

**TO: Old Orchard Beach Planning Board**  
**FROM: Jeffrey Hinderliter, Town Planner**  
**SUBJECT: September Planning Board Meeting Summary**  
**DATE: 12 September 2013**

**\*\*\*APPLICANT NOTE- September PB meeting submissions due on 26 September\*\*\***

**\*\*\*APPLICANT NOTE- Please remember the town needs digital plan submissions\*\*\***

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

**ITEM 1 & 6**

**Proposal:** Zoning District Amendment: Expand the Campground Overlay District over a single parcel zoned GB-1  
**Action:** Public hearing, site walk report, recommendation to Council  
**Owner:** RBD Inc.  
**Location:** 17 Ocean Park Rd., MBL: 210-10-4 (OOB Campground)

***Background***

This purpose of this proposal is to extend the existing Campground Overlay District to a 1 acre lot. The current district is General Business 1 (GB1) and this district will remain. What will change is the lot will, in addition to GB1, have the Campground Overlay zoning designation and which allow the lot to take advantage of the Campground Overlay (CO) standards.

Last year, Mike Daigle approached me and discussed his desire to improve his property, the OOB Campground. We met several times and reviewed several concepts. The proposal was to be done in several phases over a few years. The first phase was to create a safer, new entrance/exit to Ocean Park Road, reconfigure the interior front vehicle circulation patterns and landscaping. To do this (and to make the entire project work), Mr. Daigle had to purchase a 1 acre triangle-shaped lot (which is the lot associated with the proposed CO District) that included the Vacancy Pub and several overnight cabins. At the time this work was done, it was permissible in the GB1 District; therefore, a zoning change was not necessary. As many of you have probably seen, the first phase is close to completion.

Mr. Daigle would like to begin the second phase which includes significant updates to the campground sites. As part of this proposal, the campground will extend into a portion of the former Vacancy Pub lot. Since this lot is zoned GB1, the campground lots are not permissible. To make the proposal work, we are proposing to include the CO as an overlay zone. If you look at the areas of OOB Campground currently zoned CO, this appears to be a natural extension that makes complete sense.

Similar to the Ne're Beach CO proposal, because the proposal is a zoning change and part of Chapter 78, it first requires a public hearing to be held by the Planning Board as well as the PB to offer a recommendation to the Council (see below). Once the PB's work is complete, the proposal will move to the Council for their consideration and decision.

**Sec. 78-31. - Amendments to chapter.**

(a) This chapter may be amended from time to time as the needs of the town require after public hearing on a proposed amendment held by the planning board and following posting and publishing of notice of the hearing.

(b) Such notice shall be posted in the town office at least 14 days before the public hearing and shall be published at least two times in a newspaper of general circulation in the town. The date of the first publication must be at least 14 days before the hearing, and the date of the second publication must be at least seven days before the hearing.

(c) Amendments to this chapter shall be adopted only after favorable vote of a majority of the members of the town council.

One of the primary tests for zoning changes- is it consistent with the adopted comprehensive plan. Our most recent adopted comp plan is from 1993. I reviewed the Community Goals and Policies and found “campgrounds should be allowed to expand as a conditional use with standards to assure their operation as good neighbors.” Therefore, in my opinion, this proposal is in consistent with the adopted comprehensive plan.

Mr. Daigle has made considerable investment and improvements in this property and, according to his vision, will continue to do so. I will recommend approval of this proposal at our next meeting.

### ***12 September Meeting***

The purpose of this meeting is to hold a public hearing, report on the site walk and provide a recommendation to the Council. Nothing has changed since the August submission.

**RECOMMENDATIONS:** I recommend the PB provide a favorable recommendation supporting the proposal to add the Campground Overlay District over a single parcel located at 17 Ocean Park Rd., MBL: 210-10-4 (Old Orchard Beach Campground) currently owned by RBD Inc.

### **ITEM 2 & 4**

Proposal: Conditional Use, Site Plan, Subdivision Amendment: Revise buildings 3 and 5 from professional office space to Over-55 residential condominiums containing 6 units each (12 unit’s total).  
Action: Public hearing, site walk report, ruling on amendment  
Owner: CHA Builders, LLC.  
Location: Emerson Cummings Boulevard and McCallum Drive (Cider Hill), MBL: 107-3-1  
District: PMUD

### ***Background***

This proposal is simply a change of use from office space to residential. Cider Hill was originally approved during 2002 as a project that contained age restricted housing, congregate care and office space. Over time, the project was adjusted and developed in phases. The phase associated with this proposal was approved during 2004 as office space and a large congregate care building.

The changes for this proposal only include a change of use from the approved office buildings (3 and 5, northern corner of the proposed plan) to 12 units (6 per building) of age restricted housing. Literally, nothing else is changing from the 2004 approval- the building location remains the same, parking the same, stormwater management the same, impervious surface, etc. (see 11 x 17 excerpt of the 2004 approved plan to compare).

