

TO: Old Orchard Beach Planning Board
FROM: Jeffrey Hinderliter, Town Planner
SUBJECT: November Planning Board Meeting Summary
DATE: 8 November 2012

*****APPLICANT NOTE- November PB meeting submissions due on 26 November*****

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

ITEM 1 & 4 – Dominator Golf, LLC – Proposed 4 Lot, Single-Family Subdivision (Minor Subdivision: Determination of Completeness, Schedule Public Hearing and Site Walk).

Background

- This proposal includes the creation of a 4-lot single family subdivision, relocation of sidewalks and cart paths, stormwater management and utilities.
- This proposal is located within Dunegrass on Wild Dunes Way, adjacent to the 13th Hole and Lacosta Pines. 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 four unit sites from the unused inventory of unit sites in Section B to allow Dominator Golf to develop four single-family lots along the southeasterly side of Wild Dunes Way and northwesterly side of Hole 13 (see Memorandum of Understanding in the BH2M submission).
- It is my understanding Section B has between 71 unit sites as of 2009. I believe approximately 24 unit sites are currently being developed within Section B which would mean approximately 47 unit sites remain (not including these 4 lots); 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 very similar to this during 2009. 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.

A Few Misc. Comments and Questions:

- The unit sites and stormwater is located within the maintenance and golf course area. Can the applicant show the proposal still meets applicable open space? Will the maintenance area be relocated? If so, where?
- Please verify Section B has enough units to transfer. I know there's been development within Section B since 2009.
- Please include unit count as a note on the final subdivision plan.
- I recommend the applicant provide an overall plan showing the location of the proposed 4-units on the overall Dunegrass master plan.
- I believe this proposal will require an amendment to the Dunegrass DEP Site Location permit. Status?

- **Lot 4 access- will it meet site line requirements? Where will the driveway be located?**
- **Are the sewage pipes and pump station sized adequately for the additional lots?**
- **Will this proposal require amendments to the WDW Community Association Declaration of Covenants?**
- **Proposed street lights?**
- **Who will be responsible for maintenance and upkeep of the stormwater drainage systems including the infiltration pond and pipes?**
- **Is an easement necessary for the infiltration pond?**
- **Was there a reason why the existing sidewalk is curved in the area it is proposed to be relocated?**
- **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?**
- **Lot area- is the applicant certain these lots meet lot area requirements?**
- **I recommend the applicant provide responses to each of the Review Criteria (Chapter 74 – Subdivision, Article V, 74-266 through 74-277. Excluding 74-278).**
- **I recommend the applicant provide responses to each of the Purpose statement standards (Chapter 74 – Subdivision, 74-2 (1) through (14)).**
- **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), 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 will be submitted to Wright-Pierce.**

New Info

- **The applicants most recent submission does an excellent job addressing my comments and questions mentioned above.**
- **The drainage associated with this proposal appears to be minor; therefore, I determined it did not need review from our town engineer because our town public works director (who is an engineer) is reviewing the proposal and an engineer signed off on the plans.**
- **Public Works Director Comments:**
 1. First of all who inspected this section of Wild Dunes Way from the Clubhouse to these lots? How can so many of the Utilities; i.e. sewer, water, gas, electricity not have services brought to all the lots? There are already to many cuts across the road, especially it being a "New" road.
 2. I strongly suggest that the utilities for lots 2 and 3 be put in a common trench at the lot line so there would essentially be one wide cut between these lots. Also have utilities brought across the road just east of here within the same cut to accommodate the Pine Ridge Realty Corp.
 3. Bring utilities from Lot 1 across to the lot labeled "Dominador Golf LLC so that another cut would not be needed in the future.
 4. All cuts should be compacted in 6"-12" lifts with 3" of binder course placed and within one year or a suitable amount of time the entire trench plus a minimum of one foot beyond the trench one inch of the material should be ground out and replaced with a surface mix.
- **What is the status of DEP review? Has the Minor Revision been approved?**

- As of the day I'm writing this memo, I have not heard back from the fire, sewer, and the water co. which usually means they have no objections; although, I expect to hear back from sewer. I believe comments from these departments are important to secure.
- It's my hope that building aesthetics and site design will positively complement the Dunegrass neighborhood.
- Assuming there are no outstanding issues raised at the public hearing, by the sewer department and the applicant successfully addresses PWD comments, I believe the PB can rule on this proposal tonight.
- **RECOMMENDATIONS:** We need to be sure the sewer department and PWD feel comfortable with this proposal. Once this is confirmed, I recommend the PB conditionally approve this minor subdivision for the creation of 4 single family lots.
Condition:
 1. Construction shall not begin until all applicable Maine Department of Environmental Protection permit application approvals are secured by the applicant and/or property owner. If these MDEP approvals change the plans and written documentation that were submitted and part of the Planning Board approval, those changes shall be presented to the Planning Board.

