

**TO: Old Orchard Beach Planning Board**  
**FROM: Jeffrey Hinderliter, Town Planner**  
**SUBJECT: March Planning Board Meeting Summary**  
**DATE: 14 March 2013**

**\*\*\*APPLICANT NOTE- March PB meeting submissions due on 25 March\*\*\***

Below is a brief summary of pertinent issues related to the March Planning Board Agenda items:

**ITEM 1 – Robert Kirby – Re-establish 3<sup>rd</sup> dwelling unit within existing building (Conditional Use and Appeals from restrictions of non-conforming use: Public Hearing, Final Review)**

***Background***

- The building at 90 Union Ave was a vacant 3 family dwelling unit building until 2011 when the PB approved a 2 family use proposal. It is now occupied as a 2 family building.
- The owner would now like to re-establish the 3 family use.
- The parcel contains 5,300 sq. ft. A 3 family is nonconforming because the R-2 district requires 10,000 sq. ft./dwelling unit.
- Although nonconforming, the 3 family may be re-established with PB approval as a Conditional Use.
- The use requires 6 off-street parking spaces (2/unit). I'm quite sure there is not enough space available on the parcel for 6 parking spaces; therefore, a waiver would be required before the PB can approve the proposed use. This waiver would be to reduce the number of off-street parking spaces as provided in Sec. 78-1566.
- Sec. 78-1568 (a) (1) allows the PB to grant a waiver as long as the applicant can establish parking demand is less than required in Sec. 78-1566 and a reduction in the number of parking spaces will not create unsafe conditions for vehicles or pedestrians.
- Easily accessible on-street parking is located adjacent to the building on Union Ave.
- I'd like to note Mr. Kirby has made considerable improvements to the interior and exterior of the property- it really improved the aesthetics.
- The PB needs to decide whether the application is complete and schedule a public hearing. The PB may schedule a site walk but Conditional Use does not require one.

***Update:***

- At our February meeting, it was determined a parking waiver was not required because a garage exists on the property that has enough parking available to meet the applicable parking standard.
- Because the parking waiver was not required, no new information was requested.
- **RECOMMENDATIONS:** I recommend the PB approve the Conditional Use and Appeals from restrictions of non-conforming uses proposal for the re-establishment of a 3<sup>rd</sup> unit within the existing building located at 90 Union Ave.

**ITEM 2 – Dominator Golf, LLC – Proposed 11 Lot, Single-Family Subdivision (Major Subdivision: Site Walk Report, Public Hearing, Schedule Final Review)**

***Background***

- This proposal includes the creation of a 1-lot single family subdivision, new roads, infrastructure, stormwater management systems, and utilities.

- This proposal is located within Dunegrass off Oakmont Drive adjacent to a CMP easement. This portion of land is identified as a maintenance area and part of the golf course.
- Dunegrass Golf Course and 589-unit condo development was approved as a single subdivision project in 1988. This subdivision was divided into sections. Each section was allotted a specific number of condo units. As the subdivision has been amended and built, the condo units shifted between sections, some sections to have more units at build out and some sections less with the understanding overall project build out is capped at 589 units.
- This particular proposal seeks to transfer development rights to up to 11 unit sites from the unused inventory of unit sites in Section B to allow Dominator Golf to develop 11 single-family lots within the maintenance area identified on the Dunegrass Master Plan (see Memorandum of Understanding in the BH2M submission).
- It is my understanding Section B had 71 unit sites as of 2009. I believe approximately 24 unit sites are currently being developed within Section B, the PB recently approved 4 lots and this proposal will remove an additional 11 unit sites which means approximately 36 unit sites remain; therefore, it appears the unit sites can be transferred.
- Transfer of Development Rights and units shifting between sections has been part of Dunegrass build out since the subdivision was originally approved. In fact, the PB approved a proposal's similar to this in the past. A few of the keys to build out is to be sure open space (the golf course is significant amount of area allocated to open space) remains and the unit count remains capped at 589. As I understand, the 11 lot subdivision is located in a identified maintenance area and includes a very small amount (0.03 acres) of open space; therefore, it will not violate open space provisions. Note: the ordinance requires Dunegrass provide a minimum of 35% of the project area (that is the entire Dunegrass development) as open space. The golf course is part of Dunegrass open space.

