

**TO: Old Orchard Beach Planning Board**  
**FROM: Jeffrey Hinderliter, Town Planner**  
**SUBJECT: December Planning Board Meeting Summary**  
**DATE: 8 October 2015**

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

### **PUBLIC HEARINGS**

#### **ITEM 1**

Proposal: Conditional Use: Establish Accessory Dwelling Unit  
Owner: Lance Foss  
Location: 3 Idlewild Ave., MBL: 206-16-3, R1

#### **ITEM 2**

Proposal: Major Subdivision Amendment: Revise location of two apartment buildings, parking and stormwater systems  
Owner: New Heritage Builders  
Location: Smithwheel Rd. (Colindale Apartments)., MBL: 107-2-1, R4 & ID

### **REGULAR BUSINESS**

#### **ITEM 3**

Proposal: Conditional Use: Establish Accessory Dwelling Unit  
Action: Discussion; Final Ruling  
Owner: Lance Foss  
Location: 3 Idlewild Ave., MBL: 206-16-3, R1

As you may recall, this proposal is for the conversion of existing habitable space into an Accessory Dwelling Unit. Accessory Dwelling Units are permissible as long as they meet the Conditional Use Accessory Dwelling standards and Conditional Use Review Criteria (below).

Accessory Dwelling Unit.

The purpose of the sections concerning accessory dwelling units is to provide a diversity of housing for residents while protecting the single-family character of residential neighborhoods. Accessory dwelling units are allowed as conditional uses in all residential districts and shall comply with the following conditions:

- (1) The accessory dwelling unit shall be accessed via the living area of the primary structure, and all other entrances to the accessory dwelling unit shall appear subordinate to the main entrance. Any proposed additions to the main structure or accessory structures shall be designed to be subordinate in scale and mass to that of the main structure and compatible with the architectural style and quality of the main structure.
- (2) The accessory dwelling unit shall have at least 500 square feet of floor area but shall not exceed 50 percent of the floor area of the main dwelling unit. Floor area measurements shall not include unfinished attic, basement or cellar spaces nor public hallways or other common areas.
- (3) The dwelling shall be served by a single electrical service.

(4) Only one accessory apartment shall be permitted per lot. It shall be made part of the main residence.

(5) Accessory apartments shall not be permitted for any nonconforming structure or use, where nonconformity is due to the use of the premises, as opposed to nonconforming dimensional requirements.

#### Conditional Use Review Criteria

(1) The proposed use will not result in significant hazards to pedestrian or vehicular traffic, on-site or off-site.

(2) The proposed use will not create or increase any fire hazard.

(3) The proposed use will provide adequate off-street parking and loading areas.

(4) The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any water supply.

(5) The proposed use will not create unhealthful conditions because of smoke, dust or other airborne contaminants.

(6) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties.

(7) The proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.

(8) The proposed use will not adversely affect the value of adjacent properties.

(9) The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

(10) The applicant's proposal must include any special screening or buffering necessary to visually obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.

(11) The applicant's proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any cut, fill, or paving intended.

(12) The applicant must be found to have adequate financial and technical capacity to satisfy the criteria in this section and to develop and thereafter maintain the proposed project or use in accordance with all applicable requirements.

**Recommendations:** As long as the PB feels this proposal meets the Accessory Dwelling standards, I recommend the PB approve the establishment of an Accessory Dwelling Use at 3 Idlewild Ave.

#### **ITEM 4**

Proposal: Major Subdivision Amendment: Revise location of two apartment buildings, parking and stormwater systems  
Action: Discussion; Final Ruling  
Owner: New Heritage Builders  
Location: Smithwheel Rd. (Colindale Apartments)., MBL: 107-2-1, R4 & ID

**Department Head Comments (Note: it appears that based on email communications, the department heads who commented are satisfied. The FD final comment could be included as a condition of approval).**

10-September 2015

*Public Works Comments:*

1. What is the increase in daily traffic for the AM and PM peaks? With the proposed Dunkin Donuts this will only make the impact at the Smithwheel and Ocean Park Road more difficult?
2. There is a proposed grinder pump and force main we assume will be maintained by the owner.
3. The proposed drainage system consists of leaching catch basins and leaching pipes. What are the existing soil conditions? Where is the water table?
4. The proposed buildings will be served by a two inch water line. This size precludes having a sprinkler system.

There are underground utilities in this proposal. Whenever anyone excavates, whether on public or private property they are required to call DIGSAFE. If this apartment complex does not register or join DIGSAFE they will not be able to locate the underground utilities. If someone excavates in the area of the new units, how will DIGSAFE locate the facilities? I suggest they be required to join DIGSAFE.

14-September 2015

*BH2M Response to DPW:*

1. Increase for AM peak hours is 14 trips and PM peak hours is 19.6 trips . This is based on 6.1 trips / day/unit for Apartments.
2. The proposed grinder pump and force main will maintained by the owner as the existing units and utilities are now.
3. The drainage system will be an infiltration system. This will include the drywells and leaching pipes . The ground water was determined by backhoe test pits to be 135" to 138" from the surface. This design is going to DEP for approval and a Storm Water permit.
4. The water service for each building will be a 2 inch water line. The Fire Chief will be reviewing this project for compliance.

