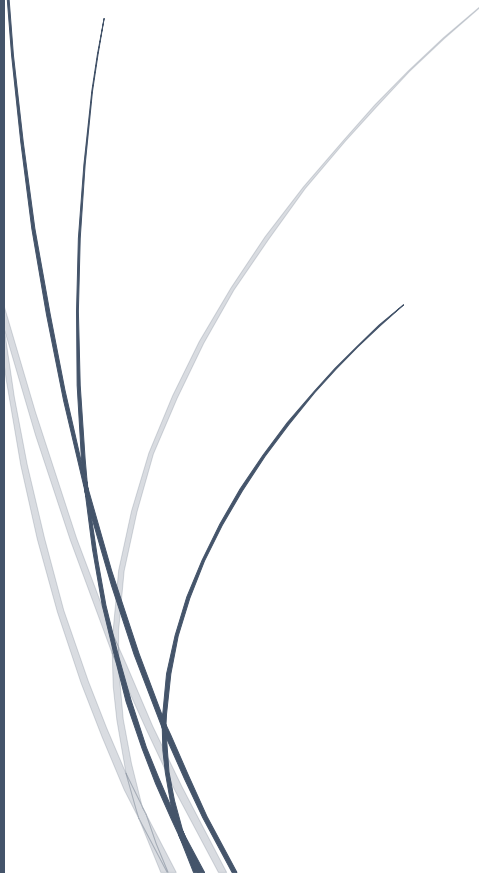


**OLD ORCHARD BEACH  
AUGUST 2018  
PLANNING BOARD  
MEMO**



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## *Regular Business*

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**ITEM 1**

**Proposal:** Major Subdivision: 10 Lot Residential Subdivision (Red Oak Phase III)  
**Action:** Discussion; Final Ruling  
**Owner:** Mark & Claire Bureau  
**Location:** End of Red Oak Dr.

<u>Red Oak</u>	<u>Project Status</u>
Sketch Plan	Completed in January
Preliminary Plan	Submitted in July, Revised in November, Revised in March
Application Complete	Completed in May
Site Walk	Held in May
Public Hearing	Held in June
Preliminary Plan Vote	Completed in June
Final Review	Recommended for August

At the July meeting, the Planning Board tabled the proposal. Planning Staff provided the board with a “Red Oak Correspondence Document” dated 7/12/18 that highlighted some of the remaining items. Over the past several weeks the Applicant has made revisions to the plan and Wright Pierce has provided comments. In your packets are comments from Wright Pierce dated 7/30/18 and a final submission from the Applicant including a comment response letter, HOA documents, Post-Construction Stormwater Management Plan (PCSWMP) and a revised set of final plans.

Town Staff did request modest street lighting throughout the development for first responders and security. The Applicant has shown light poles on the most recent plan set (*see Sheet C-100*). These are locations where the electricity will be buried. That way, if lighting is required in the future, it can be installed without having to dig up the roadway. The Planning Board should determine if the Applicant should be required to provide street lighting as requested or only if they petition the Town to accept the street as identified in their proposed condition (#10).

Planning Staff feels that the Application is complete now, there are nine conditions that we recommend the Planning Board add to the vote. It seems like a lot but Planning Staff feels that they are necessary for the project. An explanation on each of the conditions and why we felt they were necessary has been highlighted in green below.

1. Should the plan be amended to include a 15<sup>th</sup> lot that is accessed by Red Oak Drive, an amended subdivision plan shall be provided to the Planning Board that includes a second means of egress. *\*\*We are recommending this condition to address the requirement in our ordinance for a second means of egress for 15 or more lots\*\**
2. All stormwater ponds and lot specific stormwater BMPs shall be the responsibility of the Homeowners Association in perpetuity. The Developer and subsequent Homeowners Association shall enter into a Maintenance Agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements. *\*\*We are recommending this condition to ensure the Town does not become responsible for stormwater infrastructure. A signed maintenance agreement between the Developer/HOA and Town ensures that the Town is not responsible for maintenance/repairs to stormwater infrastructure that is privately owned. It protects us down the road. This is a standard condition that will likely be added to all subdivision projects moving forward\*\**
3. All residential lots shall provide stormwater treatment in accordance with the overall conceptual stormwater master plan, Sheet C-104 of the project plan set. Lot specific BMPs include: (See individual BMP installation and maintenance notes this sheet) *\*\*We are recommending this condition in light of some issues we encountered with another subdivision project that had lot-specific BMPs (e.g. rain gardens, drip edge filters, etc.). At another project, lot-specific BMPs were approved by the Planning Board and when the project got into the construction phase, the lot-owners/Contractors, etc. did not know they were a requirement. They constructed the homes and were ready to get their occupancy permits and the Town had to either hold them up or condition the occupancy on the BMPs being installed. In that specific case, they constructed the homes without planning for the required rain gardens, most did not know they were required. While the onus is on the homeowner/Contractor to look at the plan prior to/during construction, there is some responsibility on the Developer as well to convey this information to the homeowners. Including this condition with specific notes (listed below A-I) for all 9 lots will ensure everyone is on the same page in terms of where the stormwater should be going and what is required for each lot, specifically. It makes it clearer and it is also on the front page of the plan set which is what is referenced*

*the most, including in our Codes Department. On another note, this may be something the PB wants to have a workshop on down the road. How do we address subdivision projects with lot-specific BMPs, do we always require conditions like this or is there a better way to do it\*\**

- a. Lot 1 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - b. Lot 2 Development shall include a roof drip edge filter BMP and be routed to the Lot 2 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - c. Lot 3 Development shall include a roof drip edge filter BMP and be routed to the Lot 3 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - d. Lot 4 Development shall include a roof drip edge filter BMP and be routed to the Lot 4 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - e. Lot 5 Development shall include a roof drip edge filter BMP and be routed to the Lot 5 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - f. Lot 6 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - g. Lot 7 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
  - h. Lot 8 development shall include a roof drip edge filter BMP and be treated by the dedicated 150' limited disturbance wooded buffer. The buffer shall be deed restricted and recorded prior to the issuance of a building permit on Lot 8.
  - i. Lot 9 development shall include a roof drip edge filter BMP and be routed to the Lot 9 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.
4. Any amendments to the overall conceptual stormwater master plan shall be designed and stamped by a Maine Licensed Engineer and submitted to the Planning Department for review prior to implementation. Changes to the overall conceptual stormwater master plan may require Planning Board approval. *\*\*We are recommending this condition in case the above stormwater improvements need to be amended. It requires the Owner, Developer, or Contractor come back to the Town for re-approval, either Administratively or through the PB depending on the extent of the changes\*\**
  5. Lot developers shall retain the services of a Maine Licensed Engineer to inspect and certify that the lot specific stormwater BMPs were installed and constructed in accordance with the BMP manual. Documentation and certification by the Engineer shall be submitted to the Town of Old Orchard Beach within 30 days of completion. *\*\*We require through our infrastructure-inspection procedures stormwater ponds to be certified by the Engineer of Record for the project. Most of the projects we see include a few specific stormwater BMPs (e.g. a stormwater pond) but this one includes BMPs at each of the lots (i.e. drip edge filters, etc.). We need to ensure the lot-specific BMPs are certified by a licensed Engineer and that the Engineer is on-site during construction of the BMPs so we can ensure they are constructed properly. This protects us down the road should a homeowner come in and say they are having issues, we can point to a document and say the BMPs were constructed in accordance with the plan, here is the report. We receive these for stormwater ponds, etc. but it is important we receive them for lot-specific BMPs as well\*\**
  6. Total wetland alterations as the result of the infrastructure development shall be limited to 1,045 square feet as shown on the approved plan (See Sheet C-102). Wetland alterations within the residential lots shall not be allowed without amendment of the plan via Town Planning Department review. Additional wetland impact may require a Maine Department of Environmental Protection NRPA permit for wetland alteration exceeding 4,300 square feet. *\*\*This condition was recommended by WP to ensure the wetland fill areas are clearly identified\*\**
  7. Before building permits are issued for each individual lot, the applicant or owner shall demonstrate compliance with all applicable DEP regulations. *\*\*This is a bit of a different situation because the lots are intended to be sold as undeveloped lots. Single-family residential lots are exempt from MDEP review, however, there may be some aspects of construction that would require DEP review and the Applicant wants the Town to be covered. The Applicant will explain this further at the meeting\*\**

8. This approval does not constitute a resolution in favor of the Applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgement that the Applicant does not have the legal right to use the land as proposed in the application, this approval shall not have any force or effect. **\*\*This condition was recommended by our Town Attorney in case there is an issue with the deed associated with Lot 7 as discussed in the earlier phases of the project\*\***
9. Should the Applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with the Town standards, including the provision of adding acceptable street lighting in conformance with the Town street lighting standards. **\*\*This condition was recommended by Wright Pierce. If, in the future, the Developer requests the Town take over the road, they will need to show documentation that the initial portion of the road (constructed in 2004/2005) was in conformance with Town standards and the onus is on them to do that, not the Town. In order for the Town to consider accepting this portion of the road, they would need to consider the initial portion as well because that is the access to this phase.\*\***

There is one condition on the plan that Planning Staff recommends be removed (#8) regarding lots sold in an undeveloped state. This is already covered in #7.

Updated Responses to Subdivision Criteria:

Sec. 74-2. 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;*

Response: The project will not create undue water or air pollution during or after construction. There is no proposed development within any floodplain; the soils are suitable for development and waste disposal and property slopes are stable and support development to the most practicable extent. The project complies with all state and local health and water resource regulations.

**(2) The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;**

Response: The project will be served by public water and will readily have water available for the foreseeable future.

