

TO: Old Orchard Beach Planning Board
FROM: Planning Staff
SUBJECT: September Planning Board Meeting Summary
DATE: 8 September 2016

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

PUBLIC HEARING ITEMS

ITEM 1

Proposal: Conditional Use, Subdivision Amendment; Site Plan Amendment: 6 unit condominium expansion (Summerwinds II)
Owner: Saulnier Development
Location: 180 Saco Ave., MBL: 208-1-1, GB1 & R4

REGULAR BUSINESS ITEMS

ITEM 2

Proposal: Major Subdivision and Site Plan: 40 unit condominium project
Action: Final Plan Review; Ruling
Owner: Church Street LLC
Location: 164 Saco Ave., MBL: 208-1-9, GB1 & R4

SEPTEMBER MEETING UPDATE

The purpose of the September meeting is to perform Final Plan Review and, if the PB feels final comments have been acceptably addressed, rule on the proposal. Another Public Hearing could be scheduled for October along with a final ruling if the board decides to do that. The PB has no ordinance required time-frame related to final plan decision.

The comments below were brought up by the Planning Board at the August meeting. Comments addressed are bulleted first and comments to be addressed (and the reason why they are outstanding) are bulleted second.

Comments Addressed

- Planning Board requested a letter from a Traffic Engineer (specific concerns were mentioned regarding the curb cut adjacent to Jameson).
 - The Applicant has retained Gorrill Palmer, they will produce the traffic impact letter.
- Planning Board requested that the drainage swale be enhanced on the plan and a note be included as it pertains to Cider Hill.
 - A note was added on the plans (Sheet 4): “reshape drainage swale during construction to maintain surface water flow to proposed field inlet #1”
- Planning Board requested that angle points be identified on the legend.
 - Legends includes iron rods to be set and granite monuments to be set.
- Planning Board requested follow-up on ADA detectable warning devices and access ramps.
 - BH2M showed in their most recent submission handicapped ramps added to the internal roadway intersection at Hope Terrace. Under Ch. 78 of the Town ordinance, handicapped parking standards apply to public parking lots, not private developments.
- Wright-Pierce comments to be addressed in submission.
 - Comments from Wright Pierce have been addressed. Stephanie received this final submission on 8/30/16 and will be reviewing for the October meeting.

- Planning Board requested that waivers be identified on the plans.
 - Waivers are shown on sheet 1 as note 20.

Comments to be addressed:

- Planning Board requested that the Cider Hill building be shown on the plans by the shared property line.
 - The building is not shown on the plans.
- Planning Board requested that silt fence extend along the property line shared with Cider Hill
 - It appears that the silt fence detail does not extend along this property line.
- Planning Board requested that the fence be consistent throughout the plans and that a fence detail be shown.
 - The fence detail has been included on Sheet 9 of the plans, however, the height of the fence is not called out on each plan sheet.
- Planning Board requested that a second note be added on the plans that states lights, sidewalks, sewer, etc. to remain private with maintenance responsibilities left to the HOA.
 - Note 19 has been added to sheet 1 of the plans which addresses roads, utilities, and street lights but does not include sidewalks.
- Planning Board requested that a condition of approval state: Phase II construction work shall not begin before 8:00AM.
 - This should be included as part of final project approval.
- Planning Board requested that a condition of approval state: All applicable DEP permits shall be secured before construction begins.
 - This should be included as part of final project approval.
- Planning Board requested that BH2M work with Planning Staff on MS4 compliance
 - During the last meeting it was noted that no BMPs will discharge to the Town's MS4. In the most recent submission it shows that all 3 Vegetated Soil Filters will discharge to the MS4. Staff to work with BH2M on this portion of the submission. All other MS4 requirements (in terms of the Planning Board submission process) have been addressed. Prior to construction the applicant must enter into a maintenance agreement with the Town.

Other Planning Board Requests

- Planning Board requested that impact fees be addressed regarding traffic.
 - Staff has a packet available for the board that goes over historic traffic impact fees in Town.

Department Head Comments (September)

WASTEWATER

As with all projects, my comments address the capacity of the pump stations and wastewater facility. The Church Street project appears to contain multiple pumps that will discharge to the public sewer system. These pumps are private so maintenance and replacement will be the responsibility of others. Because the force mains and gravity lines within the project will not be public, they will not receive the same ongoing maintenance and inspections that the public sewer system does. As with all privately maintained infrastructure that discharges to public infrastructure this is of some concern. Lines that are not maintained, monitored or built to town standards often allow ground water in to the sanitary sewer system therefore reducing capacity at pump stations and the wastewater facility. This is especially true in communities where the groundwater level is very high.

I do not have estimated sanitary sewer flow from the project but would not expect it to have an adverse effect on the public pump station or prevent approval. The discharge will come directly to the Halfway pump station located at the wastewater treatment facility. Although capacity is adequate for the added flow, the station contains multiple code violations and is a priority for replacement at substantial cost. It is estimated that the town will recover \$145,000 in one time sewer connection fees from this project. The town does not have sewer user fees; nor does it recover any impact fees in this area of town. Because of this, the town will not recover any other dedicated fees from this project to assist with the cost of the upgrades needed at the pump station(s) and the wastewater treatment facility.

For the records I would ask that I be forwarded estimated flow coming from this project. Comment on capacity and condition of the public sewer downstream from the project can be addressed by the public works department.

From Jeffrey Regarding estimated flow: There will be 40 condo units with 3 bedrooms in each. BH2M typically estimates flow on bedrooms @ 50 GPD/bedroom.