16-September 2015

*Public Works Comment:*

BH2M is not understanding comments.

30-September 2015

*BH2M Response to DPW:*

Any excavation of utilities requires by State law that dig safe be notified. In the event that a utility company does not respond to a request then the owner is responsible to have a private utility company respond .The owner will have an as-built of all site work on file.

1-October 2015

*DPW Response to BH2M:*

Thanks, works for me.

24-September 2015

*Fire Department Comments:*

Per our discussion on the phone today I am satisfied with the layout and the one hydrant located inside the complex. You agreed to provide an updated plan showing the size water main and the location of the existing hydrant. It should also show the main size of the sprinkler feed.

I would require the existing hydrant located in the complex to be serviced by a qualified party to meet NFPA code. This would include flushing the hydrant and having a document stating that is was completed. This should be done on an annual basis with the service report sent to the fire department.

*Additional Comments:*

Planning staff received a question regarding the possible existence of a right-of-way extending to the property at the rear of Colindale. Nothing in regards to this particular ROW is shown in the submissions. We received the following information from the abutter who asked the question: "the deed from your folks [Blow's] to Colindale Associates reserved a 50' ROW for access and the installation of utilities, and the deed from Colindale Associates to New Heritage was made subject to the same easement." The referenced deed is attached to this memo.

**Recommendations:** As long as the ROW matter is addressed, I'm comfortable recommending conditional approval of the Major Subdivision Amendment proposal to revise the location of two apartment buildings, parking and stormwater systems at Colindale Apartment Development located at Smithwheel Dr. Condition:

1. The existing hydrant located in the complex shall be serviced by a qualified party to meet NFPA code. This would include flushing the hydrant and having a document stating that is was completed. This should be done on an annual basis with the service report sent to the fire department.

#### **ITEM 5**

Proposal: Site Plan: Construct 4,000 sq. ft. equipment building  
Action: Preliminary Plan Review; Schedule Site Walk; Schedule Public Hearing  
Owner: Town of Old Orchard Beach  
Location: 24 Manor St. (Waste Water Treatment Facility), MBL: 108-1-2, R3

This proposal is for the construction of a 50 x 80 equipment building that will be used to store Waste Water Treatment Facility equipment and used for training staff. Engineered plans are be worked on and will be submitted for the November meeting. One question that is typically asked when construction is done at the Facility involves odor. Please note the equipment building will not produce the odors that people commonly think of and/or smell from a Waste Water Treatment Facility. Chris White, Waste Water Treatment Facility Superintendent, will be at the meeting to explain in more detail.

At this evenings meeting, Mr. White will be available to answer questions and the PB is asked to schedule a Site Walk and Public Hearing.

**Recommendations:** I recommend the PB schedule a Site Walk (Date and time? Sunset at 4:33) and Public Hearing on 12 November.

## **ITEM 6**

Proposal: Sawgrass Subdivision Amendment: Approved 40 unit condo project modified into a 22 unit single family house lot project  
Action: Applicant Update; Schedule Final Review  
Owner: Sawgrass LLC  
Location: Wild Dunes Way (Dunegrass Sections J & L- Sawgrass); MBL: 105A, Lot 1, PMUD

## **BACKGROUND (2013 – 2015)**

### (2013 BACKGROUND - 11 April Meeting):

- This proposal amends another amended plan which was last approved (with conditions) by the PB during November 2008.
- The November 2008 proposal amended portions of Dunegrass Sections J and L (and modifies unit numbers in Section M) in order to develop Sawgrass Condominiums: a five phase – 40 unit condominium project. One 8-unit building will be constructed in each of the five phases. The Plan is included within your packet. The owner at that time was Suncor LLC.
- The November 2008 conditions of approval were:
  1. **The final site plan (to be signed by the Planning Board) will include:**
    - a. There shall be 5 iron survey markers to be set at the angular points of the property line between the development area and the golf course.
    - b. The lighting shall be shown on the plan and in detail to agree with Section 78-1026 of the ordinance (full cutoff light fixtures).
  2. **Prior to the commencement of construction**, the cost of the site work for the phase(s) to be constructed shall be approved by the Town’s inspection engineer; a Performance Assurance for the cost of the site work shall be established; and 2% of the construction costs shall be put in an escrow account to pay for the necessary engineering inspections.
  3. **Prior to the issuance of building permits**, the Condo Association Documents shall be reviewed and accepted as satisfactory by the Town’s Legal Counsel. They shall also be recorded in the York County Registry of Deeds, and a copy of the recorded document submitted to the Town Planner.
  4. **Prior to Planning Board Signatures**, the site plan shall be submitted in digital format for the Town GIS mapping system. Contact the Town Planning staff for the detailed submission requirements.
- The new, 2013 proposed subdivision amendments include a complete redesign of the 2008 proposal. Instead of 5 buildings with 8 units in each, the amendment now proposes 22 individual homes on their own parcel of land. The unit count, impervious surface will be reduced and the overall concept changes.
- During 1987/1988, Dunegrass was approved as 18 separate sections (Sections A – R) with a total of 589 dwelling units and a golf course. The Dunegrass development has evolved since the original 1987/1988 approval through various amendments. It is somewhat unique in the way it was approved by both the town and DEP so it is allowed to change overtime and adjust to market conditions. These changes have varied from minor to major revisions.
- I believe the primary question the PB should consider is if this 2013 change is minor enough to rule on this evening or is the change is major enough to warrant a more detailed review and additional meetings (e.g., site walk, public hearing). If the PB feels the change is minor, is their enough information to allow proper review? If the PB feels it is a major change, I believe the PB should indicate what additional material they need

