

**TO: Old Orchard Beach Planning Board**  
**FROM: Jeffrey Hinderliter, Town Planner**  
**SUBJECT: September Planning Board Meeting Summary**  
**DATE: 13 September 2012**

**\*\*\*APPLICANT NOTE- October PB meeting submissions due on 24 September\*\*\***

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

**ITEM 1 & 4 – John Glass – Home Occupation: Renting Golf Equipment (Conditional Use Application: Public Hearing and Final Review**

- The applicant is proposing to rent golf equipment via the internet and telephone.
- There will be no on-site customer pick-ups. The rental equipment will be delivered.
- The only traffic associated with this proposal will be the delivery van leaving to drop off and pick up rental equipment. There may be 1-2 delivery trucks (fed-ex, ups) drop off and pick up a month.
- Home Occupations are permitted in the R5 district as a Conditional Use.
- Current use of the property is a single family dwelling. There will be no exterior building modifications. All products will be stored indoors.
- Conditional Use permits do not require a site walk- the PB has the option to determine if one is needed. It is my opinion this proposal meets all applicable review criteria.
- **RECOMMENDATIONS:** This is a pretty simple proposal. I recommend the PB approve this proposal.

**ITEM 2 & 5 – Town of Old Orchard Beach – Ordinance Amendments associated with Child Care Facilities (Public Hearing and Planning Board Recommendation)**

- As a result of a Child Care Facility proposal the PB recently considered, we found ordinance standards did not allow the use to exist even though it appeared to make sense.
- During the PB meeting, it was discussed that one way to resolve this issue was to change ordinance language.
- The proposal before the PB shows these changes and they are quite simple:
  1. Child Care Facilities is a permissible use with the PMUD District by adding this use as a Condition Use under Sec. 78-1023.
  2. The access standards of Sec. 78-1268 (b) (2) a are deleted. You may recall the standards mentioned specific roads that Child Care Facilities are required to have direct access to/from.
- Please note that I have not studied the potential impacts of this change. One reason is because the use seems to be an appropriate fit in this district. A second reason is the use will require Conditional Use review which will provide a more detailed analysis of each proposal. There is safety in knowing the PB will still be responsible for review and can evaluate each proposal based upon the CU standards.
- Please let me know your thoughts on this proposal.
- **RECOMMENDATIONS:** If the PB feels comfortable with the amendments as written, I recommend authorization to move forward to Council.

**ITEM 3 & 6 – Town of Old Orchard Beach – Ordinance Amendments to the Sign Ordinance (Public Hearing and Planning Board Recommendation)**

- During early July, the Council enacted an emergency ordinance amendment to the sign ordinance (Ch. 78, Art. VIII, Division 5). The council voted 5-0 in favour of the emergency ordinance.
- This amendment allows temporary signs associated with events at the ballpark. Events include baseball games.
- Before this emergency amendment, the sign ordinance allowed temporary signs only for community festivals, carnivals and special events approved by the Council. It was identified that people who wish to see a baseball game could not locate the ballpark because the ballpark could not legally place off-premises signs. Since baseball games did not qualify as a community festival, carnival or special event, it was determined (after legal consultation) the easiest fix and one that will not jeopardize the intent of the sign ordinance as a whole was to change the temporary sign standard.
- Formal adoption of this ordinance amendment allows temporary signs associated with events at the ballpark to be placed anywhere in town (assuming they have the property owners permission); therefore, temporary signs may be located off-premises.
- Temporary signs are exempt from the size and dimensional requirements of the zoning district, provided the signage does not pose a safety hazard and meet all relevant conditions prescribed.
- Emergency ordinance amendments are in effect for 60 days from the date of enactment. Even though an emergency ordinance may be adopted, it still must go through the appropriate adoption procedure to make it a formal ordinance change. That procedure begins with the PB scheduling and holding a public hearing.
- Please remember this only allows temporary signs for events at the ballpark.
- **RECOMMENDATION:** If the PB feels comfortable with the amendments as written, I recommend authorization to move forward to Council.