I reviewed applicable zoning standards and a majority of the files (which if stacked, are probably 5 feet high) in order to determine if this project can be approved or if there are any restrictions and “red flags”

that may not allow 12 additional units and found no reason that the proposal cannot move forward. I have a few comments:

1. Will the sewer system and pump station adequately handle the conversion from office to residential space?
2. Does the owner need to secure any permission from a home owners association and/or the property management company? Are they aware of this proposal?

**RECOMMENDATIONS:** I recommend the PB determine the Subdivision, Site Plan Review and Conditional Use amendment as complete and recommend scheduling a public hearing to be held in September. The PB may choose to schedule a site walk.

### **ITEM 3 & 5**

Proposal: Zoning District Amendment: Expand the Campground Overlay District over a single parcel zoned R-1  
Action: Public hearing, site walk report, recommendation to Council  
Owner: Pacy LLC  
Location: 9-11 St. John St., MBL: 206-26-7 (Ne're Beach Campground)

#### ***Background***

This purpose of this proposal is to extend the existing Campground Overlay District to a 0.23 acre lot. The current district is Residential 1 (R1) and this district will remain. What will change is the lot will, in addition to R1, have the Campground Overlay zoning designation and which allow the lot to take advantage of the Campground Overlay (CO) standards.

Alan Weinstein (Pacy LLC) approached me last year about what he could do concerning a blighted building on property he owns adjacent to the his campground, Ne're Beach. I visited the site and the building was a safety hazard and in my opinion, could not be rehabbed- it needed to be demolished. To move forward, Mr. Weinstein and I discussed several options and the best appeared to be removing the building and extending his campground. Mr. Weinstein brought a proposal to landscape and add 4 camp sites. I could see this was to be a considerable improvement to the property (as well as surrounding area) and I approved this as an administrative site plan review.

As party of my review, I checked all the normal items, including the zoning district, and my interpretation of the zoning map was that the parcel was in the CO District. Since that time, a few zoning district discrepancies came up and I decided to work with our GIS consultant to update the maps to make sure the zoning districts were correctly represented by using the most recent, Council signed zoning map and to make the districts more clear by adding different colour's and hatching for the overlay districts. When this was completed, sure enough, we found that Mr. Weinstein's redeveloped lot was not in the CO District- the CO District ended at the abutting lot.

So, to correct this mistake, it is in my opinion that the best way to move forward was to extend the existing CO District associated with Ne're Beach Campground to include this 0.23 Acre lot. If you look at the areas of Ne're Campground currently zoned CO, this appears to be a natural extension that makes complete sense.

Because the proposal is a zoning change and part of Chapter 78, it first requires a public hearing to be held by the Planning Board as well as the PB to offer a recommendation to the Council (see

below). Once the PB's work is complete, the proposal will move to the Council for their consideration and decision.

**Sec. 78-31. - Amendments to chapter.**

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(c) Amendments to this chapter shall be adopted only after favorable vote of a majority of the members of the town council.

One of the primary tests for zoning changes- is it consistent with the adopted comprehensive plan. Our most recent adopted comp plan is from 1993. I reviewed the Community Goals and Policies and found "campgrounds should be allowed to expand as a conditional use with standards to assure their operation as good neighbors." Therefore, in my opinion, this proposal is in consistent with the adopted comprehensive plan.

Mr. Weinstein has made considerable improvements to this lot and surrounding area and it was my misinterpretation of the zoning boundary that allowed the proposal to move forward. I will recommend approval of this proposal at our next meeting.

***12 September Meeting***

The purpose of this meeting is to hold a public hearing, report on the site walk and provide a recommendation to the Council. Nothing has changed since the August submission.

**RECOMMENDATIONS:** I recommend the PB provide a favorable recommendation supporting the proposal to add the Campground Overlay District over a single parcel located at 9-11 St. John St., MBL: 206-26-7 (Ne're Beach Campground) currently owned by Pacy LLC.

**ITEM 7**

Proposal: 53 seasonal dwelling units: Change from seasonal use to year-round use  
Action: Rule on Amendment to approved Findings of Fact (Conditional Use, Site Plan Review and Subdivision)  
Owner: Bernie Saulnier  
Location: 180 Saco Ave., MBL: 208-1-1, in the GB-1 & R4 Zone

This proposal is to request that the PB allow the Summerwinds development to change from a seasonal use/occupancy to a year-round use/occupancy. Currently, the seasonal use is 1 April through 31 December. You may recall Summerwinds was originally approved (2011) to be a seasonal use which was 1 April – 31 October. The PB allowed an extension of the seasonal use to include the months of November and December.