From Chris in response to Jeffrey: I usually go by 80-100 gallons per day per person. A one bedroom dwelling with two people will use closer to 200 gallons per day. I find 50 gallons per bedroom to be too conservative. Water use varies wildly and since we do not have a sewer user fee I have no way of estimating household use. Using 200 gallons per day I calculate an additional 5.6 gallons per minute to the pump station. Certainly nothing to put us over capacity, but the town does need to start addressing future infrastructure needs.

FIRE DEPARTMENT

My concern in any project that we have is adequate hydrant coverage and that we have wide enough road to handle our fire apparatus, our largest fire truck is our tower truck at 47 feet long and 6800 pounds.

RECOMMENDATIONS (September): It appears some comments have not been fully addressed. Also, the comments from Wastewater are new. Does the PB feel comments need be addressed before Final Plan decision or can they be included as conditions? Perhaps the remaining items are simple enough that the PB can request they be addressed before the Mylar is signed (if approved). Also, the PB mentioned another Public Hearing may be needed- does the PB want to schedule this for October? Note the following are the current conditions:

1. Construction associated with the Phase II portion of the development shall not commence until 8:00 AM.
2. All applicable Maine Department of Environmental Protection Permits shall be secured before construction begins.

BACKGROUND (August Meeting)

The purpose of the August meeting is to continue Preliminary Plan Review, determine Preliminary Plan complete, complete with conditions, or incomplete, and schedule Final Ruling. BH2M submitted updated plans and other documentation. This includes responses to comments received from PB members, staff, Wright-Pierce (16 June memo), Cider Hill, and Public Hearing. Two important items to note concerning the Preliminary Plan: First, the PB must take action on the Preliminary Plan within 30 days of a public hearing or within a mutually agreed upon time. Second, when granting preliminary approval to a Preliminary Plan, the planning board shall state the conditions of such approval, if any, with respect to the following:

- (1) The specific changes which it will require in the final plan;
- (2) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare; and
- (3) The amount of improvement or the amount of all bonds therefor which it will require as prerequisite to the approval of the final subdivision plan.

Regarding the specific changes the PB requires for the Final Plan (#1), the PB should determine if the applicants responses to comments received as well as the submitted plans are acceptable. Those items the PB feels have not been acceptably addressed should be discussed with the applicant and then the PB should determine if it should be included with the Final Plan, as part of a final approval condition or not

at all. As part of the PB's determination, please consider the new comments from staff and Department Heads (below). Also, we've yet to receive Wright-Pierce review of the most recent submission but I believe we can address any remaining WP comments at Final Plan. It appears one of the primary outstanding issues is compliance with the town's MS4 program- see comments below.

Regarding waivers (#2), the only item I see that may require a waiver is the 20' wide aisle associated with the Faith Lane parking lot. 78-1542 (b) requires parking lots with 90 degree stalls to have a 24' wide aisle width. Sec. 74-34 (b) and (c) allows the PB to grant a waiver to this requirement. Waiver standards:

(b) Where the planning board finds that, due to special circumstances of a particular plan, 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, it may waive such requirements, subject to appropriate conditions.

(c) In granting variances and modifications, the planning board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

Note the 20' width of Faith Lane, as a road, conforms to the subdivision ordinance because it serves less than 15 residential units.

Regarding the amount of all bonds (#3), the application includes completed Performance Agreement Worksheets for Phase I and II. Phase I estimate is \$357,639. Phase II is \$220,890. Final numbers are established as part of the pre-construction process.

Public Hearing Comments (August)

During July, the PB held a Public Hearing which included the following comments (Applicant's response and further info in **bold**):

- Concern that any stormwater management system implemented could redirect water to Cider Hill property.
Development required to manage increase in stormwater runoff so it does not impact abutting property. Proposed existing drainage ditch along common boundary be upgraded during construction so no additional surface water impacts their property. In regards to stormwater this proposal requires conformance with applicable DEP rules and town ordinance standards. Included with the town ordinances standards is Sec. 74-277 (e) (2) which states: "The developer shall provide a statement from a civil engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in other properties." Those standards found in the Subdivision Ordinance most directly related to stormwater include: 74-271 (Land not suitable for development), 74-274 (Easements for natural drainage ways), 74-277 (e) (Required improvements, surface drainage), 74-311 (Storm drainage design standards), 74-312 (Storm drainage construction standards).
- Privacy barrier along property line shared with Cider Hill. Prefer natural barrier tightly planted. If not possible a fence at least 8' high.
Proposing a 6' high vinyl fence along common boundary in area of proposed units 30 – 32. All attempts will be taken to not disturb existing vegetation along common boundary which provides further buffering. Note added to preserve any existing trees. In regards to regular subdivisions (minor and major) that do not include non-residential or multifamily development there are no specific buffer requirements for providing a buffer between the subject property and adjacent properties except if the adjacent property is an industrial use or a highway and the buffers intent is to control noise (74-276 (b)). PUD's and cluster development have specific language associated with buffering but this is not a

PUD or cluster. Note that parking lots have buffering standards (78-1544 (2)) which this proposal appears to comply with.