**(3) The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized;**

Response: The project will be served by public water and due to its relatively small impact to the Maine Water company's supply and transmission infrastructure, will not have any burden on the water supply.

**(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;**

Response: The project will be constructed to meet the requirements of the Basic Standards of Chapter 500 of Maine Stormwater Law and will also be constructed in accordance with Chapter 71 of the Town of Old Orchard Beach Land Use Ordinances.

**(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;**

Response: The project will result no unreasonable impacts on the highways or public roadways. According to the ITE manual, 9 additional residential lots results in only 90 total daily trips and 9 peak hour trips, which does not trigger any State traffic permitting requirements.

**(6) The proposed subdivision will provide for adequate solid and sewage waste disposal;**

Response: The solid waste, the project will be built to Town of Old Orchard Beach standards and it is anticipated that the Town of Old Orchard Beach curbside pick-up will be available by contract service with the Homeowner's Association until such time as the roadway may be accepted by the Town of Old Orchard Beach. All solid waste accumulated during construction will be disposed of in a safe and adequate manner by the contractors/owner. Sewage waste generated during construction will be handled by portable toilets. Household sewage will be handled by septic systems to be designed and installed to all local and State requirements.

**(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;**

Response: The project will not burden the ability of the municipality to dispose of solid waste due to its relatively small size and impact to solid waste generation. There will be no impacts to municipal sewage disposal services as the project is served by private septic.

**(8) The proposed subdivision will not place an unreasonable burden upon local, municipal or governmental services;**

Response: The project will not unreasonably burden municipal or governmental services due to its relatively small size.

**(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;**

Response: The project will not have any adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites or any rare and irreplaceable natural areas. The project will be an extension of the existing development which maintains large swaths of wooded areas on relatively secluded lots.

**(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;**

Response: The proposed project has been designed in accordance of all local codes and ordinances.

**(11) The subdivider has adequate financial and technical capacity to meet the standards stated in subsections (1) through (10) of this section;**

Response: The applicant has successfully constructed a number of previous, successful projects and owns the property without mortgage or lien holders. The project engineer, surveyor and other design professionals have successfully designed and permitted many projects in York County and have over 100 years of combined experience in residential design and permitting.

**(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;**

Response: The project does not fall within 250 feet of any pond, lake, river or tidal waters.

**(13) The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater; and**

Response: The project will be served by public water and will utilize stormwater BMPs which retain and filter stormwater run-off prior to its reintroduction back into the water table. As such, no adverse effects on the quality or quantity of groundwater are anticipated.

**(14) The proposed subdivision will not unreasonably interfere with access to direct sunlight for solar energy systems.**

Response: The project will not interfere with any solar energy systems by affecting their access to direct sunlight.

**RECOMMENDATIONS (AUGUST):**

The Planning Board should read the responses to the 14 Subdivision Criteria into the record and make a final ruling on the proposal. There are 9 conditions that should be attached to that ruling as well as any others the PB may wish to include such as one to address the street lighting as suggested by Town Staff.

*Recommended Motion: I will make a motion to approve the Final Plan for the 10 Lot Residential Subdivision (Red Oak Phase III) located at the end of Red Oak Drive with the following 9 conditions:*

- 1. Should the plan be amended to include a 15<sup>th</sup> lot that is accessed by Red Oak Drive, an amended subdivision plan shall be provided to the Planning Board that includes a second means of egress.*
- 2. All stormwater ponds and lot specific stormwater BMPs shall be the responsibility of the Homeowners Association in perpetuity. The Developer and subsequent Homeowners Association shall enter into a Maintenance Agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements.*
- 3. All residential lots shall provide stormwater treatment in accordance with the overall conceptual stormwater master plan, Sheet C-104 of the project plan set. Lot specific BMPs include: (See individual BMP installation and maintenance notes this sheet)*
  - a. Lot 1 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - b. Lot 2 Development shall include a roof drip edge filter BMP and be routed to the Lot 2 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - c. Lot 3 Development shall include a roof drip edge filter BMP and be routed to the Lot 3 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - d. Lot 4 Development shall include a roof drip edge filter BMP and be routed to the Lot 4 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - e. Lot 5 Development shall include a roof drip edge filter BMP and be routed to the Lot 5 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - f. Lot 6 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - g. Lot 7 Development shall include a roof drip edge filter BMP. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
  - h. Lot 8 development shall include a roof drip edge filter BMP and be treated by the dedicated 150' limited disturbance wooded buffer. The buffer shall be deed restricted and recorded prior to the issuance of a building permit on Lot 8.*
  - i. Lot 9 development shall include a roof drip edge filter BMP and be routed to the Lot 9 dedicated stormdrain service and treated by the UDSF. Sizing of the drip edge filter shall be in accordance with Detail #7 Sheet C-302.*
- 4. Any amendments to the overall conceptual stormwater master plan shall be designed and stamped by a Maine Licensed Engineer and submitted to the Planning Department for review prior to implementation. Changes to the overall conceptual stormwater master plan may require Planning Board approval.*
- 5. Lot developers shall retain the services of a Maine Licensed Engineer to inspect and certify that the lot specific stormwater BMPs were installed and constructed in accordance with the BMP manual. Documentation and certification by the Engineer shall be submitted to the Town of Old Orchard Beach within 30 days of completion.*
- 6. Total wetland alterations as the result of the infrastructure development shall be limited to 1,045 square feet as shown on the approved plan (See Sheet C-102). Wetland alterations within the residential lots shall not be allowed without amendment of the plan via Town Planning Department review. Additional wetland impact may require a Maine Department of Environmental Protection NRPA permit for wetland alteration exceeding 4,300 square feet.*
- 7. Before building permits are issued for each individual lot, the applicant or owner shall demonstrate compliance with all applicable DEP regulations.*
- 8. This approval does not constitute a resolution in favor of the Applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgement that the Applicant does not have the legal right to use the land as proposed in the application, this approval shall not have any force or effect.*
- 9. Should the Applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with the Town standards, including the provision of adding acceptable street lighting in conformance with the Town street lighting standards.*

## BACKGROUND (JULY):

At the last meeting, the PB held a Public Hearing on this item and there were no comments from the public. The Planning Board approved the Preliminary Plan. There were a few items that Planning Staff recommended be buttoned up for a final plan vote. These items include:

- Responses to the Wright Pierce comments dated June 1, 2018. (*The Applicant has provided responses to the WP comments from June, the responses are in your July packet. Planning Staff provided these to Wright Pierce and is waiting for their final review/signoff*).
- Recommendation to adjust the building envelope associated with Lot #1 to account for the Letter of Map Amendment (LOMA) from FEMA. (*This is not a requirement, just a suggestion, but it does not appear this has been included in the most recent submission*).
- Condition regarding the deed associated with Lot #7. (*This condition has been added to the plan, Sheet C-100 COA*).
- Modest street lighting requested by Town for first responders as well as for security. (*A letter has been included from Larry in your packets regarding the desire for street lighting. The request is for street lighting suitable to a residential street with limited vehicular traffic. The lighting would be more pedestrian in scale, similar to Town/Country lighting that CMP offers, perhaps every other lot. It should be clear that the HOA would be responsible for any infrastructure not accepted by the Town Council. In the most recent iteration of the plan (Sheet C-100), the Applicant included a note that says: "should the Applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with Town standards, including the provision for street lighting." The Planning Board should determine if the Applicant should be required to provide street lighting as requested or only if they petition the Town to accept the street as identified per this condition.*)

Planning Staff made a list of conditions to be added to the vote:

1. Should the plan be amended to include a 15<sup>th</sup> lot, an amended plan shall be provided to the Planning Board that includes a second means of egress.
2. The Developer and subsequently the homeowners association shall enter into a maintenance agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements.
3. This approval does not constitute a resolution in favor of the applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgement that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect.
4. Should the applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with Town standards."

## Planning Staff asked the Applicant to update the responses to the 14 Subdivision Criteria before the final plan vote as they are from July of 2017.

Sec. 74-2. In approving subdivisions within the Town, the Planning Board shall consider the following criteria and before granting approval shall determine the following.

The proposed subdivision:

**(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;*

Response: The project will not create undue water or air pollution during or after construction.

**(2) The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;**

Response: The project will be served by public water and will readily have water available for the foreseeable future.



**(3) The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized;**

Response: The project will be served by public water and will readily have water available for the foreseeable future.

**(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;**

Response: The project will be constructed to meet the requirements of the Basic Standards of Chapter 500 of Maine Stormwater Law and will also be constructed in accordance with Chapter 71 of the Town of Old Orchard Beach Land Use Ordinances.

**(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;**

Response: The project will result no unreasonable impacts on the highways or public roadways. According to the ITE manual, 8 additional residential lots results in only 80 total daily trips and 8 peak hour trips, which does not trigger any State traffic permitting requirements. **\*\*This needs to be updated to reflect 9 lots\*\***

**(6) The proposed subdivision will provide for adequate solid and sewage waste disposal;**

Response: The project will be built to Town of Old Orchard Beach standards and it is anticipated that the Town of Old Orchard Beach curbside pick-up will be available by contract service until such time as the roadway is accepted by the Town of Old Orchard Beach. All solid waste accumulated during construction will disposed of in a safe and adequate manner by the contractors/owner. Sewage waste generated during construction will be handled by portable toilets. Household sewage will be handled by septic systems to be designed and installed to all local and State requirements.

**(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;**

Response: The project will not burden the ability of the municipality to dispose of solid waste due to its relatively small size and impact to solid waste generation. There will be no impacts to sewer disposal services as the project is served by private septic's.

**(8) The proposed subdivision will not place an unreasonable burden upon local, municipal or governmental services;**

Response: The project will not unreasonably burden municipal or governmental services due to its relatively small size.