ITEM 2 & 5 – Central Maine Power – 1.92 mile long rebuild to existing 34.5 kV transmission line (Conditional Use: Determination of Completeness, Schedule Site Walk and Public Hearing).

Background

- CMP is proposing to replace the existing 1.92 mile long 34.5 kV transmission line and rebuild that line within the existing right-of-way. This line extends from the new Vallee Lane Substation to the Old Orchard Beach Substation (off school Street).
- The rebuilt line will be built to support 69 kV, but will continue to operate at the existing 34.5 kV standard. No tree clearing is part of this proposal and the rebuild will be constructed entirely within the cleared right-of-way essentially along the same centerline that exists today. The 31 pole structures will be replaced with 29 new pole structures. The height of some of the pole structures will increase.
- 3 new poles will replace 3 existing poles within the floodplain. The poles are flood-proof; therefore, they comply with applicable floodplain regulations.
- The proposal requires permits from DEP and the Army Corp of Engineers. Army Corps has permitted the project and CMP is in the process of securing DEP permits.
- I asked the applicant to address any potential off-site impacts. They provide an excellent description of the construction plan (tab 5 of the application binder) and address impacts to neighboring properties (tab 6). Note the construction schedule is January 2013 to April 2013.
- Although this project qualifies as a Conditional Use proposal, the applicable use, Installation of Public/Private Utility Facilities (78-1270), only has one standard that is somewhat associated with this proposal (standard 2).
- Because there are not many applicable performance type standards related to the proposal in our ordinance, The applicant provided responses to the Conditional Use Approval Standards (78-1240, 1-12); the Installation of Public/Private Utility Facility (78-1270, 1-4); and the applicable district standards (PMUD and R-1). These responses are included with tab 7.

- As stated above the applicant provided responses to the Conditional Use Approval Standards (78-1240, 1-12); although, I recommend the applicant revise these and provide a more detailed response for each (see 7.2 at the end of tab 7).
- There will essentially be no changes to what we see today. The most obvious change will be pole height, which may not be seen due to their location in more dense vegetation and away from roads and occupied properties.

New Info

- The outstanding items that I'm aware of are the PB's comments concerning the proposed trail and the PWD comments (below). As I recall, the PB wanted to ensure the area where the proposed trail and transmission line rebuild connect will be left in a manner that does not impede the construction of the trail.
- **Public Works Director Comments:**
 - 1.They want a key to the gate at the Transfer Station, this can happen but I'll need to secure the station itself and the pit.
 - 2.They make no mention of where the Construction Yard will be Including trailers, bulk materials etc.
 - 3.They talk about on-site staging areas, construction laydown areas but again don't identify locations.

All of these areas concern me and they should present a more Definitive plan.

- **In my opinion, all other questions and concerns have been acceptably addressed. Assuming no major issues arise or remain outstanding after the public hearing, I believe the PB can rule on this proposal tonight.**
- **RECOMMENDATION: I recommend the PB approve this Conditional Use application assuming the trail and PWD comments are adequately addressed.**

ITEM 3 & 6 – Stillridge LLC – Building expansion, exterior renovation and site work to mult-use commercial building (Site Plan Review: Determination of completeness; schedule public hearing and site walk)