- No work begin until 8am, especially near the property line, and work end no later than 7 pm. **Applicant believes the hours of operation could be revised to include no construction between 8:00 AM for Phase II which is directly abutting Cider Hill. Regarding construction hours, Chapter 26 of our Ordinance regulates construction noise. Construction noise is exempt from the decibel limits during daytime hours. Daytime hours are 7 am – 10 pm Monday – Saturday, 9 AM – 10 PM Sunday except Memorial Day – Labor Day daytime hours are 7 AM – 8 PM daily. Also, the PB asks what “between 8:00 AM” means.**
- Fence along property line shared with Marcotte Motors. Prime place for kids to cut through and does not want this. **The applicant does not specifically address this comment but the submission identifies installation of two signs that state no public access. A fence is not included with this proposal.**

MS4 Comments (August)

Email was sent to Bill Thompson at BH2M on *Tuesday August 2nd, 2016* regarding the latest Church Street Station submission:

- While the project does not fall under the Chapter 500 Appendix listing of the Goosefare Watershed because it's in the tidal portion of Goosefare the Town has our own delineated Goosefare Watershed which includes both the tidal and non-tidal portions of the stream. Under our MS4 program this means the project will be subject to additional requirements during the inspection process including a minimum of 2 inspections annually and one completed during a rain event.
- In the Operations and Management Plan (O&M Plan) submitted, post-construction BMPs are listed but not where they will be located on site. The reason staff brings this up is because the Town needs to know which ones (if any) could potentially discharge to our MS4. In the case of this project, the MS4 would be any post-construction BMPs that have the potential to discharge to Saco Ave or Jameson Hill Road. In Chapter 71 of the Town's Ordinance, there is a more specific explanation of what is considered the Towns MS4. After construction is completed, the Town will look for a list of BMPs that were installed on site, their location, where they discharge and a copy of the record drawing or as builds for the post-construction BMPs.
- Under the section “Vegetated Underdrain Soil Filter Fields” there is a note about the need to have a qualified post-construction stormwater inspector inspect the stormwater infrastructure annually. This is a good section to also include language about the annual certification requirements for the ones that discharge to the Town's MS4. The annual certification requirement is something that should be included in the homeowner's association documents. Any post-construction BMP that discharges to the Towns MS4 will need to be inspected by June 30th each year to document that the BMP is functioning as intended or that it requires maintenance.
- In the future, it would be helpful to have a standalone O&M Plan for the Town to keep in our files.

Department Head Comments (August)

POLICE

I would request that a traffic impact study be conducted in the Jameson Hill, Saco Avenue area that will be impacted by this project. I understand that the buildings for this project are being identified as condominiums, and, because they are condominiums will generate 5.2 trips per day as opposed to single

family dwellings, that would generate 10. Either way, there would be an additional 200 to 400 trips per day exiting and entering from that site. I do not know what the criteria and trip generation cut off number is for requiring a traffic impact study, but, because of the seasonal traffic flow that impacts that area during the summer months, I think it would be prudent to insist on a traffic study before this project is approved.

PUBLIC WORKS

I have reviewed material for the subject development prepared by BH2M and dated April 2016, June 10, 2016 and July 21, 2016.

I have the following comments:

1. The trip generation for this development may be less than a single family development and therefore may not require a traffic study, however, the northeast entrance to the development, nearest Jameson Hill Road is too close to Jameson Hill Road. The change of use from a church to a residential development does fundamentally change the traffic pattern. Without a traffic study of the easterly driveway, the driveway should be closed.
2. BH2M disagrees that the Americans with Disabilities Act applies to this development. I disagree. While individual homes may not be handicap accessible, the sidewalks should. There may be a handicap individual purchase a unit in the future or a handicap person may visit. Accessibility is the right thing to do!
3. Roads in this development will remain private. This will also mean that sewers and drains within this development will remain private. The Town's responsibility for maintenance of these lines shall begin at the connection to the Saco Avenue main.
4. All underground utilities shall have detectable warning tapes in the trench 12 inches above the utility.
5. Condominium documents outlining all party's maintenance responsibilities shall be filed with the Town Clerk.
6. An electronic copy of plans and specifications should be provided to the Town. Survey markers shall be tied to the State of Maine grid.

Power for street lights and maintenance of street lights shall be the responsibility of development and not the town.

Recommendations (August)

First, the PB should rule on the 20' parking aisle width waiver. Second, the PB should identify which items must be submitted for Final Plan. Third, the PB should rule on the Preliminary Plan and include any applicable conditions. Fourth, the PB should schedule Final Plan Ruling.

BACKGROUND (July Meeting)

Tonight the PB will hold a Public Hearing, continue Preliminary Plan review and, if the PB feels the application is ready, schedule Final Ruling. This submission is quite complete and much of what was asked of the applicant has been addressed; although, due to the size of the project and complexities staff recommends preliminary plan review continue until the August meeting.

Regarding public comment, the majority of interest is from the residents in Cider Hill. The residents have 3 primary areas of interests (letter included in your packet): 1. Stormwater management system- will this redirect water onto Cider Hill; 2. Privacy barrier along the shared property line of Cider Hill and the proposed subdivision; 3. Construction activity allowed only between the hours of 8 AM and 7 PM.

Regarding the privacy barrier, about 2/3 of the shared property line will not be developed and it appears an existing tree line will remain in the area that is to be developed. Regarding construction hours, Chapter 26 of our Ordinance regulates construction noise. Construction noise is exempt from the decibel limits during daytime hours. Daytime hours are 7 am – 10 pm Monday – Saturday, 9 AM – 10 PM Sunday except Memorial Day – Labor Day daytime hours are 7 AM – 8 PM daily. Cider Hill's requests are quite reasonable so I recommend the applicant address them.

As part of the July submission the applicant considered PB member and department head comments (see cover letter in this month's packet). Department heads were updated and provided copies of the July submissions- no additional comment was received.