As discussed in the letter from Summerwinds (in your packet), they found that because the use is seasonal, sales have been lost due to potential buyers desire to have the option to stay year-round. A majority of those interested in purchasing are older people seeking to downsize and

with family and medical professionals in the area, these people need to at least know they can stay during January, February and March.

Since it appears those interested in Summerwinds are older (little to no impact on schools) and the condo docs prevent the homes from becoming rentals, my primary concern is if the existing structures and infrastructure and unfinished portions of the project are designed to accommodate a year round use. Although the previous extension of the season included winter months, it did not include those months when we typically experience the heaviest winter weather; therefore, I believe that infrastructure and cottages must be constructed to handle cold, snowy and ice winter months.

- Is the road designed to deal with snow accumulation? This was discussed during 2011 and I found the following comments from the town's engineer and the applicants design engineer (BH2M) response:

Town Engineer: CB/Roadway underdrain: "The design has provided for the roadway to pitch to the center of the road, discharging to an underdrain/catch basin system. From a maintenance standpoint, we are concerned with the limited ability to maintain the center of the roadway during the winter conditions specifically plowing. While I understand this is seasonal use, I expect some maintenance of the roadway for emergency vehicles will be maintained."

BH2M Response: "Seasonal Use – We understand your concern regarding the maintenance of the road that crowns to the center. We had long discussions with the owner comparing a "seasonal" design versus a year-round design. The owner wants a seasonal project and hence we have designed a seasonal project. Therefore, the road was designed with the crown to the center which is a warm weather design and not intended for winter use. The project will be shut down in the fall and the water system drained. There will be no snowplowing and no maintenance for emergency vehicles. This is typical of many other projects in Old Orchard Beach."

- Are the existing buildings constructed so they have adequate heating, plumbing, electrical, cooking, refrigeration, etc. all winterized and suitable for year round use?
- Are the fire hydrants winterized?
- Are the utilities designed, constructed and maintained so they adequately function during the cold, snowy and ice months?
- Does the maintenance plan reflect items such as snow removal, snow storage and whatever else may be necessary to accommodate residents during the extended months?

It is my opinion the ordinance permits the use and the proposal is not required to abide by specific dates of use; although, by adding months that typically include heavy winter weather, the structures, land and infrastructure must be designed, constructed and maintained so they perform adequately year round.

**RECOMMENDATIONS:** Before the PB rules on this proposal, I recommend the applicant submit the following:

1. Maintenance documents that show Summerwinds provides acceptable service, maintenance and snow removal during the additional months.

2. Proof that habitable structures are designed and/or constructed in accordance with the town's year round dwelling definition which is: "Any structure or any portion thereof used or capable of being used as a residence for one or more persons, which possess the minimum amount of utilities and services, including but not limited to heating, water supply, sewage treatment, electricity, and cooking facilities, to permit the structure to be used continuously as a residence during the entire calendar year."
3. Proof the fire hydrants are winterized.
4. Proof the road is designed and/or built for year-round use, especially for heavy winter weather.
5. Proof emergency vehicles will be able to safely access and maneuver on-site.
6. Proof that infrastructure and utilities are designed and/or built so they will properly function year-round.

**ITEM 8**

Proposal: Subdivision Amendment: Adjust Lot #3 property line in Millbrook Estates  
 Action: Rule on Amendment  
 Owner: Mike & Linda Mailhot  
 Location: Linda's Way, MBL: 101-1-15-3

The Millbrook Estates Subdivision was approved as a 9-lot residential subdivision during 2004. The purpose of this proposal is to adjust the sideline of lot 3 to allow for an access drive on Linda's Way. I find no issues with this proposal.

**RECOMMENDATIONS:** I recommend the PB approve the Subdivision Amendment for Millbrook Estates to adjust the sideline of lot 3 identified as MBL: 101-1-15-3.

**ITEM 9**

Proposal: Site Plan Review, Shoreland Zoning: Remove and construct building, establish 3-unit lodging use  
 Action: Determination of Completeness, Schedule Site Walk and Public Hearing  
 Owner: Friendship Motor Inn, Inc.  
 Location: 25 Puffin St., MBL: 302-6-9

Friendship Motor Inn is proposing to remove an existing single family dwelling and garage and replace it with a new building to be used for seasonal 3-unit lodging. The property is located in the Beachfront Resort District (BRD) and Limited Commercial Shoreland District (LC). Please see my comments and questions below:

- Lodging is a permissible, nonresidential use within the BRD and LC Districts. 1,000 sq. ft. of lot area is required for each unit. The lot size is 3,000 sq. ft.; therefore, the lot has enough square footage to meet the minimum lot area requirement.
- Setbacks. In the BRD, setbacks are tied to building height. For structures less than 35' in height, front and side setbacks are 15' and rear yard setback is 20'. For structures that are 35' or higher, an additional 5' of all setbacks must be added for each additional 10' of building height or portion thereof. Based on the submitted plan, it appears the structure does not meet the setback requirements; although, the documents and plans indicate the proposed building will be in the old buildings footprint which means it is grandfathered and may be placed in that location as long as the proposed building does not encroach further into the setback than the existing building. One problem is the building is proposed to increase in height from 24.5' to 35'. Since setbacks are tied into height and

the proposed building height is 35', an additional 5' of setback is required which adds a new setback that is not part of the original because the existing structure is less than 35'. The existing structure is not 35' or higher; therefore, the proposed structure could not take advantage of the grandfathered setbacks because it will create a new nonconformance. A solution to this is either a variance through the Zoning Board of Appeals or to reduce the proposed building height so it is under 35'. If the proposed building height is reduced then the proposed building can take advantage of the grandfathering. I recommend: 1. The applicant provide an existing conditions survey; 2. The applicant clearly documents how the finished building will meet the proposed height (35' or amended) in accordance with the Building Height definition; 3. The applicant amend the plans so building height is less than 35'; 4. If the applicant chooses to continue with the 35', I believe a variance will be required before the PB can rule on the proposal.

- Maximum building height is 45'. The proposed building height is 35' (See comment above regarding height/setback requirements.) Whether the applicant choose to continue with the proposed height or a reduced height, I recommend he show how the building height will meet the building height definition: "*Building height* means the vertical height from the sidewalk or finished grade at the center of the front of the building to the highest point of the roof, if a flat roof; to the deck line, for mansard roofs; and to the mean height of the roof if a gable roof."
- Lot/Building Coverage. The BRD requires calculation for building coverage (*Building coverage* means the percentage of the lot which is covered by all buildings. Max is 60%) and lot coverage (*Lot coverage* means the percentage of the lot covered by all buildings or structures- including all impervious surfaces. Max is 80%). The submitted documentation shows the proposal meets both but I recommend the applicant provide a breakdown of each item that qualifies as part of building and lot coverage (e.g., lot coverage includes all impervious surfaces which would include walkways and parking spaces).
- Parking. Lodging uses in the BRD require 1.25 spaces per guestroom (i.e., unit). The submission shows 4 spaces which conforms to the parking standard. My concern about parking is the layout. The plans show 3 spaces stacked-up. Why I'm nervous about this is because assuming 3 separate groups of people will have different travel needs and with stacked parking I can see this will lead to coordination problems and confusion which could result in people parking on-street. One solution is to provide two side-by-side spaces and two designated spaces at the Friendship. The BRD allows 50% of parking to be located at a different property as long as the ownership is the same, the parking is within 300' of the building and safe access for pedestrians is provided. I recommend the applicant reconsider the parking layout by amending the plans to show two side-by-side off-street parking and provide written assurance that 2 spaces will be designated for this proposed use at the Friendship.
- Exterior Lighting. How/where will lighting be located and how will it be shielded to avoid light impacts to adjacent properties while providing adequate on-site light as well as conforming to the BRD Lighting Performance Standard? *Lighting*. All freestanding site lighting shall: 1. Not exceed the height of the principal building or 14 feet, whichever is less; 2. From a nonresidential use, not shed more than 0.5 footcandle onto surrounding residential properties or 1.0 footcandle onto surrounding nonresidential properties; 3. Be shielded to prevent point source glare.
- How will solid waste be handled?

- I recommend the applicant provide a pre through post construction erosion and sedimentation control plan.
- Since the proposal is within the Back Dune, a DEP Permit-By-Rule is required. Has this been approved by DEP? Status?
- Has the applicant/agent contacted town department heads (PW, PD, Fire, Wastewater) and Maine Water?
- The proposal shows a split rail fence along the property lines shared with Beach Walk Condos and the Johnson Family Properties. I recommend this be replaced with a vegetative and/or fence buffer or screen that will provide more visual obstruction while not impacting views.
- How will this proposal manage stormwater? What stormwater systems are in place or will be installed to properly manage stormwater?
- The garage that is proposed to be removed is located on two properties. Has permission been granted from the adjacent property owner to remove the garage?
- I believe the applicant should be prepared to address abutting property visual impacts. Will the proposed building obstruct ocean views? Will it adversely impact surrounding property values?
- The lodging use is identified as “seasonal” which is defined as 1 April – 31 October. This makes me more comfortable knowing that it will not turn into year-round apartments. Perhaps the PB should apply a condition to ensure it remains seasonal.

**RECOMMENDATIONS:** I recommend the applicant/agent address the above comments and questions, the PB schedule a site walk (note sunset on the next site walk date, 3 Oct., is 5:38 PM) and a public hearing on 10 October.