



OLD ORCHARD BEACH  
PLANNING BOARD  
January 2018 MEMO

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## *Regular Business*

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**ITEMS 1 & 2**

**Proposal:** Site Plan Review: Additions and new construction including enclosed stairway, elevator, lobby, elevated deck/walkway  
**Action:** Public Hearing; Discussion; Ruling  
**Owner:** Lafayette Old Orchard, LLC  
**Location:** 87 West Grand Ave, MBL: 313-5-1, 4, 5

**87 WEST GRAND AVE**

**Project Status**

<i>Application Complete</i>	Completed at December Meeting
<i>Site Walk</i>	Cancelled (storm)
<i>Public Hearing</i>	Held in January
<i>Final Ruling</i>	Scheduled January

At our December meeting, the PB determined the application complete subject to receiving the following information as part of the applicant’s next submission:

1. Insure waiver request justifications are accurate and provide further information for 3.m. and 3.n.
2. Provide more detailed Site Plan Review Criteria responses.
3. Amend site plan to accurately show all construction associated with this proposal.

In response, the applicant provided: light fixture cut sheet; exterior light fixture locations and spillover plans; more info regarding drainage (revised site plans, 20 Dec. cover letter); revised Site Plan Review Criteria responses; amended site plan and “New Work” plans. A few comments on these submissions and their conformance with 1 – 3, above.

1. Waiver requests for 3.m. and 3.n. Remember, the PB can waive submission requirements if the Board feels the submissions will not yield any useful info given the scope of the proposal or existing character of the site.
  - 3.m. asks for location, layout and dimensions of all existing and proposed drainage along with drainage calculations. The revised plans includes all existing and proposed drainage (proposed appears to be just down spouts) in the areas associated with new development. Also, the 20 Dec cover letter includes drainage comments. The proposal does not include drainage calcs. Staff feels that because there is no new impervious surface and changes are minor (e.g., no new catch basins, topo changes, etc) the plans do not need to show drainage infrastructure beyond the development area and drainage calcs will not provide any info that will warrant changes to site design.
  - 3.n. asks for location, specs, height and photometric data of existing and proposed site. The new submissions appear to show enough info to conform with 3.n., we just request an explanation of the candela tabulation sheets. Staff expects 3.n. will not require a waiver.
2. More detailed Site Plan Review Criteria responses. The applicant submitted revised responses. Staff feels these responses are acceptable with the following modifications (can be stated during the PB’s reading of the criteria):
  - (2) Add: This project received Certificate of Appropriateness approval during October 2017.
  - (6) Add: There are no known important cultural resources on or adjacent to this site; therefore, there will be no impact.
3. Amend site plan to show all construction associated with this proposal. The revised site plan (C1.1) appears to show all proposed construction with the exception of the elevated walkway. Staff recommends the applicant submit a revised site plan showing the elevated walkway. This can be a condition.

The PB should first rule on the waiver requests. Staff believes 3.m. request can be modified so the waiver is only applicable for a plan that shows all existing site drainage and drainage calcs. Also, we believe 3.n. can be removed from the waiver requests or the PB can grant a waiver just for the submission of a photometric plan. All waiver requests can be found in the 28 August cover letter (December submission). If the PB approves the waivers, the Board can rule on the Site Plan Review Criteria.

**RECOMMENDATIONS:**

If the PB finds they can grant the waiver requests, Staff recommends the PB motion to conditionally approve Lafayette Old Orchard LLC Site Plan Review Application for additions and new construction including enclosed stairway, elevator,

lobby, elevated deck/walkway on the property located at 87 West Grand Ave, MBL: 313-5-1, 4, 5 (Waves Hotel).  
Condition: Submission of site plan showing elevated walkway.

**BACKGROUND (DECEMBER MEETING):**

Waves is proposing renovation and enclosure of an existing staircase (attached to building G); construction of a new building and renovation of an existing building that will house elevators, lobby, storage/mechanical rooms between buildings G and Horizon; 2 elevated walkways attaching buildings; concrete walkway attached to building E; remove existing pavement and replacing. The primary purpose of the project is safety and people access. Although this may seem like a lot of work it amounts to only about 2,800 new sq. ft. It's a pretty straight forward proposal, too, and already received quite a bit of review including DRC (10.2017) and Administrative Site Plan (11.2017) approvals as well as DEP ok. Admin Site Plan approved the enclosed stairway and elevator/lobby foundations. The reason we could not approve beyond the foundations is due to Admin review cut-off at 1,000 sq. ft.

Several waivers of the plan requirements (78-215 c) are requested. The PB has authority to grant plan waivers if the PB determines the item associated with the waiver will not yield any useful info given the nature and scope of the proposed activity or the existing character of the site. The waiver requests are discussed on the first page of the applicant's submission. A few comments on the waivers:

- 3.k: location of utilities, hydrants, waste receptacles, etc. The applicant states not all utilities are shown and they do not intend to change the services. As long as the plan shows utilities, hydrants, etc. impacted by the proposal or are new, we can support this waiver.
- 3. l: landscaping. Landscaping is not proposed and we believe is not necessary; therefore, we support this waiver.
- 3. m: Drainage facilities, drainage report. It appears all work will be over existing impervious surface and will not impact drainage systems. Surface locations (e.g. elevated walkways, roofs) and materials (e.g., bituminous vs asphalt shingles) are changing and although it may be minor, we'd like to know more regarding how drainage associated with these changes has been accounted for and designed. Staff needs more info before we can support this waiver. Something to note- DEP considered this a minor expansion under NRPA and does not need a permit.
- 3.n: Location, specs, photometric plan of exterior lighting. The applicant states there will be no change to exterior lighting but new existing lighting is proposed. The lighting is minor and we don't expect spillover to adjacent, non-Waves properties so we believe a specialized lighting plan is not necessary. Although, we would like lighting specs and the approx. area the lights glare will impact before we can support this waiver.
- 3.o: erosion control plan. We are comfortable with this waiver request as long as excavated areas are properly stabilized.

This proposal requires conformance with the Site Plan Criteria for Approval standards (78-216 d 1-9). The applicant provides responses to the criteria but we believe these responses should provide more detail. For example, criteria #2 is associated with a project securing applicable local, state and federal approvals. The applicant states the project will receive a DEP permit. The standard should be amended to indicate the proposal secured Admin Site Plan approval for construction of the enclosed stair and lobby/elevator foundations. DRC approval secured for exterior building design. DEP was contacted and stated no permit was required- the project can be complete under the NRPA minor expansion standard.

The submitted plan set shows all improvements but the site plan (C1.1) does not show all proposed construction. The elevated walkways between Buildings F and G are not shown. The site plan should accurately show all proposed construction- this is the primary plan folks will look to see what was approved.

**RECOMMENDATIONS (DEC):**

Staff believes there are a few outstanding items that need to be addressed. The items should be easily resolved and are not major enough to warrant a delay in the PB's review. We recommend the PB motion to determine the application complete subject to receiving the following information as part of the applicant's next submission:

4. Insure waiver request justifications are accurate and provide further information for 3.m. and 3.n.
5. Provide more detailed Site Plan Review Criteria responses.
6. Amend site plan to accurately show all construction associated with this proposal.

**ITEM 3**

**Proposal:** Private Way Application  
**Action:** Discussion; Ruling  
**Owner:** Casey Gray  
**Location:** Adjacent to Portland Ave., MBL: 205-1-37

**PORTLAND AVE PRIVATE WAY**

**Project Status**

<i>Application Complete</i>	September Meeting: Tabled
<i>Site Walk</i>	Voted at November Meeting
<i>Public Hearing</i>	Held in December
<i>Final Ruling</i>	Held in December
	Recommended for January

At the December meeting, the Planning Board held a site walk and a public hearing and decided to table the proposal to have our Town Attorney review the submitted draft Declaration of Maintenance of a Private Way.

There are three items in your packet for the January meeting:

- A revised Maintenance Agreement
- An updated plan noting Maintenance Agreement changes
- An email from David Lourie, Abutters Attorney in response to John Cunningham, Applicants Attorney request to remove the condition about ownership/right of use from the Application.

The Applicant and Abutters Attorney came to a consensus on a Maintenance Agreement that they recommended to both parties and a copy of that agreement has been included in your packet. The Attorneys have stated that the agreement will be fully executed prior to or at the PB meeting on the 11<sup>th</sup>. The Applicant also updated the plan to reflect the changes that were made to the Maintenance Agreement. This updated plan is in your packet and the note changes have been listed below:

**Updated Plan (1/4/18):**

8. HALF INTEREST OF THE ACCESS PARCEL THAT WILL CONTAIN THE PRIVATE ROADWAY IS OWNED BY ALLEN & MELINDA HESS AND HALF INTEREST BEING OWNED BY CASEY GRAY UNTIL SUCH TIME THAT LOT 37 ("LOT 7") IS SOLD. IT IS ANTICIPATED THAT THE NEW LOT OWNER(S) OF LOT 37 ("LOT 7") WILL GAIN CASEY GRAY'S HALF INTEREST OF THE PARCEL WITH THE SALE OF THE PROPERTY. **THE PROPOSED EASEMENT OVER LOT 30 ("LOT 1") WILL GRANT THE RIGHTS TO UTILIZE AND MAINTAIN THE PROPOSED PRIVATE ROADWAY WITHIN THE EASEMENT AREA.**

9. THE ROADWAY SHALL REMAIN A PRIVATE WAY AND IS TO BE MAINTAINED BY THE LAND OWNERS AND SHALL NOT BE ACCEPTED OR MAINTAINED BY THE TOWN UNTIL SUCH ROAD IS BROUGHT INTO CONFORMANCE WITH THE STREET DESIGN AND CONSTRUCTION STANDARDS CONTAINED IN THE TOWN REGULATIONS. THE TOWN OF OLD ORCHARD BEACH SHALL NOT BE RESPONSIBLE FOR MAINTENANCE, REPAIR, PLOWING OR SIMILAR SERVICES FOR THE PRIVATE WAY SHOWN ON THIS PLAN. **THE MAINTENANCE OF THE PRIVATE WAY IS PROVIDED BY A PRIVATE ROAD MAINTENANCE AGREEMENT.**