**(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;**

Response: The project will not have any adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites or any rare and irreplaceable natural areas. The proposed development will protect the existing Jones Creek by preserving open space within the stream buffer area. The project will be an extension of the existing development which maintains large swaths of wooded areas on relatively secluded lots.

**(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;**

Response: The proposed project has been designed in accordance of all local codes and ordinances.

**(11) The subdivider has adequate financial and technical capacity to meet the standards stated in subsections (1) through (10) of this section;**

Response: The applicant has successfully constructed a number of previous, successful projects and owns the property free and clear. The project engineer, surveyor and other design professionals have successfully designed and permitted many projects in York County and have over 100 years of combined experience in residential design and permitting.

**(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;**

Response: The project does not fall within 250 feet of any pond.

**(13) The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater; and**

Response: The project will be served by public water and will utilize stormwater BMPs which retain, filter and infiltrate stormwater run-off back into the ground. As such, no adverse effects on the quality or quantity of groundwater are anticipated.

**(14) The proposed subdivision will not unreasonably interfere with access to direct sunlight for solar energy systems.**

Response: The project will not interfere with any solar energy systems by affecting their access to direct sunlight.

### **RECOMMENDATIONS (JULY):**

The Planning Board should read the responses to the 14 Subdivision Criteria into the record and make a final ruling on the proposal. There are 4 conditions that should be attached to that ruling as well as any others the PB may wish to include such as one to address the street lighting as suggested by Town Staff.

*Recommended Motion: I will make a motion to approve the Final Plan for the 10 Lot Residential Subdivision (Red Oak Phase III) located at the end of Red Oak Drive with the following 4 conditions:*

- 1. Should the plan be amended to include a 15<sup>th</sup> lot, an amended plan shall be provided to the Planning Board that includes a second means of egress.*
- 2. The Developer and subsequently the homeowners association shall enter into a maintenance agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements.*
- 3. This approval does not constitute a resolution in favor of the applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgement that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect.*
- 4. Should the applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with Town standards."*

### **BACKGROUND (JUNE):**

**\*\*Note, this was mislabeled on the agenda, the PB still needs to vote on the Preliminary Plan before final review\*\***

In May, the Planning Board determined the application complete, held a Site Walk and scheduled a Public Hearing for June. In your packets this month, the Applicant provided a response to Staff comments and Wright Pierce comments. Wright Pierce provided a memo dated 06/01/18 in response to this submission which is also in your packets. There are a few remaining comments pertaining to stormwater, the performance guarantee, clarification on which lots are in Phases I and II, FEMA, calculations on the culvert at Jones Brook and denoting wetland filling areas on the plan.

In addition, there were a couple of Conditions of Approval written on the plan that WP and Planning Staff recommend be updated:

- Condition of Approval (1) should be updated on the plan, currently it says "*the subdivision is limited to development on lot 10 without amended approval by the Town of Old Orchard Beach Town Staff of a secondary egress.*" Planning Staff recommends this be updated to say: "*Should the plan be amended to include a 15<sup>th</sup> lot, an amended plan shall be provided to the Planning Board that includes a second means of egress.*"
- Condition of Approval (2) should be updated on the plan to add the last sentence "*All stormwater ponds shall be the responsibility of the homeowners association in perpetuity. The Developer and subsequently the homeowners association shall enter into a Maintenance Agreement in accordance with the Town of Old Orchard Beach Chapter 71 requirements.*"

Planning Staff recommended that the Applicant include two plans pertaining to the floodplain. One that shows the building envelope for Lot #1 with the current floodplain and one that shows the building envelope after the LOMA. This ensures that they do not have to come back before the PB after the LOMA. The most recent plan shows the current floodplain and the floodplain after the LOMA but does not show the changes to the building envelope for Lot #1.

One of the main discussion items at the last meeting was the deed and land area associated with Lot #7. Planning Staff consulted with our Town Attorney who said that the Applicant has presented the PB with a boundary survey signed and stamped by a professional land surveyor, as well as a title opinion from their attorney both stating that the applicant owns the land in question. Our Attorney did recommend a condition of approval be added to the plan:

*This approval does not constitute a resolution in favor of the applicant of any issues regarding ownership or other title issues. Should it be determined by a final, non-appealable court judgment that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect.*

This email from the Attorney has been included in your packets.

At the Development Review meeting held on June 4<sup>th</sup>, Town Staff had requested to see modest street lighting in the development. They indicated that individual lights at each home (which are proposed currently) aren't always on at night. Staff would like street lighting so first responders can see easier and for security reasons.

**RECOMMENDATION (JUNE):** Pending comments at the Public Hearing, Planning Staff recommends the PB vote on the Preliminary Plan. The remaining outstanding items are minor and can be addressed in the next submission for final review.

*Recommended Motion: I will make a motion to approve the Preliminary Plan for the 10 Lot Residential Subdivision (Red Oak Phase III) located at the end of Red Oak Drive.*

#### **BACKGROUND (MAY):**

At the April meeting, the Planning Board decided to hold off on Determining the Application complete until clarification about the deed associated with Lot #7 was submitted. The Applicant submitted a letter from an Attorney which has been included in your May packets.

This situation seems similar to one that occurred with another project the Planning Board recently approved. That situation was a little different because there was a dispute between two parties over a deed. However, when we consulted our Town Attorney, his response was: "as you know an applicant must have sufficient 'right, title or interest' in the property that will give the person a 'legally cognizable expectation' of having the power to use the property in the ways that would be authorized by any approval. The Planning Board has **no authority**, however, to resolve title disputes or **to interpret** or enforce **a private deed covenant** as part of its decision on an application." The Town Attorney recommended a condition be added to the plan and a part of that condition stood out to Staff as one that could potentially apply to this situation as well: "*Should it be determined by a final, non-appealable court judgment that the applicant does not have the legal right to use the land as proposed in the application, this approval shall no longer have any force or effect.*" We could alter the language about a "*final, non-appealable court judgement.*"

A few items were discussed at the April Planning Board meeting including:

- Addition of a potential condition that the subdivision cannot go over 15 lots without triggering the requirement for a second means of egress. This would eliminate the possibility of future development associated with Lot #10.
- Include a note on the plan that the stormwater ponds shall be maintained by the HOA in perpetuity.
- Recommendation that a fence be placed around the pond due to a concern of standing water.
- Potential addition of street lighting on the opposite side of the street from the sidewalk. How will this work? Is there already existing street lighting in the first 2 phases of the development?

Planning Staff also held a meeting with the Applicant and Wright Pierce to go over some concerns with the plans. We discussed a few items and are waiting for a subsequent response from Wright Pierce on the materials.

- Recommendation that a Condition of Approval be added to the plan “*Should the Applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with Town Standards.*”
- Planning Staff had concerns over the requirement for Codes Staff to review stormwater for individual lots. Staff recommended the Applicant show stormwater stubs on each of the lots as well as conceptual grading and drainage plans for each of the lots. Wright Pierce also recommended that calculations be provided noting the stormwater BMPs and drainage lines have been sized to accommodate runoff from individual lots.
- There were some FEMA implications that were discussed with the Applicant. The Applicant indicated that they expect to receive a LOMA back by June/July. In case it is not received prior to a Planning Board decision, the Applicant will submit a plan showing the building envelope for Lot #1 with the current floodplain and a separate plan showing the building envelope after the LOMA.
- We are still waiting for the Applicant to address WP concerns that included: changing the drainage structure table, details on silt sacks, sediment forebay details, and calculations on the culvert at Jones Brook.
- There were also a few minor items including updating test pits and the performance guarantee worksheet.

**RECOMMENDATIONS (MAY):** The Planning Board should determine if the above mentioned condition regarding the right to use the land as proposed in the application would suffice to address the boards concerns or if the board would like additional information from the Applicant. Planning Staff is also waiting for a number of items from the Applicant as discussed above. The Planning Board can decide to make a determination of completeness and schedule a public hearing for June or the board can wait to make that determination once the final outstanding items have been submitted as discussed above.

*Possible Recommended Motion: I will make a motion to determine the application complete for a 10 lot residential subdivision off of Red Oak Drive.*

*Possible Recommended Motion: I will make a motion to schedule a Public Hearing for June 14<sup>th</sup> at 7:00PM.*

**BACKGROUND (APRIL):**

At the last meeting, the PB decided to hold off until April to schedule the site walk/public hearing and make a determination of completeness on the application. The Applicant has made several revisions to the plan and submitted an updated cover letter that attempts to address Staff comments and Wright Pierce comments. Below is where we stand with those:

- Planning Staff recommended that the Applicant update the application and responses to the subdivision criteria to reflect the change in lot numbers since the sketch plan. *This has been included in the 3/21 submission.*
- Wright Pierce comments dated 3/6 have been responded to in the 3/21 submission. Many of the comments pertained to stormwater. WP is reviewing the 3/21 responses and we expect to have additional comments by the PB meeting.
- Planning Staff recommended that test pit locations be shown on the plan, locations have been included in the 3/21 submission, however, some of them are shown outside of the lot and building envelopes. We will need some clarification on the location of them and whether or not easements would be necessary.
- Planning Staff recommended that an updated deed be included for the Bureau lot. *The Applicant indicated that this has been included in the 3/21 submission.*
- Planning Staff recommended that a Performance Guarantee worksheet quantifying the amount for the Letter of Credit and Escrow be submitted. This has been included in the 3/21 submission, however, there are a number of revisions that will be necessary including updating it to remove “Dunegrass Section B” “Cherry Hills” “Prepared by Jessica Wagner” and old notes at the bottom.
- Planning Staff recommended that the Applicant provide an update on permitting for the project. *This has been included in the 3/21 submission.*