to provide a proper review and what meeting(s) will be held (e.g., site walk, public hearing, etc.).

- Stormwater/drainage management- The applicant provides a written response to the subdivision criteria but we don't have a plan or report; therefore, it is difficult to determine where the water is going and what systems will be in place to handle the flow. As I understand the 2008 proposal was to pipe stormwater across Long Cove Drive which would lead to an open drainage ditch along Wild Dunes Way and eventually draining into a pond by Hole 5. I believe the open drainage ditch along Wild Dunes Way no longer exists. If the 2013 proposal is to use the same method of stormwater drainage, this could be an issue- especially for the properties located at the Glen Eagle section.
- Note- the notice of decision in the applicant's packet is only for the 2008 amendment preliminary plan. This is not the final notice.
- Submission of home owner's association documents?
- The applicant should check with the Fire Department (Chief John Glass 934-4911), Police (Chief Dana Kelley 937-5805 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. Note- I submitted the application packet to Public Works.
- I believe the applicant submitted plans to the town's engineer for peer review. I have not received a response form the town engineer as of 4 April.
- Will the proposal include new fire hydrants and street lights? I see none on the plan.
- How will the future residents dispose of solid waste?
- Water/sewer/road design, specs, plans?
- I know there have been concerns about water supply and pressure in Dunegrass and I believe there are two separate systems, one partially owned by Dunegrass and the other entirely under the control of Biddeford and Saco WD. Which water source will be used- where is the water coming from? Note that for the 2008 40-unit approval it was determined the project will not cause a burden on water supply. Biddeford Saco Water Co. has confirmed available capacity for this project in a letter dated 9/6/2007.
- Consider shared driveways?
- Snow plowing/disposal/storage method and location?
- DEP permitting status?
- Please provide a dwelling unit count update as a plan note. Please include where units are coming from and/or remaining in sections J and L.
- Proposed sidewalk- ADA accessible? The sidewalk is within the right-of-way. If the town accepted Wild Dunes Way, will the town be responsible for maintain the sidewalk? I'll check with Public Works.
- Currently there's an Island View Avenue in OOB- will this be an issue the proposed road name "Island Drive?" I recommend the applicant check with Police and Fire.
- Bill Robertson, PW Director comments:

*1. Where is the design for the Sewer system, Drainage system and water utilities?*

*2. The Conservation Commission is already proposing a trail along the southerly side of Wild Dunes Way for a connection from Veterans Memorial Park to the Eastern Trail, therefore is this sidewalk necessary. The proposed trail I believe will be 6 feet or so wide and be constructed of reclaim material. In fact it's already in place in this section and merely needs to be regarded and rolled.*

3. *I don't particularly care for the short distance between Long Cove Drive and Ponte Vedra Drive on Wild Dunes Way, and that may be the site distance but no one travels at 25mph. Perhaps the developer could eliminate this entrance make Ponte Vedra Drive a cul-de-sac with a partial cul-de-sac to the west and expand lot #17 back to get the required area.*

- Overall, I believe this plan is better than the 2008 proposal and will be a better fit with the surrounding development. Even though the 2013 proposal is scaled down from the 2008 approval, my primary concern is if we have enough information to properly evaluate this proposal.

(2013 BACKGROUND- 9 May Meeting):

