

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 20, 2019
WORKSHOP RE: BUDGET GOAL – 5:30 P.M.
TOWN COUNCIL/SCHOOL BOARD JOINT PRESENTATION ON THE AUDIT – 6:00 P.M.
REGULAR MEETING – 7:00 P.M.

NO NEW BUSINESS SHALL BE TAKEN UP AFTER 10:00 P.M.

- Item 1.** Call to Order.
- Item 2.** Pledge of Allegiance.
- Item 3.** Roll Call.
- Item 4.** General Public Comments.*
- Item 5.** Minutes: February 6, 2019 - Town Council Meeting.
- Item 6.** Adjustment to the Agenda.
- Item 7.** Items to be signed: a. Treasurer's Warrants.

***Procedure for Addressing Council** [Posted in Chambers.]

Order No. 19-003, 7:00 p.m. Public hearing on the proposed amendments to Chapter 405 – the Zoning Ordinance of the Town of Scarborough, Section XVIII.B Haigis Parkway District and schedule a second reading. [*Long Range Planning Committee*]

Order No. 19-006, 7:00 p.m. Public hearing on the proposed amendments to Chapter 901 – the Town of Scarborough Garbage and Recycling Collection & Disposal Ordinance, Article I, Section 1.02., Section 1.10. & Section 1.12. and Article III, Section 3.01. [*Ordinance Committee*]

OLD BUSINESS:

Order No. 19-009. Act on the names posted to the various committees/boards, as recommended by the Appointments/Negotiations Committee on February 6, 2019. [*Appointments/Negotiations Committee*]

NEW BUSINESS:

Order No. 18-018. First reading on the proposed Contract Zone Request from Patriot Acura Dealership located at the corner of Payne Road and Haigis Parkway. [*Town Planner/Town Manager*]

Order No. 19-010. Act on the annual "Seasonal Road Posting" for weight restrictions, if necessary, from February 21, 2019 to May 30, 2019. [*Director of Public Works*]

Order No. 19-011. Act on the request from David Hughes, Superintendent of the Scarborough Sanitary District, to appoint Paul Rodriguez, to fill a vacancy on the Board of Trustees, created by the relocation of Aubrey Strause to Brunswick, with a term to expire in 2019. [*Scarborough Sanitary District*]

Item 8. Non Action Items.

Item 9. Standing and Special Committee Reports and Liaison Reports.

Item 10. Town Manager Report.

Item 11. Council Member Comments.

Item 12. Adjournment.

AGENDA

SCARBOROUGH TOWN COUNCIL WEDNESDAY – FEBRUARY 20, 2019 REGULAR MEETING – 7:00 P.M.

Order No. 19-003. The second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance of the Town of Scarborough, Section XVIII.B Haigis Parkway District will be scheduled for Wednesday, March 6, 2019. [*Long Range Planning Committee*]

Long Range Planning Committee

Ought to Pass

Sponsor

Recommendation

01/16/2019 – Vote: 6 Yeas.

First Reading/Vote

02/20/2019

Public Hearing

03/06/2019- Vote:

Second Reading/Final Approval/Vote

To: Town Council
From: Jay Chace, on behalf of the Long Range Planning Committee
Date: January 9, 2019

RE: Amendments to Haigis Parkway District: Commercial/Residential Use Ratios

Through the fall and winter the Long Range Planning Committee has been reviewing the existing provisions in the Haigis Parkway District (HP) which regulate how the ratio of residential activity is determined in relation to commercial activity. This issue came to attention of the LRPC by way of a challenging review process identified by Staff, the Planning Board and a developer during the first attempt to apply the current provisions to a development application. The LRPC is proposing language which seeks to clarify process; the language is not aimed at changing the underlying policy.

Overview

In 2012 the Council adopted updates to the HP District with an eye towards modernizing the zone and broadening the allowed uses to facilitate new development in the district, while at the same time maintaining the goals for the Parkway as a growth area for high-quality, high value commercial development. As part of this process limited residential uses (e.g. multi-family, mixed-use buildings & live/work units) were written into the district as permitted uses through the Planned Development review process only. To ensure the goal of maintaining the HP as a primarily commercial district, language was added to the regulatory provisions which simply states, *"Given that the HP District is principally a business district, the floor area of all residential uses within a planned development shall be a maximum of 40% of the total floor area of all the building floor area within the planned development."*

The Issue

When the current provisions are applied to a project that will be built out over time (i.e. with various phases of development) it is permissible for the residential use to build out faster than the commercial uses. However, in working with the current provisions the Planning Board identified that the language does not provide clear guidance with respect to how to determine the build-out ratio for a phased development. In the first application of this provision the Board and applicant struggled with an approach that would work. For this reason the LRPC was asked to review the issue and provide clarity to the language to ease the administrative burden of the Board.

Recommendation

The LRPC considered and deliberated on this matter of the course of a few months. The proposed language modifications below provides a regulatory approach for the Planning Board to determine the max. amount residential development at the outset of the development through the Planned Development review process.

Below is the proposed Zoning Ordinance amendments:

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XVIII.B Haigis Parkway District, is amended as follows:

Subsection C. Planned Development Standards

4. Required of Planned Developments Incorporating Live/Work Units, Residential Dwellings within a Mixed-Use Building and/or Multi-family Dwellings

Live/work units, residential dwellings within a mixed-use building and multifamily dwellings are allowed as part of a planned development provided they meet the requirements of this section. In reviewing a planned development with residential uses, the Planning Board shall only permit residential uses that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

- a. ~~Given the HP District is principally a business district, the maximum amount of residential use(s) shall not exceed 40% of the non-residential use(s) at full build-out. Determination of the full build out use ratio is calculated as described below: the floor area of all residential uses within a planned development shall be a maximum of 40% of the total floor area of all the building floor area within the planned development.~~
 - i. ~~For planned development projects that consist of a single lot or building, the floor area of all residential uses shall be a maximum of 40% of the total non-residential use floor area at the time of approval.~~
 - ii. ~~For planned development projects that consist of multiple lots or buildings the maximum amount of residential use is based on the amount of total non-residential use floor area that can be accommodated on the lots and/or buildings, as determined by the applicant and approved by the Planning Board. In determining the total non-residential floor area the applicant shall complete a conceptual build-out analysis for each lot and/or building, including all typical and necessary supporting infrastructure associated with the assumed building size; including, but not limited to, parking fields, stormwater facilities, landscaping, etc. The Planning Board shall verify the applicant's analysis, and may require modifications, prior to approval.~~
- b. The proposed residential dwellings are sufficiently setback and/or buffered from major roadways as well as major internal circulation routes and large parking areas so as to ensure a safe, sanitary, and healthful environment for residents.
- c. Any other non-residential uses within the planned development are compatible with residential uses with respect to noise, odors, intensity of use, health and safety, and aesthetics.
- d. Residential uses are designed with outdoor amenities, open spaces or common spaces usable for the active or passive recreation. Such spaces can be a community green or common; plaza; court; square; pocket park or some variation of each.

**MINUTES
PLANNING BOARD MEETING
MONDAY, FEBRUARY 4, 2019 – 7:00 P.M.**

Members Present:

Mr. Nicolas McGee - Chair
Ms. Rachel Hendrickson – Vice Chair
Mr. Roger Beeley - Secretary
Ms. Robyn Saunders

Staff Present:

Mr. Jay Chace, Town Planner
Mr. Jamel Torres, Assistant Town Planner
Ms. Angela Blanchette, Town Engineer
Ms. Doreen Christ, Recording Secretary

1. **Call to Order.** Nicolas McGee - Chair called the meeting to order at 7:00 p.m.
2. **Pledge of Allegiance.**
3. **Roll Call.** Roll was called by the Recording Secretary. It shall be noted that Richard DuPerre – 1st Alternate was absent at this meeting.
4. **Approval of Minutes (December 10, 2018, December 18, 2018, and January 14, 2019).** The following motion was made.
MOTION: *by Nicolas McGee, seconded by Rachel Hendrickson, to move approval of the meeting minutes of the December 10, 2018 regular Planning Board meeting, December 18, 2018 Workshop meeting, and January 14, 2019 regular Planning Board meeting, as written.*
VOTED: 4-0 (Passed).