The applicant received peer review comment from Wright-Pierce just before they submitted their July packet so note that what you are reviewing this month does not include responses to the WP memo. I expect we'll see that as part of the August submission.

Additional comments:

- Save the redwood tree?
- Does the PB feel the buffer between the proposed subdivision and Duffy's is acceptable. Please remember Duffy's concern was future neighbors may object to his operations including noise and food prep scents.
- Does the PB feel the applicant has acceptably addressed department head comments?
- Public trail through the property? The applicant states they do not wish to promote a trail system. Just a though- is it possible to create an easement to allow for the possibility of establishing a trail at some future time. Also, please keep in mind that privacy concerns from Cider Hill residents if a trail is established.
- The submission addresses PB comments (see letter in your packets and the plans)- is the PB satisfied?
- The projects name is Church St. Station. A Church St. exists in OOB. Does the PB feel this could create confusion?
- It may be worth a quick run through the 14 Subdivision Review Criteria Narrative prepared by the applicant (in this month's submission) before concluding Preliminary Plan review. I say this now because this will help us identify potential issues before Final Review.
- 3 light poles are shown on the site plan which I assume means there will be 3 street lights. Will this provide enough light?
- Recommend adding dumpster specs in the written documentation and showing the dumpster with fence in the details sheet. Also, the dumpster location- is there enough room for a truck to safely perform its work?
- Recommend adding the buffer fence to the details sheet.
- Signage in the detail sheets?
- Just want to be sure maintenance of the buffer (e.g., fence) is in the HOA docs.
- Pool- Outdoor? Indoor? Fence around it? How about parking- I think it's safe to assume people who live at the outer half of the development will drive to the pool
- Status of DEP permitting?
- An attractive landscape design along the Saco Ave. frontage would be a nice touch.
- Appreciate the home designs- quite attractive!
- One final request before the PB rules on the Preliminary Plan- please think of other similar developments the PB approved over the past few years. What worked with those developments? What didn't work? What worked but only in a satisfactory manner? Does this proposal share any of the items that did or didn't work? Maybe the PB can correct a potential issue before it exists.

Recommendations (July)

Staff recommends the applicant address any outstanding questions/comments (public, PB, staff, Wright-Pierce) within one more Preliminary Plan submission. Staff recommends the PB continue Preliminary Plan review to the August meeting.

BACKGROUND (May, June Meeting)

DEPARTMENT HEAD COMMENTS

PUBLIC WORKS

I have reviewed the plans, revision 3, dated May 16, 2016.

I have the following comments:

1. Will electric, cable and telephone utilities be placed in conduits? There should be specific marking tape for each utility.
2. Roads in this development should remain private ways and that should be noted on the plans.
3. What maintenance will be required for the vegetated soil filters? Will the silt sacks in catch basins (inlet sediment control device) be monitored and maintained regularly?
4. Will there be maintenance standards for the pond located between units 5 and 6?
5. Roadway C is located very close to Jameson Hill Road. This should be analyzed by a traffic engineer.
6. Tactile warning devices should be By ADA Solutions, Inc. and colored blue.
7. It is a long walk from unit 30 to the pool. Will there be parking available at the pool?
8. The sanitary sewer pump station and associated maintenance should be a condominium association responsibility.
9. The lots are being served by a private sewer which connects to a public sewer. The condo association will be responsible for the maintenance of sewers within the development.
10. Since these roads are private the Town will not have trash picked up. That will be an association responsibility.
11. Will the development have street lights? These would be an association responsibility not a town responsibility.
12. Four foot sidewalks are narrow. Five feet is preferred. The handicap ramp detail shown on sheet 9 shows the sidewalk at 8 feet minimum.
The normal curb reveal shown on the detail on sheet 9 appears to be 5 inches. Is that correct? A six inch reveal would be better for an overlay.

POLICE

I think it would be appropriate to require a traffic study to determine what, if any impact this project would have on traffic flow and congestion in that area of Saco Avenue, especially during the summers months. This is the second major development project in the last few years in there, and I think it would be prudent to require a review. Also, I understand that sidewalks will be constructed, but they appear to be very narrow. Proper street lighting should also be required.

FIRE

In review of the Church Street Station site plan page 1, there are 2 requests that the Fire Department has:

1. Since the length of the access road is more than 500 ft. I am requesting a hydrant be place at the west side of the access road intersection.
2. Requesting that the turnaround at the end on the access road be extended by 12ft.

Does the 24' access drive include the sidewalks, or is there a clear 24' of roadway? Likewise on the 20' section of road.

Additional comments, including peer review, will come before the next scheduled meeting.

ITEM 3

Proposal: Conditional Use, Subdivision Amendment; Site Plan Amendment: 6 unit condominium expansion (Summerwinds II)
Action: Preliminary Plan Review
Owner: Saulnier Development
Location: 180 Saco Ave., MBL: 208-1-1, GB1 & R4

SEPTEMBER MEETING UPDATE

The primary purpose of the September meetings is to conduct a site walk and hear from the public. As you know, this proposal has generated quite a bit of abutter interest. Due to this interest, it is an appropriate time to gather all outstanding questions, comments, concerns so that we (staff, applicant) can provide feedback. In addition to abutter comments, PB members, staff and Wright-Pierce have questions and comments. After the September meetings it is staff's intent to consolidate comments and provide to the applicant so they may address as part of their next Preliminary Plan submission. Below are staff and Department comments.