- Assessing Staff indicated that a portion of lot 7 appeared to be on Town property according to the in-house GIS and the project still remained in tree growth. The Applicant has indicated that the boundary survey they had shows the portion of lot 7 is not on Town property. They also indicated that all lots and easements will be removed from tree growth prior to project approval.
- Planning Staff questioned whether or not this project would be intended to be accepted by the Town and it is currently not proposed to be public but will be constructed in accordance with Town Standards. Because the initial 750 feet of roadway was constructed back in the 2004-2005 timeframe and the Town does not have documentation on how it was constructed, we recommend, and the Applicant agrees, that a condition be added to the plan that states “*should the Applicant petition the Town to accept the road, the Applicant shall provide as-built documentation of the existing 750 feet of roadway and the Town shall review for conformance with Town Standards.*”
- To address the Wright Pierce comment about how this project does not include individual lot development, the Applicant has proposed to add a condition that “*no building permit shall be issued until a residential site plan is submitted to the CEO that shows, at a minimum, septic location, lot development, grading, water and power utility service, and stormwater management design that complies with MDEP Chapter 500 standards.*” Planning Staff will need to have a conversation with the Applicant about this because Codes Staff does not typically review a stormwater management design. Roof driplines are also referenced in the plans which is contradictory if they are not including information on individual lot development.
- The Applicant appears to be achieving their Net Development Density (NDD) by utilizing the Bureau lot, however, this project has been presented as a “9 lot subdivision” and does not appear to include the bureau lot in the plans as “Lot #10.” Planning staff believes the plans and materials should be updated to include this lot as part of the subdivision if it is how they are achieving the density for the project.

#### **RECOMMENDATIONS (APRIL):**

The purpose of the April meeting is to schedule the Site Walk, Public Hearing and make a Determination of Completeness of the project. There are a few items that need to be submitted/addressed as discussed above including:

- WP review of the most recent submission materials and response to their comments.
- Clarification on the locations of test pits.
- Minor revisions needed to the Performance Guarantee worksheet.
- Discussion about the recommended condition concerning Codes Staff reviewing a residential site plan that includes stormwater management.

Aside from these items, the role of the PB for the April meeting is to make a Determination of Completeness, the PB does not have to vote on the Preliminary Plan. That can happen after those items are received/clarified.

Staff does feel that the application is complete, we have received the plan materials, updated Subdivision responses, etc. so we recommend you make that determination and schedule the Site Walk/Public Hearing for May.

*Recommended Motion: I will make a motion to determine the application complete for a 9 lot residential subdivision off of Red Oak Drive.*

*Recommended Motion: I will make a motion to schedule a Site Walk for May 3<sup>rd</sup> at 5:30PM and to schedule a Public Hearing for May 10<sup>th</sup> at 7PM.*

#### **BACKGROUND (MARCH):**

This project was brought before the Planning Board in January of 2017 as a Sketch Plan and was brought back before the Planning Board in July of 2017 as a Preliminary Plan and you last saw the plan in November of 2017 as a Preliminary Plan. It is now back before the Planning Board as an updated Preliminary Plan. It is for a 9-lot subdivision at the end of the existing Red Oak Drive off of Portland Ave with a proposed cul-de-sac at the end. Currently, there are four lots with homes on Red Oak Drive that were approved back in 2004-2005. The last lot was completed in summer of 2016.

There were a number of items discussed in July and November, many of them pertaining to Wright Pierce comments. A number of the Wright Pierce comments pertained to stormwater. The submission materials for March were provided to Wright Pierce for review and comment. The new submission attempts to address the comments.

In your packets for March are:

- Responses to the Wright Pierce/Staff comments from July and November
- An updated Plan Set
- HOA Documents
- Post-Construction Stormwater Management Plan (PCSWMP)

Because this project has gone through a number of iterations, some of the materials such as the responses to the 14 subdivision criteria need to be updated. Planning Staff also recommends that an updated Application be updated to reflect the change from 8 to 9 lots.

Responses to the 14 Subdivision Criteria that were submitted in July of 2017: *Sec. 74-2*. In approving subdivisions within the Town, the Planning Board shall consider the following criteria and before granting approval shall determine the following.

The proposed subdivision:

1. *Will not result in undue water or air pollution*

Response: The project will not create undue water or air pollution during or after construction.

2. *Has sufficient water available for the reasonably foreseeable needs of the subdivision.*

Response: The project will be served by public water and will readily have water available for the foreseeable future.

3. *Will not cause an unreasonable burden on an existing water supply, if one is to be utilized*

Response: The project will be served by public water and will readily have water available for the foreseeable future.

4. *Will not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition may result.*

Response: The project will be constructed to meet the requirements of the Basic Standards of Chapter 500 of Maine Stormwater Law and will also be constructed in accordance with Chapter 71 of the Town of Old Orchard Beach Land Use Ordinances.

5. *Will not cause unreasonable highway or public road congestion or unsafe condition with respect to use of the highways or public roads, existing or proposed.*

Response: The project will result no unreasonable impacts on the highways or public roadways. According to the ITE manual, 8 additional residential lots results in only 80 total daily trips and 8 peak hour trips, which does not trigger any State traffic permitting requirements. **\*\*This needs to be updated to reflect 9 lots\*\***

6. *Will provide for adequate solid and sewage waste disposal.*

Response: The project will be built to Town of Old Orchard Beach standards and it is anticipated that the Town of Old Orchard Beach curbside pick-up will be available by contract service until such time as the roadway is accepted by the Town of Old Orchard Beach. All solid waste accumulated during construction will be disposed of in a safe and adequate manner by the contractors/owner. Sewage waste generated during construction will be handled by portable toilets. Household sewage will be handled by septic systems to be designed and installed to all local and State requirements.

7. *Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage of municipal services if they are to be utilized.*

Response: The project will not burden the ability of the municipality to dispose of solid waste due to its relatively small size and impact to solid waste generation. There will be no impacts to sewer disposal services as the project is served by private septic's.

8. *Will not place an unreasonable burden upon local, municipal or governmental services.*

Response: The project will not unreasonably burden municipal or governmental services due to its relatively small size.

9. *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.*

Response: The project will not have any adverse effects on the scenic or natural beauty of the area, aesthetics, historic sites or any rare and irreplaceable natural areas. The proposed development will protect the existing Jones Creek by preserving open space within the stream buffer area. The project will be an extension of the existing development which maintains large swaths of wooded areas on relatively secluded lots.

*10. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or any land use plan, if any*

Response: The proposed project has been designed in accordance of all local codes and ordinances.

*11. Owner has adequate financial and technical capacity to meet the standards stated in the ordinance.*

Response: The applicant has successfully constructed a number of previous, successful projects and owns the property free and clear. The project engineer, surveyor and other design professionals have successfully designed and permitted many projects in York County and have over 100 years of combined experience in residential design and permitting.

*12. Whenever situated, in whole or in part, within 250 feet of any pond, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.*

Response: The project does not fall within 250 feet of any pond.

*13. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.*

Response: The project will be served by public water and will utilize stormwater BMPs which retain, filter and infiltrate stormwater run-off back into the ground. As such, no adverse effects on the quality or quantity of groundwater are anticipated.

*14. Will not unreasonably interfere with access to direct sunlight for solar energy systems.*

Response: The project will not interfere with any solar energy systems by affecting their access to direct sunlight.

There are a few other items that Planning Staff recommends be submitted prior to the board making a determination of completeness including:

- The original plan showed test pit locations on each of the lots, however, Planning Staff did not see these on the updated plan. Where the lot sizes and locations changed, Planning Staff recommends these be shown on the updated Preliminary Plan.
- It appears that a portion of the Bureau lot was split to allow for the full lot sizes and an additional lot, Planning Staff did not see an updated deed in the submission materials.
- Planning Staff received comments from Maine Water about extending water through this area back in November. Maine Water is continuing to review the proposal and will have comments back to the Applicant about the plan. Planning Staff is still waiting on an ability to serve letter from them.
- An updated Performance Guarantee worksheet is needed for the project.
- It is unclear what DEP permits have been secured for the project and if they required a FEMA Letter of Map Amendment (LOMA) for the floodplain area.
- Assessing Staff indicated that a portion of the proposed subdivision is still in a designated tree growth area. It also shows a portion of Lot 7 is on Town property on the Town's GIS. This will have to be clarified.
- One comment received from Wright Pierce in November was associated with stormwater management and that it is only for the roadway and not for future impervious areas associated with individual lots. One recommendation by the Applicant is that a Condition of Approval be added to the project that requires a lot development plan meeting Chapter 500 standards and still maintaining the integrity of design. This decision will be up to the Planning Board.
- There were comments received from Staff in November about whether or not this project is intended to become public or private, it is unclear if this was addressed.

#### **RECOMMENDATIONS (MARCH):**

This project is before the Planning Board for a Determination of Completeness and to schedule a Site Walk/Public Hearing. In order to determine the Application Complete, Planning Staff recommends that the application materials

including responses to the subdivision criteria be updated to reflect the 9 lots. Planning Staff is still waiting on comments from Wright Pierce and anticipates them to be received prior to the meeting next week.

If the Planning Board decides to make a Determination of Completeness, it should be contingent on receiving updated application materials and the items listed above.