5. **The Planning Board will conduct a Public Hearing to receive comments on the proposed amendments to Chapter 405, the Zoning Ordinance, to amend Section XVIII.B Haigis Parkway District.*** Jay Chace presented this item. As stated in his memorandum, the Long Range Planning Committee (LRPC) has been reviewing the existing provisions in the Haigis Parkway District (HP), which regulate how the ratio of residential activity is determined in relation to commercial activity. The LRPC is proposing language which seeks to clarify the process. Their proposed language modifications provides a regulatory approach for this board to determine the maximum amount of residential development at the outset of the development through the Planned Development review process. Included in board member packets was the proposed Zoning Ordinance amendments for Section XVIII.B. Haigis Parkway District.

Nicolas McGee opened the Public Hearing giving an opportunity for public comment. There was no public comment. Nicolas McGee closed the public portion of this hearing.

Nicolas McGee opened this item up to the board. He said he appreciates the LRPC for their input. This is a guideline. Roger Beeley had a clarity question, which Jay Chace responded to. After deliberation, Nicolas McGee stated the board is providing a favorable response to the Town Council.

AGENDA

**SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 20, 2019
REGULAR MEETING – 7:00 P.M.**

Order No. 19-006. The second reading on the proposed amendments to Chapter 901 – the Town of Scarborough Garbage and Recycling Collection & Disposal Ordinance, Article I, Section 1.02., Section 1.10. & Section 1.12. and Article III, Section 3.01 will be scheduled for Wednesday, March 6, 2019. [*Ordinance Committee*]

Ordinance Committee

Ought to Pass

Sponsor

Recommendation

02/06/2019 – Vote: 7 Yeas

First Reading/Vote

02/20/2019

Public Hearing

03/06/2019 – Vote:

Second Reading/Final Approval/Vote

CHAPTER 901
TOWN OF SCARBOROUGH
Garbage and Recycling Collection and Disposal Ordinance

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 901, the Garbage and Recycling Collection Ordinance of the Town of Scarborough is amended, as follows:

ARTICLE I. GENERAL PROVISIONS

Section 1.01 PURPOSE

The purpose of this Ordinance is to protect the health, safety and general well-being of the citizens of Scarborough: enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste in the Town of Scarborough in accordance with the provisions of Title 38 M.R.S.A. §§ 1304-B and 1305, as amended.

Section 1.02 DEFINITIONS

1. CART:

”Cart” means a wheeled receptacle distributed by the Town of Scarborough to Scarborough residents for the purpose of facilitating the collection of garbage and recyclable materials at the curb.

2. CONSTRUCTION OR DEMOLITION DEBRIS:

”Construction or demolition debris” means solid waste resulting from construction, remodeling, repair, and demolition of structures. It includes but is not limited to: building materials, discarded furniture, asphalt, wall board, pipes, and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes.

3. CONTAINERS:

”Containers” means items including glass bottles and jars, plastic bottles and jugs, and metal cans.

4. DISPOSAL:

”Disposal” means the discharge, deposit, dumping or placing of any solid waste into or on any land.

5. ECOMAINE DISPOSAL FACILITY

”**ecomaine** Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations, owned or operated by **ecomaine**, or any

other site designated by **ecomaine**, used for storing, salvaging, reducing, incinerating or disposing of solid wastes.

6. GARBAGE:

"Garbage" means solid waste which the Town Public Works Director and/or his/her designee shall designate on a list of items that are acceptable for garbage collection posted on the Town web page.

7. HAZARDOUS WASTE:

"Hazardous waste" means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 MRSA section 1319-O or by the terms of a certain Waste Handling Agreement between the Town and **ecomaine**. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

8. OVERFLOW:

"Overflow" means garbage set out for collection that exceeds the amount contained in the Town-provided collection cart; applies only to those solid wastes considered acceptable in the curbside collection program.

9. PERSON:

"Person" means any person, firm, partnership, corporation, association, company, or organization of any kind.

10. RECYCLABLE MATERIALS or RECYCLABLES:

"Recyclable Materials" or "Recyclables" means solid waste designated by the Town Manager or his/her designee as suitable for inclusion in the Town's recycling program. These items are as follows: newspapers, magazines, office paper, paperboard, cardboard, glass bottles, glass jars, #1-7 plastics, aluminum cans, aluminum foil, tin cans, steel cans and milk and juice cartons. These items are subject to change and are in reference to the materials accepted by **ecomaine**. [amended 11/01/17]

11. RECYCLING VEHICLE:

"Recycling vehicle" means a vehicle utilized by the Town of Scarborough or its designated agent to collect recyclable materials at the curb from all residential uses on a Town-maintained public way.

12. RESIDENTIAL USES:

"Residential uses" means, for the purpose of providing solid waste collection, single-family, duplex and multifamily dwellings (up to and including five units) on public ways. Residential uses may include home occupations as defined in the Town Zoning Ordinance, but not other mixed commercial and residential uses.

13. SOLID WASTE:

“Solid waste” shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitations, rubbish, garbage, scrap materials, junk, inert fill material and landscaping refuse, and including material that may have value or other use or may be sold or exchanged, but not including septage tank sludge nor agricultural or hazardous wastes.

14. SOLID WASTE DISPOSAL FACILITY or DISPOSAL FACILITY:

“Solid Waste Disposal Facility” or “Disposal Facility” means any land or structure or combination of land area and structures, including dumps and transfer stations and any other site used for storing, salvaging, reducing, incinerating or disposing of solid wastes, including the **ecomaine** disposal facility.

15. TOWN:

“Town” means the Town of Scarborough, Maine.

16. UNIVERSAL WASTE:

“Universal waste” means any waste listed in section 3.A(13)(b) of Chapter 850, the Maine Hazardous Waste Management Rules, including but not limited to cathode ray tubes; mercury-containing lamps; mercury-containing thermostats; and totally enclosed, non-leaking polychlorinated biphenyl (PCB) ballasts.

17. WOOD WASTES:

“Wood wastes” means brush, stumps, lumber, bark, wood chips, shavings, slabs, edgings, slash, sawdust and wood from production rejects, that are not mixed with other solid or liquid waste. For the purposes of this definition, “lumber” is entirely made of wood and is free from metal, plastics and coatings.

18. YARD WASTE:

“Yard waste” means earthen fill, soil, sand, grass clippings, leaves, and other vegetal matter other than wood wastes and land clearing debris.

Section 1.08 UNLAWFUL TO PLACE, DEPOSIT GARBAGE IN VIOLATION OF ORDINANCE

It shall be unlawful for any person to place, deposit or allow to be placed or deposited on his premises any garbage, except in the manner permitted by the provisions of this Ordinance.

Section 1.10 CARTS REQUIRED; HOURS FOR PLACEMENT AND REMOVAL; REPLACEMENT OR ADDITIONAL CARTS; OVERFLOW WASTE [Amended 10/18/17-Effective 04/18/18]

A. It shall be the responsibility of the Town to provide and make available suitable and sufficient carts as described by §1.09 to receive the accumulation of weekly household waste.

Each cart shall be placed as instructed by the Town or its designated garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, but must be set out by 7:00A.M. the morning of collection, and ~~should~~ shall be removed from the Town's right of way the day of collection.

B. Should a Town-owned cart be damaged, defaced or lost by a household, the Town will make another such cart available for replacement at a fee.

C. Residents who have "overflow waste," defined as garbage set out for collection that exceeds the amount contained in the Town-provided collection cart, may take it to the Department of Public Works for disposal.

Section 1.12 UNLAWFUL TO ~~RAKE LEAVES~~ PUT ANY YARD WASTE OR WOOD WASTES INTO STREETS OR TOWN RIGHTS OF WAY

It shall be unlawful to ~~rake-leaves~~ put any yard waste or wood wastes into any paved street or the Town's ~~or~~ right of way.