*A Few Misc. Comments and Questions (Background):*

- The town recently passed a Post Construction Stormwater Ordinance. How does this proposal conform to the applicable standards in that ordinance?
- Is the stormwater system designed to meet the criteria of a five-year storm based on rainfall data from Portland weather bureau records?
- Nicklaus Drive: the small piece of land between Oakmont Dr. and the CMP ROW- who owns this?
- Is Oakmont Drive built to a standard to accommodate the additional traffic?
- What is the site distance at the proposed Oakmont/Nicklaus intersection?
- The applicant is proposing a waiver of 74-309 (m) for the maximum street grade at intersection (2%). The subdivision ordinance allows to PB to grant waivers as long as the applicant can document the waiver request meets provisions in 74-34. I recommend the applicant provide a written response.
- I recommend lot 8 driveway be located so there is a vegetative buffer between the subdivision and the adjacent property line. Note there is no specific distance required.
- It would be nice to see a quality landscape plan be part of this proposal.
- Please include a chart on the plan updating Section B lots.
- Streetlights: I see one streetlight at located at the intersection of Nicklaus/Palmer. Is this enough? How does lighting conform to the PMUD performance standards 78-

1027 (h)- shielded, average of 1.0 footcandle on the road and sidewalk surface, not exceed 15' in height, no glare, visual discomfort, or nuisance to motorist and residential properties?

- The proposal is located within the maintenance and golf course area. Will the maintenance area be relocated? If so, where?
- This proposal will require an amendment to the Dunegrass DEP Site Location permit. Status?
- As part of the road design standards, 74-309 (e) states the PB may require a 20' easement to provide continuation of pedestrian traffic or utilities to the next street. The plan does not show this nor do I see the need.
- Although the sidewalks and road surface meet the maximum and minimum grade requirements, they are quite level- have adequate systems been designed to effectively drain stormwater and prevent ponding?
- Hydrant: It appears there is one hydrant proposed. Will this hydrant provide adequate service to the development- especially the home on lot 8? We'll need Chief Glass' input. Also, please note there are Fire Hydrant standards (Sec. 30-91 – 30-96).
- Does the public sewer system have capacity? We'll need Chris White's input.
- Concerned about snowplowing at the locations where dead ends connect directly to driveways.
- How will the rain gardens be maintained and not altered by the future homeowners?
- How does the new development comply with the construction requirements set forth in the Declaration of Restrictive Covenants for WDW Community Association? Has permission been secured through the WDW Community Association?
- Who will be responsible for maintenance and upkeep of the stormwater drainage systems (Post Construction Stormwater Ordinance)?
- Minimum standards note on the plan regarding setbacks- it's my understanding there are no setbacks required for individual lots within the project (Dunegrass as a whole). The setbacks are for the project area boundaries. Is the applicant proposing their own setbacks?
- I recommend the applicant provide responses to each of the Purpose statement standards (Chapter 74 – Subdivision, 74-2 (1) through (14) ).
- Please submit a completed performance worksheet.
- Please remember our GIS consultant needs a digital submission
- The applicant should check with the Fire Department (Chief John Glass 934-4911), Sewer Treatment (Chris White 934-4416), Public Works (Bill Robertson 934-2250), Police Department (Chief Kelley or Deputy Chief Babin 937-5805) and Biddeford/Saco Water Department (Tom Carr) to be sure the proposal is ok with them. Please provide info of these conversations and any recommendations.
- The proposal was submitted to Wright-Pierce for peer review.