*Recommended Motion: I will make a motion to determine the application complete to construct a 9 lot residential subdivision located at 141 Portland Ave.*

*Recommended Motion: I will make a motion to schedule a site walk for April 5<sup>th</sup> at 5:00PM and to schedule a public hearing for April 12<sup>th</sup> at 7PM.*

### **BACKGROUND (NOVEMBER):**

This project was brought before the Planning Board in January as a Sketch Plan and was back before the PB in July as a Preliminary Plan. Since July, the Applicant has made some changes to the materials after a review by DEP. Some of these changes include:

- Adding the adjacent parcel to the subdivision which added more land to the project area;
- Creation of a 9<sup>th</sup> lot;
- This project is no longer a cluster subdivision, the lots will conform to the space and bulk requirements of the Rural Zone;
- The turn-around has been converted from a hammerhead to a cul-de-sac;
- Some changes were made to the Stormwater Management Plan.

Currently, there are four lots with homes on Red Oak Drive that were approved back in 2004-2005. The last lot was completed in the summer of 2016. There is a five foot sidewalk proposed as part of the new phase and this will be a continuation of the sidewalk from the first and second phases. The project will be served by public water and septic systems.

Originally, the Applicant was applying for a cluster subdivision with eight lots, now they have changed the plans so that it is a subdivision that conforms to the space and bulk requirements of the rural zone and has 9 lots.

The existing riprap pond at the end of the existing Red Oak Drive will be converted into an Underdrained Soil Filter which will treat the existing roadway as well as a portion of the proposed roadway. The remainder of the roadway will be treated by an underdrained soil filter at the end of the proposed development.

### **Comments on the Materials:**

The project is mislabeled as Phase IV and should be labeled as Phase III.

In July, there were several issues that were discussed from the Wright Pierce memo and some by Planning Staff. Some of them have been addressed, but still require further information and others have not been addressed. The last set of comments received from WP were on 6/30/17. Several of these comments have not been addressed. A new set of WP comments are included in your packets with additional outstanding items including:

- Updating Sheet C-100 to reflect the changes from a Cluster Subdivision to a Subdivision that meets space and bulk requirements.
- Providing an ESC plan and details for long-term site protection other than wrapping the site with silt fence.
- Providing a detail section for the proposed gravel access road to the underdrained soil filter at the end of the cul-de-sac.00
- Reviewing the discharge point of the cul-de-sac as it appears to be directed towards the adjacent Seacoast RV property.
- Providing information on the proposed outlet of the underdrained soil filter in the pond construction details.
- Using consistent terminology for the liner in the both of the underdrained soil filters.



- Providing information on how the outlet control structures for both underdrained soil filters will not become buoyant.

A Post-Construction Stormwater Management Plan (PCSMP) was submitted for the project in July for the Planning Board to review but was lacking a few components and Planning Staff had a few comments on the plan:

- Under **Project Contact Information**, it says the responsible party for the maintenance of stormwater BMPs is the Developer Mark Bureau. Does this mean there isn't going to be an HOA for the development and that the Developer will be responsible for all maintenance of the BMPs?
- Under **Project Narrative**, it does not indicate what federal permits are required for the project. For example, a PBR through the DEP is required but is not listed under this section.
- Under **MS4 Identification Plan**, it says this section is not applicable, however, we still need a list of BMPs proposed on the project, regardless if they discharge into the Town's MS4. The PCSWP Guidance Document has an example table that shows how this can be listed.

Staff had questions about whether or not the project is intended to be public or private.

There were comments made by the Fire Chief in July and response comments from the Applicant were not included in the most recent submission materials.

The Town Manager provided a comment to staff: *I would prefer that the road remain a private road. However if it is to become a public road the initial portion of the access road to Portland Avenue needs to be demonstrated to have been built to Town standards.*

*The subdivision should include street lighting with energy efficient luminaires.*

**RECOMMENDATIONS:** Staff does not feel that the application is complete and does not recommend that the PB make a determination of completeness at this meeting or schedule a Site Walk. This meeting should be an opportunity for the board to discuss what items remain outstanding including those associated with the PCSMP, staff comments, and comments from Wright Pierce. Planning Staff recommends that the Applicant come back with the changes for the December meeting.

*No motion required.*

**BACKGROUND (JULY MEETING):**

This project was brought before the Planning Board in January as a sketch plan. It is for the creation of 8 lots off of Red Oak Drive. Currently, there are four lots with homes on Red Oak Drive that were approved back in 2004-2005. The last lot was completed in the summer of 2016. There is a five foot sidewalk proposed as part of the new phase. This will be a continuation of the sidewalk from the first and second phases. The project will be served by public water and septic systems. It is unclear what type of lighting will be provided in the development.

There were a couple of discussion points that came up during the January meeting:

- There were some issues associated with the pond that was constructed as part of Phase II of the Subdivision. The pond was constructed within 75 feet of the stream, however, the piping associated with the pond was within 25 feet of the stream. It appears from the plans that the existing riprap pond at the end of Red Oak Drive will be converted into an underdrained soil filter which will treat the existing roadway and a portion of the proposed roadway. They are also proposing a bioretention filter at the end of the development.
  - The applicant has indicated that the MDEP Permit by Rule was filed "after the fact" that included restoration of the stream bank (for disturbance within 25' of the stream) and the site is now "legal" per the permit acceptance and restoration (trees have been planted). The NRPA PBR Application Packet has been included in your Red Oak materials.
- The applicant plans to submit a Letter of Map Amendment (LOMA) for the FEMA regulated area because the stream banks are well established and high. Planning Staff has asked for documentation on this.

- The Applicant has indicated that it will likely take longer than this project approval for the FEMA adjustment so they are moving forward with the 100-year flood plan “as is” and have designed the lots so that if the line ever does get accepted as a remapped line, they’ll be able to amend the subdivision plan.

A Post-Construction Stormwater Management Plan (PCSMP) has been submitted for the project for the Planning Board to review. Planning Staff has a couple of comments on the plan:

- Under **Project Contact Information**, it says the responsible party for the maintenance of stormwater BMPs is the Developer Mark Bureau. Does this mean there isn’t going to be an HOA for the development and that the Developer will be responsible for all maintenance of the BMPs?
- Under **Project Narrative**, it does not indicate what federal permits are required for the project. For example, a PBR through the DEP is required but is not listed under this section.
- Under **MS4 Identification Plan**, it says this section is not applicable, however, we still need a list of BMPs proposed on the project, regardless if they discharge into the Town’s MS4. The PCSWP Guidance Document has an example table that shows how this can be listed.

It is unclear whether this project is intended to be private or public. In January, the applicant mentioned the project remaining private, however, in the application under solid and sewage waste disposal it indicates: “...until such time as the roadway is accepted by the Town of Old Orchard Beach...”

**DEPARTMENT COMMENTS (JULY):**

FD:

In regards to Red Oak Phase-3 here are some of the requirements they need to meet by NFPA.

- 1) All roads would be twenty feet wide under NFPA 18.2.3.
- 2) Under NFPA 18.2.3.4.4 Dead End, where a fire department access road exceeds 150 feet in length and is also a dead end an appropriate turnaround is required minimum length equals to the length of the longest fire apparatus which would be our tower truck at 48 feet.
- 3) Under NFPA 18.2.3.4.3 Turning Radius, the road turning radius must be able to accommodate the turning radius of our tower truck at 48 feet long. A handout is attached to this letter with the calculation showing the turning radius for our tower truck.
- 4) All privately owned hydrants would be maintained under NFPA 18.35 Water Supplies and Fire Hydrants.
- 5) Under NFPA 18.2.3.2.1 Access to Building, a fire department access road shall extend to within 50 feet of at least one exterior door that can be open from the outside which provides access to the interior of the building. If this not done an approved automatic sprinkler system shall be installed. Under NFPA 18.2.3.2.1.1 where a one or two family dwelling is protected with an approved automatic sprinkler system installed in accordance with NFPA 13D, the distance in 18.2.3.2.1 shall be permitted to be increased to 150 feet.
- 6) We need to check on the nearest hydrants locations.

**RECOMMENDATIONS:** Staff recommends that the PB schedule a site walk for August 3<sup>rd</sup> and a public hearing for August 10<sup>th</sup>.

**BACKGROUND (JANUARY MEETING):**

***Project Background:***

In 2004, the Red Oak development located at 143 Portland Ave was approved as a minor, 3-lot subdivision. In 2005, the applicant came back for an amendment to extend the main road and create one additional lot (Phase 2). The last lot was completed in the summer of 2016.

***Construction Background:***

In early February (2016), Codes staff noticed some severe erosion and sedimentation control issues at the last lot under construction on Red Oak Drive. As a result, the Town had Stephanie from Wright Pierce come out and complete inspections at the site. Inspections were completed in February, March, and May (reports attached). The Town also completed several inspections.

The DEP got involved at the end of July, early August due to the issues onsite, primarily associated with the stream. Audie Arbo at the DEP spoke with Marc Bureau (Owner/Developer) after she discovered that no current permits existed for the work being done on Red Oak Drive. The only permit found was a Permit by Rule for an outfall pipe on Red Oak Drive in 2006. The main issue was that a stream crossing was put in without a Section 10 Permit by Rule (PBR). Work was also done within 25 feet of the stream, which now required an after-the-fact Natural Resources Protection Act Individual permit for activity adjacent to a protected natural resource. In addition, the rip rap in the bed of the stream channel needed to be removed by hand to allow for the natural stream bed to be exposed. Audie also recommended having the engineer hired for the next phase of the project look into whether the road would trigger the need for a Stormwater permit.

In September, Audie met with Marc Bureau's agent and engineer on-site and together they were working on a restoration plan to move the stormwater feature outside of 25 feet from the stream and put in an after the fact permit application for the stream crossing.

***January Update from Audie:***

On January 3, 2017 Audie Arbo at DEP has not received a plan and the enforcement case is still open regarding the project. She has put in another phone call to the agent to ask where the plan and timeline for corrective action is and got an email from the agent stating she will have an after-the-fact Permit By Rule for the crossing and a restoration plan for moving the structures away from the stream very soon.