- At the April PB meeting, the Board determined more information was needed in order to properly review the plans. The Board requested a full set of plans, scheduled a site walk and public hearing.
- The May submission includes a cover letter addressing comments from the April meeting, abbreviated stormwater management report and a set of plans.
- I believe the water supply issue is resolved because the supply is not part of the Dunegrass Community Association (DCA) water system.
- I have not received the HOA docs. Does the PB feel they need to review these before issuing a decision?
- Did the applicant check with Police and Fire about the Island Drive street name?
- The PW Director suggested eliminating the Ponte Vedra Dr. access to Wild Dunes Way. This has not be done- is this a concern to the PB?
- PW Director, Bill Robertson, offers the following:
  - I have not received comments from Bill- I know he's busy with construction projects. I expect his main concerns will be the Ponte Vedra Dr. access and stormwater drainage. He may recommend that the roads in the Sawgrass Subdivision remain private.*
- I have not received a letter from Biddeford/Saco Water- what is the status of this?
- Stephanie Hubbard received her first set of plans on 30 April. I expect she will provide comments by the 9 May meeting. Will her suggestions require plan changes?
- Status of DEP permitting?
- As I understand, the DCA documents require structures to be located at least 10' from unit site lines (side and front) and there is a 25' no clearing (vegetation larger than 4" in diameter) for the rear lot line. Looking at Sheet 1, it appears most of these structures do not conform to these restrictions.
- Stormwater- this seems to be the primary issue associated with this proposal. Based on the new submission, it appears the method of drainage is similar to what was approved in 2008. I have concerns about this because I can see a potential impact to the Glen Eagle development. Also, the ditches appear to be filled along Wild Dunes Way, so how will the water travel? Is the drainage pipe (on and off site) that will carry drainage appropriately sized? As I understand, drainage will travel to Basin 5- what systems are in place to insure the water can appropriately travel there? Also, does the developer have ownership rights to allow drainage in the basin? Are there other entity's that need to give permission in order for the developer to use the drainage basin?
- Stormwater- Gary Salamacha, acting on behalf of the Glen Eagle Board of Directors offered these comments:

*I guess the big question is, if the water dumps onto Glen Eagle, where is the waterway to channel the water to the pond on Fairway 5, which is how it was planned to go.*

*Any waterway or piping system would have to be in the public right of way, they can't use our common land or my lots to create a ditch.*

*The other big question is, the culvert is only 12" between units 5 and 4, and I don't believe a culvert that small will handle all the water anyway.*

*To get to that culvert between 4&5, the only way to do so as I said.*

*Is go down the public right of way, and at some point they would also have to cross Glen Eagles common land.*

- Stormwater- I see no reference in the Stormwater Report concerning conformance with the town's Post Construction Stormwater Ordinance. This can be a condition of approval but we must insure it is mentioned in the Home Owner's Documents.
- Street Lighting- As discussed at the April meeting, the PMUD District has street lighting standards. The applicant's engineer, Les Berry, sent these comments:

*Sheet 5 of the Sawgrass plans show a lighting plan with 0.93 average illuminance which is just below the standard of 1.0 average.*

*This is 9 light poles for 700+/- feet of road in the Dunegrass project that currently has no light poles. This just strikes me as a big overreach by the land use code.*

*1. Light pollution - I did not see any specific reference on the OOB ordinance to light pollution except from car lights but 9 lights is overkill. It will be so bright that one could read a book at night as they walked down the street. This in my opinion is creating a nuisance condition.*

*2. Dunegrass - This project does not have any lights. Why would the Town want to create one bright neighborhood next to all the other neighborhoods.*

*3. Construction Cost - The cost 9 poles with underground wires for a separate electric service is just unnecessary.*

*4. Operational Costs - This is a big monthly cost to the Homeowners Association.*

*5. Environmental Cost - Excess light and energy use just seems to be not in step with current public policy to conserve energy and minimize environmental impacts.*

*In summary, I live in a small lot subdivision in Gorham that I developed and I begged the planning board to not have light poles. They finally agreed with me and the neighborhood is now complete. That turned out to be an excellent outcome. There is plenty of ambient light for walking with need to get*

*blackout shades so one can sleep at night. Perhaps we can talk about this at the site walk and invite the planning board to do a nighttime driveby.*

- I agree with these comments but I have been unable to find something specific that clearly allows the PB to approve the proposal without street lighting in conformance with the PMUD standards. What I did find is the very last sentence in the subdivision ordinance (74-313 c): “Street lighting shall be installed as required by the Planning Board.” Seeing “shall” means to me that street lighting is required; although, the PB appears to have flexibility as to how much street lighting is required. I looked through other Dunegrass approvals Findings of Fact and found the developments were required to have streetlights in conformance with the PMUD standards. Note: The most recent submission show conformance with the PMUD street lighting requirements.
- I have not received a landscaping plan but based on the PB’s April discussions, this is not an issue to prevent the proposal from moving forward.

(2013 BACKGROUND- 13 JUNE MEETING)

- My primary concern at this time is the 8% road grade on Island Drive. Even if the roads are to remain private, I still believe they must meet applicable standards; therefore, a waiver of maximum grade standard (74-309 (m)) is needed for a road with an 8% grade. This road is defined as a “Collector” which has a maximum grade of 6.0%. The PB has the authority to grant waivers (74-34) as long as the PB finds the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare or is inappropriate because of inadequate or lack of connecting facilities adjacent or in proximity to the proposed subdivision. As long as surface water drainage is properly planned for, I believe the PB can grant this waiver.
- The Home Owner’s Association Documents that I have do not appear to include the following language: A. All stormwater system operations, maintenance and repair shall be the responsibility of the Home Owner’s Association and B. All operations, maintenance, repairs of the streetlights and associated electrical systems shall be the responsibility of the Home Owner’s Association. There were a few HOA documents emailed so I may not have the most recent or maybe I overlooked this language. If the most recent HOA documents do not include this language I recommend they are amended to include the language (see condition).
- The revised plans include site lighting and landscaping (Sheet 5).
- It appears the stormwater management questions/concerns, including conformance with the Post Construction Stormwater Ordinance has been addressed, including the addition of an operations and maintenance plan. Also, the revised plans should address the neighbors’ concerns. There are concerns about short and long term functionality and maintenance of the dry wells (as you may recall, additional dry wells were added to avoid discharge to neighboring properties).
- I believe there are concerns about driveways close to intersections. 78-1466 (e) states that no driveway shall be located within 50 feet of the curblin tangent of an intersecting local street and/or private way. It appears several lots have driveways that do not meet this standard (Lots 11, 12, 16, and 19). 78-1568 (a) (2) of the OOB ordinances provides a waiver provision that allows the PB to waive the standards above-mentioned second bullet as long as the modification will not create unsafe conditions for vehicles or pedestrians.
- The DCA provided comments which they want to be part of the conditions of approval. As I understand, DCA is separate from the zoning standards the PB must follow. Prior