**Plan (12/4/17):**

8. HALF INTEREST OF THE ACCESS PARCEL THAT WILL CONTAIN THE PRIVATE ROADWAY IS OWNED BY ALLEN & MELINDA HESS AND HALF INTEREST BEING OWNED BY CASEY GRAY UNTIL SUCH TIME THAT LOT 37 ("LOT 7") IS SOLD. IT IS ANTICIPATED THAT THE NEW LOT OWNER(S) OF LOT 37 ("LOT 7") WILL GAIN CASEY GRAY'S HALF INTEREST OF THE PARCEL WITH THE SALE OF THE PROPERTY. **THE PROPOSED EASEMENT OVER LOT 30 ("LOT 1") GRANTS THE FUTURE OWNER(S) OF LOT 37 ("LOT 7") THE RIGHTS TO UTILIZE AND MAINTAIN THE PROPOSED PRIVATE ROADWAY WITHIN THE EASEMENT.**

9. THE ROADWAY SHALL REMAIN A PRIVATE WAY AND IS TO BE MAINTAINED BY THE LAND OWNERS AND SHALL NOT BE ACCEPTED OR MAINTAINED BY THE TOWN UNTIL SUCH ROAD IS BROUGHT INTO CONFORMANCE WITH THE STREET DESIGN AND CONSTRUCTION STANDARDS CONTAINED IN THE TOWN REGULATIONS. THE TOWN OF OLD ORCHARD BEACH SHALL NOT BE RESPONSIBLE FOR

MAINTENANCE, REPAIR, PLOWING OR SIMILAR SERVICES FOR THE PRIVATE WAY SHOWN ON THIS PLAN. THE MAINTENANCE OF THE PRIVATE WAY WILL BE THE SOLE RESPONSIBILITY OF CASEY GRAY UNTIL LOT 37 ("LOT 7") IS SOLD. THE FUTURE OWNER(S) OF LOT 37 ("LOT 7") WILL THEN BE RESPONSIBLE FOR THE ROAD MAINTENANCE.

The Applicants Attorney, John Cunningham sent an email to Planning Staff stating that because David Lourie said at the December meeting, on behalf of the Hesses, that they did not question the applicant's ownership or right of use (their concerns were with the road maintenance agreement), that there is no further reason to include the condition about right, title and interest and ask that the Planning Board approve the application without that proposed condition. Planning Staff reached out to the Abutters Attorney, David Lourie who agreed that it is acceptable to remove the condition. That correspondence has been included in your packets.

#### **RECOMMENDATIONS (JANUARY):**

Now that a Maintenance Agreement has been submitted that will be signed by both the Applicant and the Abutter, Planning Staff recommends approval of the proposal with the following condition:

Recommended Motion: *I will make a motion to approve the Private Way owned by Casey Gray and located at 54 Portland Ave, MBL: 205-1-37 with the following condition:*

1. *The Private ROW is intended to provide access to a maximum of 2 dwelling units.*

#### **BACKGROUND (DECEMBER)**

There are a few new items pertaining to this proposal in your packets for December:

1. A letter from the Abutters Attorney – David Lourie
2. A cover letter and plan-set depicting the 50 foot ROW
3. A letter from the Abutter, Allen Hess that was read during Good & Welfare in November
4. A Warranty Deed with easement language
5. A draft Declaration of Maintenance of a Private Way document
6. An updated 11x17 plan-set
7. A letter from the Applicant Casey Gray in response to the Abutters comments read during Good & Welfare in November
8. A letter from Allen Hess dated 12/06/17

The purpose of the December meeting is to hold a site walk, a public hearing and make a final ruling on the proposal.

#### **Items Received and Discussed for the December meeting:**

Planning Staff received a letter from the Abutters Attorney (David Lourie) which is included in your packet. This letter was forwarded to our Town Attorney for follow-up. Our Attorney pointed out that the PB should be able to see very distinctly that the proposed private way falls within the 50 foot ROW that the Applicant has right, title and interest to. On Page 2, #1 of the Attorney's letter, it says "*Note the areas where the proposed private way departs from the 50' Right of Way depicted on the subdivision plan. The discrepancies should be explained at or prior to the public hearing...*" Our Attorney recommended that we verify this on the plan and Planning Staff asked if the Applicant could revise the plan to highlight the Private Way and show that it is only in that 50 foot ROW or on the Applicants property. This revised plan has been included in your packets along with a cover letter explaining the changes.

The Abutter read a letter during Good and Welfare at the Planning Board in November. A copy of that letter has been included in your packets.

The Design Standards Section (78-1414) in the Towns Private Way ordinance discusses the number of dwelling units served by a Private Way and what the roadway width needs to be, etc. In this section, it states that 3 or more dwelling units served requires subdivision review. Because of this, Planning Staff recommends to the PB that a Condition of Approval be placed on the project that says "The Private ROW is intended to provide access to a maximum of 2 dwelling units." Staff also recommended that this note be placed on the plan and that has been done.

An easement has been proposed for Lot 37 to access the Applicants property for a portion of the Private Way and the hammerhead turnaround. Planning Staff requested to see easement language for the proposed easement. The language has been included in your packets.

Section (78-1413) of the Private Way ordinance discusses a Maintenance Agreement for 2 or more lots. It says: *“If the private way provides **access to two or more lots**, a maintenance agreement shall be prepared. The agreement shall specify the **rights and responsibilities of each lot owner** with respect to the maintenance, repair and plowing of the private way. This agreement shall be approved by the planning board and shall be recorded in the county registry of deeds within 60 days of approval by the planning board.”* A draft agreement was submitted back in September that said the Abutter was jointly responsible for one half of the cost of maintaining, repairing and plowing the Private Way. The way this proposal has been presented to the Planning Board, it has stated that Lot 36 will not be responsible for any maintenance in the Private Way. As such, Planning Staff recommended that this be updated in the Maintenance Agreement and a new one be submitted. The updated version of the agreement has been included in your packet for December.

The Abutter indicated in the letter read during Good & Welfare that the proposed Private Way hammerhead turnaround cuts off access to his lot. The ordinance (Sec. 78-1411) says that the PB may approve the use of a Private Way to **provide access to lots, existing** or proposed. Planning Staff recommended to the Applicant that they provide information on how access to lot #36 will be achieved since it is intended to be included as part of the Private Way. This has been shown on the new 11x17 plan that you received in your packets for December.

A letter from the Applicant in response to the Abutters concerns discussed during Good and Welfare has also been included in your packets.

At the November Planning Board meeting, we discussed the requirement from Assessing that the Private Way should be named for E911 purposes. This has been coordinated with Assessing.

#### **Ordinance Discussion:**

In order to be sure the Private Way proposal meets the ordinance requirements, a summary of the required items is listed below:

**Sec. 78-1411 – (APPROVAL REQUIREMENTS)** *“The Planning Board may approve the use of private ways to provide access to lots, existing or proposed, provided that the conditions of this division are met.”*

- The Plan that has been provided appears to meet the conditions of the Private Way Ordinance and shows access for both the existing and proposed lot.

**Sec. 78-1412 – (PLAN SUBMISSION)** *“A plan showing the private way for one lot shall be prepared by a registered land surveyor licensed to practice in the state. A plan showing the private way for two or more lots shall be prepared by a registered land surveyor and professional engineer licensed to practice in the state. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the surveyor and/or engineer preparing the plan. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of the planning board, the date of approval, and the words, "Private Way, Approved by the town Planning Board." The plan shall show information sufficient to establish on the ground the exact location, direction, width, and length of the private way. In addition, a street plan, profile and cross section shall be submitted for each private way serving two or more lots. The plan shall also contain a note which shall read, "The Town of Old Orchard Beach shall not be responsible for maintenance, repair, plowing, or similar services for the private way shown on this plan." The original plan shall be recorded in the county registry of deeds within 60 days of approval by the planning board. If the plan is not recorded within this period, the approval of the planning board shall be void.”*

- Because the plan shows the private way for two lots, it has been stamped by both a Land Surveyor and a Professional Engineer. The plan has been titled “Plan of a Private Way” and has an approval block for signatures with “Private Way, Approved by the Town Planning Board” listed on the bottom. Information on the location, direction, width and length of the private way has been shown on the plan and a street plan, profile and cross section have been included with the proposal. The note about the Town not being responsible for maintenance and other services has also been written on the plan (#9).

**Sec. 78-1413 – (MAINTENANCE AGREEMENT)** “If the private way provides access to two or more lots, a maintenance agreement shall be prepared. This agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. This agreement shall be approved by the planning board and shall be recorded in the county registry of deeds within 60 days of approval by the planning board.”

- An agreement meeting these specifications has been included in your packets for December ad discussed above.

**Sec. 78-1414 – (DESIGN STANDARDS)**

(a) *Width of right-of-way.* The right-of-way of private ways created after September 19, 1989 shall have a minimum width of 50 feet. The right-of-way of a private way described in a deed or plan recorded in the county registry of deeds prior to September 19, 1989 shall have the width described in such deed or plan, but not less than the minimum roadway width required by subsection (b) of this section.

- The ROW as shown on the plan is 50 Feet, the darker line at the end of the hammerhead is the extent of the ROW on the Applicants property.

(b) *Construction standards.* The construction of private ways shall meet the following minimum standards:

	Number of Dwelling Units Served		
	1	2	3 or more
Nonresidential use: minimum roadway width	16 feet	16 feet	
Residential use: minimum roadway width	12 feet	16 feet	Must comply with requirements of the town subdivision review standards in <a href="#">chapter 74</a>
Minimum subbase (heavy road gravel)	12 inches	15 inches	
Wearing surface (fine gravel)	2 inches	2 inches	
Maximum length of dead end	None	None	
Maximum grade	10%	8%	

Minimum grade	0.5%	0.5%	
Turnaround at dead end	Hammer head, T or cul-de-sac	Hammer head, T or cul-de-sac	
Stormwater drainage	Approval of director of public works		

- The standards for a Private Way serving 2 units have been met and are shown on the plan.