***Comments were received from Stephanie on December 23<sup>rd</sup>, see attached memo.***

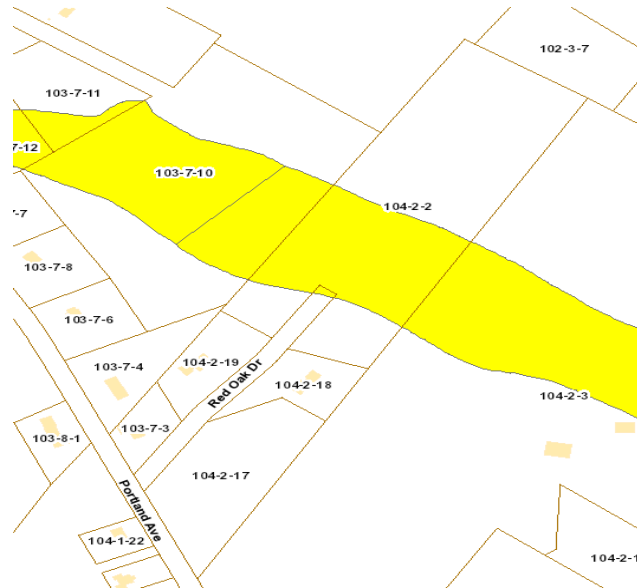
***Additional Town Comments:***

The house adjacent to Lot 9 on the other side of the stream was just completed this past summer. On the approved plans from 2005 it shows this lot as part of Phase II (*see attached plans*). In addition, the parcel number (104-2-2) on the Town's GIS shows that house as part of the same MBL as these 9 additional units. It is unclear on the sketch plan whether this lot is considered part of Phase II as shown on the 2005 approval.



It's unclear whether or not Lot 1 is a buildable lot. A detention pond was constructed this past summer in that area and it's unclear where the building envelope for this new lot is in relation to the pond. It's recommended that this pond be shown on the plan. The building envelope shown to the left of the stream is in the same area as the pond which was located within 25 feet of the stream (*see attached photos*).

FEMA implications – 3 or more of the proposed lots are in the designated FEMA flood zone “A.” This is also addressed in the Wright Pierce memo from Stephanie.



One of the building envelopes for Lot 9 is tucked in the corner of the lot, how could an access drive be put in to get to this building without impacting the stream?

As a heads up this project is over an acre and in the MS4 regulated area so the Town will be looking for the applicant to enter into a Maintenance Agreement and provide a Post-Construction Stormwater Management Plan for the development. They shall also provide the Town with a list of all BMPs proposed on site and designate any of them that could discharge to the Town's MS4 (i.e. Portland Ave).

**DEPARTMENT COMMENTS (JANUARY)**

FD:

In regards to Red Oak Subdivision Phase-2 and Ross Road Subdivision they must both meet the following.

- NFPA: 18.3 Fire Hydrants
- NFPA: 18.2.3 Fire Department Access Road
- NFPA: 18.2.3.4.4 Dead Ends
- NFPA: 18.2.3.4.3 Turning Radius -The Turning Radius must meet the dimensions of the department Aerial Truck.

Public Works:

- I don't see anything for storm water.
- I would like to see the dimensions of the cul de sac for plowing.
- Would cul de sac be large enough to fit fire apparatus

**ITEM 2**

**Proposal:** Minor Subdivision: 2 Duplex Dwellings with a total of 4 residential units  
**Action:** Determination of Completeness; Schedule Site Walk; Schedule Public Hearing  
**Owner:** Donald Bouchard  
**Location:** 189 Saco Ave, MBL: 208-3-12

<u>189 Saco</u>	<u>Project Status</u>
Sketch Plan	N/A
Preliminary Plan	Submitted in August
Application Complete	Recommended for August?
Site Walk	Recommended for September?
Public Hearing	Recommended for September?
Preliminary Plan Vote	Recommended for September?
Final Review	Pending

This is a new proposal before the Planning Board for the creation of two 1,788 square foot duplexes on the corner of Macarthur and Saco Ave. Included in your packets for August are the application materials, plan-set and comments from Wright Pierce dated 7/31/18.

The PB should concentrate on ensuring the project complies with applicable standards in the subdivision ordinance (minor subdivision), GB1 zoning district requirements and applicable performance standards in Ch. 78, Article VIII.

**Waivers**

Important to note up front, there is one waiver request associated with the project:

- 78-1467: For single and two-family residences, widths of driveways at the street as measured 20 feet from the curb-line shall not be less than 12 feet in width, with a maximum right-of-way clearance of 15 feet to accommodate emergency vehicle access. Maximum driveway width at the curblines shall not exceed 20 feet. A 27' driveway entrance is proposed.

The Applicant has also requested a second waiver to feature overhead electric service to the residential dwellings. Planning Staff took a look at the ordinance and it appears that *Sec. 74-275* is the section that would apply here and it says: *“The size, type and location of public utilities, such as...electricity...in a subdivision shall be approved by the Planning Board and installed in accordance with local practice...utilities shall be installed underground except as otherwise approved by the Planning Board...”* It does not appear as if a waiver would be required from that section, the PB is authorized to approve utility location.

Planning Staff recommends the Applicant submit a formal waiver request for the driveway width, citing the ordinance and the reason they are seeking a waiver. The reason has already been documented in the submission materials but this should be a standalone document that cites the specific ordinance standards from which a waiver is requested.

*Sec. 74-34* of the Ordinance gets into the circumstances in which the PB can grant waivers, Staff thought it would be important to point out for the board:

- Where the planning board finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter or where there are special circumstances of a particular plan, it may vary this chapter so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, or the zoning ordinance in chapter 78, where such exist.
- Where the planning board finds that, due to special circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare or is inappropriate because of inadequate or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.
- In granting variances and modifications, the planning board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

## **GB1 Zoning District**

Regarding GB1 standards, two standards stick out- 78-805 Rear Setback and 78-806 (a) (1) Parking.

Regarding setbacks, the rear lot line for a corner lot is the line opposite the front lot line of least dimension. In this case, the front lot line of least dimension is the one abutting Macarthur Ave. So, the rear lot line is towards the eastern portion of the property, adjacent to the Stephens and Joncas properties. GB1 requires a 20' rear setback for residential lots. The plan shows a 15' setback abutting the Stephens property. Plans should be amended to show a 20' setback. Note: this does not impact building location.

Regarding parking, 78-806 (a) (1) states no parking shall be permitted in the front setback yard. Both duplex's show driveways in the front setback which makes it reasonable to assume parking will be in the front setback. Staff understands the need for this standard but it's a bit hard to digest regarding residential driveways. Nonetheless, we are not aware of a driveway exemption or waiver. This will require additional thought. Note: building relocation (e.g., further into the lot to allow for parking out of the setback) will be difficult due to the location of the 75' stream setback and floodplain.

One item to be discussed for additional clarity is exterior lighting. What is proposed for lighting? The ordinance says it cannot exceed the height of the building or 14 feet, whichever is less and it must be shielded to prevent point source glare (78-806(b)(2)(a)&(c)).

## **Performance Standards (Ch. 78, Art VIII)**

*Sec. 78-1466(c)* of the ordinance requires 257 feet of sight distance on Macarthur and 308 feet on Saco Ave. Do the driveways meet these? Planning staff did not see sight distances listed on the plan. The ordinance also says a driveway cannot be within 50 feet of the curblines tangent of intersection local streets. The distance from the driveway coming off of Saco Ave and Macarthur should be measured in relation to their distance to the intersection. Does it meet or exceed 50 feet? One concern about site distance is the proposed buffer location. We'll need more info on this.

*Secs 78-1821 – 1827* regulate screening and buffering. The plans show a proposed vegetative buffer along both street frontages. The southern and at least part of the eastern appear (based on aerials) to have an existing buffer. The applicant should demonstrate how the proposal complies with 78-1821 – 1827.

## **Misc Comments**

- Important to note our ordinances have different standards for 2 family and multifamily (3+). The PB is reviewing two, 2 family dwellings and not a multifamily (see definitions). Although there may be multiple dwelling units, there are two unconnected 2 family dwellings.
- An update on the status of the DEP Permit by Rule (PBR) should be provided to the Town.
- The existing fire hydrant is located 298+/- Ft. away on Macarthur Ave, Planning staff is waiting for a comment from the Fire Department on this.
- Public Works has requested that all utilities are served from Macarthur. It appears that a sewer line is proposed on Saco Ave. The applicant should coordinate further with DPW on the intent of this comment.
- HOA docs – I believe Cavanaugh Road should be spelled Kavanaugh.
- HOA docs- Be sure to include maintenance of stormwater systems language.
- Currently a portion of the property is in a regulated floodplain. The buildings are not within the floodplain. The proposed floodplain maps show both buildings in the floodplain. These maps, according to FEMA, are scheduled to become official during 2019. We just want to be sure the applicant and owner are aware of this in case they build next year.
- A traffic report was submitted from Traffic Solutions was submitted for the project. This report lists how many trips are expected to be generated, however, does not make a determination as to whether or not the trip generation could cause problems on Saco Ave and/or Macarthur Ave. The PB should decide whether or not a more in depth traffic analysis should be required. It is staff's opinion the traffic generation numbers do not warrant further study.
- A letter was submitted from Maine Water that indicates they do have the ability to serve the two duplexes, however, they would like the size of the pipe to be upgraded "in advance of the project" or at least a plan in place to do so. Planning Staff checked in with Maine Water to see what their objective was with that comment.

- This is not subject to MS4 stormwater requirements.

### **Wright-Pierce Comment Summary**

For drainage, you will see we have made some site specific recommendations and considerations based on our modeling of the drainage system. I would be more than happy to review and discuss these results with the applicant engineer, but hopefully are comments (which are a bit lengthy) help cover our concerns and recommendations.