ARTICLE III. COLLECTION AND REMOVAL

Section 3.01 ACCUMULATION OF GARBAGE PROHIBITED

1) Each household or business is responsible for preventing accumulation of garbage. On the designated day of pickup, all residential garbage must be set out in a Town designated cart for garbage collection. Each household unit should contain its waste in carts as described in § 1.10. Pursuant to § 1.10, each cart shall be placed as instructed by the garbage collector along the street, sidewalk or roadside for automated collection. Town-designated garbage carts may be set out for collection the evening or day before, and ~~should~~ shall be removed from the street or roadside ~~after~~ on the day of collection, in no event more than 24 hours thereafter. No person shall cause or permit any accumulation of garbage which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.

2) Dumping prohibited. No person shall throw or place any garbage; recyclable materials, including paper, glass, nails, wire, bottles, and cans; yard waste, including brush, branches, and earthen fill; construction or demolition debris; garbage carts; litter or other debris in any ditch, stream, river or retention basin that regularly or periodically carries surface water runoff. Any person who deposits any of the above shall remove it or cause it to be removed immediately. The Code Enforcement Officer, the Public Works Director or any one else designated by either shall be responsible for the enforcement of this provision.

AGENDA

SCARBOROUGH TOWN COUNCIL WEDNESDAY – FEBRUARY 20, 2019 REGULAR MEETING – 7:00 P.M.

Order No.19-009. Move approval on the names posted to the various committees/boards, as recommended by the Appointments/Negotiations Committee on February 6, 2019. [*Appointments/Negotiations Committee*]

Appoint of Nick Cloutier to the Board of Assessment Review, as 1st Alternate with a term to expire in 2021.

Appoint Patricia Brigham to the Community Services & Recreational Advisory Board, as 2nd Alternate, with a term to expire in 2020.

Appoint Thomas Nolan to the Conservation Commission, as a full voting member, with a term to expire in 2021.

SEDCO Board Appointment:

Re-Appoint Andrea Killiard and Kevin Freeman as Full Voting Members, for their third and final terms ending 2021.

Appoint Travis Kennedy to Full Voting Member term ending 2021 and David Martin to Full Voting Member term ending 2020.

Appointments/Negotiations Committee

Ought to Pass

Sponsor

Recommendation

02/06/2019 Posted

First Reading/Vote

N/A

Public Hearing

02/20/2019 – Vote:

Second Reading/Final Approval/Vote

AGENDA

**SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 20, 2019
REGULAR MEETING – 7:00 P.M.**

Order No. 18-018. Move approval of First reading on the proposed Contract Zone Request from Patriot Acura Dealership located at the corner of Payne Road and Haigis Parkway. *[Town Planner/Town Manager]*

Town Planner/Town Manager

Ought to Pass

Sponsor

Recommendation

02/20/2019

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote

February 15, 2019

Chairman Hayes and Members of the
Scarborough Town Council
Town of Scarborough
259 U. S. Route One
Scarborough, Maine 04074

Re: Patriot Realty – Saco, LLC
Contract Zoning Agreement for Proposed Acura Dealership
285 Payne Road and 1000 Haigis Parkway
Scarborough, Maine

Chairman Hayes and Members of the Scarborough Town Council:

We represent Patriot Realty – Saco, LLC (“Patriot Realty”) in connection with the above-referenced project (the “Project”) and the request by Patriot Realty for a Contract Zoning Agreement with respect thereto and are hereby submitting this letter, along with a revised draft of the proposed Contract Zoning Agreement, in connection with the Council’s February 20, 2019 meeting that will commence Phase 3 of the contract zoning process mandated under the Town of Scarborough Zoning Ordinance (the “Zoning Ordinance”). The zoning background relating to this request is as follows.

The Project is located in the Haigis Parkway District, HP (the “HP District”) as described in Section XVIII B. of the Zoning Ordinance. Pursuant to Section B of the provisions of the Zoning Ordinance relating to the HP District, uses permitted in the HP District include, among others, “retail sales and services” excluding, however, “car washes, automobile repair and service facilities, and outdoor sales and services”. The Zoning Ordinance defines “outdoor sales and services” to include “new or used car dealerships which are not fully enclosed”. Since the Project will include an indoor facility for washing cars, an automobile repair and service facility typical of an automobile dealership, and outdoor sales and related services, i.e., the display of automobiles and the sale of same to the general public, Patriot Realty is requesting that the Town agree to a rezoning of the Property pursuant to the attached Contract Zoning Agreement so as to permit the construction and operation of the Project as proposed. We note, as background, that the Mercedes Benz facility and the Jaguar/Land Rover facility located on Route One in Scarborough also required Contract Zoning Agreements with the Town for essentially the same reasons.

As the Council is aware, the provisions of the Zoning Ordinance governing contract zoning requests break the process down into four phases as follows:

Phase 1 - Preliminary Joint Review by Planning Board and Town Council;

Phase 2 - Planning Board Plan Review;

Phase 3 - Town Council Action; and

Phase 4 - Final Planning Board Action

The joint Council/Planning Board meeting required under Phase 1 was held on March 7, 2018. Following Patriot Realty's presentation of the Project, comments from Town Staff, comments from members of the public during a public hearing conducted by the Planning Board, and discussion among the members of the Council and the Planning Board, the Council voted unanimously to advise Patriot Realty to continue to process the request for contract zoning.

As required under Phase 2, Patriot Realty then proceeded with its Site Plan Application for the Project before the Planning Board and on February 4, 2019, received preliminary approval from the Board.

Phase 3 of the contract zoning process requires Council action on the contract zoning request. Before taking a final vote on the request, the Council is required to determine that the rezoning of the property as set forth in the proposed Contract Zoning Agreement (1) is consistent with the Town of Scarborough Comprehensive Plan, (2) is consistent with the existing and permitted uses within the existing zoning district classification with respect to the property, (3) is in the public interest, and (4) will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification. The remainder of the letter will address those four matters.

Matters (1) and (2) - Consistency with the Comprehensive Plan and Existing and Permitted Uses within the HP District.

The 2006 Update of the Scarborough Comprehensive Plan adopted by the Town Council on July 19, 2006 (the "Comprehensive Plan") designated the HP District as a Development Area within the Growth Areas of the Town.¹ The Comprehensive Plan described "Growth Areas" as "areas of Scarborough where the Town desires to see the majority of new residential development and virtually all non-residential development occur". *Comprehensive Plan, Part B, Chapter 6, Article IV*. The Comprehensive Plan envisioned the HP District as, among other things, a "regional center for employment" with development of "a high quality with campus-style architectural and landscape design". Allowed uses were anticipated to include, among others,

¹ We note that, since 2006, that portion of the HP District located between the west side of Payne Road and the Maine Turnpike has been rezoned to the General Business District B-3.

retail uses subject to a maximum of 20,000 square feet.² Development was to be of a “high quality” and “well planned”. *Haigis Parkway District, Comprehensive Plan at Page 6-38.*

We also note that under the Zoning Ordinance, uses in the HP District do, in fact, include, among others, “retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy”, excluding “car washes, automobile repair and service facilities, and outdoor sales and services”. As noted above, “outdoor sales and services” are defined to include “new or used car dealerships which are not fully enclosed” and hence the request by Patriot Realty for the Contract Zoning Agreement.

The Project, being a retail use, is thus consistent with both the Comprehensive Plan and the Zoning Ordinance.

Lastly, we note that actual uses in the vicinity of the Project within the HP District include the Golf & Ski Warehouse on the opposite corner of Haigis Parkway, and the multi-building residential rental project adjacent to the Golf & Ski Warehouse which we understand was permitted under a Contract Zoning Agreement. We note that there are also the Cabela’s Plaza located on the west side of Payne Road adjacent to Exit 42 which was also the subject of a Contract Zoning Agreement, the Dunkin Donuts/Irving Oil convenience store and gasoline filling facility on the opposite side of Payne Road from the Project, and the RC Moore trucking facility and other similar facilities also located on the opposite side of Payne Road from the Project and adjacent to the Dunkin Donuts/Irving Oil facility. The area where these facilities are located was formerly within the HP District and is now in the General Business District B-3. While somewhat of a varied type of uses, all of these facilities generally fall into the “commercial use/business use” category as does the Project, including the multi-building residential rental project which we understand is owned by and operated by a single entity. As such, the Project is consistent with such uses.