Misc. Comments (September)

- Use of existing infrastructure (Developers Right, Title, Interest). This proposal requires use of infrastructure that is within the existing, developed portion of the Summerwinds. Summerwinds is a private development. Does the developer have the legal ability to use this infrastructure?
- Addressing existing infrastructure issues. Some of the existing infrastructure within Summerwinds may not be performing adequately now that the development is fully built and occupied. For example, a number of residents state the increase in flooding on property but especially basements. Summerwinds II, although a slightly different name, is still part of the original Summerwinds. So, a question is should the developer of Summerwinds II be responsible for remedy of existing problems. Note- abutters not within Summerwinds have the same concerns (see letter from 176 Saco Ave. residents).
- Address snow removal.
- Wright-Pierce Comments. Wright-Pierce memo dated 30 August provides comments associated with the submission you received as part of your August packets. There are no new September submissions from the applicant included. I expect the applicant will address these comments as part of a future submission.
- Waiver requests. Based on the August submission, it appears waivers will be required if the applicant wishes to continue with what is proposed. The applicant should provide waiver requests (including justifications- see 74-34 for language) as part of the Preliminary Plan submission.
- Impacts to municipal services. Summerwinds was originally approved as a seasonal community. As such, it was shown to have few impacts to municipal services. Now that it is a year-round community with a proposed expansion, should municipal impacts to services (e.g., schools) be further evaluated?
- 36" culvert across Saco Ave. This culvert ability to adequately address stormwater from the existing and proposed development has been questioned. The applicant states that to their knowledge there have been no significant changes made to the watershed area contributing to the culver crossing and the proposal will not increase peak flow rates above the pre-development conditions. So, it appears no changes are proposed. Wright-Pierce memo recommends further review by PWD.
- Appeals from restrictions on nonconforming uses (78-180). This proposal requires review under the Conditional Use appeals from restrictions on nonconforming uses. The applicant's previous submission includes responses to the 12 Conditional Use Standards but does directly respond to 78-180. I recommend the applicant respond to the following: The impact and effects of this enlargement, expansion, extension, resumption or conversion to another nonconforming use on existing uses in the neighborhood will not be substantially different from or greater than the

impact and effects of the nonconforming use before the proposed enlargement, expansion, resumption or conversion to another nonconforming use.

- One particular concern from an abutter- has the applicant (or town) studied or taken into account the flows above this property and how they may impact stormwater and stream flow onto adjacent properties? How will the existing and proposed systems address the additional flow? In regards to the town, to our knowledge, we have not addressed this matter. Although, the town has identified the need for a comprehensive, town-wide drainage study and just this month received RFP's to perform such a study.
- Unit Count. A question has been raised if the Summerwinds property, as a whole, can exceed 53 units. Originally the project was approved as an even swap- 53 overnight cabins for 53 condo units. Thought is the applicant got a 'waiver' from the full review process due to the even swap. This original approval is the primary reason the appeals from restrictions on nonconforming uses applied to this proposal. So, as part of the PB's evaluation of the 53 unit question, 78-180 and the applicant's response to this standard should be considered. Megan researched this and provided a memo as part of September staff submissions. Staff will seek the PB's thoughts before we proceed.
- Default on other projects. As part of the Major Subdivision Final Plan standards, 74-232 (b) states: No plan shall be approved by the planning board as long as the subdivider is in default on a previously approved plan. In the case of the 6 lot proposal, the same person who is proposing this development has not secured a performance bond for another project he's responsible for. Although it is the same person, the property owners are different entities. So, this creates the question- what does 74-232 (b) mean by 'subdivider'? Is it the person? The entity? This is important because if the subdivider of this project is the same as the project in default it appears the PB cannot approve Final Plan. I believe we need legal advice on this.

MS4 Comments (September)

One of the questions is the applicability of Chapter 71, Post Construction Stormwater Ordinance, to this project- is the proposed subdivision required to meet Chapter 71 standards?

In Chapter 71 "*Construction Activity*" is defined as "construction activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will disturb equal to or greater than one acre"

The previously approved Summerwinds development does not have an approved Post-Construction Stormwater Management Plan which is required as part of Ch. 71 standards. Because the additional 6 lots are part of the larger subdivision, the applicant will have to submit a Post-Construction Stormwater Management Plan for the entire development. Additional coordination with the applicant is needed on this issue.

In addition to the above, Wright-Pierce provides MS4 comments in their 30 August memo. I expect the applicant will address these comments in the next submission.

Department Head Comments (September)

CODES

I have some reservations that will need to be addressed with this proposal

1. Does the ownership change cause it to be a new not Phased expansion of Summer Winds. Does the new company have documentation sufficient for expansion and use of the roads in Summer Winds?
2. Will the Developer be asked to supply all necessary documents for his financial capacity? It is my understanding the Current proposal is not the same organization as the first 53 units?
3. Has all DEP docs been transferred top this developer?
4. The area where the proposed road is connecting to a private way has this or will this be addressed?
- 5 Will the road proposed infringe on the existing structures to cause issues with drainage and snow removal? Very narrow.
6. Access for emergency vehicles may be a concern with this proposal for access.

7. Drainage- are there plans for handling ground water intrusion and are they sufficient ? There have been complaints that some of these units have infiltration into the crawl spaces we inspected some and did find water in at least 1 of them . the others had active sump pumps

PUBLIC WORKS

For Summerwinds II I recommend that the designer check the truck turning at the intersection. Could a fire vehicle, moving van or trash truck make this turn?

FIRE DEPARTMENT

My concern in any project that we have is adequate hydrant coverage and that we have wide enough road to handle our fire apparatus, our largest fire truck is our tower truck at 47 feet long and 6800 pounds.

