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**OGUNQUIT PLANNING BOARD  
REGULAR BUSINESS MEETING  
MINUTES**

**DUNAWAY CENTER MAIN AUDITORIUM  
SEPTEMBER 11, 2017**

**PUBLIC HEARING**

- 1. 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure.**

Property owner Len Pierce stated that the proposed project is to construct a porch on the river side of the house, approximately 10'x17'. It will meet all Town Ordinance Requirements. Mr. Pierce noted that the Board held a Site Visit earlier in the day.

Mr. Wilkos asked if there was anyone who wished to speak for, or against, this application. There being no one the Public Hearing was closed at 6:03 p.m.

**REGULAR BUSINESS MEETING**

**A. ROLL CALL –**

Members Present: Steve Wilkos (Chair)  
Rusty Hayes (Vice Chair)  
Muriel Freedman  
Jackie BEVINS  
Mark MacLeod  
Priscilla Botsford (1<sup>st</sup> Alternate)

Also Present: Scott Heyland, Code Enforcement Officer  
Maryann Stacy, Recording Secretary

**B. PLEDGE OF ALLEGIANCE -**

**C. MISSION STATEMENT – The Mission Statement was read by Mr. MacLeod.**

**D. MINUTES – ~~August 28, 2017~~ (Unavailable)**

**E. PUBLIC INPUT** – For any matter NOT already on this Agenda.

Mr. Wilkos asked if there was anyone who wished to be heard on any matter not on this meeting's agenda. There was no one.

**F. UNFINISHED BUSINESS** –

**1. 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure.**

Mr. Wilkos noted that the Board held a Site Visit earlier in the day, they also held a Public Hearing. He pointed out that it is unusual to have a Building Permit before the Board. This involves a special exception in the Zoning Ordinance. Mr. Wilkos reminded the Board members that they have eight criteria they have to review under Section 4.5.E.1-8 of the Ogunquit Zoning Ordinance:

*“After the submission of a complete application to the required reviewing authority, no permit or approval shall be issued for any construction or activities within the Shoreland Zone unless the review authority makes a positive finding based on the information presented that the proposed use:*

- (1) Will maintain safe and healthful conditions;*
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;*
- (3) Will adequately provide for the disposal of all wastewater;*
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;*
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;*
- (7) Will not adversely effect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;*
- (8) Will avoid problems associated with floodplain development and use.”*

The Board reviewed each standard under Section 4.5.E.1-8; and agreed that each standard had been satisfactorily met.

The project Site Plan was projected onto the main screen so that everyone in the audience had a clear view of it.

Mr. Wilkos asked if there was any input from abutters.

Mr. Pierce responded that he spoke with the abutters at the head of his driveway and they both approved of the plan.

Mr. Heyland asked the Board for two conditions of approval if they choose to approve this application:

1. Maximum building height be confirmed by a certified surveyor or engineer before a Certificate of Occupancy is issued.
2. The structure setback will be confirmed by the same, or another, surveyor or engineer.

Mr. MacLeod Moved to Approve the Application for 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure, with the following conditions of approval:

1. Maximum building height be confirmed by a certified surveyor or engineer before a Certificate of Occupancy is issued.
2. The structure setback will be confirmed by the same, or another, surveyor or engineer.

MACLEOD/HAYES

Mr. Wilkos called for discussion of Mr. MacLeod’s Motion. There being none he called for the vote.

**Mr. MacLeod Moved to Approve the Application for 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure, with the following conditions of approval:**

1. **Maximum building height be confirmed by a certified surveyor or engineer before a Certificate of Occupancy is issued.**
2. **The structure setback will be confirmed by the same, or another, surveyor or engineer.**

**MACLEOD/HAYES 5:0 UNANIMOUS**

**G. NEW BUSINESS –**

1. **DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Site Plan Review Application to reconstruct vehicle entrance off of US Route One, construct a vehicle and pedestrian gate, replace speed bump with speed table, add three (3) parking spaces, additional lighting and fences, and regrade drainage.**

John Lorden addressed the Board as the Applicant’s representative. Mr. Lorden summarized the project as growing out of an initial desire to repave the driveway, they now also want to improve drainage, smooth out the speedbump, add three new parking spaces, install a turnaround, gate; and pedestrian walkway, and the installation of a curb to capture and direct stormwater runoff. They also proposed a chainlike fence to prevent pedestrians from walking through.