Matters (3) and (4) – In the Public Interest/Beneficial Effects on the Town.

There are a number of factors/aspects of the Project as well as with respect to Patriot Realty that speak, to a greater or lesser extent, to these matters and we list them below in no particular order.

1. The Project site is a highly visible “entrance” to Scarborough and an ideal location for an appropriate Town “welcoming sign”. Patriot Realty is willing to grant the Town the right to construct such a sign in an appropriate location on the Project site and to make a “payment in lieu of construction” of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town’s pace in conjunction with the development of the Project.
2. The acquisition of the Project site by Patriot Realty will result in the payment of an outstanding public works assessment against the site of over Two Hundred Thousand Dollars (\$200,000).

² The retail floor area within the building on the Project site contains less than 20,000 square feet.

3. Patriot Realty will be a substantial taxpayer requiring virtually no public services.
4. Values of surrounding properties will likely be positively influenced by the development of the Project.
5. Patriot Realty anticipates further investment in Scarborough by the future development on the remaining undeveloped portion of the Project site.
6. Patriot Realty is seeking no financial assistance from the Town by way of tax increment financing.
7. Patriot Realty has a strong track record of community service and expects to continue such service in Scarborough. The company intends to actively engage and participate with many businesses and charities to create a variety of events at the facility. Here is just a sampling of the types of events the company has held at its other facilities:

Red Cross Blood Drives
Dog Adoptions
Dog Wash To Support Shelters
Loves Pets Day
Food Drives Supporting Local Pantries
Kevin On The Roof To Support STRIVE
Toys For Tots Annual Holiday Drive
Business After Hour Chamber Hosts
Take A Bike - Portland Trail
Cars and Coffee Car Shows
Childrens Literacy Support / Family Magic Shows
Cub Scouts Pinewood Derby Host
Bone Marrow - Be The Match Registration
Halloween Pumpkin Painting For Families
Organic Garden tended by staff & customers - Share Produce
Community Breakfasts with Charities - Awareness/Fundraiser
Community BBQ's with Charities - Awareness/Fundraiser
Earth Day Fundraiser for Shade Trees - And we help plant!
Habitat For Humanity - Patriot associates on Scarborough build site
Patriot Riders Chapter One Fundraiser / Wreaths Across America
High School Musicians/ Support for Youth Arts/ In-store performance
Support for Winterkids program

8. Patriot Realty intends to use local construction and architecture businesses as much as possible and will request that the General Contractor for the Project use local subcontractors as well as much as possible.

9. Upon opening of the business, Patriot Realty expects a payroll of approximately Two Million Dollars (\$2,000,000) among approximately thirty – three (33) employees, many of whom it hopes will be Scarborough residents. The average compensation is anticipated to be approximately Sixty-One Thousand Dollars (\$61,000) plus benefits.
10. Patriot Realty will seek to have third-party spending for services needed by the Project to be to local vendors and servicers as much as possible.
11. No residential component of the Project is, of course, proposed, and thus none of the additional impacts on the Town associated with a residential project.
12. Patriot Realty has a policy of employing a diverse group of people. The company takes particular pride in employing a high ratio of women. It is the longest tenured team in the auto industry in Saco and is determined to achieve the same result in Scarborough. Many of the company's associates are anticipated to live and raise their families in Scarborough and to contribute to the community.
13. The building and related aspects will be a very attractive, high quality addition to the community and to this gateway to Scarborough. It will be a facility that Patriot Realty believes the community will be proud of.
14. Patriot Realty prides itself on the protection of the environment in connection with its developments. Its current facilities have received awards for environmentally conscious development, most notably, the Green Dealer Eco Friendly Certification, Recipient of Energy Star Small Business Award, and Eco Maine Business of the Year. Patriot Realty hopes to achieve similar results with the Project.
15. Patriot Realty expects to make indoor and outdoor space available for public meetings and public gatherings as reasonably possible in its continuing effort to give back to the community.
16. Development of the Project site will preserve sensitive areas by preservation of the land or by the use of buffers to protect areas such as the stream crossing along the southerly end of the site and throughout the site utilizing buffers to protect existing wetland areas.
17. As noted above, Project site is a highly visible corner at the intersection of Haigis Parkway and Payne Road and will be developed in manner to maximize the building's prominence and enhance the blending of architecture and landscaping to present a business and a facility that will be a cornerstone for further development along Haigis Parkway and setting the marketability of the remaining land for smart development within the HP District, a goal that the Town has been pursuing for many years.
18. Traffic pattern enhancements associated with the Project are anticipated to have a significant benefit to the overall traffic flow within the area.

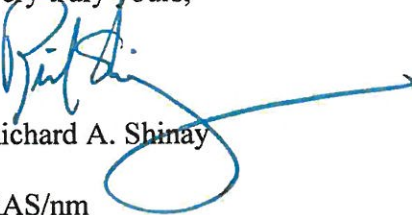
Chairman Hayes and Members of the
Scarborough Town Council
February 13, 2019
Page 6

19. This will be the first and currently only Acura dealer in Maine. With Mercedes Benz, Jaguar and Land Rover in Town, the addition of the highly desirable Acura line will be an enhancement to the Scarborough automobile sales environment.

Attached is an updated version of the proposed Contract Zoning Agreement which has been revised to reflect, among other changes, changes intended to generally incorporate the matters discussed above. Redlined and clean versions are attached. The changes are against the version submitted at the joint Council/Planning Board meeting held on March 7, 2018. We, of course, welcome input from the Council on this draft.

We very much appreciate the Council's consideration of Patriot Realty's request and we look forward to a favorable decision on the request.

Very truly yours,



Richard A. Shinay

RAS/nm

cc/enc.: Adam Arens
James Seymour
Karen Martin

Draft 02/15/19

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH
AND
PATRIOT REALTY – SACO, LLC**

This Contract Zoning Agreement (hereinafter, this “Agreement”) is made as of the ____ day of _____, ~~2018~~2019 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and PATRIOT REALTY – SACO, LLC, a Maine limited liability company with a mailing address of c/o Adam S. Arens, 702 S. Lakeside Drive, Lake Worth, Florida 33460 (hereinafter, “Patriot Realty”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, Patriot Realty intends to purchase a certain lot or parcel of land, with the buildings and improvements thereon, situated on the northeasterly side of Haigis Parkway and the southeasterly side of Payne Road in the Town of Scarborough, County of Cumberland, and State of Maine, consisting of the premises currently owned Jacqueline A. Curlew comprising approximately 16.52 acres and located at 285 Payne Road, also known as 1000 Haigis Parkway, being Lot 5 as shown on Town of Scarborough Tax Map R052, and described in a Warranty Deed from Ray L. Littlefield to George E. Curlew and Jacqueline A. Curlew, as joint tenants, dated December 4, 1964 and recorded in the Cumberland County Registry of Deeds in Book 2871, Page 25 (hereinafter, the “Property”), said George E. Curlew having died on November 19, 2015, leaving said Jacqueline A. Curlew as surviving joint tenant and sole owner of the Property; and

WHEREAS, Patriot Realty desires to construct and operate an automobile sales and service facility on the Property selling as its primary brand of automobile those in the Acura line, which facility will include the outdoor display of vehicles, a repair and service facility, and an internal area for washing vehicles sold and/or serviced on site (hereinafter, the “Facility”); and

WHEREAS, the Property is located in the Haigis Parkway District, HP (hereinafter, the “HP District”) as described in Section XVIII B. of the Zoning Ordinance; and

WHEREAS, pursuant to Section B of the provisions of the Zoning Ordinance relating to the HP District, uses permitted in the HP District include, among others, retail sales and services excluding, however, “car washes, automobile repair and service facilities, and outdoor sales and services”; and

WHEREAS, “outdoor sales and services” as defined in the Zoning Ordinance includes “new or used car dealerships which are not fully enclosed”; and

WHEREAS, Patriot Realty has requested that, notwithstanding the limitations under Section B of the Zoning Ordinance relating to the HP District, the Town agree to a rezoning of the Property so as to permit Patriot Realty to construct and operate the Facility thereon; and