**ITEM 7 – Beachmont Land Development, LLC – 44 Lot Single Family Subdivision (Subdivision/Shoreland Zoning – Continued Review, Schedule Final Review)**

***BACKGROUND***

- This is a new Subdivision and Shoreland Zoning proposal for the development of a 44-lot single family cluster subdivision. Also, a portion of the property associated with this proposal is within the Stream Protection district which means Shoreland Zoning applies; although, the proposed development is not within the SP District.
- This subdivision is proposed as a cluster. This allows the applicant to design a subdivision that alters the layout, dimensional and area requirements that are typically called for in the ordinance without a waiver or variance.
- There are waivers requested, including proposing individual septic systems opposed to a common system which is what Cluster Subdivisions require. The PB
- There are specific standards associated with cluster proposals and they are found in Subdivision Ordinance, Section 74-278. These standards include Basic Requirements (e.g., building design, common water supply, common sewer system), Open Space (e.g., allocation of common open space, covenants, maintenance responsibilities) and Siting and Buffering (e.g., overall site design, building design, internal and perimeter buffering).

- There are waivers requested, including proposing individual septic systems opposed to a common sewer system which is what Cluster Subdivisions require. The PB has discussed these with the applicant at past meetings.
- Cluster Subdivisions do not specifically allow alterations from other subdivision standards- only those that are called for in the cluster standards; although, the Subdivision Ordinance does have a waiver provision (Section 74-34) that allows the PB to waive almost any standard in the subdivision ordinance. To grant a waiver, section 74-34 has specific criteria the PB must apply when determining if waiver requests can be granted.
- The most important initial item is a decision on what the PB feels it can waive or modify. As stated above, the PB has the authority to waive or modify almost any Subdivision Ordinance standard. The applicant has requested specific waivers and the PB should concentrate on these as to whether they can or can't be granted. I highly recommend the PB carefully reviews the waiver standards (section 74-34) during consideration of the waiver requests. Also, it is always good to think out of the box when an ordinance allows the PB to waive a standard. An ordinance may call for something specific but there may be something that could work better. This is why waivers can be a useful tool.
- One of the primary concerns of abutters is the access to Date Street. It appears the applicant will propose a connection to Date Street but it will include a controlled access by way of a breakaway gate or bollards. Our subdivision ordinance requires subdivisions over 15 lots to provide 2 street connections for egress/ingress from the subdivision (74-309 I). While two street connections are provided, one is proposed to include the controlled access (Date St.) while the Portland Ave. access provides the primary ingress/egress. This can move forward as proposed but the PB must grant a modification or waiver of 74-309 I. When the applicant reviews the plans with public safety departments, they should specifically point this out.
- The applicant should check with the Fire Department (Whoever is responsible for reviewing- call main number at 934-4911), Police (Deputy Chief Keith Babin 934-5899), Public Works (Bill Robertson 934-2250), and Biddeford/Saco Water Department (Tom Carr) to be sure the proposal is ok with them.
- I believe there is an opportunity to provide public access for the open space adjacent to the stream.
- Since many of the issues associated with this proposal are more engineering related, I'm going to lean on our town engineer for review at this point in the process.

### ***NEW INFO***

- As you may recall, there are a few outstanding items:
  1. Applicant's response to town engineer's comments.
  2. Applicant's response to staff and PB member comments.
- The applicant submitted a revised set of drawings and additional supporting documentation in response to staff comments, PB comments and our town engineer's comments. The majority of these revisions are the result of the town engineer's comments. The written documentation provides responses as well as the plans. I believe PB members had the following comments:
  1. Replace the proposed gate across Date Street with collapsible bollards. *This is shown on Plan C-101 but nothing is noted in the Details Sheets. I recommend the bollards be added to the Details Sheets. Also that the applicant verify with public safety the bollards will be acceptable.*

