

**AGENDA  
SCARBOROUGH TOWN COUNCIL  
WEDNESDAY – OCTOBER 4, 2023  
COUNCIL WORKSHOP RE: IMPACT FEES – 5:30 P.M.  
HYBRID REGULAR MEETING – 6:30 P.M.**

**TO VIEW TOWN COUNCIL MEETING & OFFER PUBLIC COMMENT:**

<https://scarboroughmaine.zoom.us/j/82964652983>

**TO VIEW TOWN COUNCIL MEETING ONLY:**

<https://www.youtube.com/channel/UCD5Y8CFy5HpXMftV3xX73aw>

***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.

**Order No. 23-108.** Act on the request for an executive session pursuant to Title 1, M.R.S.A. §405(6)(D), regarding a personnel matter relating to the Town Manager's Employment Agreement. *[Chairman Anderson]*

**Item 4.** General Public Comments.

**Item 5.** Minutes: September 20, 2023 - Town Council Meeting.

**Item 6.** Adjustment to the Agenda.

**Item 7.** Items to be signed: a. Treasurer's Warrants.

**Item 8.** Town Manager Report.

- Town Council Goals Update

**Item 9.** Non-Action Item.

- Financial Report from Finance Director

**\*Procedure for Addressing Council [Councilor Chair will explain process]**

**Order No. 23-109, 7:00 p.m. Public hearing** on the Council Order approving the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program and schedule the first reading for Wednesday, October 18, 2023. *[Town Council]*

**Order No. 23-110, 7:00 p.m. Public hearing** on the Council Order approving the First Amendment to the Credit Enhancement Agreement between the Town of Scarborough, Maine and Crossroads Holdings LLC and schedule the first reading for Wednesday, October 18, 2023. *[Town Council]*

**Order No. 23-111, 7:00 p.m. Public hearing** and action on the new requests for Massage Therapist License from Kelsey Gifford, Jennifer Hannett, Gabrielle Heckman, and Kelsey Taylor, working at Family Chiropractic Associates, located at 20 Black Point Road. *[Town Clerk]*

**Order No. 23-112, 7:00 p.m. Public hearing** and action on the request for a new Food Handlers License, from Michael Shannon d/b/a Shannon's Best Buds, located at 10 Snow Canning Road #7A. *[Town Clerk]*

**OLD BUSINESS:**

**Order No. 23-113.** Act on the name posted to the various committees/boards, as recommended by the Appointments/Negotiations Committee at the September 20, 2023, Town Council meeting. *[Appointments/Negotiations Committee]*

**NEW BUSINESS:**

**Order No. 23-114.** First reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. *[Planning Director]*

**Order No. 23-115.** First reading and refer to the Planning Board, the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii. *[Planning Director]*

**Order No. 23-116.** First reading and schedule a public hearing and second reading for the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Planning Director]*

**Order No. 23-117.** First reading and schedule public hearing and action on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Watchtower, LLC, located at 137 Pleasant Hill Road for an Adult Cannabis Products Manufacturing Facility. *[Assistant Town Manager]*

**Item 10.** Standing and Special Committee Reports and Liaison Reports.

**Item 11.** Council Member Comments.

**Item 12.** Adjournment.

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-108.** Move approval on the request for an executive session pursuant to Title 1, M.R.S.A. §405(6)(D), regarding a personnel matter relating to the Town Manager’s Employment Agreement and return to regular session. *[Chairman Anderson]*

*Chairman Anderson*

*Ought to Pass*

\_\_\_\_\_  
Sponsor

\_\_\_\_\_  
Recommendation

*Vote:*

\_\_\_\_\_  
First Reading/Vote

*N/A*

\_\_\_\_\_  
Public Hearing

*N/A*

\_\_\_\_\_  
Second Reading/Final Approval/Vote



To: Scarborough Town Council  
From: Thomas J. Hall, Town Manager  
RE: Town Manager's Report  
Date: October 4, 2023

Below is an initial list of items that will be included in the Town Manager's Update at the regular public meeting of October 4, 2023. I will provide a verbal update on each of these items and will likely include other items of interest.