decisions from the PB and town staff reflect this. I do believe the PB must carefully consider the DCA's comments but ultimately, I think it is separate from the PB's responsibility to ensure a development complies with applicable ordinances. If the DCA's comments tie directly to a zoning standard than that will fall under the PB's jurisdiction. Otherwise, and as it appears to have been interpreted in the past, compliance with DCA rules and obligations must be worked out between the DCA and the developer. Ideally, the developer and the DCA will work these matters out before town approval or before construction begins.

- There were comments concerning the September 2005 Consent Agreement between the town and the Developer (part of your packet). Not all of the terms of the agreement are directly associated with the Sawgrass proposal (identified as a portion of Section L); although, Section L is specifically identified as part of obligations 21.a and 21.c (page 5 of the 20 September 2005 Consent Agreement). In regards to 21.a, I believe the remaining undeveloped portions of Long Cove Drive do not need to be completed with the development of Section L because the obligation states "prior to the completion of development of areas Q, M and L." My interpretation of this is Q, M and L are tied together and because Q and M are undeveloped, by only developing L at this time does not mean Long Cove Drive needs to be completed because Q and M remain undeveloped. Once Q and M are developed, Long Cove Drive must be completed. Regarding 21.c, this appears to apply because the obligations states "at the time of development" and "to each of those areas." This appears to be different from 21.a because 21.c treats each section separately and states at the time of development, not at the time of completion. Therefore, it appears Section L needs two sources of water.
- The PW Director prefers that Ponta Verde Dr. should not access Wild Dunes Way- and should terminate in a hammerhead or cul-de-sac. The plans have not been changed to reflect the PW comments. Is this a concern to the PB?
- I recommend setbacks be included as a note on the final plan.
- RECOMMENDATIONS: I believe the PB can rule on the revised Sawgrass residential subdivision. Before a decision is made on the subdivision as a whole, I recommend the PB first rule on a waiver of 74-309 (m) to allow a maximum grade of 8% on Island Drive and a waiver of 78-1466 (e) to allow the driveways of Lots 11, 12, 16, and 19 be within 50 feet of the curblin tangent of an intersecting local street and/or private way If you choose to approve I recommend the following conditions:
  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.
  2. The Home Owner's Association documents shall include the following language:
    - A. All stormwater system operations, maintenance and repair shall be the responsibility of the Home Owner's Association.
    - B. All operations, maintenance, repairs of the streetlights and associated electrical systems shall be the responsibility of the Home Owner's Association.
  3. Digital plans shall be submitted to the town and to the town's GIS consultant in accordance with Chapter 78, Sec. 78-215 (4) before any construction begins.

(2014 UPDATE- 9 October Meeting)

During the June 2013 meeting, the PB unanimously voted to table this item without prejudice. The proposal is now brought back to the PB with three changes since the June 2013 meeting 1.

Updated application; 2. A letter from the former engineer (BH2M Les Berry) addressing various comments; and 3. A new engineer is involved (VED, Jason A. Vafiades).

I recently met with the new engineer to discuss what I believe is needed to move the proposal forward. I recommended he address and/or submit the following:

1. Address comments from the PB, staff, town engineer, abutters, etc. beginning 9 May 2013 – 13 June 2013. I believe the applicants' response to this is the Les Berry letter within your packet.
2. Submission of updated Subdivision Amendment Application. This was submitted and in your packet.
3. Submit other application information (e.g., plans, stormwater plan) as recently submitted as part of the 2013 review or as amended after June 2013. This information was not submitted.

Although the proposal received considerable review last year and it appeared to be near conclusion, I believe the proposal still needs further review after this evenings meeting, especially in regards to various comments that I believe are unanswered and/or not reflected on plans including, but not limited to, submission of the waiver requests, home owner's association document changes and plan amendments. There are still decisions the PB need to make before they rule on the proposal (such as the waiver requests) and I believe we do not have all of the information to help us make these decisions. I recommend the applicant submit a plan set and waiver requests to me before the next formal submission to the PB. This will allow me to look at the complete application and advise the PB and applicant as to what I believe are outstanding issues. Also, the PB may want to hold another public hearing and site walk. As I recall, there was considerable abutter interest in this proposal last year and abutters may want another opportunity to speak.