Mr. MacLeod asked about the “Smith Family Cemetery”. He asked if the proposed parking space will intrude into the cemetery.

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Mr. Heyland responded that State Law says there can be no excavation within twenty-five (25) feet of a cemetery. He suggested the third parking space may not be allowed.

Mr. Lorden guessed that the proposed space is within twenty-five feet and the third parking space may have to be removed from the plans.

Mr. MacLeod asked about the stormdrain which drains into the Town's system. He noted the requirement that water needs to be contained within the site as much as possible. He agreed that the proposed riprap will contain some of the water. He agreed that this may not be applicable to this proposed project.

Mr. Hayes asked about the Fire Chief's comments about the proposed gates.

Mr. Lorden responded that the Chief wanted the gates to be twelve feet wide, and siren activated with a Knox Box. Mr. Lorden agreed to the conditions and agreed to include them in the Notes on the Plan. He agreed that Note 7 refers to the gates on River Road and Main Street and that both gates will include the Fire Chief's requests.

Mr. Wilkos reviewed Fire Chief O'Brien's 8-31-2017 Memo to the Board.

I reviewed the plans for the new gate facing route 1 at the Dunelawn. I am ok with the set up with the following stipulations included:

1. Siren activated gate with Knox box key system as backup.
2. Width of gate is a minimum of 12' wide.
3. Loss of power emergency use of gate somehow.
4. Gate facing River road is upgraded to siren activated and Knox box system as well. This allows 2 means of access in an emergency or failure of one.

Mr. Lorden agreed to all conditions, he noted that he will have to look into a possible generator to satisfy number 3. He added that he is currently unsure whether they will use the existing gates on River Road or upgrade them to meet the Fire Chief's comments. The gate on Main Street will be new; and both will meet the Chief's requirements.

The gate on Main Street will be a new gate and it will be visible from Main Street.

Mr. Wilkos noted that the application before the Board is for Site Plan Review, if the new gate will be visible from Main Street it should require a Design Review.

Mr. Heyland agreed that it does require Design Review with regard to the gates, both the River Road and Main Street gates.

Mr. Lorden agreed to meet with the Code Enforcement Officer to apply for Design Review.

Mr. Heyland reviewed his 8-28-2017 Memo to the Board. He noted that an abutter to the north has asked about the line of site/visibility with regard to the fence off of Route One. He asked how far back from Route One the first post will be.

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Mr. Lorden responded that it will be about thirty (30) feet and should not impact visibility at all.

Mr. Heyland asked how close the roadway/driveway comes to the property boundary to the north.

Mr. Lorden responded that it is about five (5) feet. The current driveway varies in width, and the proposed plan is to make it more consistent throughout. If a visual buffer is needed they are providing the white PVC fence which matches the Abalonia. This will be in addition to the stockade fencing.

Mr. Wilkos reviewed the Conservation Commission's 9-5-2017 memo to the Board:

*"After a review of the above-noted application the Ogunquit Conservation Commission is comfortable with the plan as proposed; and believes that it meets the standards of the Town ordinances with respect to environmental matters."*

Mr. Wilkos asked if these were the only Department Heads to respond.

Mr. Heyland responded that he sends the application to all Department Heads and whatever the Board has is what he received.

Mr. Wilkos asked the Code Officer why he deemed right title and interest not needed.

Mr. Heyland responded that in these types of properties he prefers a letter from the Condominium Board granting permission to ask the Planning Board for permission to make the changes.

Mr. Lorden agreed to get the latter.

Mr. Hayes asked how the Board would know there are no restrictions on the deed.

Mr. Heyland responded that this comes back to the owner to be sure that the activity they proposed meets any restrictions and isn't in conflict with their own deed. He would assume that the letter of authorization would cover that question.

Mr. Wilkos asked why Item 6.6.c.3.g isn't applicable.

Mr. Heyland responded that the proposed work does involve some stormwater drainage and the applicant has provided plans which could be considered to be submitted; however the project will effect water onsite; and won't effect offsite properties.

Mr. Lorden added that the proposed plans will improve onsite erosion and won't have any effect offsite. The riprap will dump into the existing tree line.