Background

- This proposal is to rehab and expand an existing multi-use commercial building.
- The primary changes associated with this proposal are:
 1. Interior and exterior building rehab
 2. Approximately 3,106 sq. ft. in new building construction
 3. Proposed easement to be located on land adjacent to the park, east of project site property.
 4. Site improvements including parking stripping, lighting and freestanding sign.
- The building changes are actually not major when you break them down and equal about 1,109 in new building area and 946 of existing area that will now be enclosed.
- Site work will, for the most part take place within existing areas. The majority of new construction will be on the east side of the building and include paving the existing gravel parking area and work associated with the easement (including the vegetative buffer).
- This proposal received Design Review Committee approval on 1 October 2012 contingent upon the applicant showing the window and door area of the façade is not less than 25% or more than 66% of the façade area facing the sidewalk.
- One of the tricky items associated with this project is a referendum vote is required for the work to be completed in the location of the proposed easement assuming the applicant wants to occupy the easement area for more than 3 years. The question as to whether town voters decide to grant the easement or not will be on the 6

November ballot. Currently, the Council authorized a 3 year lease (which is the maximum time frame by charter). Understandably, the applicant desires a more permanent lease and this is what the town will vote on. If the vote is in favor of granting the long-term lease the project can move forward as represented on the submitted documents. If the vote is no, the project can still move forward as proposed except the easement area will only be in effect for 3 years; therefore, any improvements in this area may be required to be removed after 3 years. It is my understanding the applicant has an alternate plan if the easement is not approved which includes removal of a portion of the existing building. Nonetheless, I believe it is important to wait for the 6 November vote results before any firm decision is made by the PB.

A Few Misc. Comments and Questions:

- I recommend the applicant shield exterior waste haul outs and provide the method of shielding on a details sheet.
- Who will be responsible for hauling waste?
- Where will existing utility poles be located?
- I recommend the applicant provide exterior lighting details including pole and fixture type on the details sheet. Also, information showing the lighting will be acceptable for the parking area and not spillover onto adjacent properties.
- The plan identifies gravel area to be paved- please show the extent and location of the new pavement.
- Note the DD2 district has a 0' setback for mixed and nonresidential use property.
- The parking plan meets applicable parking standards for the use and the size of spaces, number of spaces and allocation for compact vehicles (not to exceed 40%).
- Imperious surface and building coverage #'s appear to vary in the submission. Please document the existing and proposed as one number throughout. I don't see this as being an issue but it will be good to have consistent numbers.
- I recommend submission of a landscape plan in accordance with 78-1798. You can choose the lighting and waste haul out shielding details.
- I recommend that all erosion control items to be removed immediately upon site stabilization.
- Where is sewer/water lines located on the property?
- It appears the plans do not have enough information to represent on-site drainage and its associated facilities. Are there any catch basins and underground stormwater pipes? Does the entire site sheet flow into the single catch basin on Heath Street? How will potential stormwater drainage impacts on-site and to adjacent properties be mitigated with the improvements including the new paved area, easement and building area? I'm curious how post development drainage will properly work.

New Info

- The last documents received were the amended plans passed out at the October meeting and an email from the sewer department indicating he expects the sewer system has the ability to handle wastewater from the proposal. I have not received additional submission to follow up comments from last month.
- There are a number of comments and questions I had above that I believe have not been acceptably addressed. I Underlined the comments and questions that I believe need further consideration. This should be done through written responses and where applicable, plan additions.

- The applicant has contacted municipal departments and we have received comments back from one (sewer department). This is not unusual and we can assume the other departments are satisfied.
- **RECOMMENDATION:** I believe the PB needs additional information before ruling on this proposal; therefore, I recommend we schedule final review for December. This is contingent upon the applicant addressing the underlined items above and any additional comments from the PB or public.

ITEM 7 – Shai Property Management – Amend previous approval to allow continuation of a non-conforming use (Appeals from Restriction on Non-Conforming Use: Amend approval)

- You may recall this proposal from last summer. At that time, the owner was granted approval for resumption of the seasonal Overnight Cabin use on this property and to make much needed rehab to the buildings and site.
- Because the Overnight Cabins use were within the nonconforming time frame above of less than 10 years, the PB had the authority to approve this as an Appeals from Restrictions on Non-conforming Uses.
- I understand this most recent proposal involves the removal of the existing cabins and replacing with newer cabins. The proposed cabins will be in the same footprint. The use is not changing- it will remain 12 Overnight Cabins.
- Although the use is not changing and the number of cabins is not increasing, it is my opinion the proposal is an alteration from what was originally approved because the original proposal did not include the removal and replacement of the overnight cabins. Therefore, I felt this alteration required PB consideration as a proposal to amend the Appeals from Restrictions of Non-conforming Uses approval from July 2012.
- There is no permit application for this proposal. I recommended to the owner's representative that they submit a letter explaining the changes, amended plan and photographs or drawings showing the proposed cabins. I have yet to receive any submission.
- Because I have not received a submission, I cannot provide a proper evaluation at this time.
- **RECOMMENDATIONS:** I recommend the PB advise the applicant on what they need for this proposal to move forward. This can include the information I stated above and whatever else the PB needs to review this proposal.