(c) *Compliance with construction standards.* The applicant for a building permit for a lot to be served by a private way shall be responsible for bringing the entire private way, from the nearest public way up to and including that portion of the private way which abuts the applicant's lot, into compliance with the standards of subsection (b) of this section, notwithstanding that other lots served by the private way may already have been built upon.

(d) *Inspection and certification.* Private ways serving two or more lots shall be inspected under the direction of a registered professional engineer. Prior to the issuance of building permits for lots served by a private way, the engineer shall certify to the code enforcement officer that the private way has been constructed in accordance with this section.

- These two items will be handled at the Building Permit phase of the project.

**Sec. 78-1415. - Fees.**

A review fee which shall be determined by the town council shall be paid by the applicant at the time of filing the application and plan for a private way.

- This fee was paid when the application materials were submitted

There is one condition that was recommended by our Town Attorney at the October meeting to address the on-going discussion about the ownership/legal right to use the access way that Planning Staff recommends be added to the plan. Another condition that Planning Staff recommends be added to the proposal addresses the maximum of two dwellings. These have been listed below:

- Certain property owners in the vicinity of the applicant’s project have asserted that the applicant does not have ownership or legal right to use the access way where the project would be located. The Planning Board does not have jurisdiction to determine the rights of the parties to deeds or private contractual agreements, nor can this approval create or affect any such rights. 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.
- The Private ROW is intended to provide access to a maximum of 2 dwelling units

**RECOMMENDATIONS (DECEMBER):**

As stated above, the purpose of the December meetings are to hold a Site Walk, Public Hearing and make a ruling on the proposal. Pending concerns that may be discussed during the Public Hearing, Planning Staff feels that all items that are required to be submitted per our Private Way Ordinance have been submitted.

Recommended Motion: *I will make a motion to approve the Private Way owned by Casey Gray and located at 54 Portland Ave, MBL: 205-1-37 with the following two conditions:*

*1. Certain property owners in the vicinity of the applicant’s project have asserted that the applicant does not have ownership or legal right to use the access way where the project would be located. The Planning Board does not have jurisdiction to determine the rights of the parties to deeds or private contractual agreements, nor can this*

approval create or affect any such rights. 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.

2. The Private ROW is intended to provide access to a maximum of 2 dwelling units

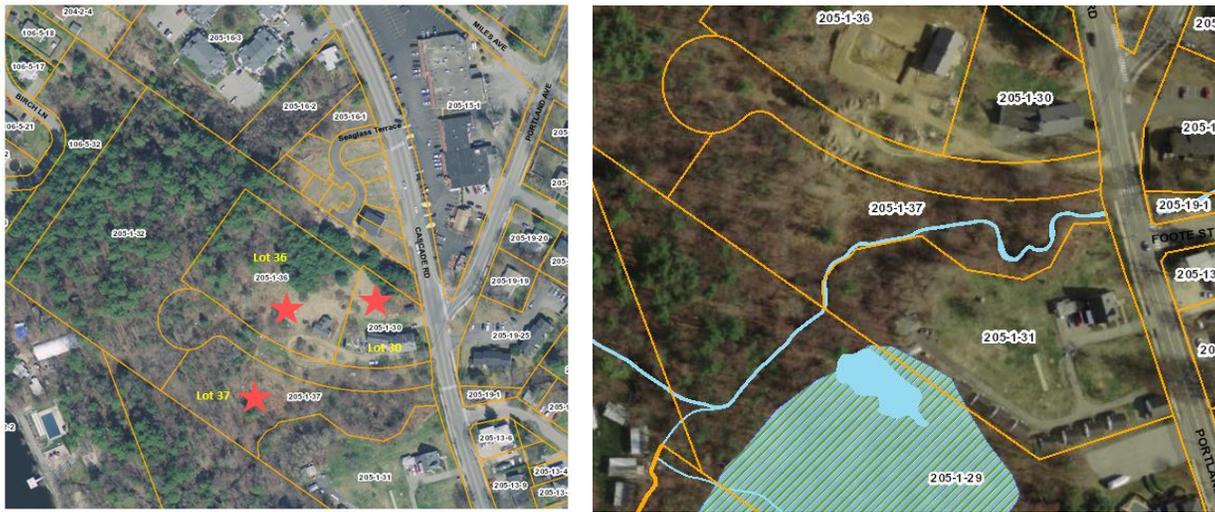
## BACKGROUND (NOVEMBER)

### Introduction –

This proposal was brought before the Planning Board in September but was tabled while the Applicant made a few revisions to the plan. It is for the establishment of a Private Way to serve one lot across from the intersection of Portland Avenue and Cascade Road.

A little background information, a 7 lot division plan was prepared in 2001 for this area. It included a private way to provide legal frontage for the proposed lots. However, the subdivision was never approved by the PB and has since been used to divide the lots without construction of the private way. The lots were divided through family transfers or in a matter that did not trigger subdivision review. The old 7-lot plan has been included in your packets as part of the plan set that was submitted. Two of the lots were dissolved into Paradise Park (205-1-32).

The reason this proposal is before the PB is because the Applicant needs to obtain frontage for lot 37 in order to be able to construct a single-family home and sell the lot.



The proposal was originally presented in September and included a number of land conveyances between the Applicant and the Abutter to realign the Private Way around the wetlands and streams located to the south of the property. In the November submission, the proposed layout has been revised to maintain the existing cul-de-sac shaped parcel which is owned by both the Applicant and the Abutter as “tenancy-in-common.” The Applicant claims that the parcel was mislabeled as a ROW and instead should be looked at as an “access parcel” which is co-owned by the Applicant and the Abutter. A letter from the Applicants Attorney, Eaton Peabody has been included in your packets. What this letter indicates is that the Applicant is a co-owner of the cul-de-sac shaped parcel, therefore, she does not need permission from the Abutter to use or improve that parcel of land.

### Road Design & Department Head Comments–

The proposed Private Way is a 270 linear foot gravel road that will be constructed to the private road standards to provide access to lot 37 and the lot next door #36 that belongs to the Abutter. There is a 2-family home located on Portland Ave that will maintain its existing driveway. These two curb cuts (one belonging to the home on Portland Ave (lot 30) and the other belonging to the Abutter (lot 36) have existed for several years and the Applicant claims that the only additional traffic in this area would be associated with the new single family home proposed for lot 37. Public Works has provided comments which are included in your packet. The DPW Director has stated that he has no problem allowing the curb cuts to stay where they are. If there is any additional development beyond the single family home on lot 37, he would require the curb cut at 58 Portland Ave (lot 30) be eliminated and access for that lot come off of the Private Way.

The gravel road also includes the construction of a hammerhead turnaround which has been configured based on dimensions that were provided by Public Works.

The proposed road will encroach onto lot 30 to avoid the wetlands. The Applicant owns lot 30 and intends to provide an easement to the future owners of lot 37 to use and maintain the road. Maintenance responsibility will not fall onto the Abutter (lot 36). It is intended that all maintenance responsibility will be that of the Applicant until the lot is sold and the responsibility is conveyed to the new homeowner.

The road will include underground electric, cable and telephone conduits from an existing pole on Portland Ave. The original design presented in September showed lot 37 connecting into the existing sewer line. However, the line was looked at with a camera and it appears that it is only a 4" main and is not adequate size to accept the sewer flow from lot 37. Therefore, the applicant will install an onsite septic to treat waste at the site.

Some concerns were discussed about the potential for Paradise Park to access this Private Way. However, according to the Attorney, Paradise Park is not allowed to use this for access purposes or any other purpose, they have access over their own adjacent land.

The Assessing Department also provided comments and asked that the Private Way be named for E911 purposes prior to a ruling by the PB.

A NRPA PBR has been approved by the DEP for the project.

While this is not a requirement for the Private Way proposal, the Applicant provided Net Development Density Calculations for lot 37 and it is a developable lot in the R-1 district, Staff had some concerns that this might not be a developable lot because of the wetlands. The lot requirements in the R-1 district are 20,000 sf/NDD. However, this lot is split between the R-1 and GB-1 districts, the lot requirements in GB-1 are 10,000sf/NDD which are much more lenient but for the Applicant to take advantage of the GB-1 lot requirements, that would require PB review so staff recommended that they address this item now. The response from the applicant is below:

*My original assumption and the reason I didn't calculate it before was, since the lot was an existing lot of record and as long as the building and driveway didn't impact wetlands and were outside the floodplain, that it was developable.*

*The Net Development Density for Lot 37 is:*

*Total Lot Area = 67,537 sf*

*Deduct Wetlands = 44,106 sf*

*Deduct Driveway = 1,044 sf (based on Estimated House layout on Post Dev. Stormwater Map)*

*Deduct Steep Slopes = 0 sf*

*Net Development Density = 22,387 sf > 20,000 sf (R-1 District)*

The Applicant meets the required 20,000sf/NDD for the R-1 District.

#### **Wright Pierce Comments –**

Wright Pierce provided comments for the September meeting. These comments have been included in your packet. All of them have been addressed in the November submission materials.

#### **Miscellaneous Items –**

One thing to point out is that the PBs responsibility is only to rule on the Private Way. However, there is another item that should be considered as it will be outstanding prior to the issuance of Building Permits so staff wanted to bring it to your attention.

- The proposed lot #37 is surrounded by a stream and wetlands. DEP has regulations for siting a septic system within close proximity to a stream. Prior to the issuance of Building Permits, the Applicant will have to have soil analyses completed for the site as well as find a place to site the septic system. While the PB does not have to require soil analyses for the private way, the results may impact the ability to put a septic system on the lot.

**RECOMMENDATIONS (NOVEMBER):**

The Planning Board should review the letter provided by the Attorney regarding the use of the parcel designated for the private way as well as the other materials submitted and determine whether or not the application is complete. One item to point out is that the Assessing Department did require that the street be named prior to Planning Board approval. The other miscellaneous item discussed is not the responsibility of the Planning Board in terms of ruling on this application but is an item you may wish to consider under the purview that the purpose of this application is to create frontage for a single family home.

If the PB decides to determine the application complete, a Site Walk should be scheduled for December 7<sup>th</sup> and a Public Hearing should be scheduled for December 14<sup>th</sup>.