**Update:**

- As of 7 March, I have not received additional information from the applicant addressing comments from the PB, myself and the town engineer; therefore, we have nothing new from the applicant or applicant's engineer to review.
- Bill Robertson, Public Works Director, submitted comments. I have emailed these to the applicant's engineer and asked for a response.
- I have heard a number of concerns from neighboring property owners; two are documented and will be submitted to you as part of this month's packet. The

comments are primarily associated with concerns about impacts to water pressure, insuring the woody vegetation between the CMP easement and 16<sup>th</sup> golf course hole remains intact, stormwater runoff to neighboring properties, buffers around the perimeter of the subdivision, impacts to the wetland/seasonal stream, impacts to groundwater and well water.

- **RECOMMENDATIONS:** I recommend the PB hold the public hearing, report on the site walk and table further consideration until we receive response to comments from the town planner, public works director, town engineer, PB members, and the public.

**ITEM 3 – Town of Old Orchard Beach – Construct a skateboard complex (Conditional Use: Site Walk Report, Public Hearing, Schedule Final Review)**

***Background***

- Jason Webber from the OOB Recreation Department is proposing to construct a Skateboard/BMX complex on land within the ballpark facility.
- The PB was introduced to this project last summer. The proposal has been scaled down.
- This is the first phase of the proposed Skateboard/BMX complex. I'm not aware of the timeline for future phases.
- The proposal will have drop of and handicap parking adjacent to the complex. The remaining parking will come from the existing ballpark parking lot which has plenty of space available. Although, it is expected most of the primary means of travel to the complex will be with skateboards and bicycles.
- My primary comments at this time:
  1. We'll need a bird's eye view showing the location of the complex on the ballpark land.
  2. I believe the ballpark has a site location permit. This proposal will most likely require an amendment to the site location permit. Is there any information from the applicant concerning DEP permitting?
  3. The packet doesn't appear to address drainage and erosion and sedimentation control. Since there is new impervious surface, stormwater needs to be drained properly somewhere. Where will this be? Also, what erosion and sedimentation control measure will be in place?
  4. The proposal will utilize existing vegetation as a buffer. This should be adequate to protect adjacent residential properties from noise and light spillover but we just want to be sure of this.
  5. I recommend the applicant discuss the proposal with police, fire and public works and request they offer comments or the applicant can provide commentary reflecting the details of these discussions.
  6. How will the complex be monitored? What is someone breaks a bone and phones are not available- how can we be sure the injured person gets the appropriate care in an acceptable amount of time?
- Although site walk aren't required for Conditional Use, I recommend we schedule one.

***Update:***

- There are no new submissions at this time- applicant Jason Webber continues to work on addressing the items identified by PB and town planner.

- **RECOMMENDATIONS:** I recommend the PB hold the public hearing, report on the site walk and table further consideration until we receive response to comments from the town planner and PB members.

**ITEM 4 – David J. DiLibero – Home Occupation: scooter delivery(Conditional Use: Site Walk Report, Public Hearing, Schedule Final Review)**

***Background***

- Mr. DiLibero is proposing to operate a home occupation at his home located adjacent to 125 Saco Ave.
- The home occupation is to offer scooters for recreational rental purposes, which will primarily be delivered to the customer. The home occupation will be open April through September, 7 days/week, 9 – 5.
- The only way zoning permits a use such as this in the GB-2 district (at least through my interpretation of the ordinance) is through a Home Occupation. As you may know, Home Occupations are processed as a Conditional Use Permit and there are specific standards the proposal must comply with in order to be considered a home occupation (78-1267). The applicant provided responses to these standards. When reviewing the proposal, please review to determine if it is compliance with 78-1267.
- When reviewing this proposal, my two primary concerns are whether it will acceptably meet:
  - A. 78-1267 (3): Will there be exterior storage of scooters or other materials associated with this proposal?
  - B. 78-1267 (5): Will this create a traffic hazard? This is a small lot adjacent to a busy street. This will be worth a look at a site walk.
- Although site walks are optional for Conditional Use proposals, I recommend the PB schedule one.
- I recommend the applicant contact the PD Department (Chief Kelley or Deputy Chief Babin 937-5805) for their comment on this proposal.