The Board reviewed the submissions checklist for Site Plan Review and found all material submitted or appropriately waived by the Code Enforcement Officer.

It was determined that the scope of the work will all take place in GBD1.

Mr. Hayes Moved to find the Site Plan Review application complete for DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Site Plan Review Application to reconstruct vehicle entrance off of US Route One, construct a vehicle and pedestrian gate, replace speed bump with speed table, add three (3) parking spaces, additional lighting and fences, and regrade drainage.  
HAYES/FREEDMAN

Mr. Wilkos called for discussion. There being none he called for the vote.

**Mr. Hayes Moved to find the Site Plan Review application complete for DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Site Plan Review Application to reconstruct vehicle entrance off of US Route One, construct a vehicle and pedestrian gate, replace speed bump with speed table, add three (3) parking spaces, additional lighting and fences, and regrade drainage.  
HAYES/FREEDMAN 5:0 UNANIMOUS**

The Board scheduled a Site Visit to take place on September 25, 2017 at 4:30 and a Public Hearing to take place that same day at 6:00.

Mr. Heyland informed Mr. Lorden that he should flag the location of all proposed features such as the proposed gates, parking areas, fencing, etc. He also informed Mr. Lorden that he should have pictures of the proposed gates submitted as part of the Design Review Application.

The Applicant agreed to submit the Design Review Application material prior to September 18, 2017.

Mr. MacLeod asked if the Design Review should be reviewed by the OHPC. He noted that one of the gates is close to the pre 1930 structure.

Mr. Heyland responded that there are two associated dates for this property, one pre 1930 and another post 1930. Now that the gate closest to the pre 1930 is going to be effected the applicant might have to go before OHPC, however if the applicant determines that he will use the existing gate off of River Road there may be no need for OHPC review. He agreed that the proposed project is a feature which does not effect the structure, however it is a site feature. He suggested that in the interest of transparency it might be a good idea for them to review it.

Mr. Heyland noted that it may not be possible for the OHPC to review and respond to the application before it next comes before the Board on September 25<sup>th</sup>. The Applicant would have to reach out to the OHPC and set up a meeting to review the proposed plans.

The Board noted that it had originally scheduled a Workshop regarding Fire Pits for 4:00 on September 25<sup>th</sup>. The Board agreed to reschedule this workshop to a later date.

**2. NORTHERN UNION / MATTHEW WICKERT – 261 Shore Road (Map 5 Block 15) Limited Business District (LBD). Site Plan and Design Review for a pre 1930 structure. Application to convert from a Type 1 Restaurant to a Type 2 Restaurant, and the addition of a gas fire pit and patio area.**

Mr. Wickert addressed the Board and summarized the proposed changes.

Mr. Heyland noted that a Type 2 Restaurant allows for patrons seated outside to be served.

Mr. Wickert stated that he opened in 2015. There is an existing contained deck where he proposes fourteen (14) seats in that area as indicated on the submitted plan.

Mr. Heyland reviewed his 8-28-2017 Memo to the Board (*a copy of which will be maintained in the Applicant's Planning Board file*).

Mr. Heyland noted that one of the Applicant's photos shows the proposed exterior lighting which appears to be a string of lights which conflicts with the Town Zoning Ordinance.

Mr. Wickert referred to the photographs he included in the application packet. He pointed out the black poles which were fabricated to hold the lights across the deck over the seating area.

Ms. Freedman noted that the Zoning Ordinance requires strings of lights to be only on growing things.

Mr. Wickert responded that it is his interpretation that the intent of the ordinance is to prevent holiday lights from being left on people's homes all year long. These are Edison style strings of lights which provide outside lighting. They are on a photosensitive timer which turns them on at dusk and turns them off about six hours later.

Mr. Wickert referred to section 8.7 of the Zoning Ordinance and noted that he believes that he covers the glare. He noted that there are two trees on both sides of the lawn and if the Board wants him to follow the spirit he could string the lights between the two living trees, however the visual impact would not be pleasant.

Mr. MacLeod noted that the Ordinance requires outdoor lighting to be shielded or hooded; and these look like bare light bulbs.