If the PB decides that the application is not complete, a site walk can still be scheduled for December 7<sup>th</sup>, however, the public hearing would have to wait until the January 11<sup>th</sup> meeting. Note: A decision could still be made at the January meeting.

*Recommended Motion: I will make a motion to determine the application complete to convert a business into a ground floor residential unit located at 22 Washington Ave.*

*Recommended Motion: I will make a motion to schedule a site walk for December 7<sup>th</sup> time **TBD** and to schedule a public hearing for December 14<sup>th</sup> at 7:00PM.*

**BACKGROUND (SEPTEMBER):**

This proposal is for the establishment of a Private Way to serve two lots located across from the intersection of Portland Avenue and Cascade Road. In your packet for September are the following items:

- Private Way Application and Supporting Materials
- Stormwater Management Report
- Draft Declaration of Maintenance of Private Way
- Comments from Wright Pierce

This property was originally part of a 7-lot division plan that was prepared in 2001 which included a private way to provide legal street frontage for the proposed lots. This subdivision was never approved by the Planning Board and has since been used to divide lots without construction of the private way. These lots were divided through family transfers or in a matter that did not trigger subdivision review.



This proposal is before the PB because the Applicant needs to obtain frontage for lot 37 in order to be able to construct a single-family home and sell the lot. The proposed private way is a 265 linear foot gravel road, 16 feet wide, which will follow the existing gravel driveway constructed by the owner of lot 36. A hammerhead turnaround is provided at the end, the dimensions for this were provided by the DPW Director. There will not be a new curb-cut on Cascade Road.

The private way will have underground electric, cable, and telephone conduits from the existing utility pole on Portland Ave. For sewer, the project will connect to the private line that the owner of lot 36 has installed. The Applicant is proposing a potable well instead of making a new connection to the public water main on Portland Ave.

During the design of the road the Applicant ran into some issues with wetland delineation and a stream. Due to the proximity of the wetlands and the floodplain, the private way was slightly redesigned. A stormwater management plan has been submitted for the new roadway. The private way also requires a PBR from the DEP, this application has been submitted.

A draft copy of the Declaration of Maintenance of Private Way has been included. Planning Staff recommended that the applicant coordinate with the owner of lot 36, Alan Hess and the PB should receive information on this proposal from Alan.

Wright Pierce provided comments on the submission materials. Some of the items that it is recommended the Applicant address include:

- Confirmation of adequate sight distance from the Private Way on Portland Ave. *Planning Staff recommends that the applicant provide this information for the October meeting.*
- Review of setbacks for adjacent driveways and centerline of offset intersecting streets. The proposed private way is approximately 130-feet from the offset intersecting Portland Avenue and is located 20-feet from the existing paved driveway serving the abutting lot 30. *Staff will confirm this information prior to the October meeting.*
- Confirmation of the sewer connection to the proposed Lot 7 including design and construction of the existing private sewer line by Hess. Information on the size of the line and service connections have not been noted on the plan with the exception of a “likely location of a stub.” *Planning Staff recommends that the Applicant provide this information for the October meeting.*

#### **RECOMMENDATIONS:**

There are a couple of items that were discussed in the Wright Pierce memo that the PB may want to have submitted for the October meeting including sight distance information, review of setbacks for driveways and intersecting streets, and confirmation of the sewer connection.

In addition, communications with the Abutter, Alan Hess have not been included in the submission materials, this is something that the PB may want to see for the October meeting.

These items can be included as a condition for the October submission as part of the Determination of Completeness. If the PB decides to determine the application complete, a site walk should be scheduled for October 5<sup>th</sup> and a public hearing for October 12<sup>th</sup>.

If the PB decides that the application is not complete, a site walk can still be scheduled for October 5<sup>th</sup>, however, the public hearing would have to wait until the November 9<sup>th</sup> meeting. Note: A decision could still be made at the November meeting.

**ITEM 4**

**Proposal:** Subdivision Amendment: Amend Sandy Meadows Plan: revise lot lines to lots 5-8, 18, 21, 22; revised building locations; revised parking  
**Action:** Discussion; Ruling  
**Owner:** Lacosta Development, LLC  
**Location:** Lacosta Dr., Sandy Meadows, MBL: 105A-1-A

<u>Sandy Meadows Amendment</u>	<u>Project Status</u>
Sketch Plan	Not Required
Application Complete	Not Required
Preliminary Plan	Not Required
Site Walk	Not Required
Public Hearing	Not Required
Ruling	Pending

At the December meeting, the PB decided to table their decision on this item- the PB requested the developers engineer prepare plans for the sidewalk and have them submitted to Wright-Pierce to get a cost estimate for the sidewalks. What the PB wants is engineer designed sidewalks and the funding for these sidewalks, both approved by Wright-Pierce and the town, to be in place before the Board approves the subdivision amendment. The remaining key steps appear to be:

- WP approves sidewalk plans
- WP provides cost estimate
- Town approves cost estimate and agrees on performance guarantee and financing tool
- Developer fund sidewalk project

The developers engineer submitted sidewalk plans (in Jan packet) to Wright Pierce (WP) to which WP responded with estimated costs of \$61,519.25 and the following comments (in Jan packet, too):

Attached you will find the preliminary sidewalk cost estimate for your review and approval. This cost estimate is based on the Walkway Layout - Sandy Meadow Plan prepared by BH2M with latest revision date of January 2, 2018 as stamped by Andrew S. Morrell.

Couple of items I wanted to highlight in my review of the plans to prepare this estimate:

1. At the start of the sidewalk (along WDW) I would recommend a note be added to connect this sidewalk to the existing. Currently, the sidewalk dead ends at about the property line. They may want to confirm grades in this area, it appears there is a slight slope from the existing sidewalk to the access roadway.
2. Regarding the trees, the revised plan submitted by BH2M noted a number of trees on the elevated portion of the walkway, but in reviewing aerial photos, there appear to be additional trees along Ross Road closer to the intersection with Cascade and in the area where grading of the ditch line is proposed. This includes both sides of the existing driveway. Again, I am basing this comment on aerial photos and my recollection from recent drive-bys, but this may be something that needs a quick confirmation. With any well-established trees (including those on the elevated area), I want to caution that with work in this close of proximity, any damage to the root structure may compromise the tree. In the case of the elevated section (where trees are shown), the sidewalk will be in very close proximity to the base and within the canopy of the tree. Caution needs to be taken if they want the trees to survive.
3. When looking at the aerial imagery there appear to also be some utility poles with some guy wires along Ross Road, including one where the sidewalk tucks into the edge of the ROW. May be worth noting the location of these guy wires to avoid.
4. At the existing culvert crossing, the most recent plan regraded a portion of the sideslope. I want to flag that the grading still extends to just in front of the existing culvert crossing Ross Road at Cascade road intersection (less than a foot). There appear to be some changes in slope (scaling off the plans some slopes may be 2:1 and even 1:1) I think it may be worth adding a detailed cross section of this area on the plans for construction purposes and further coordination on the location of the ditch line in proximity to the existing culvert.

At the time of writing this, WP appears to have a few outstanding comments and questions (above) that need to be addressed before we get the final ok that they're satisfied. Also, the developer has been diligently working on securing the bond for the project. This has not been finalized but we expect this will happen soon. One option to move this forward if the plan is not approved, funding is not secured and the PB feels more needs to be done is adding a condition that does not allow issuance of occupancy permits until WP approves the final plans, town approves construction schedule, and town approves a performance guarantee with financing in-place.

#### **RECOMMENDATIONS:**

The PB should determine if the developer has successfully complied with the PB's requests. If the PB feels they have not then the PB could motion to:

- Table the application and identify exactly what needs to be done
- Approve with the condition that occupancy permits shall not be issued until WP approves the final plans, town approves a construction schedule, and the town approves the developer's performance guarantee with financing, provided by the developer or their agent, in-place and accessible to the town in case the developer fails to perform to the terms agreed to in the financing tool (e.g., escrow, surety, LOC).
- Deny the application identifying the specific reasons why.

Staff feels the proposal should not be denied but we want to ensure the sidewalk plans are approved by WP and financing is secured. The one guarantee of this happening is the PB holding off on approval until this is done. Another option is the condition tied to issuance of occupancy permits.

If the PB feels the proposal can be approved (with or without conditions) we recommend the PB motion to approve Lacosta Development, LLC Subdivision Amendment Application to amend Sandy Meadows Plan: revised lot lines to lots 5-8, 18, 21, 22; revised building locations; revised parking. Location: Lacosta Dr., Sandy Meadows, MBL: 105A-1-A. Condition: Occupancy permits shall not be issued until WP approves the final plans, town approves a construction schedule, and the town approves the developer's performance guarantee with financing, provided by the developer or their agent, in-place and accessible to the town in case the developer fails to perform to the terms agreed to in the financing tool (e.g., escrow, surety, LOC).

#### **BACKGROUND (DECEMBER):**

This proposal is before the PB at our December meeting as for the purpose of following-up on PB requests made at the November meeting. Also, the owner is hoping to secure approval of the subdivision amendment. The PB requested:

- Clarify title on the plan to say either "amended plan", "2<sup>nd</sup> amendment" or some kind of language that would make it easy to identify which plan this is.
- Address Note 13 on the Sandy Meadows amended subdivision plan. The PB recommended the owner or agent work with planning and public works to comply with Note 13. Compliance should include a relocated sidewalk that extends to Cascade Rd. Note 13 states: The applicant shall work with the Old Orchard Beach Public Works Department and Town Planner to relocate the 5' wide bituminous walkway as required. The applicant shall work with the Maine DOT if necessary.
- Depending on the result of addressing the sidewalk issue in Note 13, creating a buffer along Ross Rd. from Cascade to Wild Dunes Way.

As of 6 December, staff has not received another plan or other documentation from the owner or their rep that addresses the PB's requests. Because we have not received additional info, we cannot provide a recommendation at this time.