ITEM 8 – Jim and Terry Nagle – Amend subdivision plan to create 1 lot (Subdivision Amendment: Discussion)

- The Nagle's are proposing to amend the Sandy Hollow Subdivision, a 4-lot subdivision approved during 1979, to allow the creation of one additional lot for the purpose of constructing a single family dwelling.
- This proposal is brought to the PB as a discussion item at this time because the Nagle's would like a decision by the PB as to whether they will support staff, Board of Appeals (BOA) and the town attorney's position that the minimum lot area is 40,000 sq. ft. per unit. If the PB supports this minimum lot area position, the Nagle's will prepare a formal subdivision amendment application.
- Currently the Nagle's lot is part of a 4 lot subdivision. The Nagle's would like to divide their lot to create another. Because the creation of the new lot did not meet

minimum lot size standards in the Rural Zoning District, the Nagle's decided to go through the Board of Appeals process.

- During August 2012, the Board of Appeals approved a Miscellaneous Appeal for a reduction in the frontage requirements (ordinance requires 200', reduction to 150' approved). The minutes from the meeting are included with the submission.
- After that appeal, there was discussion concerning the minimum lot square footage. It was thought the August appeal included the minimum lot area and frontage but apparently it did not. During September, the Nagle's went back to the BOA for clarification (BOA minutes in packet). The BOA granted approval for a reduction in the minimum lot area standards to 40,000 sq. ft.
- Now, the Nagle's have BOA approvals for both frontage and minimum lot area.
- There appears to have been more confusion regarding the approval process. This includes whether a reduction in the minimum lot area is authorized to be heard as a Miscellaneous Appeal. Staff looked to the town attorney for advice and they provided an opinion the minimum lot area is 40,000 sq. ft. (see opinion in packet).
- Because of this confusion, the Nagle's want to be sure the PB will support the determination of the 40,000 sq. ft. minimum lot area before a formal application is made so they may proceed with a formal subdivision amendment process.
- **RECOMMENDATIONS:** I recommend the PB decide if they will support the 40,000 sq. ft. lot size. In my opinion, the decisions and opinions from the town attorney, BOA and staff support a minimum lot area of 40,000 sq. ft.; therefore, I recommend the PB support the 40,000 sq. ft.

ITEM 9 – Saco Bay General Contractors – Amend property line within Regis Acres Subdivision (Subdivision Amendment: Review and potential action)

- This proposal is to amend Regis Acres Subdivision. The subdivision was approved during 2007 and amended during 2009.
- This amendment proposes to adjust the property boundary line between lots 3 and 5 (as identified on the plan). There will be no lot area reduction or addition for both lots.
- The purpose of the boundary line change is to correct a potential setback violation for recently constructed garage that was found to be too close to a property line. It was determined that adjusting the property line will be the best way to correct the setback encroachment.
- Interestingly, the structure does not violate the town setback requirements. The setbacks were set as part of the subdivision approval.
- This is a well put together proposal and will resolve the setback issue.
- **RECOMMENDATION:** I recommend the PB approve the amendment to Regis Acres Subdivision.

ITEM 10 – Michael and Abraham Strum – Design Review Certificate Consideration

- This proposal is to make exterior alterations to an existing 3-story building and tear down and rebuild an existing cottage (sorry- I have only 1 large plan which will be available at the meeting).
- The Design Review Committee unanimously recommended the PB approve the Design Review Certificate.
- **RECOMMENDATION:** I recommend the PB approve the Design Review Certificate.

ITEM 11 – Stillridge LLC – Design Review Certificate Consideration

- **This proposal includes exterior alterations to an existing multi-use commercial building.**
- **The alterations are associated with the same project currently under PB review. The PB has seen these alterations within the PB submission.**
- **The Design Review Committee unanimously recommended the PB approve the Design Review Certificate.**
- **RECOMMENDATION: I recommend the PB approve the Design Review Certificate.**