2. Add warning surfaces on crosswalks. *Cast iron detectable warning plates have been added to crosswalks.*
  3. Open space to be gifted to the town. *I don't believe this has been finalized yet or required. Is the applicant interested in doing this? Would a conservation easement work instead? This could be something worked on after final vote. Also, if this land is to be common open space the cluster subdivision has standards associated with its dedication, maintenance and use (see 74-178 (c)).*
  4. Language in covenants that gate (or bollards now) shall remain in perpetuity. *Is perpetual ok for the language or should it be another time frame, say 25-50 years? Also, this should be a note on the plan (under General Notes) and I recommend it be a condition of approval. The PB just needs to determine what an acceptable time frame is.*
  5. Vacant land behind lots should be noted on the plan that it will not be built on or extend the property lines back to include this land within the lots. *It appears the lot lines have been extended to include this land but there is a dashed line that remains- what is the dashed line? See Plan C-103*
  6. Note on plan regarding blasting. *A note is added to General Notes (#17) on the first page of the plan set.*
  7. Note on plan that driveways cannot be within 50' of intersections. *Note added to Plan C-101.*
- In addition to the above, Steve Blais, the owner's principle engineer, provided the info below (via email):

We have made the following changes per the planning board comments (included in our recent submission):

1. We replaced the Date Street gate with collapsible bollards
2. We added cast iron detectable warning devices at the crosswalks
3. We extended the backs of Lots 7 thru 13 through the former open space in that area and added a no cut-buffer in its place.
4. We added blasting notes to the cover sheet as General Note 17.
5. We added two driveway cut details, one with and one without sidewalk.
6. We added a note that driveways will be located within 50 feet of intersections on drawing C-101.
7. We have shown the collapsible bollards on Drawings C-102 and C-304 (we had not resubmitted these drawings in our 8/1/12 submission as that change was reflected Drawing C-101, which was included in the 8/1/125 submission).
8. We updated our details so the curb shape section graphically matches.

We inadvertently left out a note regarding constructing the sidewalk after all driveway cuts are installed. This note will be added to the Drawings before printing the Mylar for signature by the Planning Board.

We are currently coordinating with the sewer department to determine if the existing sewer has capacity to take additional wastewater flows from this project.

- I received preliminary comments from the town engineer in response to the most recent submission and expect a more formal response by our 13 September meeting. Our town engineer stated based on Wright-Pierce review of the submitted information, a number of the earlier concerns have been or are being addressed

through review with Maine Department of Environmental Protection. Preliminary comments:

1. I know during the meeting we had that there was some discussion with Mr. Sweet on the depth to the groundwater table and his assessment of the seasonal high groundwater table. The test pit logs maintain the shallow groundwater levels, and I did not see any discussion regarding what the final elevation of the seasonal high groundwater table was and how it was established in relation to the bottom of the infiltration basin. I would recommend this documentation be provided to the Town for the files.
  2. There is reference to an access easement to the infiltration basin #1 which I did not see on the plans. The easement/access should extend to the basin.
  3. One of the LLS from the infiltration basin #1 appears to be directed back into the site (to a low point), not towards the stream. We may want to relook at the orientation.
  4. There was a note that indicated the owner would be grading/developing lots to maintain stormwater flow to the easement locations that have been defined along the northern and western side of the development. I am not sure if there is anything that needs to be done on the Town's side to address this, our concern has been making sure the stormwater reaches these areas, which if they are planning on grading to adequately convey the off-site stormwater to.
- What is the status of DEP permitting?
  - Please remember this proposal is a Subdivision, Cluster Subdivision and Shoreland Zoning proposal so you'll need to consider these ordinances when reviewing this application.
  - Please remember there are two outstanding waivers. First is the waiver of the central collection and treatment system standard and to allow individual septic systems (waiver of 74-278 (b) (7) ). Second, a waiver of the standard that requires subdivisions over 15 lots to provide 2 street connections for egress/ingress from the subdivision (waiver of 74-309 I). The Subdivision Ordinance does have a waiver provision (Section 74-34) that allows the PB to waive almost any standard in the subdivision ordinance. To grant a waiver, section 74-34 has specific criteria the PB must apply when determining if waiver requests can be granted.
  - A note for final plan preparation- please be sure it includes all applicable items identified in the subdivision ordinance and show the Shoreland Zoning District(s).
  - **RECOMMENDATIONS:** I believe we've reached a time where the proposal is close to completion. There's been a lot of material submitted, PB meetings, staff meetings, and meeting with the town engineer. Here's a brief summary of the primary issues remaining
    1. A proposal that is acceptable to our town engineer- it appears we have reached a time where this is or near conclusion. I expect to have a few more comments in addition to what's mentioned above- I recommend the applicant address these final comments.
    2. Addressing Planning Board, public and staff comments. This too I believe is near conclusion. Are there remaining items that need to be addressed (including those mentioned above)?
    3. Decision on the two waivers.
    4. A completed performance guarantee worksheet will need to be submitted.
    5. We've received a draft copy of the Homeowners Agreement. Is this the final version?