TAX ASSESSOR

Below is an email conversation between Assessor George Greene and abutter Jeanne Hackert. Jeanne Hackert had tax-related questions so I referred her to George. Her letter is included with the other abutter letters you received at the workshop. Email chain begins with George

Jean,

On the question you had regarding what the assessment and taxes are on the property that Summerwinds is proposing to add 6 more condo sites to, where the 53 units are not located;

This acreage is part of the Summerwinds Condo Association parcel. The declarant, which is the developer, has the intangible development rights to add six units per the condominium documents. These intangible rights are **not** fee simple ,real estate, tangible property which can be taxed. Intangible rights, according to Maine Case law to date, are not taxable. When you look at the Summerwinds Condo documents you will see that the full parcel(10+ acres) is incorporated into the development. Again, the developer only has the intangible development rights, the potential, to add 6 more units should he be allowed to do so. Not taxable.

Reply from Hackert:

My question is the acreage, the entire remainder not presently occupied by any building, the entire undeveloped remainder. This intangible rights, If you say it's assessed now between the 53 condo units when they finish putting in the rest of the 150(sarcasm) down in the future will the initial 53 get lower taxes because there are more lots to divide amongst?

I am home now, re-read your response and spoke to an adviser.

1) The developer appears to have "potential" rights to add 6 more units. However, they cannot do so without the town's permission. This is the reason for the proposal & the meeting on Sept.8th, to obtain approval from the town.

2) Each cottage owner is not being taxed for just their individual house but also for the lot of land that their houses are sitting on(the latest records I show is that the land value each owner is being taxed is \$31,300.) So the building and their lot go hand in hand.

3)Condo fees paid by the condo owners are towards all common areas and expenditures such as for maintenance/upkeep of the grounds, buildings(clubhouse,etc), insurances etc. Condo fees is what each condo owner splits amounts the number of units towards these expenses.

The undeveloped land, where the 6 units are proposed to be placed, along with the remainder of the 10+ acres(yet to be developed) still need to be taxed along with all common buildings. Whether the taxes for these come from part of the condo fees or wherever, property taxes must be charged for them and someone needs to pay for them.

However, the latest property tax card 2016(Vision ID:105921, Map ID:208/1/1-0//) shows assessed value of zero?? They have not been taxed apparently since it's purchase back in 2011.

Greene reply to Hackert:

The land presently in question is owned in common with the other 53 units just like the streets, the clubhouse, the pool, etc. The valuation on each condo unit reflects those common areas, too. Again, the

developer only has intangible development rights, I think until 2019, to put 6 more units on this land. These intangible rights are not taxable. I repeat, are not taxable according to Maine Case Law. The card that you are looking at 208-1-1-0 is the condo main card which is just used to identify the condominium project. All condo mains have no value. There isn't any physical land or building associated with the condo main card. Therefore, no taxes. Each condo owner has a land value as prescribed by State law. The summation of 53 land values to date comprise the land value for all 10+ acres that are common elements and limited common elements; basically the polygon parcel of land known as Summerwinds. I hope this answers all your questions.

Regarding Extra Bedrooms In Existing Units

The question of extra bedrooms may not be directly applicable to the current proposal before the PB; although, it may have some relation as some of the infrastructure (e.g. sewer) is shared. Below is staff input regarding the extra bedrooms as related to planning permitting.

Follow-up regarding the extra bedroom(s) on the planning-related permitting side. Another tricky matter. I'll try to be clear with my written thoughts.

- The Conditional Use and Site Plan FOF did not specifically address bedrooms; although, bedroom info was included by reference through the FOF's identification of submitted material (see attachment pp 7 – 8, highlighted language). The submitted material included bedroom-related info by number per cottage (p 2) and public sewer GPD estimate (pp 4 – 5). Both referenced documents show the proposal included 1 bedroom for each cottage.
- Chris White felt the applicants sewer GPD estimates were not accurate and should be based on 2 people/building @ 50 GPD/occupant (p 6). This doubled the applicants GPD estimate. The records are not clear which estimate was used as the final GPD.
- This brings two immediate questions:
 1. Which GPD estimate was used and does it allow for more than 1 bedroom? The records do not clearly show if the applicants or Chris' estimate was used. If Chris' estimate was then it appears the GPD was based on occupants and not bedrooms. But, Chris used the same GPD per occupant as the applicant did per bedroom. So, if the applicant used Chris' GPD estimate then the sewage flow was based on 2 bedroom cottages. Note that Chris states (p 6) since the cottages were preexisting the estimated daily flow should not have an adverse impact on the wastewater treatment process. This also brings up another question- does the number of bedrooms matter when Chris feels it should be based upon the number of occupants? This is probably a difficult number to arrive at unless it's based on the code approved occupant load.

Does the addition of bedrooms require further PB review? If the design sewage flow does not match the number of occupants (or number of bedrooms?) then yes, in my opinion it does require additional PB review. Remember the basis of the approval was to replace 53 overnight cabins with 53 cottages which I believe the intent was not for these to become single-family dwellings (in a traditional sense). Also, the applicant's cover letter (p 2) states "The one bedroom cottage..." So, it can be said that what was part of the record during the original Summerwinds approval was 1 bedroom cottages. The change to the proposal, through the addition of more bedrooms, could be considered a revision to what was approved; although, the revision standard appears to be related to plans and not typed documents. So, I'm not completely certain if the addition of bedrooms beyond what was approved requires further PB review. I intend to bring this up to the PB at the Sept meeting.