RECOMMENDATIONS: I recommend the applicant: 1. Submit a full set of the most recent plans; 2. Submit waiver requests as identified in my above-mentioned "background" comments from the 2013 meetings; and 3. Thoroughly review comments between 9 May 2013 and 13 June 2013 meetings to ensure they've been properly addressed. This includes the current engineer evaluation of the former engineers' comments and plans to see if the current engineer agrees and supports the statements and plans from the former engineer. If the PB would like to schedule a public hearing and site walk, these meeting can be held during November (6 Nov. for the site walk and 13 Nov. for the public hearing).

(2015 UPDATE- 8 January Meeting)

Tonight, the PB will hold a public hearing, review new submissions and determine if the proposal is ready for a final vote. Below are comments concerning the most recent submission.

- Updating HOA Docs to reflect compliance with the Post Construction Stormwater Ordinance. *The submission states these documents will be updated and submitted before final review. This is important because of the town's required participation in the MS4 Program Program (i.e., the Maine Pollution Discharge Elimination System (MEPDES) Municipal Separate Storm Sewer System (MS4) permit, which is a federal requirement administered by the State of Maine's DEP).*
- Concerns about short and long term functionality and maintenance of the dry wells (as you may recall, additional dry wells were added to avoid discharge to neighboring properties). *The applicant's response is "no comment." Is this still a concern?*

- Water Looping and Water Supply. Comments concerning the September 2005 Consent Agreement between the town and the Developer. Not all of the terms of the agreement are directly associated with the Sawgrass proposal (identified as a portion of Section L); although, Section L is specifically identified as part of obligations 21.a and 21.c (page 5 of the 20 September 2005 Consent Agreement). In regards to 21.a, I believe the remaining undeveloped portions of Long Cove Drive do not need to be completed with the development of Section L because the obligation states “prior to the completion of development of areas Q, M and L.” My interpretation of this is Q, M and L are tied together and because Q and M are undeveloped, by only developing L at this time does not mean Long Cove Drive needs to be completed because Q and M remain undeveloped. Once Q and M are developed, Long Cove Drive must be completed. Regarding 21.c, this appears to apply because the obligations states “at the time of development” and “to each of those areas.” This appears to be different from 21.a because 21.c treats each section separately and states at the time of development, not at the time of completion. Therefore, it appears Section L needs two sources of water. Note- Consent Agreement and Dunegrass Map identifying Sections are attached. *Regarding water looping- The applicant states that Section Q is being designed and construction expected to begin around the same time as Sawgrass. This should ease the above mentioned concerns. Any PB thoughts on this? Should compliance with this agreement be demonstrated as part of the Sawgrass proposal? Perhaps a condition? Regarding water supply, the applicant states the will use the Maine Water lines and a letter from Maine Water is provided. Maine Water asks for an easement for all water lines and services within Sawgrass and a detailed drawing of the water main in the public way. I assume the easements should be shown on the final plan. Also, how does the applicant intend to follow through with Maine Water’s requests?*
- Setbacks included as a note on the final plan. *Applicant states this will be included on the final plan. Which leads me to believe the current plan is not the final.*
- Pathway along Wild Dunes Way. *The applicant may be able to address this at the meeting. If this is to be included, it should be shown on the site plan and details page.*
- Section property boundary’s changing? *As far as I know, they’re not. The applicant may be able to provide additional info.*
- Present density of Dunegrass. *During the spring of this year, staff intends to work on a comprehensive update of Dunegrass, including, but not limited to unit counts and density. In regards the current Sawgrass proposal, I do not see this as an issue because this proposal reduces the number of proposed units from what is already approved.*
- Percentage of open space. *Because this proposal is part of the original Dunegrass approval, I believe the applicable open space standard is part of what that original approval which considers open space as part of all of Dunegrass and not open space within each individual Section. Assuming the property boundaries are the same, I see no open space reduction.*
- Waivers. *The applicant is requesting the PB grant two waivers: 74-309 (m) to allow a maximum grade of 8% on Island Drive and a waiver of 78-1466 (e) to allow the driveways of Lots 11, 12, 16, and 19 be within 50 feet of the curblin tangent of an intersecting local street and/or private way. To approve the proposal as submitted, the PB must grant these waivers. Bill Robertson, Public Works Director, provided comments below which are related to these waivers. If the applicant feels the the proposal must include these waivers, I believe he should meet with Bill to see if they both can find an acceptable solution. If the PB feels the same, this may result in changes to the submitted plan.*

Bill Robertson's comments:

1. Eliminate the Ponte Vedra Drive access to Wild Dunes Way. It's too close to Long Cove Drive, make Ponte Verda Drive a hammerhead.
2. These roads in Sawgrass will remain private, similar to Eagle Glen.
3. The 8% grade of the roadway will present problems during winter conditions.
4. What happens to the drainage system when we get storms that create rainfall amounts of 2"+ in an hour or so that we have been experiencing the past couple of years?
5. The Department of Public Works is responsible for all sewer lines and structures, and I prefer an inside drop on the manhole.