**ITEM 8 – Town of Old Orchard Beach – Edith Libby Memorial Library Expansion (Site Plan Review: Continued Discussion, Schedule Final Review. Consideration of Design Review Certificate)**

***BACKGROUND***

- This proposal includes an addition to the existing library which doubles its space, expansion to the parking area and site work. All work is associated with the Bond approved by the voters last year.
- As I understand, the land where the library is located is part of memorial park and the library has control over a particular amount of this land.
- Along with the Site Plan Review Ordinance, please pay particular attention to Section 78 Division 7 (Downtown Business Districts), especially Sections 78-661, 78-686 (more for Design Review Committee but the PB should consider this), 78-687, 78-689, and 78-746 through 78-750.
- Overall this is a well-designed project to add much needed space in the library. I ask the PB to pay particular attention to building design and placement since it is in such a critical area of our town. This proposal will require a Certificate of Appropriateness (It's within the DD-2 Zoning District) which means the Design Review Committee needs to review and provide a recommendation before the PB offers a final decision.
- Exterior light fixtures- what types of fixtures are proposed and how will the light be contained so it is primarily located on-site (avoiding light spillover on neighboring properties and the park).
- Stormwater Drainage- It's my understanding there is no storm drainage system that runs along Staples Street; therefore, I question how the stormwater management system will be designed.
- The applicant should check with the Fire Department (Whoever is responsible for reviewing- call main number at 934-4911), Police (Deputy Chief Keith Babin 934-5899), 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.

***NEW INFO***

- There were a number of outstanding items associated with proposal including:
  1. Addressing comments from Stephanie Hubbard
  2. Addressing staff comments
  3. Contacting department heads
  4. Design Review Certificate consideration
- 1- Addressing Stephanie Hubbard's comments. TFH Architects and Northeast Civil Solutions provided written responses and amended plans in response to Stephanie's comments. The written responses begin on page 4 of the TFH Architects 27 August letter. The letter and plans have been submitted to Ms. Hubbard and if there is a reply, I expect to have this by the 13<sup>th</sup>.
- 2- Addressing staff comments. It is in my opinion staff comments have been successfully addressed (see TFH Architects letter and revised plans).
- 3- Contacting department heads. TFH Architects either met or contacted town department heads. Record of this is within the most recent submission. TFH Architects met with Bill Robertson at Public Works several times and notes of the most recent meeting are to follow. All other dept. head comments have been appropriately addressed.

- **4- Design Review Certificate consideration.** On August 13, 2012, the Design Review Committee took a vote on the proposal which was tied (2-2) and it was the consensus of the Committee that the decision be deferred to the Planning Board because the Committee could not come to a joint decision to support or deny the proposed addition and could not move forward with a recommendation because of a tie vote. The reason for the tie vote is that some members feel the proposal does not meet the roofline criteria in terms of the character of the community. Please remember the Design Review Committee provides recommendations to the Planning Board- the DRC cannot solely decide on a Design Review Certificate proposal. The PB has the authority to approve or deny Design Review Certificates no matter what recommendation the Design Review Committee makes. TFH Architects 27 August letter provides further information (see bottom of page 3).
  
- **RECOMMENDATIONS:**
  1. Need to secure ok from Bill Robertson at PW
  2. Response from Stephanie regarding the most recent submission
  3. Consideration of the Design Review Certificate

I believe most of the outstanding items have been addressed and we can begin to conclude our review of the proposal. One tricky item is the Design Review Certificate; although, it's important to note Design Review Certificates may only be issued by the PB. If the PB feels the proposal is in conflict with the Architectural Design Guidelines (78-686 (1) – (7) ), the PB may require the applicant to return to the Design Review Committee for resolution of the design conflicts.

I recommend the PB schedule final review for October with the understanding the applicant will address remaining issues by then.