Mr. Wickert responded that driving down Shore Road it would be hard to say every light is shielded from the street; and his lights are set well back from the road and are no brighter than other ambient lighting. The primary purpose is to provide lights for the safety of people on the deck. He reiterated that the lights are set back from the road and he hasn't seen anyone go off the road looking at them. They aren't like spotlights lighting a sign.

Mr. MacLeod added that the ordinance is to protect neighbors from ambient lighting.

Mr. Wilkos read Section 8.7.b which states that string of lights are not permitted except for the holiday season. He asked if these are not strings of light bulbs.

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Mr. Wickert agreed that technically they are lights on a string however it is his belief that the intent of the ordinance is to prevent people from leaving Christmas lights up year round. He agreed that he could find another way to light the area however it would not be as aesthetically pleasing. He again stated that he could run the lights from one tree to another; and they would then be landscape lighting.

Mr. MacLeod responded that the purpose of these lights isn't landscaping, they are to light the eating area.

The Board agreed that the proposed lights constitute strings of lights and are not allowed.

Mr. Wickert asked if he attached the lights from one tree to another would it follow the spirit of the ordinance and be allowed?

Mr. Heyland responded that his interpretation that the lights need to be "in" live bushes or trees, not strung between two trees that far apart.

Ms. Freedman noted that the deck is well fenced in and she asked why lighting couldn't be attached to the posts.

Mr. Heyland agreed that lights could be attached to the deck posts with downward facing shields.

Mr. Wickert asked for a grace period to replace the lights.

Mr. Wilkos asked why the lights are already up if this is a new application; and how long they have been up.

Mr. Wickert responded that the lights are already up and he put them up this summer.

Mr. Heyland added that he hasn't been by there to see them.

Mr. Heyland asked the applicant to explain the parking layout, the additional seating of 241 square feet of dining area would require two additional parking spaces.

Mr. Wickert referred to the drawings of the lot with access off of Stearns Road. That parking area has a total of seven (7) parking spaces. On the side of the restaurant off of Ledge Road there are three parking spaces in a dirt lot; and in the off season there is often an open spot there. He noted that on the back corner of the property off of Stearns Road there is space for four vehicles. He usually has his staff park all the way into that area and guests can park behind them. He noted that there is a residential unit on the property which requires two parking spaces, these two spaces are not included in his calculations.

Mr. Wickert confirmed that there are eleven parking spaces, there is one parking space which he usually uses for staff which could be used for a patron. If the Board disagrees with that he will ask for one parking waiver.

Mr. Wilkos asked what the parking requirements are.

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Mr. Heyland responded that the requirement is one parking space for every one hundred (100) square feet of dining area.

Mr. Wickert stated that he has 1000 square feet of guest seating area with sixty-one (61) seats. He is proposing an additional fourteen (14) seats on the deck for a total of seventy-five (75) seats.

Mr. Heyland stated that the number of seats has nothing to do with the number of parking. The 1000 square feet inside requires ten (10) parking spaces, the additional 240 square feet on the deck requires another two for a total of twelve (12) parking spaces. He suggested the applicant submit a complete site plan clearly indicating the parking layout.

Mr. Wilkos asked the applicant if he has twelve (12) parking spaces; and if he can indicate them on a site plan.

Mr. Wickert responded that he does have twelve (12) spaces and he can show them on a site plan.

Ms. Bevins asked for confirmation about the parking for the apartment and the real estate office.

Mr. Wickert responded that the apartment requires two parking spaces which he has. The real estate office requires one parking space however she closes at 5:00 and he opens at 5:00 so there is no overlap. He outlined this in his application narrative.

Mr. Heyland summarized that the requirement for the property is: twelve (12) for the restaurant, two (2) for the residence, and one (1) for the real estate office for a total of fifteen (15).

Mr. Wilkos asked if the Applicant has fifteen (15) parking spaces.

Mr. Wickert responded that he does.

Mr. Heyland reiterated that the Board will need an updated more inclusive site plan indicating all of the parking layout.

Ms. Freedman asked if there will be service at the fire pit.

Mr. Wickert responded that there will not be any service at the fire pit. His liquor license doesn't cover that area and there will be signs posted "no alcohol beyond this point". That space is intended for guests who may have a little wine left over, or if they want to get a glass of wine at the bar and go outside and sit down. He will not bring drinks out there, or transact, or do anything else that is indicative of a Type 2 Restaurant.