RECOMMENDATIONS (January 2015). I have two recommendations- the first is to request the applicant address the remaining comments and to schedule final review for February. The second is to conditionally approve. I feel one more meeting is necessary to tighten this up so that the applicant can avoid additional meeting beyond February due to plan amendments. I will leave the decision with the PB.

RECOMMENDATION (1): I recommend the applicant address the above-mentioned comments (i.e., 8 January Meeting) and other comments the PB feels should be addressed and that the PB schedule a final review for February.

RECOMMENDATION (2): I recommend the PB conditionally approve the 22 unit Sawgrass residential subdivision. Before a decision is made on the subdivision as a whole, I recommend the PB first rule on a waiver of 74-309 (m) to allow a maximum grade of 8% on Island Drive and a waiver of 78-1466 (e) to allow the driveways of Lots 11, 12, 16, and 19 be within 50 feet of the curblin tangent of an intersecting local street and/or private way. If you choose to approve I recommend the following conditions:

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.
2. The Home Owner's Association documents shall include the following language:
  - A. All stormwater system operations, maintenance and repair shall be the responsibility of the Home Owner's Association.
  - B. All operations, maintenance, repairs of the streetlights and associated electrical systems shall be the responsibility of the Home Owner's Association.
3. Digital plans shall be submitted to the town and to the town's GIS consultant in accordance with Chapter 78, Sec. 78-215 (4) before any construction begins.
4. Setbacks shall be noted on the final site plan.
5. Maine Water easements, as stated with the Maine Water letter dated 21 May 2013, shall be shown on the final site plan.
6. Pathway, if proposed, shall be shown on the final site plan and detail plan.
7. Before construction begins, meet with Bill Robertson Public Works Director to discuss his comments in this memo and attempt to find an acceptable solution.

8. Before construction begins, provide documentation clearly presenting how the proposal will comply with 21.c of the 20 September 2005 Consent Agreement. This documentation shall include dates identifying when the compliance with 21.c is achieved.
9. Changes to the approved final plan shall be submitted to the Planning Board. Construction associated with these changes shall not continue until the Planning Board approves the changes.

## **OCTOBER 2015 MEETING UPDATE**

### **Department Head Comments:**

30-September 2015

#### *Public Works Comments:*

5. The plan states the two roads will remain private. This means no road maintenance nor trash pickup.
6. Sewer and water are to be public facilities. Where does the Town responsibility for the sewer mains begin? I assume where the sewer is within a public way, i.e. Long Cove Road or Wild dunes Way.
7. Who will maintain the drainage system including the retention pond? There are dry wells shown on the plan. Dry wells are not identified in the Legend. Are the pipes into the dry well underdrains or a leaching system? What is the soil where the dry wells are shown?
8. There is no typical road section. This needs to be shown. There is no typical detail sheet. There are no cross sections. More details are needed.
9. Sewer mains should be 8" diameter and sewer services should be 6" diameter.
10. Will easements be granted to Maine Water?
11. Will underground utilities be placed in conduits.
12. Will the home owner's association locate utilities for DIGSAFE as these are private roads?

1-October 2015

#### *Public Works Comment:*

I just read the documentation of Sawgrass submitted by Jason Vafiades dated September 17, 2015. In that document it is stated

*The Department of Public Works is responsible for all sewer lines and structures....*

No! These are on private property and must be maintained by a private entity. This will not work.

Also, there are no sidewalks within the development. There is a path along Wild Dunes Ways that seems to be for golf carts. More and more people are walking; we should provide for them.

#### *Fire Department Comments:*

The hydrants need to be shown on the Sawgrass plan. There should be one at the corner of Long Cove which isn't shown. Another at the corner of Eagle Drive and Long Cove. A hydrant between lots 7 and 8 to cover and another by lot 1 which might already exist, if not it needs to be put in. There should also be one along Wild Dunes Way.

7-October 2015

#### *Wastewater Comment (Chris White):*

A 2007 pump station study indicated that the pump station(s) in Dune Grass has adequate capacity for the original 589 units. The 22 units in SawGrass will count towards the original 589 units approved. Units that have built outside Dune Grass and enter the Dune Grass sewer system also will count against the original approval.

I would recommend that we get a current count on the total number of units entering the Dune Grass sewer system. As we get closer to the original 589 units, an evaluation of the sewer system should take place to help identify the costs associated with increasing capacity. The town has not instituted any impact fees to fund an evaluation or potential upgrades in this area. It is expected that these costs will be borne by general taxation.

*Additional Comments:*

Street Lighting. Street lighting is not shown on the Utility Plan (C-103). Staff recommends street lighting be added to following locations: 1. Two Wild Dunes Way Intersections; 2. One Long Cove Dr. intersection; 3. The Ponte Verde Dr./Island Dr. Intersection. If the applicants intends to present the road and associated utilities for town acceptance, DPW recommends that the lights poles and fixtures conform to applicable Central Maine Power Street Lighting standards.