***Update:***

- Safety is my biggest concern- I was leaning on the PD and FD to determine if this proposal could result in public safety concerns. We received letters from both departments and they have no concerns as long as Mr. DiLibero continues to work with public safety departments should an issue arise.
- The applicant must insure the sidewalk remains free of any obstructions and monitor people who attempt to park on the road shoulder to access his business-should this be a condition?
- **RECOMMENDATIONS:** If there are no substantial issues found during the public hearing discussion, I recommend the PB approve the Conditional Use, Home Occupation permit to operate a seasonal scooter delivery business at 125 Saco Ave.

**ITEM 9 - Seacoast RV Resort LLC – 22 Site Campground Expansion (Site Plan Review Amendment and Conditional Use- Determination of Completeness, Schedule Site Walk and Public Hearing)**

- Seacoast RV is proposing 22 new campsites, 220 feet of new roadway, new sewer/water/underground electric, and relocated dumpsters.
- You may recall Seacoast RV brought a conceptual plan to the town for purposes of discussing whether a 100' or 30' buffer is required. The proposed expansion could not move forward if the 100' buffer applied; therefore, the applicant requested the PB offer guidance on which buffer standard is applicable. The PB considered this

over 2 meetings and after research and discussion, the PB determined the 30' buffer applies.

- At the time this was proposed as a conceptual plan, 12 campsites were proposed. The applicant contacted Police, Fire, Public Works, Sewer, and Water and each were comfortable with the expansion. Since the new proposal has increased to 22 campsites, the applicant should secure comments from each department again. I believe the applicant has done this but I've yet to receive written or oral comments from each department. Note: I just received PD and FD comments and they have no issues.
- The relocated dumpsters will need to be shielded. Please include the method of shielding in the plan details sheets.
- Please provide a written response to the Campground Overlay District Performance Standards, Chapter 78, Sec. 78-1229 (1) – (8).
- Please provide a written response demonstrating how this proposal complies with each of the standards in Chapter 18, Article IX Campgrounds, Sections 18-524 – 18-531.
- Please provide a written response to the Site Plan Review, Criteria for Approval standards, Chapter 78, Sec. 78-216 (d) (1) – (9).
- As you know, the town recently adopted a Post Construction Stormwater Ordinance. Please document how this proposal complies with the applicable standards of this ordinance.
- What is the post-development percentage of open space (15% is the minimum). Please add this number in the Amended Site Plan (sheet 1) notes.
- The proposal meets all campground density requirements, including minimum lot size per campsite and overall density.
- Please add Campground Overlay District as part of the Zoning on the Amended Site Plan notes.
- This proposal requires DEP approval- what is the status? Also, does this proposal require an amendment to the Army Corp of Engineer's Maine Programmatic General Permit? If so, what is the status?
- Post Construction Stormwater Ordinance
- RECOMMENDATIONS: I recommend the PB determine the proposal as complete contingent upon receiving the following:
  1. Comments from Public Works, Sewer, and the Biddeford & Saco Water Co.
  2. Written response demonstrating how the proposal complies with the Post Construction Stormwater Ordinance.
  3. Written responses to the Campground Overlay District Performance Standards, Chapter 78, Sec. 78-1229 (1) – (8).
  4. Written responses demonstrating how this proposal complies with each of the standards in Chapter 18, Article IX Campgrounds, Sections 18-524 – 18-531.
  5. Written responses to the Site Plan Review, Criteria for Approval standards, Chapter 78, Sec. 78-216 (d) (1) – (9).

I recommend the PB schedule a public hearing and site walk.