Although, we have a few follow-up comments:

- Regarding the Note 13 matter, the owner's rep (BH2M) discussed this with planning and public works. Public works provided a pdf (in Dec packet) that shows a recommended sidewalk location. PW states this proposed sidewalk "requires that existing drainage is protected or improved. Also, curbing is installed where it is needed or makes sense." BH2M asked if showing an easement reserving land for a sidewalk to be constructed at some future date would be acceptable. It was staff's opinion this is not acceptable because simply showing an easement does not guarantee the owner will finance and construct the sidewalk- the HOA and/or town could be left with costs and construction. Also, this would not address PW's comments concerning protection or improvement of drainage and curbing installation. It's staff's opinion that to ensure compliance with Note 13 and the PB's

requests, plans should be amended to show the relocated sidewalk, this should include any engineering necessary to address PW's comments, and all costs associated with construction, etc. of the relocated sidewalk should be secured in an escrow or letter of credit before the PB approves the amendment. An important note- staff spoke to Stephanie Hubbard (WP Engineer) about the proposed sidewalk extension to Ross Rd. and she made some interesting points that should be considered before the PB decides the sidewalk location should be changed. First, Should we extend a sidewalk that dead ends at one of the more dangerous intersection (Ross and Cascade) in town. There are no nearby or planned sidewalks in this area. Second, a portion of the new sidewalk location will likely interfere with drainage and access easements. So, should the sidewalk location be altered to extend to Ross Rd? One option is the sidewalk is constructed as shown on the current plan and an easement is laid out from a point of the sidewalk as shown to Ross Rd.

- Regarding the buffer, the PB should determine if a buffer in addition to the sidewalk is required. If the sole purpose is to prevent back door access to properties adjacent to Ross Rd, a sidewalk with curbing should accomplish this. If its purpose also includes beautification, the PB should provide recommendations. Maybe a split rail fence adjacent to the sidewalk.

#### **RECOMMENDATIONS (DEC):**

Staff can't recommend approval or denial of the amendment at this time because we have nothing new to review. Moving forward, the PB should discuss:

- The sidewalk- Is public works plan acceptable? Can BH2M show only the sidewalk easement or do we need more information? Should an escrow or letter of credit be secured before the PB approves the amendment? Who should be responsible for costs and construction? Should a sidewalk even be built to Ross Rd?
- The buffer- If the sidewalk is constructed is a buffer necessary? If the PB feels a buffer is required what should it be?

#### **BACKGROUND (NOVEMBER MEETING)**

This proposal was tabled at the October meeting, as requested by the project owner. The reason why it was tabled was because we did not receive previous approval vs. proposed amendment impervious surface calcs and the development owner did not secure authorization or permissions from the property owners in Sandy Meadows who would be affected by this proposal.

Regarding impervious surface calcs, BH2M emailed the following:

Wanted to touch base with the impervious calcs for Sandy Meadows. With the changes to parking, walk ways and exact building footprints the impervious number was reduced from the original approved plans. They look like this.

2012 approval – 98,902 s.f.  
Amended plan – 86,262 s.f.

Regarding securing authorization/permission from affected property owners, the development owner is working on this. I spoke to the owner and he has secured some but not all. At the time of writing this memo we have not received info addressing this but expect we will on or before 9 Nov.

#### **DEPARTMENT COMMENTS**

Town Manager

With respect to the requested amendments to the Sandy Meadows subdivision plan the applicant should be required to provide either curbing along Ross Road between Wild Dunes Way and Cascade Road, or provide a vegetative buffer along this section of Ross Road (perhaps arbor vitae). The units that are constructed in proximity to Ross Road have daylight basement entrances. There has been some resident parking occurring from Ross Road to these basement entrances. My preference is for the vegetative buffer. It would be effective in preventing vehicular access and would also provide screening between the road and the residences.

#### **RECOMMENDATIONS (NOV):**

Staff is comfortable with existing vs. proposed impervious surface calcs as it has been reduced by 12,000 sq. ft. There is concern about residents accessing parking from Ross Rd., which is not permissible. We recommend a condition be attached so this access is prevented. If the development owner submits info concerning authorization/permission and the PB feels it's acceptable, staff recommends the PB motion to conditionally approve the Sandy Meadows Subdivision Amendment representing the following changes: lot boundary line revisions for lots 5 – 8, 18, 19, 21, 22; as built and revised building locations; as-built and revised parking space locations and assignments; addition of driveways for lots 6, 10 and 22. Condition: Install a vegetative buffer or curbing along Ross Rd between Wild Dunes Way and Cascade Rd in a sufficient manner that prevents access to the lots in Sandy Meadows.

### **BACKGROUND (OCT MEETING)**

This proposal includes: lot line revisions; as built and revised building locations; as-built and revised parking space locations and assignments; addition of driveways. Overall this plan is a step in the right direction as it offers us the ability to more accurately see where final construction exists and where proposed construction will be built.

According to the applicant, the proposed changes to lot lines are associated with lots 5-8, 18, 21, and 22. After review of the plan, lot 19 is changing too. I checked with the assessor and Lacosta does not own lots 21 and 22 so we must ask the question- can Lacosta Development LLC change these lot lines without the owner's permission?

The proposed amendment changes common area, too. Changes to lots 5, 7 and 8 lot lines cause changes to the common area. We assume each lot owner has some kind of ownership of the common area. Can Lacosta Development LLC change common area without authorization from all owners in Sandy Meadows?

Impervious surface. We expect the proposed revisions will change the total impervious surface area. Did the change require any modifications to stormwater? If so, what are the changes? If not, why? Did it require DEP approval?

At the time of writing this memo we do not have answers to the permission/authorization questions. This should be resolved before the PB approves the proposed amendment. Also, will changes to impervious surface area or location alter the stormwater plan and/or require DEP approval? This is another question that should be answered. Finally, the note in bold at the bottom of the plan, below Lot Areas ("This plan is...Page 44") should be removed or amended to reflect the new revision. Once the ownership and impervious surface matters are resolved to the PB's satisfaction, staff expects to recommend approval of the amendment.

### **RECOMMENDATIONS (OCT):**

Our recommendation depends on the applicant's response and PB's satisfaction to the permission/authorization and impervious surface questions. At this time, staff feels these matters are not resolved recommend the PB motion to table pending resolution. It's possible the owner or applicant has knowledge and/or documentation that can resolve the outstanding matters to the PB's satisfaction. If this is the case staff recommends the PB motion to approve the Sandy Meadows Subdivision Amendment representing the following changes: lot boundary line revisions for lots 5 – 8, 18, 19, 21, 22; as built and revised building locations; as-built and revised parking space locations and assignments; addition of driveways for lots 6, 10 and 22.

**ITEM 5**

**Proposal:** Subdivision Amendment: Amend Wild Dunes Way 8 Lots Subdivision Plan to add a 9<sup>th</sup> lot  
**Action:** Discussion; Ruling  
**Owner:** Dominator Golf LLC  
**Location:** Wild Dunes Way, MBL: Portion of 105A-200

<u>8-Lot Subdivision Amendment</u>	<u>Project Status</u>
<i>Sketch Plan</i>	Not Required
<i>Application Complete</i>	Not Required
<i>Preliminary Plan</i>	Not Required
<i>Site Walk</i>	Not Required
<i>Public Hearing</i>	Not Required
<i>Ruling</i>	Pending

Our full review of this proposal is not done but in fact, there's really not much need to go into this in excess as the comments below and those in the 5 Jan 2018 Wright-Pierce memo capture the primary issues.

- Applicant response to Wright-Pierce memo
- Status of DEP Site Law Permit?
- Open space calcs on plan (area being removed, total area remaining)
- How will it be known if someone looks at The Inn plan that a unit cannot be established there? Should a plan that shows "The Inn" lot be amended to recognize this? Also, note 19 and the language in the box (on amended plan, below lot 8) does not include language that a unit or units cannot be built. Instead it mentions "the area" and "lot". I believe both the note and language in the box should state unit.

**RECOMMENDATIONS**

Recommend a motion to table until the comments/questions above, including those in the Wright-Pierce memo, are addressed by the applicant.

**ITEM 6**

**Proposal:** Subdivision Amendment: Amend Subdivision Plan David Deshaies Ross Road to create 1 lot  
**Action:** Discussion; Ruling  
**Owner:** David Deshaies  
**Location:** Ross Road., MBL: 105-2-16

<u>Deshaies Subdivision Amendment</u>	<u>Project Status</u>
<i>Sketch Plan</i>	Not Required
<i>Application Complete</i>	Not Required
<i>Preliminary Plan</i>	Not Required
<i>Site Walk</i>	Not Required
<i>Public Hearing</i>	Not Required
<i>Ruling</i>	Pending

The proposed amendment is to divide a single lot into two lots. The single lot associated with this proposal is part of a 3 lot subdivision approved during 2002. This lot was created as an estate lot and retained by the original subdivider (Deshaies) but was not developed. The owner is now proposing to divide the estate lot into two lots, each for single-family use.

Early last year, the owner’s representative (CES) began discussions with staff regarding what they could do with this lot. The focus was some kind of residential subdivision. At that time, approx. half of the estate lot was zoned Industrial (ID) and the other half Rural (RD). Because of the ID zone and the shape of the lot, residential development proved to be difficult. The best option appeared to be the one that is now before the PB but to do this a zoning amendment to change the ID to RD was necessary. A zoning amendment to remove the ID and change the lots’ district so it is entirely within the RD was proposed and approved during 2017.

Now that the zoning district has been amended, the proposal could continue to the next step which includes creating lots that meet applicable RD standards for single-family lots. One of these standards, 200’ of frontage/lot, requires the creation of a private way. A private way application is submitted separately and discussed in this memo (Item 7). Although a private way is submitted separately it is a critical part of the subdivision amendment proposal because the private way must be approved to secure frontage which is necessary for the creation of a legal lot.

A majority of issues that came up have been addressed during the initial planning of this proposal. One question that remains is the 200’ lot width standard. Portions of the lots appear to have 200’ of lot width but each lot does not have 200’ width along the full length. This made me curious to see how this was applied in the RD for other lots (except those in cluster subdivisions). I found that lot width varied. Some had 200’ + throughout, some had 200’ through a portion along the road frontage then narrowed (like this proposal), some were less than 200’ throughout. Also, estate lots appear to not meet this standard because of the 50 foot access strip.