WHEREAS, the size, location, configuration and topography of the Property permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of the Facility, provided the Facility is restricted to the density, scale and intensity proposed by Patriot Realty and further provided that any restrictions, provisions and conditions of this Agreement and the site plan approval by the Scarborough Planning Board are strictly observed; and

WHEREAS, the Scarborough Town Council and the Scarborough Planning Board, pursuant to the Contract Zoning provisions of the Zoning Ordinance, held a joint meeting on March 7, 2018 at which meeting the Planning Board conducted a public hearing on the proposed contract zoning request, and at which meeting the Council voted unanimously to advise Patriot Realty to continue to process the contract zoning request, pursuant to Section II, Paragraph G-Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended that the Property be rezoned to permit Patriot Realty to construct and operate the Facility thereon; and

WHEREAS, Patriot Realty received preliminary site plan approval from the Planning Board at the Board's February 4, 2019 meeting; and

WHEREAS, the proposed use of the Property, being in accordance with the requirements of the HP District, is consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (hereinafter, the "Comprehensive Plan") for the area of the Property, as well as with the existing and permitted uses within the HP District, and in the adjacent General Business District B-3 that was formerly within the HP District, reference being made to the determinations set forth in Schedule A attached hereto and made a part hereof; and

WHEREAS, the proposed use of the Property, if developed by Patriot Realty in accordance with this Agreement, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the Property were developed under the existing zoning requirements, reference being made to the findings set forth in Schedule B attached hereto and made a part hereof; and

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said use is pursuant to and consistent with the Town of Scarborough Comprehensive Plan, the existing and permitted uses within the HP District as well as in the adjacent General Business District B-3 that was formerly within the HP District, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification~~the Comprehensive Plan and consistent with the permitted uses within the HP District,~~ authorized the execution of this Agreement on _____, ~~2018~~2019.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1 hereto.

2. Notwithstanding the limitations under Section B of the Zoning Ordinance relating to the HP District, Patriot Realty shall be permitted to construct and operate an automobile sales and service facility on the Property, which facility will include the outdoor display of vehicles, a repair and service facility, and an internal area for washing vehicles sold and/or serviced on site

3. Patriot Realty is authorized to construct and operate the Facility to be used in accordance with the requirements of the HP District, except as amended by this Agreement.

4. The Property shall be developed and used only in accordance with the site plan as finally approved by the Scarborough Planning Board, and as said approved site plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance").

5. Patriot Realty will grant the Town the right to construct a "welcome to Scarborough sign" in an appropriate location on the Facility site and make a "payment in lieu of construction" of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town's pace in conjunction with the development of the Facility.

~~56.~~ The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement of the Town of Scarborough and Patriot Realty, or their successors or assigns.

~~67.~~ Except as the provisions of the HP District of the Zoning Ordinance have been amended by this Agreement, and subject to any other restrictions, provisions and conditions set forth herein regarding the development and use of the Property, all other requirements of the underlying HP District of the Zoning Ordinance shall apply and shall govern the use and development of the Property. Any such restrictions, provisions and conditions are an essential part of the aforesaid modification of the HP District provisions of the Zoning Ordinance as set forth herein, shall run with the Property, shall bind Patriot Realty, its successors and assigns of the Property or any part thereof.

~~78.~~ Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto and nothing contained in this Agreement shall be deemed to prohibit or limit the development and use of the Property, or any portion thereof, in any other manner so long as such development and use is in compliance with the applicable provisions of the Zoning Ordinance and otherwise approved pursuant to the Site Plan Ordinance and/or other applicable Scarborough Ordinances and, if applicable, State and Federal laws, ordinances and regulations.

~~89.~~ Nothing set forth in this Agreement shall be deemed to prohibit or limit the right of Patriot Realty, or any tenant or subsequent owner of the Property, to sell as the primary brand of automobile, one or more brands other than those in the Acura line.

~~910.~~ The Town of Scarborough shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that Patriot Realty or its successors or assigns fail to develop and operate the Facility in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if Patriot Realty, its successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time taking into account the nature of such failure or breach and the action necessary to cure or remedy same, then this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses and according to such zoning requirements as are otherwise allowed by law.

~~1011.~~ In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine.

~~1112.~~ Patriot Realty shall record this Agreement in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

[End of page. Execution pages follow.]

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town
Manager (duly authorized by
vote of the Scarborough Town
Council on _____,
~~2018~~2019)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, ~~2018~~2019

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

Print name

My Commission expires _____

WITNESS:

PATRIOT REALTY – SACO, LLC

By: _____
Adam S. Arens
Its Manager

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, ~~2018~~2019

Personally appeared the above named Adam S. Arens, Manager of Patriot Realty – Saco, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Patriot Realty – Saco, LLC.

Before me,

Notary Public/Attorney at Law

Print name

My Commission expires _____

Schedule A

Determination of consistency with the Comprehensive Plan and existing and permitted uses within the HP District and adjacent General Business District B-3 that was formerly within the HP District.

The 2006 Update of the Scarborough Comprehensive Plan adopted by the Town Council on July 19, 2006 (the "Comprehensive Plan") designated the HP District as a Development Area within the Growth Areas of the Town. The Comprehensive Plan described "Growth Areas" as "areas of Scarborough where the Town desires to see the majority of new residential development and virtually all non-residential development occur". Comprehensive Plan, Part B, Chapter 6, Article IV. The Comprehensive Plan envisioned the HP District as, among other things, a "regional center for employment" with development of "a high quality with campus-style architectural and landscape design". Allowed uses were anticipated to include, among others, retail uses subject to a maximum of 20,000 square feet. Development was to be of a "high quality" and "well planned". Haigis Parkway District, Comprehensive Plan at Page 6-38.

Under the Zoning Ordinance, uses in the HP District include, among others, "retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy", excluding "car washes, automobile repair and service facilities, and outdoor sales and services". "Outdoor sales and services" are defined to include "new or used car dealerships which are not fully enclosed".

The Facility, being a retail use, is thus consistent with both the Comprehensive Plan and the Zoning Ordinance.

The actual uses in the vicinity of the Project within the HP District include the Golf & Ski Warehouse on the opposite corner of Haigis Parkway, and the multi-building residential rental project adjacent to the Golf & Ski Warehouse which we understand was permitted under a Contract Zoning Agreement. There are also the Cabela's Plaza located on the west side of Payne Road adjacent to Exit 42 which was also the subject of a Contract Zoning Agreement, the Dunkin Donuts/Irving Oil convenience store and gasoline filling facility on the opposite side of Payne Road from the Project, and the RC Moore trucking facility and other similar facilities also located on the opposite side of Payne Road from the Project and adjacent to the Dunkin Donuts/Irving Oil facility. The area where these facilities are located was formerly within the HP District and is now in the General Business District B-3. While somewhat of a varied type of uses, all of these facilities generally fall into the "commercial use/business use" category as does the Project, including the multi-building residential rental project which we understand is owned by and operated by a single entity. As such, the Project is consistent with such uses.

Schedule B

In the Public Interest/Beneficial Effects on the Town.

1. The Facility site is a highly visible “entrance” to Scarborough and an ideal location for an appropriate Town “welcoming sign”. Patriot Realty is willing to grant the Town the right to construct such a sign in an appropriate location on the Facility site and to make a “payment in lieu of construction” of such a sign so as to allow the Town to proceed with the design and installation of the sign at the Town’s pace in conjunction with the development of the Facility.

2. The acquisition of the Facility site by Patriot Realty will result in the payment of an outstanding public works assessment against the site of over Two Hundred Thousand Dollars (\$200,000).

3. Patriot Realty will be a substantial taxpayer requiring virtually no public services.

4. Values of surrounding properties will likely be positively influenced by the development of the Facility.

5. Patriot Realty anticipates further investment in Scarborough by the future development on the remaining undeveloped portion of the Facility site.