RECOMMENDATIONS (September): Staff sees the September meetings as an opportunity to gather all comments. Staff intends to consolidate comments and provide to applicants so they can address as part of their next submission. Please identify any particular issues the PB would like staff to focus on. Note- the Subdivision Ordinance requires the PB to take action on the Preliminary Plan within 30 days of a Public Hearing or within another mutually agreed upon time.

BACKGROUND (August Meeting)

The August proposal includes PB review of Summerwinds II Preliminary Site Plan and Major Subdivision Applications as well as a Conditional Use Application for Appeal from restrictions on non-conforming uses. Also, to schedule a Site Walk and Public Hearing. The applicants August submission includes revised plans and documentation which address PB, staff and Wright-Pierce (7.6.16 memo).

On the face of it the proposal seems rather simple as a six lot subdivision; although, this is quite complicated. This is due, in part, to the way the way it was originally reviewed and approved and as well as the fact it includes 3 separate applications (actually 4 when we add the Floodplain Application). Trying to sort through all the material has become quite a task and still requires more staff time before action is taken on the Preliminary Plan.

In addition to the above, staff received quite a few letters from residents at Summerwinds (some you have received, some not yet as we just received them this week) which include a number of concerns associated with the proposed development and problems with the existing development (not all planning-related). The level of interest in this adds another dimension to staff review as it takes more time to research. Staff finds that it is important that we schedule the Public Hearing for September because receiving and evaluating public comment is an important part of allowing us to complete Preliminary Plan review.

- Need existing and proposed building coverage calculations. Since this proposal is in the GB1 District, the 35% max building coverage calculation applies. Note- the GB1 District does not include standards for impervious surface or lot coverage calcs.
- We found a concept plan from 2011 that identifies the area associated with this proposal as housing.
- The unit count matter is still not resolved to staff's satisfaction. So far we found all approvals clearly show only 53 units. One problem is we still have not established why. We see the 53 unit count is matched to the unit count that existed when it was Jeremiah's Cabins but we've yet to find documentation stating if it must be limited to this number. A simple density calc allows 88 units (5,000 sq. ft./unit @ lot size 10.18 acres) so it certainly doesn't appear to be limited by minimum lot size. So, we think if there is a cap it must be tied to something else such as the Appeals from restrictions on non-conforming uses standard. We continue to research this and need more time to do so.
- #21. Snow Storage: Any modifications to be made to the current snow storage plan? The 6 proposed lots are in the area currently designated as snow storage. The Planning Board conditionally approved the conversion of Summer Winds cottages to year-round with the stipulation that a formal ice and snow maintenance plan be created.
- The applicant addresses the concerns associated with the 36" culvert crossing Saco Ave. Staff believes we need Wright-Pierce input on this before we move forward
- Does the developer have the exclusive rights to develop this area?
- Does the developer have the rights to use Summerwinds roads, utilities, etc. for Summerwinds II? If so, does he need written authorization to extend and use the infrastructure from the HOA? As far as I'm aware the only way Summerwinds II can come into existence is through the extension and use of Summerwinds infrastructure. Summerwinds is a private development.
- What role and rights does the Summerwinds HOA have? And is this something the town can get involved with (think of Dunegrass and our attorney's opinions).
- Need to have up to date deed and condo docs from the association that show this can be done.
- Wright-Pierce has not yet provided peer review comments for the August submission.
- Recommend adding buffering along lot line shared with Leary property.

Department Head Comments (August)

PUBLIC WORKS

I have reviewed the documents submitted by BH2M date June 2016 for this project.

The access road is proposed to be 18 feet wide. This is very narrow and a fire truck and another vehicle could have problems passing each other.

All underground utilities shall have a detectable warning tape above the utility.

Sidewalks should be handicap accessible.