Mr. Wickert stated that the fire pit is currently wood burning however this application is to convert it to gas.

Mr. MacLeod noted that the building was built in 1925, and he asked if the OHPC needs to review it.

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Mr. Wickert responded that he is meeting with the OHPC next Wed.

Mr. Wilkos asked about an application coming before the Board without an OHPC Memo.

Mr. Heyland responded that there was some initial confusion. At first he thought the application only involved a preexisting deck. Then he learned about the fire pit and patio waiting area, this triggered Design Review which triggered OHPC involvement.

Mr. Wilkos noted that the Board cannot move forward with Design Review until they hear from OHPC; however they would move forward with Site Plan Review.

Mr. Heyland added that he will leave it up to the Board to determine whether or not a traffic study should be required. He noted that in his memo he indicated that the Board could grant a waiver.

Mr. Wilkos asked how many trips per day will be generated by the proposed changes.

Mr. Wickert responded that he answered this question in his narrative; however he estimates that during peak season up to 40% of his patrons arrive by means other than a vehicle. There are two trolley stops nearby: one across the Shore Road and the other just north of his location on the same side of Shore Road. He added that there is no access to the restaurant parking lots from Shore Road. Access is from Ledge Road and Stearns Road. He asked for a waiver from a traffic impact analysis for the additional fourteen seats. He added that when the restaurant is full and his parking lot is full it leads to the assumption that the average guest took the trolley or walked. He added that he is close to several hotels and another parking lot, and he isn't open for breakfast or lunch.

The Board agreed to waive the parking study requirements (Items T and U).

**Mr. Wilkos Moved to Waive Submission requirement Items 6.6.c.t and u.  
WILKOS/HAYES 5:0 UNANIMOUS**

Ms. Freedman asked about Mr. Heyland's comments, in his memo, regarding valet parking.

Mr. Heyland responded that he added this comment because he was unclear about the parking layout and he wanted the Board to know that they had the option of granting a waiver if the applicant used a valet service.

Mr. Wilkos noted a memo from the Conservation Commission which was comfortable with the proposal.

He also noted Fire Chief O'Brien submitted comments that an emergency shut off valve be installed beside or directly on the pit when the fire pit is converted to gas; and that the outside seating must not block any means of egress from the building.

Mr. Wickert agreed to both of the Fire Chief's conditions.

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Mr. Wilkos noted a letter from abutters Michael and Linda Collins who support the proposed application.

Mr. Hayes Moved to find the Application Complete for NORTHERN UNION / MATTHEW WICKERT – 261 Shore Road (Map 5 Block 15) Limited Business District (LBD). Site Plan and Design Review for a pre 1930 structure. Application to convert from a Type 1 Restaurant to a Type 2 Restaurant, and the addition of a gas fire pit and patio area.  
HAYES/BEVINS

Mr. Wilkos called for discussion. There being none he called for a vote.

**Mr. Hayes Moved to find the Application Complete for NORTHERN UNION / MATTHEW WICKERT – 261 Shore Road (Map 5 Block 15) Limited Business District (LBD). Site Plan and Design Review for a pre 1930 structure. Application to convert from a Type 1 Restaurant to a Type 2 Restaurant, and the addition of a gas fire pit and patio area.  
HAYES/BEVINS 5:0 UNANIMOUS**

The Board scheduled a Public Hearing for September 25, 2017 at 6:00

**H. CODE ENFORCEMENT OFFICER BUSINESS –**

Mr. Heyland noted that a workshop regarding A-Frame signs has been held and that he will bring something back to the Board for review. He suggested there is no need for another workshop and the Board agreed. It will be handled as “other business” at a future meeting.

**I. OTHER BUSINESS –**

Mr. Freedman asked about the Fire Pit Workshop which was cancelled.

The Board rescheduled the Fire Pit Workshop for October 23, 2017 at 4:00 p.m.

Mr. MacLeod suggested a workshop to plan topics of future workshops for the upcoming year.

The Board agreed.

**J. ADJOURNMENT -**

**Mr. Hayes Moved to Adjourn at 7:30 p.m.  
HAYES/MACLEOD 5:0 UNANIMOUS**

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy  
Ogunquit Planning Board  
Recording Secretary

*Approved on September 25, 2017*