6. Patriot Realty is seeking no financial assistance from the Town by way of tax increment financing.

7. Patriot Realty has a strong track record of community service and expects to continue such service in Scarborough. The company intends to actively engage and participate with many businesses and charities to create a variety of events at the facility. Here is just a sampling of the types of events the company has held at its other facilities:

Red Cross Blood Drives

Dog Adoptions

Dog Wash To Support Shelters

Loves Pets Day

Food Drives Supporting Local Pantries

Kevin On The Roof To Support STRIVE

Toys For Tots Annual Holiday Drive

Business After Hour Chamber Hosts

Take A Bike - Portland Trail

Cars and Coffee Car Shows

Childrens Literacy Support / Family Magic Shows

Cub Scouts Pinewood Derby Host

Bone Marrow - Be The Match Registration

Halloween Pumpkin Painting For Families

Organic Garden tended by staff & customers - Share Produce
Community Breakfasts with Charities - Awareness/Fundraiser
Community BBQ's with Charities - Awareness/Fundraiser
Earth Day Fundraiser for Shade Trees - And we help plant!
Habitat For Humanity - Patriot associates on Scarborough build site
Patriot Riders Chapter One Fundraiser / Wreaths Across America
High School Musicians/ Support for Youth Arts/ In-store performance
Support for Winterkids program

8. Patriot Realty intends to use local construction and architecture businesses as much as possible and will request that the General Contractor for the Facility use local subcontractors as well as much as possible.

9. Upon opening of the business, Patriot Realty expects a payroll of approximately Two Million Dollars (\$2,000,000) among approximately thirty – three (33) employees, many of whom it hopes will be Scarborough residents. The average compensation is anticipated to be approximately Sixty-One Thousand Dollars (\$61,000) plus benefits.

10. Patriot Realty will seek to have third-party spending for services needed by the Facility to be to local venders and servicers as much as possible.

11. No residential component of the Facility is, of course, proposed, and thus none of the additional impacts on the Town associated with a residential project.

12. Patriot Realty has a policy of employing a diverse group of people. The company takes particular pride in employing a high ratio of women. It is the longest tenured team in the auto industry in Saco and is determined to achieve the same result in Scarborough. Many of the company's associates are anticipated to live and raise their families in Scarborough and to contribute to the community.

13. The building and related aspects will be a very attractive, high quality addition to the community and to this gateway to Scarborough. It will be a facility that Patriot Realty believes the community will be proud of.

14. Patriot Realty prides itself on the protection of the environment in connection with its developments. Its current facilities have received awards for environmentally conscious development, most notably, the Green Dealer Eco Friendly Certification, Recipient of Energy Star Small Business Award, and Eco Maine Business of the Year. Patriot Realty hopes to achieve similar results with the Facility.

15. Patriot Realty expects to make indoor and outdoor space available for public meetings and public gatherings as reasonably possible in its continuing effort to give back to the community.

16. Development of the Facility site will preserve sensitive areas by preservation of the land or by the use of buffers to protect areas such as the stream crossing along the southerly end of the site and throughout the site utilizing buffers to protect existing wetland areas.

17. As noted above, Facility site is a highly visible corner at the intersection of Haigis Parkway and Payne Road and will be developed in manner to maximize the building's prominence and enhance the blending of architecture and landscaping to present a business and a facility that will be a cornerstone for further development along Haigis Parkway and setting the marketability of the remaining land for smart development within the HP District, a goal that the Town has been pursuing for many years.

18. Traffic pattern enhancements associated with the Facility are anticipated to have a significant benefit to the overall traffic flow within the area.

19. This will be the first and currently only Acura dealer in Maine. With Mercedes Benz, Jaguar and Land Rover in Town, the addition of the highly desirable Acura line will be an enhancement to the Scarborough automobile sales environment.

Attachment 1

Map Change Amendment consisting of one (1) page.



February 15, 2019
17465

Members of the Scarborough Town Council
Town of Scarborough
259 U. S. Route One
Scarborough, Maine 04074

Re: Patriot Realty – Saco, LLC
CZA for Proposed Acura Dealership
Planning Board Update and Summary
Corner of Payne Road & Haigis Parkway
Scarborough, Maine

Ladies and Gentlemen:

Patriot Realty-Saco, LLC has presented an updated site plan review package for the proposed Patriot Acura Dealership, located at the corner of Haigis Parkway and Payne Road. Starting in late October, the applicant presented the project to the Planning Board as a preliminary plan application. And has since provided more definitive information on traffic, details relating to buffers and landscaping at the gateway corner of Payne Road and Haigis Parkway and through the process has revised the layout, to incorporate suggestions by the planning Board. The results have procured us with a preliminary approval of the Site Plan with conditions to further work with Town consultants, and staff to selectively work on the final details of the site in preparation of both the Council review of the overall contract and the Planning Board's eventual final review for approvals.

The enclosed Site Plan is a product of several reviews and ongoing work as it relates to the proposed site development on the approximately 16.52 acre parcel of land located on property commonly referred to as the Curlew Residence located at the subject parcel referenced above. The property is identified as Parcel #RO5205 within the Scarborough Tax Map Parcel and recorded at the Cumberland Co. Registry of Deeds in Deed Book/Page 2871/25. The project, referred to as "**Patriot Acura Automobile Dealership**," involves the construction of an Acura Automobile Dealership and Service Facility with outdoor display of car inventory, customer and employee parking for a proposed 350+ car inventory and parking spaces.

The Project consists of a single building, containing the showroom, sales, service and car wash for the first Acura Dealership located in southern Maine. The proposed Acura Dealership is shown currently with a footprint of 21,265 square feet. The building is comprised of two main elements, the sales showroom and client/retail area comprising just over 13,000 SF, and the remainder is with the service area/car wash of just about 8000 SF. The focal point will be the main entrance facing the Haigis Parkway and Payne Road corridors, while presenting service areas and carwash access to the rear side, away from the intersection's public visibility.

We have attached updated architectural elevation views, and footprint of the proposed Acura Automobile Dealership as provided by Gawron-Turgeon Architects. The Applicant anticipates construction of this high quality build-out as shown along with landscaping enhancements to further improve the visual quality and public view. We intend to review those at the site plan meeting, again to bring the Board along with the building design and material changes as was suggested earlier during the meeting in the fall. As discussed with the Planning Board, the underlying soils consist of deep silt clays that have very poor bearing capacity and liquefy very easy once disturbed. Estimates place the soil depth of close to 100 feet depth until bedrock refusal. Current construction plans will incorporate a deep steel pile design for the foundation support. These conditions have greatly impacted the overall cost of the project, with the escalation of building materials already.

The Project will utilize the existing road and traffic infrastructure within Payne Road and Haigis Parkway area. We have provided the Town with the updated traffic information, counts, and data as well as we have met with Planning Staff, and the Town's Traffic Consultant, William Bray PE, to review the potential issues with the entrance locations on Haigis and Payne, as well as improvements likely necessary with the impacts based on future corridor development. Based on the analysis provide the highest peak hour of generated traffic will be 85 trips on Saturday, while peak weekday hour traffic impacts range between 40 and 62 for the AM and PM peak periods.

Based on the trip generation and need for car carrier usage, the project supports a second entrance off Payne Road for a right in, right out design, based on safety considerations. The right in right out design will eliminate any site generation of traffic making rights at the light for exiting project traffic routing north on Payne Road, reducing impacts at the intersection, as well as splitting traffic entering the site as approaching from the Turnpike, reducing potential left turns into the site which are considered less safe. Once into the site from that entrance, dealership operations for car loading and unloading can be conducted safely within the sites longest straight internal access section, without incident or conflicts to street traffic. The divided highway island/curbing on Payne will restrict any opportunities for a full service access point onto Payne Road and reduce any opportunity for an exit movement attempt, to take a left or head west on Payne Road.

The proposed entrance off Haigis Parkway has been relocated such, it will now set further south on Haigis Parkway, and will meet the Town Standards for acceptable driveway separation. The revisions to the traffic driveway separation require 265 feet from the nearest driveway which is the one serving First Look Plaza. The new location will also make turning lane improvements to accommodate left turns south bound into the Acura site, as well as incorporate a shared lane to allow left turns northbound into the First Look Plaza. Relocation, as now proposed further south, offers improved safety, less conflicts with utilities and poles, and contains all improvements to one side of Haigis. Another benefit for the shift in the entrance is the buffering on Haigis will further shield public view of the buildings side and rear parking.