- **School Building project Update** -
  - Easterly Access Evaluation
  - Sawyer Road Improvements- Neighborhood Meeting -October 10 at 7 PM
  - Buyers Obligations under the Purchase Option Agreement -
    - Review of various items- Process and Timeline
- **Eastern Trail - Close The Gap**
- **Construction Project Updates:**
  - Spurwink Road - Active, good progress
  - Mitchell Hill Road
  - East Grand Paving- milling complete-crack sealing/shim/overlay
- **Ad Hoc Community Center Committee** - To attend next meeting
- **Update on Avenue 2 -Relocation of Beach Acces Path**
- **Update on Town Council Goals**



# Process Timeline

	Planning Board September 18	Town Council September 20	Town Council October 4	Planning Board October 10	Town Council October 18	Town Council November 8
Option Agreement Condition						
TIF Boundary			Public Hearing		1 <sup>st</sup> Reading	2 <sup>nd</sup> Reading
CEA Amendment			Public Hearing		1 <sup>st</sup> Reading	2 <sup>nd</sup> Reading
Zoning Map Change	Public Hearing				1 <sup>st</sup> Reading	Public Hearing and 2 <sup>nd</sup> Reading
CPD Buffer		1 <sup>ST</sup> Reading		Review and Comments		Public Hearing and 2 <sup>nd</sup> Reading
NOT Included in Option Agreement						
Downs Drive Through			1 <sup>ST</sup> Reading and Refer to Planning Board			Public Hearing and 2 <sup>nd</sup> Reading

# SCARBOROUGH MAINE



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## Town Council Goals Staff Updates – Volume 3

### Financial Management:

Deliver a 2024 Budget, comply with our Financial & Fiscal policy and give more attention to monitoring the financial health of the Town

A. Pursue a budget that allows for the appropriate amount of investment in our community, improving access and quality of amenities and is mindful of the financial impacts to our residents. The following items will be taken into consideration:

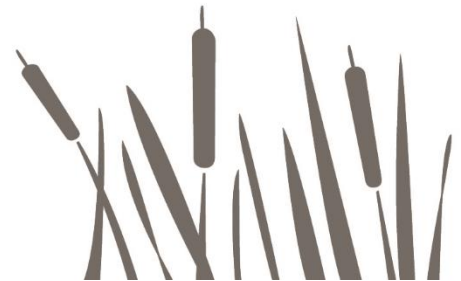
- Mil rate increase as close to +3% as possible. New mil rate = 15.85
- Gross Budget increase less than +5%. New Gross Budget in Budget Order <\$121.9M
- Target taxpayer funded Capital Spending (Overall Debt Service, Net Capital

Appropriation and money put into reserve accounts) at 14.4% (\$15.9M) of the overall Town, School & County Gross Budget.

### GOAL: FINANCIAL MANAGEMENT

#### DEPARTMENTS: TOWN MANAGER AND FINANCE

***A. No current update***



B. Provide a Quarterly Town Council Update/Health Check on Financial Execution at Town Council Meetings

C. Review the Town Financial and Fiscal Policy and assess compliance. Begin to document potential improvements to the budget process and capital planning with a lens to improve our debt rating.

## GOAL: FINANCIAL MANAGEMENT – CON'T.

**B. 10/4/23 UPDATE:** *Unaudited FY23 Year End Financial Report to be provided. Brief overview of YTD report on revenues and expenditures for FY24 Q1*

**C. 10/4/23 UPDATE:** *Finance Director's review of the Financial and Fiscal Policy underway, observations/recommendations forthcoming. Notable improvements to funding capital investments made in the FY24 budget. Finance Director will take a more active role in the FY25 budget process.*



## Housing Choice & Homelessness:

Study and determine steps to address homelessness in Scarborough, including addressing housing choice for affordable and workforce housing options

### A. (PRIORITY ACTION)

Homelessness: Provide public safety the necessary resources to conduct a needs analysis to identify the scope and cause of the challenge in Scarborough and begin to identify strategies and resource needs to address housing and services - with emphasis on leveraging federal, state, regional, outside agencies and foundation grant sources.

## GOAL: HOUSING CHOICE AND HOMELESSNESS

***A. 10/4/23 UPDATE:*** *The Social Services Division of Scarborough Police Department expanded with the hiring of a Social Services Coordinator. This position began on 07/10/2023 with the role to help support the Social Services Manager and individuals in the community with the navigation of basic referrals and follow up to ensure continuity in their care and adverse challenges/unmet needs they identify. The Social Services Coordinator is embedded at the Public Safety Building and is also responsible for running the Town's General Assistance Program.*