Sidewalks. Internal sidewalks appear to be not included with this proposal. Staff recommends that the PB require 5' wide, asphalt sidewalks on the interior roads. Regarding the proposed sidewalk along Wild Dunes Way, staff recommends this sidewalk to be 6' wide and bituminous.

Planning and Engineering. Regarding planning, staff will have additional comments after a more thorough review of the materials. Staff comments will primarily reflect 1. Whether we feel the applicant has addressed our comments from previous meetings and 2. Updates on applicant's response to department head and PB member comments. Regarding Engineer comments, we'll have these in time (and I expect the applicants response) for our next meeting.

**Recommendations:** I recommend the PB provide any feedback necessary to assist the applicant to prepare for final review (staff will do the same), which will be scheduled for the next PB meeting.

**ITEM 7**

Proposal: Conditional Use/Relocation of Non-Conforming Structures: Remove two detached residential units and replace with one residential duplex.  
Action: Ruling on Application: Table/Withdrawal  
Owner: Estate of Stanley Weinstein Et Al  
Location: 2 Puffin St., MBL: 303-7-2, BRD and Limited Commercial Districts

This proposal included the removal of two detached residential cottages to be replaced by one residential duplex. After several meetings with PB and staff, it was determined that the proposal, as submitted, would most likely not meet applicable nonconforming structure standards. The applicant decided to not move forward with the proposal that was presented to the PB and to submit a different plan, which requires only Code Enforcement review.

As a result of the applicant's decision to move in a different direction, the PB decided to table the application until staff receives a formal request to withdraw. I spoke to the applicant after the September meeting and he indicated that it is his preference to table without prejudice.

**Recommendations:** I recommend the PB table without prejudice the Conditional Use/Relocation of Non-Conforming Structures Application to remove two detached residential units and replace with one residential duplex for the property located at 2 Puffin Street.

**ITEM 8**

Proposal: Conditional Use (Home Occupation): Establish Bakery within existing accessory structure  
Action: Ruling  
Owner: Ruling on Application: Table/Withdrawal  
Location: 165 Portland Ave., MBL: 103-6-4, RD

As you may recall, this proposal was for the establishment of a bakery as a home occupation. As part of the PB's review, their primary responsibility is to determine if the proposal successfully meets all of the home occupation requirements. The one standard that proved to be difficult to meet was:

(6) No retail sales shall be permitted, except those sales which are incidental to the services provided by the home occupation.

The PB received legal guidance on this and, based upon this guidance, the PB decided that because the bakery was selling the food it produced on-site, it could not meet the above-mentioned home occupation standard because the retail sales are not incidental to the services provided by the home occupation. Because this proposal could not meet all home occupation standards, the PB cannot approve the bakery as a home occupation.

At the September meeting, the PB gave the applicant the opportunity to formally withdraw the application by submitting a letter or email stating this as opposed to a denial. The PB passed this message to the owner's father, who was representing the owner at this meeting. Planning staff has not received a formal withdrawal so the only options for the PB are to deny this proposal or table for 1 more month.

**Recommendations:** I recommend the PB either:

1. Deny. If it is denied, the PB may state: The Conditional Use Application proposing to establish a bakery as a home occupation at 165 Portland Ave. is denied by the Planning Board because the proposal cannot comply with Town of Old Orchard Beach Code of Ordinances, Chapter 78, Sec. 78-1267, Home Occupations, condition (6) No retail sales shall be permitted, except those sales which are incidental to the services provided by the home occupation.
2. Table for withdrawal. If the PB decides to table this proposal and extend the option for withdrawal until the November meetings, I recommend that the PB require a formal letter withdrawing the Conditional Use Application proposing to establish a bakery as a home occupation at 165 Portland Ave. be submitted to planning staff on or before 26 October 2015. If the letter is not received by this date, the PB will deny the proposal at their November 2015 meeting.

### **Design Review Certificates**

#### **ITEM 9**

Proposal: Demolish former parsonage  
Action: Review application; Discussion; Certificate of Appropriateness Decision  
Owner: Good Shepard Parish  
Location: 6 Saco Ave., MBL: 206-30-1, DD-2

This proposal includes the demolition of the Church Parsonage and eventual expansion of the existing parking lot. At the Design Review Committee's 21 September meeting, the Committee decided to recommend conditional approval of only the demolition of the Parsonage and wait for a decision on the parking lot until the Good Shepard Parish submitted a complete landscaping plan. The DRC unanimously recommended that the PB conditionally approve demolition of the Parsonage. Conditions:

1. All improvements will be in accordance with the application, plans and proposal received. Any additional changes must be approved by staff prior to completion.
2. A completed landscaping plan for the entire site shall be submitted to the Design Review Committee by 2 November 2015.
3. Execution of the landscaping plan shall be done prior to paving of the parking lot. The parking lot shall not be used until the landscaping plan is implemented.

Note: The existing parking lot is used for the Church as well as a commercial lot. Commercial lots are allowed in the DD2 as a Complimentary Use. Complimentary Use review falls under the Code Officers jurisdiction. I expect the Code Officer will have additional input in regards to matters such as stormwater, etc.