So, how is this 200’ applied? Must it be throughout the entire length of the lot? I don’t have clear guidance on this. The lots associated with the proposal do appear to have 200’ but do not throughout the lot length. If it should be throughout the proposal should secure ZBA approval before the PB provides a ruling.

**RECOMMENDATIONS:**

The proposal is well done. One question that should be resolved is lot width. Also, because the creation of lots is tied to frontage which is associated with the private way proposal, a ruling on the subdivision amendment should be held at the same time as the private way. Because the private way is under review and will continue to be after January there is no reason for the PB to take formal action on this proposal now. Although, if the PB feels the width matter will require ZBA approval before the PB rules on the amendment the PB should state this.

**ITEM 7**

**Proposal:** Private Way Application  
**Action:** Determination of Completeness; Schedule Site Walk and Public Hearing  
**Owner:** David Deshaies  
**Location:** Ross Road., MBL: 105-2-16

**ROSS ROAD PRIVATE WAY**

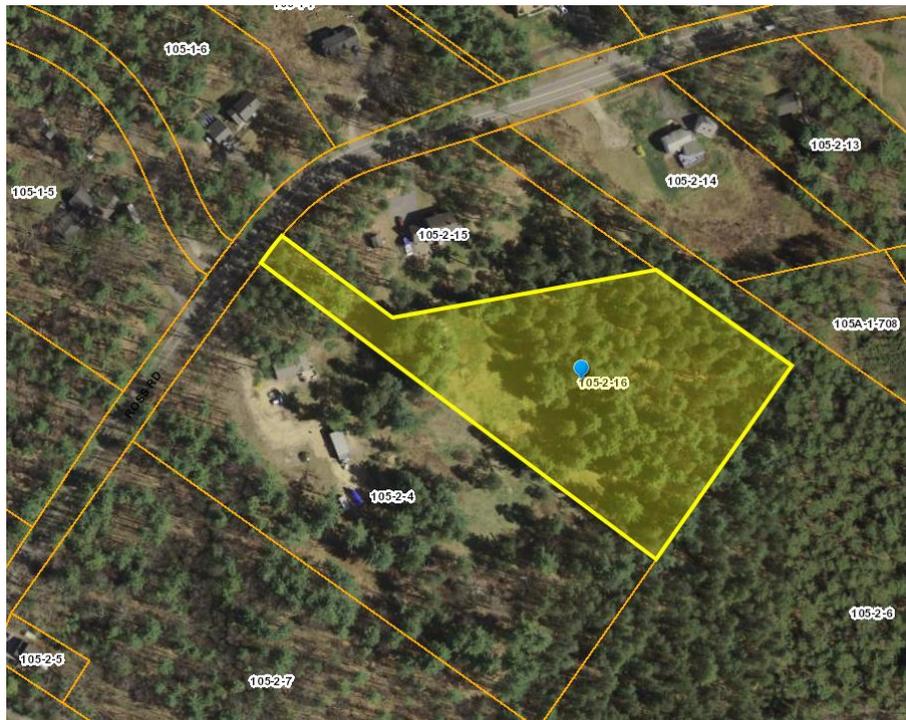
**Project Status**

Application Complete	Recommended for January
Site Walk	Recommended for February
Public Hearing	Recommended for February
Final Ruling	Pending

This proposal is for the establishment of a Private Way to serve two lots on Ross Road. In your packet for January are the following items:

- Private Way Application and Supporting Materials
- Draft Declaration of Maintenance of Private Way
- Responses to the 12 CU Standards – *Please note, while reviewing the Private Way Application for Portland Ave we realized that this does not have to be reviewed by the PB as a CU so these responses are not necessary.*
- Stormwater Management Narrative
- Private Way Plan Dated 1/3/18
- Wright Pierce Comments Dated 1/4/18

The property was originally part of a 3-lot subdivision that was approved in 2002. The Applicant is also proposing an amendment to that subdivision plan to split lot #3 (105-2-16), which is currently a vacant lot, into two separate lots which are planned to be served by this Private Way.



The Private Way is proposed to be a gravel road, 550 feet long, 16 feet wide with a hammerhead turnaround provided at the end. The dimensions for this were provided by the DPW Director. The Private Way will consist of underground electric, cable and telephone conduits from the existing utility pole on Ross Road. Each dwelling unit will have a septic system. Wells are proposed for each of the homes. The nearest hydrant is 1,260 feet away at the end of Patoine Place. As

part of the most recently approved subdivision, Eastern Trail Estates a hydrant will be constructed at the end of Mary's Way which is ~800 feet away from the Private Way. The Fire Department has indicated that a typical fire pumper carries 1,000 feet of water supply hose so distances greater than that are concerning. Unfortunately, public water does not exist on Ross Road and it would cost over \$200,000 to bring it to this private way to serve two homes which would be cost prohibitive. Should a public water supply be available in the future on Ross Road, the Applicant has shown a potential connection on the plan.

The Applicant received approval from the DPW Director for Stormwater Drainage, Sight Distance and the Turnaround:

### Sight Distance –

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**From:** Joseph Cooper  
**Sent:** Thursday, November 30, 2017 10:40 AM  
**To:** Jeffrey Hinderliter; Megan McLaughlin  
**Cc:** Stephanie A. Hubbard  
**Subject:** David Deshaies - Ross Road

Hi,

I met with Shawn from CES on Ross Road today. I think the site distance issue is resolved by having the Private Road raised to allow for improved sight distance. They have agreed to bring the road up and maintain that elevation 50' in on the private way.

Thanks

Joseph Cooper  
Public Works Director  
103 Smith Wheel Road  
Old Orchard Beach, Maine 04064  
(207) 934-2250

### Stormwater & Hammerhead Turnaround –

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**From:** Joseph Cooper  
**Sent:** Tuesday, December 19, 2017 12:51 PM  
**To:** 'Chip Haskell'  
**Cc:** Jeffrey Hinderliter  
**Subject:** RE: Deshaies subdivision hammer-head

Hi,

Im OK with this.

Thanks  
Joe Cooper

---

**From:** Chip Haskell [<mailto:chaskell@ces-maine.com>]  
**Sent:** Tuesday, December 19, 2017 12:50 PM  
**To:** Joseph Cooper <[jcooper@oobmaine.com](mailto:jcooper@oobmaine.com)>  
**Cc:** Jeffrey Hinderliter <[jhinderliter@oobmaine.com](mailto:jhinderliter@oobmaine.com)>  
**Subject:** Deshaies subdivision hammer-head

Hi Joe,

One other item I need to run by you is the dimensions of the hammer head for the Deshaies Private Way. I couldn't find an actual dimensional standard in the ordinance so I've modified the design a bit to be similar to a recently approved plan on Portland Ave given to us by Jeffrey Hinderliter. I have designed for it to be sufficient for a 40' bus type vehicle. I've attached a copy of our latest Private Way Plan showing the hammer head for you to reference. Please let me know if this meets your requirements. If we do not need to design for that large of a vehicle that would be welcome information too.

Additionally, in our narratives I've stated that we have obtained your verbal approval for sight distance and stormwater, and understand a written confirmation is forthcoming. Is that agreeable to you?

Let me know if you have any questions.

Thanks again,

Alfred C. Haskell, P.E. ♦ Project Engineer  
P 207.989.4824 | F 207.989.4881 | C 207.991.0756

**CES**INC

Engineers ♦ Environmental Scientists ♦ Surveyors

465 South Main Street, P.O. Box 639., Brewer, Maine 04412 | [www.ces-maine.com](http://www.ces-maine.com)

A Declaration of Maintenance of a Private Way has been included in your packet. Given the discussion we recently had regarding the Portland Ave Private Way, should this be altered in any way? For example, should the title be changed to say "Maintenance Agreement?" The situation here is a little bit different because there are no existing homes to be served by this proposed road. However, maintenance issues could arise down the road so it is something to take into consideration.

Also with the Portland Ave Private Way, Staff and the PB had concerns about the potential for Paradise Park to utilize the Private Way or for the adjacent homeowner to have a driveway located off the Private Way. Planning Staff recommended a condition be added to the Portland Ave Private Way that the Private ROW is intended to provide access to a maximum of 2 dwelling units. The reason we would recommend that same condition in this case as well is because the design standards section of the ordinance (78-1414) says that 3 or more dwelling units served requires subdivision review so it would not hurt to add this as a condition.

**Several comments were received from Wright Pierce on this proposal and have been described below:**

General Plan Comments:

1. The private way plan does not include any boundary related information (metes/bounds) to define the ROW. This would be recommended to establish the exact location and direction of the ROW. Based on taped measurements, the ROW appears to meet the 50-foot width required by the Town ordinance.

*This information was added to the most recent Private Way plan submitted by the Applicant that Planning Staff has copies of.*

2. A "Private Way Note" is included on the plan noting the private way is to be maintained by the abutters. We would recommend clarifying the term abutter, as the roadway appears to abut two existing residential units (Lot 1 and Lot 2) which appear to be existing lots with access off Ross Road.

*The Performance Guarantee Section of our Ordinance (Sec. 74-67) that pertains to Private Ways says: "where the subdivision roads are to remain private ways, the following words shall appear on the linen copy of the final subdivision plan:*

*'All roads in this subdivision shall remain private ways to be maintained by the developer or the abutters (delete 1) and shall not be accepted or maintained by the Town until such roads are brought into conformance with the Street Design and Construction Standards contained in these regulations.'*

*Wright Pierce pointed out a good point that the term "abutters" could be misconstrued in this instance as there are two "abutting lots" to this proposed lot split. However, it is required by ordinance to list either Abutters or Developer and to include this note on the plan. While this private way is only intended to serve two lots and does not by itself trigger subdivision review, it is considered part of a larger subdivision which triggers the need for this note. Planning Staff is leaving the decision up to the PB as to whether or not the board would like this to continue to say Abutters or if the board would like it to be changed to say "lot owners" or something that is clearer but is not necessarily spelled out in the ordinance."*

3. Typical Roadway Section: Sec 78-1414(b) – Construction Standards requires a roadway subbase to be a minimum 15-inches. A revised plan submitted on 1/2/18 modified the gravel depth, however the rev 2 plan (submitted via email on 1/3/18) references a 12-inch subbase gravel depth.