- Update HOA docs to clarify long-term operation and maintenance of proposed stormwater pond.
- Do driveways meet minimum sight distance requirements for single and two-family residences Sec. 78-1466 – Saco Ave 30 MPH speed limit, Macarthur 25 MPH – 308 foot and 257 foot sight distance.
- Driveway for one of the proposed duplex units is access from Saco Ave, Saco ave is a major arterial...applicant may want to provide additional commentary on consideration for evaluation of access off Macarthur ave or additional maneuvering areas for duplex...comment from Joe?
- Boundary survey – Comment 6a references a culvert/drainage easement associated with 36-inch culvert but no details were provided on location/width of easement. If details aren't available Town should consider a 20-30ft. easement to formalize for future repair/replacement.
- Boundary survey – note 7 says “restrictions include limitations on type and number of buildings for each lot” this wasn't referenced in the app package. Recommendation that these restrictions be confirmed that they meet the requirements of the subdivision plan.
- Sheet 3 of 8 shows a CB located over the existing 36-in pipe, the invert in is lower than the invert out is that right?
- Sheet 4 of 8 shows a row of arborvitae along corner of MacArthur and Saco Ave – sight distance with this at the intersection and access to Saco Ave?
- Inconsistencies between pre-development watershed plan and hydrocad. Review and update.
- Would not recommend a direct connection from the proposed development to the 36-in culvert – drainage study considerations. Maybe applicant should meet with WP to discuss. Recommend use of LID b/c in Town delineation of Goosefare.
- Drainage easement for shallow swale proposed to direct runoff to unnamed stream is recommended to ensure the mitigation/drainage is maintained in perpetuity.
- Moratorium on road if repaved in 2018 or 2019. Flag to applicant on schedule coordination.
- New FEMA expands Zone A onto this property.

### **RECOMMENDATIONS:**

The proposal is scheduled for a preliminary plan determination of completeness. The PB should determine if it is ready for this or if additional info is necessary. Staff feels there are a few primary issues that should be resolved before the application is determined complete:

1. Driveway width waiver request
2. Above or underground utilities
3. Parking in the front setback
4. Sight distance
5. Screening and buffering compliance
6. Public works request that all utilities be served from Macarthur Ave
7. Applicants response to ME Water comments
8. Address Wright-Pierce comments

Once the applicant addresses and responds to these primary issues (and other comments and questions mentioned above). Staff expects the preliminary plan can be determined complete.

**ITEM 3**

**Proposal:** Site Plan: Construct 40’ x 80’ Garden Center.  
**Action:** Determination of Completeness; Schedule Site Walk; Schedule Public Hearing  
**Owner:** Robillards Garden Center, LLC  
**Location:** 85 Cascade Rd., MBL: 103-3-3

<b>CASCADE RD. GARDEN CENTER</b>	<b>Project Status</b>
<i>Sketch Plan</i>	April Meeting
<i>Application Complete</i>	Pending
<i>Site Walk</i>	Pending
<i>Public Hearing</i>	Pending
<i>Final Ruling</i>	Pending

The Planning Board saw this proposal back in April as a Sketch Plan. It is for the demolition of the existing cabins/cottages and single-family home and the construction of a 40x80 building and associated storage bins/parking to support a Garden Center. In your packets for August are the application materials, plan set and comments from Wright Pierce dated 7/31/18.

Wright Pierce had several comments on the plans but wanted us to specifically highlight two of them:

1. The adjacent properties are somewhat close in proximity. WP has concerns with the drainage around the parking lot and have requested some additional detail and confirmation on the size of the swale to ensure the adjacent properties are not impacted by runoff.
2. They have modeled (which is minor and small) an increase to the 21-inch culvert crossing Arnold Road. The culvert is private so they are recommending some coordination with the owner.

Staff and Wright Pierce had a few comments on the plan so we grouped them together into categories listed below:

### Lighting

A footcandle plan was not submitted, Planning Staff recommends this is submitted for the September meeting. The ordinance *Sec. 78-871(e)(2)* requires that a nonresidential use does not shed more than 0.5 footcandles onto surrounding residential properties.

The ordinance *Sec. 78-871(e)(1)* also requires that the free standing site lighting not exceed the height of the principle building or 14 feet, whichever is less. This needs to be confirmed in the plans.

Lastly, the ordinance also requires that the lighting be shielded to prevent point source glare.

### Traffic/Driveways/Parking/Loading

*Sec. 78-1491(e)* of the ordinance requires that multiple driveways on major roads for nonresidential uses requires a minimum separation between each driveway of 185 feet (for a 40MPH stretch). The Applicant claims that they meet the 185 feet, however, Wright Pierce says it appears to be 178 feet. Will this require a waiver? Planning Staff recommends that the distance between the two driveways be confirmed and shown on the plan.

Planning Staff recommends that the PB make a determination as to whether or not the board is all set with traffic information as presented (4 trips at AM peak and 11 trips at PM peak) or if the board would like further information, for example, a letter from a traffic consultant.

There is a requirement in the ordinance (and we also discussed this with the Dollar General project) *Sec. 78-1542(g)* for installing bituminous concrete, poured-in-place concrete, manufactured pavers, or porous paving systems. The ordinance specifically says “*The PB may permit the application of crushed stone, or similar porous paving system in lieu of impervious pavement for parking lots serving...garden nurseries.*” The PB may want to add this to the consideration of the project.



Sec. 78-1591-78-1596 discusses off-street loading standards. Planning Staff did not see loading areas specifically designated on the plans. Where will people park to access the bins? Where will deliveries occur to the building itself? How will the truck maneuver? Planning Staff recommends these questions be answered.

WP made the comment that the driveway exit from the development is a 7.7% grade change from the dumpster location to Cascade Road. Sec. 78-1494 of the ordinance says that within 30 feet of a public street...the driveway grade shall not exceed 3%. The Applicant should evaluate this further.

A snow removal plan did not appear to be included in the plan-set. This should be included in the September submission.

## Stormwater

As discussed above, WP recommends that further consideration be given to the ditch between this property and the adjacent property, the ditch appears to be shallow with steep slopes in some places.

WP also recommends the size of the swale on the other side of the property be documented to ensure runoff does not impact the adjacent home.

The watershed boundary information that was used did not appear to include the Homewood Park Development which included a stormwater pond. This would alter the model used for the project. The calculations should be updated to reference this.

Also as discussed above, the capacity of the Arnold Street Culvert appears to be exceeded during the 25-year storm event. This should be reviewed further.

WP recommends a few updates to the Post Construction Stormwater Management Plan (PCSWMP) including contact information, updates to the project description section, include site specific BMPs, identify the forested

buffer in the plans, state who will be responsible for post-construction, include additional information under the inspection summary.

## Miscellaneous

A performance guarantee estimate was not included in the materials. This should be submitted for September.

We are still waiting on an ability to serve letter from Maine Water for the project.

This was also discussed at the April meeting and WP brought it up as a potential concern. Are there setbacks for storage bins with landscaping materials? What if they are in close proximity to neighboring properties? Does the PB have any thoughts on this? Planning Staff did not see anything specifically mentioned in the ordinance for setbacks for storage bins. However, one of the Site Plan Standards says: *“the proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life, character, or the stability of property values of surrounding parcels.”*

Responses to the Site Plan review criteria were not included in the materials submitted. Planning Staff recommends these be submitted for September.

WP brought up the potential maintenance issues of the chain-link fence between the neighboring property and this property during/following construction.

### **RECOMMENDATIONS (AUGUST):**

There were several items as discussed above that Planning Staff feels should be submitted for the September meeting:

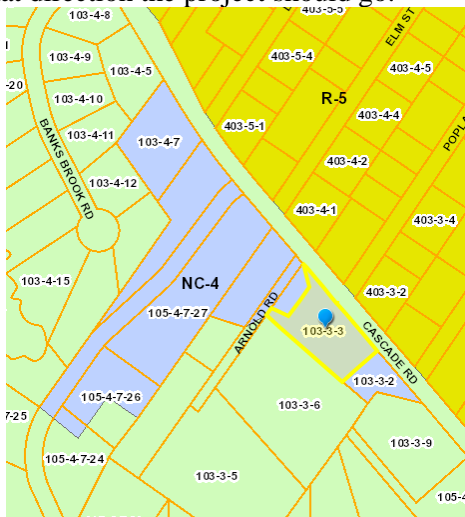
- Foot-candle plan with calculations for lighting.
- Waiver required for distance between driveways?

- Would the PB like a letter from a traffic consultant?
- Porous pavement consideration?
- Grade change needs to be evaluated.
- Snow removal plan needs to be submitted.
- Several stormwater considerations including the ditch, swale, culvert, updated calculations including Homewood Park, and the PCSWMP.
- Performance Guarantee needs to be submitted.
- Ability to serve letter from ME water.
- Setbacks for storage bins in close proximity to residential uses.
- Responses to the 9 SPR Criteria.
- Maintenance of the chain-link fence between the neighboring property and this property during/following construction.

Planning Staff feels that further consideration needs to be made to the items listed above, especially those pertaining to stormwater and potential runoff to adjacent properties. The PB should hold off on the determination of completeness until the September meeting.

**BACKGROUND (APRIL):**

This proposal is for the demolition of existing cabins/cottages and a single-family home and the construction of a 40x80 building and associated storage bins/parking to support a Garden Center. This proposal is in the sketch plan stage and as you know proposals in early stages like this offer an opportunity for the Planning Board to discuss and provide recommendations to the Applicant on what direction the project should go.