We are currently in the process of coordinating the relocation of the driveway with MDOT, and based on conversations there seems to be little issue with a relocated access driveway. Our latest plans in review include a widening taper along the subject parcel side of the parkway that extends approximately a 1000ft which would extend from the intersection to the improvement recently made for the Gateway Commons project. Overall the site will be required to provide a compensation of \$49,293.68 for the impacts of trip assignment.

We have provided updated landscaping enhancements along the roadside in combination of retaining much of the mature vegetation to provide a balance of existing buffers and enhanced landscaped buffering of display and parking areas. The majority of proposed parking has been located to the rear of the proposed Automobile dealership building or out of site from public view. We have anticipated that the project will be a major visual corner piece for the Gateway into Scarborough, for visitors traveling south off the Maine Turnpike Exit 42 into Scarborough.

Being community oriented as both a business and neighbor, Patriot Acura wishes to provide the opportunity for improvement for a corner signature feature. An approximate 80 foot long curved stone wall placement along the corner, with landscaping enhancements complimenting the proposed building setting and provide an equal satisfying visual presentation for both the customer and citizens of Scarborough. During our discussion with Planning Staff it was discussed that we can show this wall feature but that during the Contract Zoning process it may be beneficial for the Applicant to provide an estimate for the wall and improvements, and that the Town actually select the materials and installation.

During the Planning Board hearings we have heard the need to be sensitive to wetlands and stormwater impacts to adjacent streams and estuaries. By using multiple filtration ponds with underdrains, provided the opportunity to maintain the general natural outlets for stormwater to adjacent wetland and stream/ resources, which all flow in a southerly direction to the upper thread of Willowdale Brook tributaries. This approach will be reviewed simultaneously with the Planning Board and by the Maine DEP for a Stormwater Management Permit. We will continue to meet and discuss with Town and state engineers ways to improve the impacts, to the environment using current Best Management Practices for effective stormwater treatment of the proposed sites 4.6 acres of new impervious/non vegetated surfaces. Since our last meeting we have added restrictions on wetland corridors to be placed in conservation easements, and landscape buffers restrictions that are located on the project as well as adding added landscaping per the request of the Board concerned breaking up large impervious areas, and providing more shade and buffering.

We hope you find this information and discussion of items and the related attachments helpful in your review of this projects Contract Zone discussion and ongoing Site Plan process. Concurrently we are preparing to file a Stormwater Management Permit and Wetland Alteration permit for filling and disturbance onsite wetlands associated with the site's proposed development, with the Maine DEP. We hope to have all permit approvals near the end of spring, at about the time we are hopeful to complete all the portions of the Site Plan Review and Contract Zoning execution with the Town.

We look forward to discussing this exciting project with you at the next Town Council Meeting scheduled on February 20th. We fully intend to bring various renderings and displays showcasing the site and progress we have made since our last meeting with the Council in 2018. In the meantime, please do not hesitate to contact us with any review questions or comments, or if needed, additional information.