*Planning Staff noticed on the original Private Way plan that the subbase depth was only 12 inches instead of the minimum requirement of 15 inches. Staff asked for the Applicant to update the plan, when the Applicant sent the updated plan, the topo was turned off, we asked for that layer to be turned back on and when it was it reverted back to the old plan by mistake. This has been added to the most recent Private Way plan submitted by the Applicant that Planning Staff has copies of.*

4. Compliance with Construction Standards: Inspection and Certification (Sec 78-1414(d)). Town/owner may want to consider adding a note to the plan for reference.

*This information was added to the most recent Private Way plan submitted by the Applicant that Planning Staff has copies of.*

5. Review and confirmation of adequate sight distance from the Private Way is recommended. The plans reference a sight distance to the north of 250-feet. As part of my review, I was unable to determine the speed limit along this portion of Ross Road, which will aid in determining the minimum sight distance requirements.

*The DPW Director and Applicants Engineer visited the site and DPW signed off on the sight distance.*

6. It is unclear whether the construction of the roadway will include a water main at this time or if the location is shown for reference and future installation/connection.

*Planning Staff recommended to the Applicant that they show a potential future connection if public water becomes available on Ross Road and that what was shown on the plan. The waterline note on the plan has been updated to clarify that it is not proposed to be installed.*

7. The Towns Private Way application requests “Drainage Calculations and Stormwater Management plan” requirements. Drainage calculations were not included in the application package provided. An erosion and sedimentation control plan was submitted.

*Under the construction standards section of our ordinance, it says that a Private Way serving 3 or more dwelling units “must comply with requirements of the town subdivision review standards in chapter 74.” We suspect the reason the Private Way application requests “drainage calculations and stormwater management plan” is to cover the private ways that intend to serve 3 or more lots, not 2 lots. Planning Staff does not feel that drainage calculations are required for a private way serving 2 lots. The stormwater requirements for a private way serving two lots say “approval of director of public works.” Staff recommended to the Applicant that they take a look at the Towns stormwater ordinance, Chapter 71. Chapter 71 references MDEPs Chapter 500 which requires an Erosion and Sedimentation Control plan which has been submitted.*

8. A 15-inch culvert is proposed to be installed at approximately station 1+75

- a. It is recommended invert and outlet locations be referenced on the plan view to confirm proposed direction of culvert flow and what is considered the upgradient ditch line.
- b. We would recommend additional details and information be provided denoting how the discharge of water from the roadway and ditch lines will flow and whether the development of the roadway will increase stormwater volumes offsite. The culvert/low point in the roadway appears to discharge to the property line of developed Lot 1. Based on the topography noted on the plans, this area appears to be relatively flat.

*This information was added to the most recent Private Way plan submitted by the Applicant that Planning Staff has copies of, flow direction arrows have also been shown on the updated plan. Drainage calculations have not been provided because the Applicant received approval for the stormwater implications of this development by the Public Works Director.*

9. The southern side of the roadway does not show a ditch line in plan view and appear to tie in with existing grades. The typical roadway section detail references a defined ditch line, which may or may not be applicable. If the applicant is proposing a ditch line for conveyance of runoff, driveway culverts may be applicable.

*This information was added to the most recent Private Way plan submitted by the Applicant that Planning Staff has copies of. The ditch is no longer on the plan for the southern side of the road.*

10. Roads: The quantity is based on a 550 LF quantity, which does not appear to include the cost of the hammerhead construction.

*This will be updated in the performance worksheet to include the cost of the hammerhead.*

11. Paving: It is recommended this line item be clarified, and details noted (is this base gravel material installation). *The reason this line item is like this is because the Applicant intended on including a paved apron which is not required by ordinance. It will be removed from the guarantee.*

12. Storm drain piping: Plans reference a length of 32 feet. *The Performance Guarantee will be updated to reflect the 32 feet.*

In order to be sure the Private Way proposal meets the ordinance requirements, a summary of the required items is listed below:

**Sec. 78-1411 – (APPROVAL REQUIREMENTS)** *“The Planning Board may approve the use of private ways to provide access to lots, existing or proposed, provided that the conditions of this division are met.”*

- The Plan that has been provided appears to meet the conditions of the Private Way Ordinance.

**Sec. 78-1412 – (PLAN SUBMISSION)** *“A plan showing the private way for one lot shall be prepared by a registered land surveyor licensed to practice in the state. A plan showing the private way for two or more lots shall be prepared by a registered land surveyor and professional engineer licensed to practice in the state. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the surveyor and/or engineer preparing the plan. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of the planning board, the date of approval, and the words, "Private Way, Approved by the town Planning Board." The plan shall show information sufficient to establish on the ground the exact location, direction, width, and length of the private way. In addition, a street plan, profile and cross section shall be submitted for each private way serving two or more lots. The plan shall also contain a note which shall read, "The Town of Old Orchard Beach shall not be responsible for maintenance, repair, plowing, or similar services for the private way shown on this plan." The original plan shall be recorded in the county registry of deeds within 60 days of approval by the planning board. If the plan is not recorded within this period, the approval of the planning board shall be void.”*

- Because the subdivision is proposed to serve “two or more” lots it has been prepared by both a registered Land Surveyor and a Professional Engineer. It is labeled plan of a Private Way and has an approval block with an area for signatures. The street plan, profile and cross section have been submitted. The note regarding Town responsibilities is located on the plan under “Right of Way Note: The Town of Old Orchard Beach shall not be responsible for maintenance, repair, plowing, or similar services for the Private Way shown on this plan to be known as Haylie’s Way.”

**Sec. 78-1413 – (MAINTENANCE AGREEMENT)** *“If the private way provides access to two or more lots, a maintenance agreement shall be prepared. This agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. This agreement shall be approved by the planning board and shall be recorded in the county registry of deeds within 60 days of approval by the planning board.”*

- The Draft Declaration of Maintenance of a Private Way that was submitted states that *“the owner, or owners, of Lot #3-1 ...as shown on the Plan shall jointly and severally be responsible for ½ of the necessary cost of maintaining, repairing and plowing of the private way shown on the plan”* and *“the owner, or owners, of Proposed lot #3-2 ...as shown on the Plan shall jointly and severally be responsible for ½ of the necessary cost of maintaining, repairing and plowing the private way shown on the plan.”*
  - In lieu of the PB discussions regarding the Maintenance Agreement for the Portland Ave Private Way, there may be some changes the PB wishes to see made to the Draft Declaration of Maintenance of a Private Way. For example, should it be titled “Maintenance Agreement?”

**Sec. 78-1414 – (DESIGN STANDARDS)**

(b) *Width of right-of-way.* The right-of-way of private ways created after September 19, 1989 shall have a minimum width of 50 feet. The right-of-way of a private way described in a deed or plan recorded in the county registry of deeds prior to September 19, 1989 shall have the width described in such deed or plan, but not less than the minimum roadway width required by subsection (b) of this section.

- The ROW as shown on the plan is 50 Feet.

(b) *Construction standards.* The construction of private ways shall meet the following minimum standards:

	Number of Dwelling Units Served		
	1	2	3 or more

Nonresidential use: minimum roadway width	16 feet	16 feet	
Residential use: minimum roadway width	12 feet	16 feet	Must comply with requirements of the town subdivision review standards in <a href="#">chapter 74</a>
Minimum subbase (heavy road gravel)	12 inches	15 inches	
Wearing surface (fine gravel)	2 inches	2 inches	
Maximum length of dead end	None	None	
Maximum grade	10%	8%	
Minimum grade	0.5%	0.5%	
Turnaround at dead end	Hammer head, T or cul-de-sac	Hammer head, T or cul-de-sac	
Stormwater drainage	Approval of director of public works		

- The proposed Private Way meets each of these standards.

(c) *Compliance with construction standards.* The applicant for a building permit for a lot to be served by a private way shall be responsible for bringing the entire private way, from the nearest public way up to and including that portion of the private way which abuts the applicant's lot, into compliance with the standards of subsection (b) of this section, notwithstanding that other lots served by the private way may already have been built upon.

(d) *Inspection and certification.* Private ways serving two or more lots shall be inspected under the direction of a registered professional engineer. Prior to the issuance of building permits for lots served by a private way, the engineer shall certify to the code enforcement officer that the private way has been constructed in accordance with this section.

- These two items will be handled at the Building Permit phase of the project.

**Sec. 78-1415. - Fees.**

A review fee which shall be determined by the town council shall be paid by the applicant at the time of filing the application and plan for a private way.

- The Review fees have been paid for the project.

**RECOMMENDATIONS (JANUARY):**

At the January meeting, the Planning Board should make a determination of completeness and schedule a site walk and public hearing. Planning Staff recommends that you rule the application as complete and schedule the site walk for February 1<sup>st</sup> and Public Hearing for February 8<sup>th</sup>.

We discussed a few items in our memo that you may want to take into consideration at this meeting:

*Planning Staff is leaving it up to the PB as to whether or not you would like this to continue to say Abutters or if you would like it to be changed to say "lot owners" or something that is more clear that is not necessarily spelled out in the ordinance. – 74-67 OF ORDINANCE*

- Are there any changes the board would like to see made to the Draft Declaration of Maintenance of a Private Way that has been submitted?
- Would you like to have that condition added that the Private ROW is intended to provide access to a maximum of 2 dwelling units?
- Sec. 74-67 of the Ordinance for Performance Guarantees says "Where the subdivision roads are to remain private ways, the following words shall appear on the linen copy of the final subdivision plan:  
"All roads in this subdivision shall remain private ways to be maintained by the **developer** or the **abutters** (delete 1) and shall not be accepted or maintained by the Town until such roads are brought into conformance with the Street Design and Construction Standards contained in these regulations."  
Please note, Planning Staff has a recent plan that addresses all of the comments raised in this memo. The plan can be provided to the board at the meeting or can be reviewed by the board in February.

Wright Pierce mentioned that using abutters in this instance could potentially be misconstrued. Is this something that the PB would like to see changed to say "lot owners" or something that is clearer?