The Applicant is proposing to connect to the existing public water and install an onsite septic system. The proposal currently uses the existing curbcut for two-way traffic and proposes to create an additional “exit only” drive so that they can separate the store customers from the customers purchasing bulk products such as mulch.

The property is located in the NC-4 district (Cascade Road Neighborhood Commercial District). Another parcel in this district also used to be a garden center a few years ago. Garden centers and agricultural uses are permissible in the NC-4 district. However, because this is construction of a new nonresidential structure it requires review as a Site Plan by the Planning Board.

The lot size is 50,094 sq. ft and the minimum lot size with water is 40,000 sq. ft in this district so it meets those requirements. It also exceeds the frontage requirement of 200 feet.

**Ordinance requirements that the project will have to meet include:**

Applicable Parking Requirements (Sec. 78-871(c)):

- (2) – All off-street parking facilities accommodating four or more spaces shall be buffered from adjacent residential properties and shall be screened from the street if so located in the front yard per standards described in Subdivision IV of Division 7 of Article VIII of this chapter.
- (3) – Where the building is only proposed to be 3,200 sq. ft. it doesn't meet the "5,000 sq. ft in net leasable area" threshold for parking distribution.

Applicable Signage Requirements (Sec. 78-871(d)):

- (1) – *Materials*: Signage shall be constructed of wood, metal and or fabric or composite materials.
- (2) – *Area and Dimensions*: Allowable signage shall be one square foot of signage per linear foot of storefront fronting directly onto Cascade Road. Free standing signs shall not exceed 8 ft. in height, square footage of signage allocated for the freestanding sign shall be subtracted from the maximum allowable square footage for the property. Permitted sign area is not transferable between sides of the building located on a corner lot.

Applicable Lighting Requirements (Sec. 78-871(e)):

- (1) – All freestanding site lighting shall not exceed the height of the principle building or 14 feet, whichever is less.
- (2) – From a nonresidential use, not shed more than 0.5 footcandle onto surrounding residential properties or 1.0 footcandle onto surrounding nonresidential properties.
- (3) – Be shielded to prevent point source glare.

Applicable Performance Standards (Ch. 78, Art. VIII, Div. 4):

Applicable Parking Standards (Sec. 78-1491) –

- (a) – *Siting*: Access driveways for multifamily and nonresidential uses shall be sites in the most appropriate location, given existing site topography and project layout, surrounding land uses, and prevailing traffic conditions.
- (b) – *Orientation*:
  - (1) All driveways shall be oriented at 90 degrees to the street or private way.
  - (2) The PB may permit driveway intersections with the street at an angle not to exceed 60 degrees in circumstances where the nature of the use or existing highway alignment precludes a right-angle intersection.
- (c) – *Sight Distance*: All driveways servicing nonresidential and multifamily uses shall be designed so as to meet or exceed sight distance standards established in Sec. 78-1466(c) which for this 40MPH stretch is 410 feet.
- (e) – *Driveways on Major Roads*: Along arterial and collector streets, multiple driveways servicing a single parcel may be permitted, provided the minimum separation between each driveway meets the following criteria: 40MPH stretch is 185 feet in separation.
- (f) – *Offset from Intersections*:
  - (2) – A minimum 100-foot separation shall be maintained between any driveway and the curblin tangent of intersecting arterial and/or collector streets. Based on existing or projected traffic conditions, the PB may require more than 100-foot separation distances.

Applicable Driveway Dimensions (Sec. 78-1492) –

One-Way Drives (Minimum): 12 Feet, (Maximum): 20 Feet  
Two-Way Drives (Minimum): 24 Feet, (Maximum): 26 Feet  
Curblin Radius (Minimum): 5 Feet, (Maximum): 15 Feet

Applicable Turning Lanes (Sec. 78-1493) –

This all depends on how many trips they are expecting during peak hour. If it is more than 50 vehicles, they will have to provide a separate right turning lane **(a)**, if it is expected to generate in excess of 30 left-turning vehicles during the peak hour, they shall construct a turning lane in the public street **(b)**.

Applicable Driveway Design Specifications (Sec. 78-1494) –

These requirements get into driveway grades, profiles, and cross sections and they depend on the number of trips per day (more or less than 20 trips per day). This information is something the Applicant should submit with their formal submission.

Applicable Parking Lot and Site Circulation Standards (Sec. 78-1541, 78-1542, 78-1543) –

These requirements get into general performance standards of the parking lot as well as stall access and dimensions of the parking areas and stalls. This section of the ordinance also gets into designating snow disposal areas.

Applicable Landscaping Standards (Sec. 78-1544) – These requirements include landscaping and buffering standards primarily for the building. Some of these standards, such as street trees, are also applicable to parking lots.

Applicable Parking Standards (Sec. 78-1566) – It appears this proposal will have to meet the retail space requirements 1 space per 250 sq. ft net leasable area which equals about 13 parking spaces. This section of the ordinance lists several different uses but does not define garden center separately. Sec. 78-1567 discusses the number of handicapped spaces required and it is based on the number of total parking spaces.

Applicable Off-Street Loading Standards (Sec. 78-1591 – 78-1596) – Wherever possible, driveways or access to loading facilities shall be physically separated from customer parking lots, walkways or driveway entrances. Where will these area be designated?

If the project is going to disturb greater than 1 acre, it will need to meet the Chapter 71, Post-Construction Stormwater Management ordinance including the requirement to submit a Post-Construction Stormwater Management Plan for the PB to review.

**The proposal will have to demonstrate compliance with the 9 Site Plan Review Criteria (78-216(d)):**

- (1) The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in this article and article VIII of this chapter.
- (2) The proposed project has received all required zoning board of appeals and/or design review permits as specified in division 2 of article II and article V of this chapter, if applicable, and has or will receive all applicable federal and state permits.
- (3) The proposed project will not have an adverse impact upon the quality of surficial or groundwater resources.
- (4) The project provides adequate stormwater management facilities to produce no additional peak runoff from the site during a 25-year storm event or any other event so required by the planning board, and will not have an undue impact on municipal stormwater facilities or downstream properties.
- (5) The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood.
- (6) The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community.
- (7) The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life, character, or the stability of property values of surrounding parcels.
- (8) The proposed project will not have a negative fiscal impact on municipal government.
- (9) The proposed project will not have an adverse impact upon surrounding property values.

**RECOMMENDATIONS (APRIL):**

This meeting is an opportunity for the PB to review the project in the early stages and offer recommendations to the Applicant of items for them to address in their formal submission. Planning Staff expects a number of items will need to be discussed in the formal submission as indicated above including:

- Details on signage including type, materials, size
- Details on lighting including height and footcandle calculations
- Sight distance and multiple driveway separation on a major road (need to show that they can achieve the 185 feet)
- Number of trips during peak hour and the number of trips in general expected at the site
- Landscaping including types of vegetation, locations, how the buffer will be achieved for the parking lot (front yard) and adjacent properties, street trees
- Parking – what will the parking look like in the back of the site next to the storage bins, how will it be accessed, how will patrons access the building
- Will the project be disturbing 1 acre or more – stormwater ordinance requirements
- Where will loading areas be for materials that are delivered to the store, how will the truck maneuver?

**ITEM 4**

**Proposal:** Site Plan Review: Expansion of existing corps and admin building, parking lot construction, building demo, landscaping, site work  
**Action:** Discussion; Final Ruling  
**Owner:** The Salvation Army  
**Location:** 6<sup>th</sup> St, Union Ave, Church St, Oakland Ave, 15<sup>th</sup> St; MBL: 311-6-1,12, 8; MBL: 311-4-1,2,3,4,5

<b>SALVATION ARMY</b>	<b>Project Status</b>
<i>Sketch Plan</i>	Not Required
<i>Application Complete</i>	Not Required
<i>Site Walk</i>	Not Required
<i>Public Hearing</i>	Not Required
<i>Final Ruling</i>	Recommended for August

On 14 September 2017 the PB granted conditional site plan review approval of the Salvation Army’s proposal to construct a 12,000 sq. ft. addition, parking lots, sidewalks, infrastructure, buffers, etc. The conditions:

1. The portion of the proposed building parallel to the southerly boundary lines of lots fronting Oakland Ave shall be staked out and setback field verified before construction begins. This language shall be included as a note on the revised site plan.
2. The Salvation Army or their representatives shall work with OOB Public Works to help address blockages or maintenance items in the Oakland Ave storm drain system before construction begins. This includes the drain line between the southerly line of Oakland Ave properties and the Salvation Army building.

Post approval, the Salvation Army encountered unexpected events (support for Hurricane Marie) which required the diversion of resources planned for this project to the hurricane relief effort. Also, the Salvation Army is evaluating additional development options due to the acquisition of additional properties adjacent to their campus. For these reasons project construction has not begun. The Salvation Army does not anticipate construction beginning before the 14 September; therefore, are requesting a 1 year extension.

According to OOB’s site plan ordinance, construction must begin within 1 year of the approval date. The PB has authority to grant 1 year extensions if compelling evidence is presented that additional time is required to meet federal, state, or local permit requirements or in reaction to market changes. I believe devoting resources earmarked for this project to hurricane relief efforts is reason to grant an extension. You could argue the project must comply with state, federal, and local codes and permit requirements and it requires money to do this. With this money switch to hurricane relief the Salvation Army did not have the resources to build the project in accordance with codes and permit approvals. Additional time is needed to do this.

**RECOMMENDATIONS:**

Staff recommends the PB grant the 1 year extension request for construction commencement date expiring on 14 September 2019. All prior approvals and conditions remain in-effect.

Motion: Approve the Salvation Army request for a 1 year commencement of construction extension for the site plan review project originally approved by the Planning Board on 14 September 2017. Commencement of construction shall begin on or before 14 September 2019.