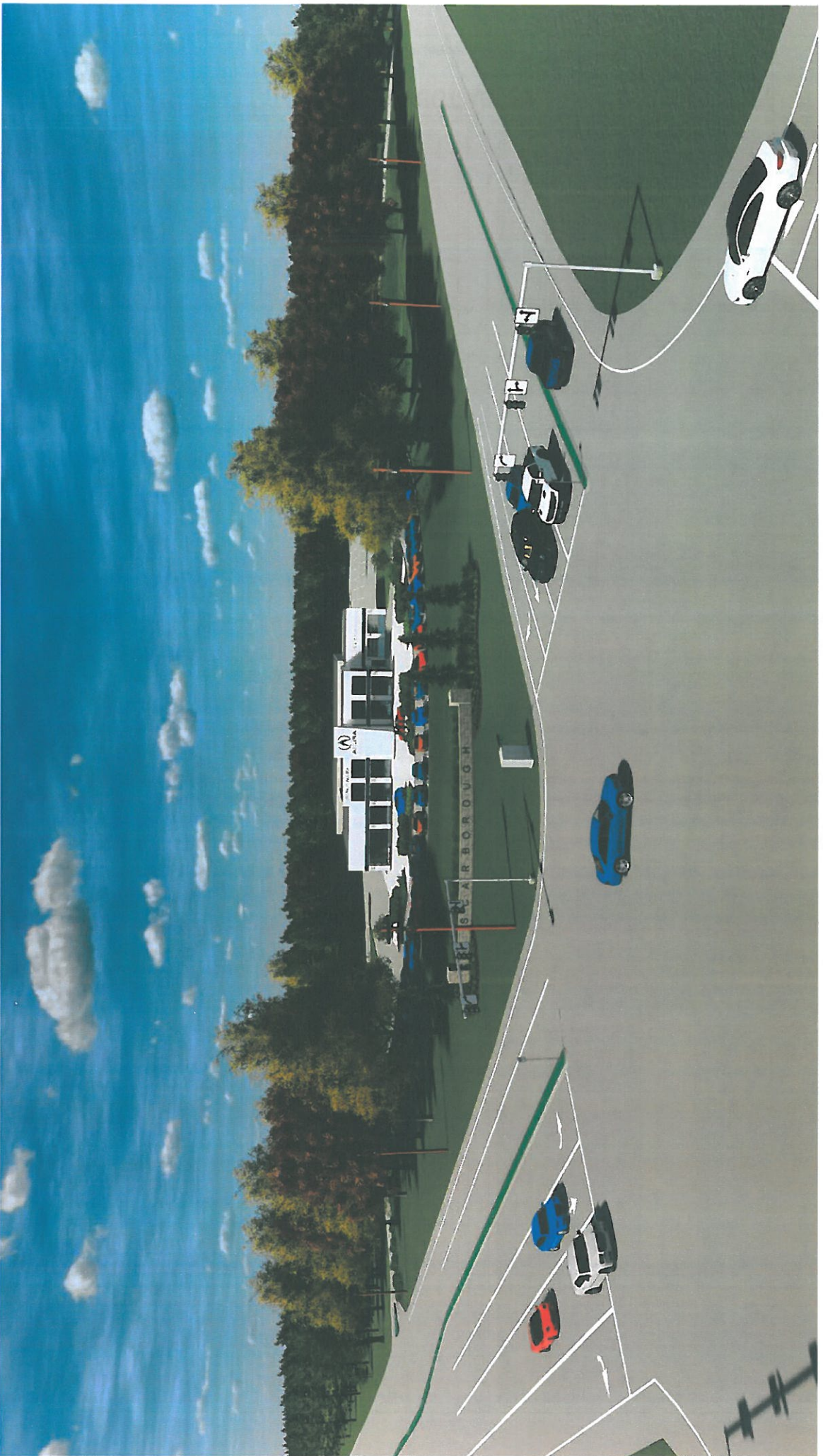
Sincerely,

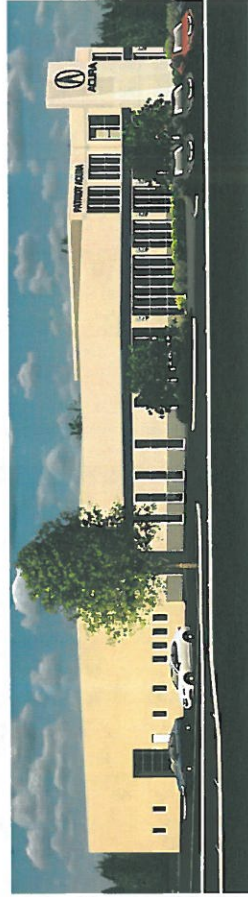
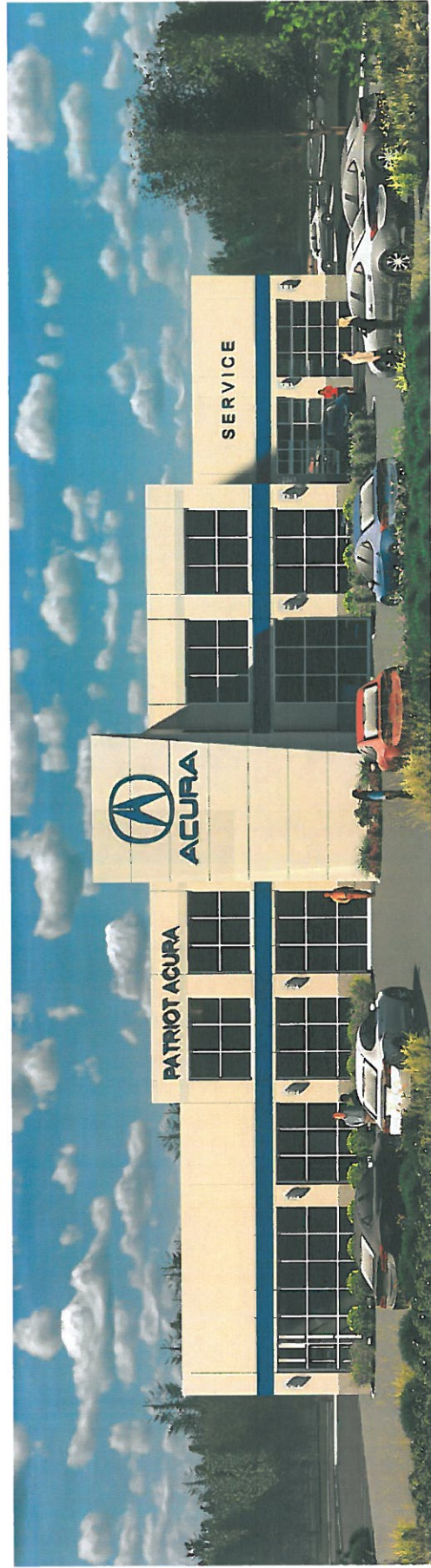
SEBAGO TECHNICS, Inc.



James R. Seymour
Sr. Project Manager
jrs//

cc: Adam Arens - President/Owner- Patriot Realty-Saco LLC
Richard Shinay Esq – Drummond/Woodsum Attorneys



[illegible]

DATE	10 10 18
PROJECT #	010318
DRAWN BY	DEK
CHECKED BY	DEK
DRAWING SCALE	

SHEET TITLE	RENDERINGS
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A102

© COPYRIGHT 1985-2014
American Type Setting Company
Type 1.0 - SILHOUT MATH
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19 MAJO 1998 ROLAP
SCANDONOLLO, MAJE 80874
207 883.8387
WWW.GAWRONARCHITECTS.PC

AGENDA

**SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 20, 2019
REGULAR MEETING – 7:00 P.M.**

Order No. 19-010. Move approval on the annual "Seasonal Road Posting" for weight restrictions, if necessary, from February 21, 2019 to May 30, 2019. [*Director of Public Works*]

Director of Public Works

Ought to Pass

Sponsor

Recommendation

02/20/2019

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote



MEMO

TO: Tom Hall, Town Manager
FROM: Mike Shaw, Director of Public Works
DATE: February 20, 2019

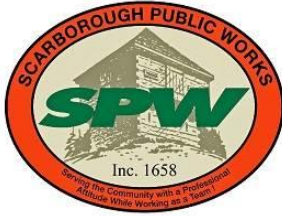
A handwritten signature in black ink, appearing to read "Mike Shaw".

RE: 2019 ROAD POSTING

To prevent heavy vehicle damage to the town's road network it is in Scarborough's best interest to post roads each year during the annual spring thaw,

Therefore, I am requesting permission to post the roads on the attached list as well as additional roads, as necessary due to weather conditions.

The posting period will be from **02/21/2019 to 05/30/2019**.



SCARBOROUGH, MAINE

NOTICE of 2019 POSTED ROADS

In an effort to minimize damage to Scarborough roads, it is the town's policy to post roads during the annual spring thaw. During the 2019 season roads will be posted in early March and may continue into May, or, until road conditions stabilize. *Look for signs indicating a road is posted.*

The following list of posted roads is subject to change at the discretion of the Public Works Director.

Road conditions become variable due to weather. Therefore, on a daily basis we may allow access to posted roads with limitations most often to early morning hours. If you have questions regarding access to a posted roads: please contact us at pwinfo@scarboroughmaine.org or call 730-4400.

Town of Scarborough

Posted Roads

2019

The following roads will be posted until the posting
is lifted by the Scarborough Public Works
Department.

Access to posted roads may be granted as weather permits.
Road conditions are evaluated on a ***daily*** basis during this time period.

To check on a road's status:

**<http://www.scarboroughmaine.org/departments/public-works>
or call 730-4400 & Press 2**

Ash Swamp Road	All
Bridges Drive	All
Burnham Road	All
Chamberlain Road	All
Commerce Drive	All
Coulthard Farms Road	All
Dresser Road	All
Fogg Road	All
Hanson Road	All
Hearn Road	All
Highland Avenue	Chamberlain Road to South Portland Line
Holmes Road	Beech Ridge Speedway to Saco Line
Jasper Street	All
Jones Creek Drive	All
King Street	All
Longmeadow Road	All
Milliken Mills Road	All
Mitchell Hill Road	All
New Road	All
Ocean Avenue	All
Old Blue Point Road	All
Pineledge Road	All
Ross Road	All
Sawyer Road	All
Tapley Road	All
Two Rod Road	Payne Road to Holmes Road
Woodfield Drive	All

Note: Other roads may be posted as deemed necessary by the Public Works Director.

AGENDA

**SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 20, 2019
REGULAR MEETING – 7:00 P.M.**

Order No. 19-011. Move approval on the request from David Hughes, Superintendent of the Scarborough Sanitary District, to appoint Paul Rodriquez, to fill a vacancy on the Board of Trustees, created by the relocation of Aubrey Strause to Brunswick, with a term to expire in 2019. [*Scarborough Sanitary District*]

Scarborough Sanitary District

Ought to Pass

Sponsor

Recommendation

02/20/2019

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote



415 Black Point Road, Scarborough, ME 04074

Ph: (207) 883-4663 Fax: (207) 883-7083 www.scarboroughsanitarydistrict.com

February 8, 2019

Tom Hall, Town Manager
Scarborough Municipal Building Main Level
259 U.S. Route 1 / P.O. Box 360
Scarborough, ME 04070-0360

Dear Tom;

One of the Sanitary District's Trustees, Aubrey Strause, recently purchased a house in Brunswick and will no longer reside in Scarborough as of March 15th. Her last meeting as a Trustee will be February 28th, after which the Sanitary District will have a vacancy on the Board.

In accordance with 38 M.R.S. § 1105, when a trustee moves out of town "the municipal officers of the municipality that the trustee represented shall fill the vacancy by electing a trustee from the municipality to serve until the municipality shall fill the vacancy at its next annual town meeting or next regular city election." In discussions with Philip Saucier of Bernstein Shur, this provisions gives the Scarborough Town Council the authority to appoint a trustee in the event of a vacancy who will serve until the next regular town election.

Paul Rodriguez of 258 Holmes Road has expressed a desire to fill this vacancy and is seeking this appointment to the Sanitary District Board of Trustees. Paul understands that this appointment would only be until the November election. He fully intends to run for the position and if elected, to continue to serve on the Board.

Paul is a licensed professional engineer. Since 2013, Paul has worked for the Portland Water District as a Project Engineer in Asset Management and Planning. His current focus is planning and development of the Capital Improvement Plan, capital improvement program management and project execution for the District's four wastewater treatment plants, 78 pump stations, interceptors and collection systems. Prior to working for PWD, Paul worked as a design engineer at Woodard and Curran for 15 years with a primary focus on wastewater processes. Paul has been a resident in Scarborough since 2002.

I want to thank the Council for considering Paul for this appointment.

Best Regards:

David Hughes, PE
Superintendent
Scarborough Sanitary District

cc: Tody Justice
Paul Rodriguez
Scarborough Sanitary District Board of Trustees