*Recommended Motion: I will make a motion to determine the application complete to construct a private way to serve two lots located off of Ross Road.*

*Recommended Motion: I will make a motion to schedule a site walk for February 1<sup>st</sup> at 5:00PM and to schedule a public hearing for February 8<sup>th</sup> at 7PM.*

**ITEM 8**

**Proposal:** Site Plan Review: Demo existing building and construct new 7,225 sq. ft. retail building including associated parking, sidewalks and other site improvements  
**Action:** Discussion and Recommendations  
**Owner:** Zaremba Group  
**Location:** 19 Heath St., MBL: 309-9-33, DD2

**19 HEATH STREET**

**Project Status**

<i>Application Complete</i>	N/A
<i>Site Walk</i>	N/A
<i>Public Hearing</i>	N/A
<i>Final Ruling</i>	N/A

This proposal is for the demolition of the existing building and associated features at 19 Heath Street and the construction of a 7,225 square-foot retail building with 30 parking spaces. The proposed retail use is a Dollar General store. This proposal is in a very preliminary stage and proposals in the early stages like this offer an opportunity for the PB to discuss and provide recommendations to the Applicant on what direction the project should go.



The property is located in the DD2 Zone and requires review by the DRC. A preliminary sketch was brought before the DRC at their December meeting. At that meeting, the DRC had some recommendations for the Applicant including building design elements as well as:

- Placing a fence around the HVAC unit.
  - Locating the HVAC unit in the center of the roof.
- Planting quick growing trees along Fort Hill Ave – they recommended Spruce/Evergreen.
- Constructing the building such that it could, in the future, support a second story.

There are a few items that Planning Staff would like the PB to consider and these are items that the Applicant should be prepared to address in their formal submission.

**Miscellaneous Items:**

1. The previous use of the site was a car repair place. Therefore, there is the potential for contamination. The Applicant indicated at the DRC meeting that they will be completing testing at the site but it is unclear as to what extent this testing will cover.
2. The backside of the site are four homes along Fort Hill Ave. The elevation change in this area is significant. The homes on Fort Hill Ave will essentially be looking down on the roof of the proposed Dollar General. Is the

proposed 6' fence an adequate buffer? Should there be a vegetative buffer instead? A 6' privacy fence is also proposed on the left side of the property adjacent to the condos on Heath Street. Is this an adequate buffer or should there be a vegetative buffer in this area as well?

3. Placement of the HVAC unit on the roof, the DRC recommended locating this in the center of the roof with a fence around it.
4. Currently, the dumpster is proposed to be located in the back of the building adjacent to the homes along Fort Hill Ave. Is this an adequate location for the dumpster?
5. There have been some conversations between Town Staff and the Applicant regarding repairing/installing a sidewalk along Saco Ave and upgrades to that intersection at the corner.
6. What type of lighting are they proposing to use in the parking lot/on the building. Will this cause any issues for the Abutters?
7. At the Development Review meeting, Staff discussed different aspects of the project including: preserving the trees/vegetative buffer along Fort Hill, reducing light pollution (i.e. installing shoebox lighting that projects down), sidewalk/intersection along Heath and Saco Ave, stormwater retention.
  - a. *Note: This project is less than an acre, therefore, it does not trigger Chapter 71 of our stormwater ordinance, however, stormwater is included under the 9 site plan review criteria and calculations will be required for the 25-year storm event or any other event required by the Planning Board.*

### **Chapter 78 Performance Standards (Art. VIII) Items:**

- 78-1746 – 1827 (landscaping and buffering) includes landscaping and buffering standards primarily for the building. Some of these standards, such as street trees, are also applicable to parking lots.
- 78-1491 – 1495 (access standards for nonresidential uses) includes driveway standards such as dimensions, sitting, dimensions, sight distances, etc.
- 78-1541 – 1544 (parking lot and site circulation) includes parking dimensions and layout, snow removal and landscaping. 1543- need snow removal plan. 1544- remember screening and buffering plan is needed when adjacent to abutting properties Street trees in accordance with 78-1771 -1775 needed along Heath Street and Saco Ave/Fort Hill
- 78-1566 – 1568 (required parking spaces) identifies retail uses as one space per 250 sq. ft net leasable area. The building is proposed to be 7,225 sq. ft. which requires 29 parking spaces. 30 have been proposed.
- 78-1591 – 1596 (off-street loading). 1593(c) wherever possible, driveways or access to loading facilities shall be physically separated from customer parking lots, walkways or driveway entrances. Is this something that can be achieved here? The loading area is proposed to be in the back of the building adjacent to Fort Hill. 1594 landscaping/buffering of these facilities and lighting for security purposes.
- 78-1746 – 1827 (landscaping and buffering) includes landscaping and buffering standards primarily for the building. Some of these standards, such as street trees, are also applicable to parking lots.

### **9 Site Plan Review Criteria Items (78-216(d)):**

The proposal will have to demonstrate compliance with the 9 Site Plan Review Criteria:

- (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.

**RECOMMENDATION (JANUARY):** A preliminary review like this allows for the PB to offer recommendations – even if they are not specifically related to complying with an ordinance standard. Staff recommends the PB provide feedback on the proposal, there are no decisions required at this time.

**ITEM 9**

**Proposal:** Conditional Use (Shoreland Zoning): 30% nonconforming structure expansion – construction of sunrooms and decks  
**Action:** Determination of Completeness; Schedule Site Walk and Public Hearing  
**Owner:** Daniel B. Chasse  
**Location:** 18 Tioga Ave, MBL: 321-26-3

**18 TIOGA**

**Project Status**

<i>Application Complete</i>	Recommended for January or February
<i>Site Walk</i>	Recommended for February
<i>Public Hearing</i>	Recommended for February or March
<i>Final Ruling</i>	Pending

This proposal is for the addition of a sunroom and access deck to an existing dwelling located within the Residential Activity Shoreland Zone. Because the structure at 18 Tioga is within a Shoreland Zone (Residential Activity) and because the structure is nonconforming (it is within the 100' setback) of the Highest Annual Tide, expansion requires Planning Board (PB) review as a Conditional Use and Shoreland Nonconforming Structure Expansion. The applicant is proposing to expand the footprint of the dwelling by adding a sunroom and deck which will result in a 24% increase of floor area which is less than the allowable 30%. The Applicant has also applied for a variance through the Zoning Board of Appeals (ZBA) because of the limitations of the 15' side yard setback. Planning Staff anticipates this proposal will be before the ZBA at their January meeting.

This proposal is slightly different from the other proposals the PB has recently reviewed (129 West Grand, 10 Tioga, & 15 Tioga) because the existing structure is going to remain with a proposed addition.



The following items have been included in your packet for the January meeting:

- Cover letter and application materials (including deeds)
- Site maps and floodplain maps
- NRPA Permit by Rule (PBR) (Approved on 1/18/17)

- Building drawings
- Site Plan with Proposed Sunroom and Patio Addition
- Boundary Survey
- Responses to the 12 Conditional Use Standards

To rule on this proposal, the Planning Board has a few considerations:

- This proposal must demonstrate compliance with the 12 Conditional Use Standards (78-1240). *Responses to each of these have been provided in the application materials submitted for January.*
- This proposal must also demonstrate compliance with the 8 standard conditions in the Shoreland Zone (78-34(e)). *Responses to each of these have been provided in the application materials submitted for January.*
- Because the structure is nonconforming, the existing floor area or volume cannot increase by more than 30% (78-1181(c)(1)). Floor area is the square footage of all floors, porches and decks. Volume is the space within a roof and fixed exterior walls. *These calculations have been included in your PB packets for January.*
- Relocation of the structure away from the “water” (Highest Annual Tide) to the greatest extent possible (78-1181(c)(2)). Shoreland standards seek to make nonconforming structures as conforming as possible so one standard requires nonconforming structures to be moved as far away from the water as possible. *The applicant has indicated in their cover letter dated 12/21/17 that “the proposed dwelling will not increase nonconformity by expanding toward the waterbody. The proposed construction will extend away from the setback, conform to the setback standards to the greatest practical extent, meanwhile reduce unnecessary disturbance and erosion toward the resource.”*
- Typically with Shoreland Zone proposals a plot plan (scaled) showing existing conditions and proposed changes is submitted. The plan generally includes property boundaries, where the “water” is located on the property, structure footprint, driveway, vegetation, fences, etc. *This plan has been included in your packets for January.*
- An Erosion Control and Sedimentation Plan is required for all projects in the Shoreland Zone (78-1215). Since the footprint of the existing and proposed structure is not changing, this does not have to be particularly detailed but should list the type of BMPs to be used on the site. *The Applicant has not submitted an ESC plan but has indicated in the cover letter that the project will reduce unnecessary disturbance and erosion toward the resource. Staff recommended that more on this be submitted and the Applicant indicated that there will be no excavating needed for the project to be completed and minimal erosion will occur due to a lack of total disturbed area. Note: The PB did not require an ESC plan for the other two reconstruction projects on Tioga, however, this one is a little bit different because they are adding an addition. Planning Staff will leave the decision on requiring an ESC plan up to the PB.*

### **RECOMMENDATIONS (JANUARY):**

At the January meeting, there are three primary items that the PB has to focus on: Determining whether or not the application is complete, scheduling the site walk, and scheduling the public hearing.

The outstanding items listed above should be something that the Applicant can provide for the board. If they are received prior to the Planning Board meeting on the 11<sup>th</sup>, Planning Staff recommends determining the application complete, scheduling the site walk and public hearing.

There is one condition that Planning Staff recommends be added to the project: The Applicant shall apply for a Flood Hazard Development Permit through the Code Enforcement Officer prior to receiving a building permit. Planning Staff is leaving the decision on the ESC plan up to the Planning Board.

### Motions:

*Recommended Motion: I will make a motion to determine the application complete to add an addition to a nonconforming structure in the shoreland zone at 18 Tioga Ave.*

*Recommended Motion: I will make a motion to schedule a site walk for February 1<sup>st</sup> at 5:30PM and to schedule a public hearing for February 8<sup>th</sup> at 7:00PM.*