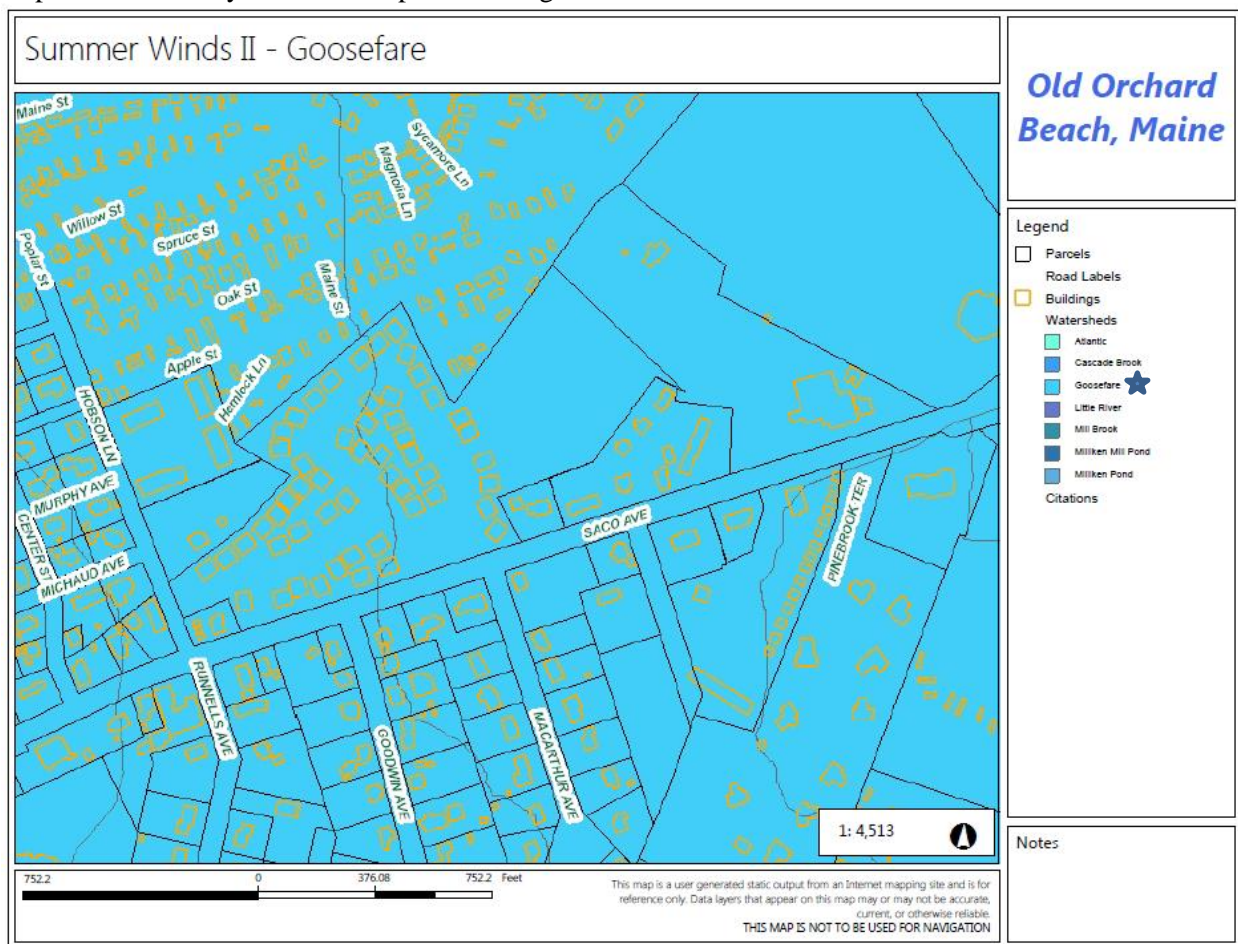
Where the proposed drive connects to the existing access road, truck turning movements should be checked. They should check for both fire vehicles and moving vans.

Sewers and drains serving Summerwinds II will be the responsibility of the developer and/or homeowners association.

Electronic copies of plans and specifications shall be provided to the Town in a format specified by the planning department. Survey markers shall be tied in to the State grid.

MS4 Comments (August)

#12. *Goosefare Brook Watershed*: While the project doesn't fall under the Ch. 500 Appendix listing of the Goosefare Watershed under the DEP, the Town has its own delineated Goosefare Brook Watershed which this project is included in (see map below). Under the Town's MS4 program this means the project will be subject to additional requirements during the inspection process including a minimum of 2 inspections annually and one completed during a rain event.



#17. *Operations & Maintenance Review*: The O&M plan currently used by the Summer Winds development needs some updates:

- “...at the time the Home Owners Association is formed the Association will be responsible for all other stormwater facilities.” – This should be updated now that the HOA has been formed for Summer Winds.

- The O&M Plan should include the Annual Certification requirement for the Sediment Forebay behind buildings 32/33 that connects through a culvert to a catch basin on Saco Ave which is part of the Town's MS4. The inspection needs to be completed by a Qualified Stormwater Inspector as defined in Ch. 71 of the Town's ordinance and should be clearly outlined in the O&M Plan.

Recommendations (August)

Staff recommends that PB continue Preliminary Plan Review and schedule a Site Walk for 1 September and Public Hearing for 8 September.

BACKGROUND (July Meeting)

To get right to the point, this proposal requires a more detailed staff review than time allowed for so that we may properly prepare you for the July meeting. Not only do we need to consider the proposed development (Summerwinds II) but we also need to consider the existing development (Summerwinds I). Just some of the issues to consider:

- Unit count- can the unit count exceed 53?
- Roads- The PB have already spoke of concerns regarding road width and drainage within Summerwinds. The residents have similar concerns. How will the addition of 6 units impact this situation?
- Does the developer have the exclusive rights to develop this area?
- Does the developer have the rights to use Summerwinds roads, utilities, etc. for Summerwinds II? If so, does he need written authorization to extend and use the infrastructure from the HOA? As far as I'm aware the only way Summerwinds II can come into existence is through the extension and use of Summerwinds infrastructure. Summerwinds is a private development.
- What role and rights does the Summerwinds HOA have? And is this something the town can get involved with (think of Dunegrass and our attorney's opinions).
- Was this area required to be preserved as open space?
- Other PB related permitting may be required such as Conditional Use for the expansion of nonconforming use and floodplain.

As you know, we have already received a number of letters from residents within Summerwinds who have offered concerns associated with the proposed development as well as the existing, built development. The July meeting is not a Public Hearing but these letters offer the PB (and developer) an advance notice of the residents' concerns and will prepare you as to what you should expect at the Public Hearing, which we recommend scheduling for August.

Having said the above, the PB can continue review of the Preliminary Plan, schedule a Site Walk and Public Hearing. We do not need to determine the Preliminary Plan as complete in order to hold a Site Walk and Public Hearing. It's just that this proposal, even though only 6 units, appears to be more complicated than other subdivisions of this size; therefore, warrants a more detailed look into questions we don't normally have.

Recommendations (July)

With the summer residents here, we believe August is a good time to schedule a Site Walk and Public Hearing. Also let's continue Preliminary Plan review during August- we'll hopefully have answers to many questions by then.