*Milestone's Hometeam contracted with the Town of Scarborough under the Cumberland County Community Block Grant and began their work on August 15th. Under this grant, the Hometeam is providing roughly 5 hours (30-40 hours in total) of direct service in Scarborough over the next 6-8 weeks. Hometeam is also available 1-5 p.m. Monday-Friday through an on-call method for officers through dispatch. The work of the Hometeam includes compassionately helping to compile data in regards to unhoused individuals in Scarborough that can then be analyzed with the goal of creating next steps and identifying gaps for unhoused individuals within the community. Hometeam includes a team of 2 staff members in a 12-passenger van, who can not only engage with the unhoused, but can also transport to additional services. Hometeam carries and distributes food, water, clothing and hygiene items to individuals, as well as, can provide initial assessment of medical issues and some first aid level of care directly to encampments 1 day of week by their contracted physician. The Social Services Manager is in communication with the Hometeam several times a week to ensure effective collaboration. Following this contract, the Town of Scarborough will be utilizing monies from the Opioid Settlement Fund to expand the work of the Hometeam in Scarborough until June 2024.*



- B. Establish a baseline and set goals and timing to achieve and maintain a target percentage of affordable and workforce housing (Housing Alliance)

**Residential Growth Management:**

Update our ordinances to better manage the pace and impacts of growth on the community

**DEPARTMENTS: PLANNING**

- A. Review and revise the Growth Management Ordinance (GMO) by June 30, 2023 to enhance the predictability of residential growth in Scarborough and make progress on prioritized elements of the Comprehensive Plan.

**GOAL: HOUSING CHOICE AND HOMELESSNESS - CON'T.**

**B. 10/4/23 UPDATE:** *The Alliance continues to support affordable housing projects, including recommend support through the Affordable Housing Initiative Fund as well as recommending support for requested Credit Enhancement Agreements.*

**GOAL: RESIDENTIAL GROWTH MANAGEMENT**

**A. 10/4/23 UPDATE:** *Adopted June 21, 2023*



## **GOAL: RESIDENTIAL GROWTH MANAGEMENT - CON'T**

**B. 10/4/23 UPDATE:** *Adopted July 19, 2023*

B. (PRIORITY ACTION) Revise zoning to better align with future growth goals: - Update Zoning Ordinance to ensure compliance with LD2003 prior to the law going into effect —

**C. 10/4/23 UPDATE:** *Workshop scheduled for October 4, 2023, regarding Phase 1 of implementation for updated School Impact Fee, a new Recreation Impact Fee and an update concerning the additions of new Traffic Impact Fees along the Payne Road Corridor..*

C. Revise zoning to better align with future growth goals: - Review and make recommendations to update existing Impact Fees and identify new areas for consideration (School, Traffic, Recreation, and new areas - e.g. Environmental).



## Strategic Capital & Facilities Planning:

Act on municipal and school facility needs to advance the new school and community center

- A. (PRIORITY ACTION) Partner with the Board of Education, School Department and School Building Committee in their pursuit for system-wide facilities needs in 2023
- B. Charge an Ad-hoc Committee with advising on Community Center site selection, design, budget estimates/impacts. The committee shall also consider town-wide space needs, including the Library, in their recommendations to leverage economies of scale in the design of the building.

## GOAL: STRATEGIC CAPITAL AND FACILITIES PLANNING

**A. 10/4/23 UPDATE:** *Town Council approved a Purchase Option Agreement for school site on September 6, 2023 and approved the referendum question for the Unified Primary School solution for the November 7, 2023 ballot.*

*Town continues to improve the Debt Model and forecasting for tax impact of various capital investments. Continued coordination with the School Building Committee regarding proper communication regarding estimated tax impacts*

**B. 10/4/23 UPDATE:** *The Ad-Hoc Committee has met twice and organized itself by electing a Chair and identifies a consistent meeting schedule. Staff continues to support this effort, supported by consulting assistance.*





C. Pursue land acquisition for municipal and school purposes.

**GOAL: STRATEGIC CAPITAL AND FACILITIES  
PLANNING – CON'T**

**C. 10/4/23 UPDATE:** *The preferred school site secured on September 6, 2023 with the approval of the Purchase Option Agreement. The Town Council is methodically addressing the various “Buyer’s Obligations” that are conditions of closing the land purchase*



## **Sustainability, Conservation & Climate Change:**

Develop a plan to conserve more land in Scarborough and better integrate conservation and sustainability principles into our planning processes

- A. Partner with the Conservation Commission, Parks & Land Conservation Board, & Scarborough Land Trust to define how Scarborough can achieve the "30 x 30" goal with a plan to support it by the end of 2023.

The plan may include recommendations in the following areas:

Develop a new evaluation system by the Parks & Land Conservation Board to identify and preserve land.

Understands specific actions that can be taken to better manage the Marsh.

Define baseline of what's available + adding wetlands.

Evaluate opportunities to incentivize more conservation within subdivisions that have use for public purposes.

## **GOAL: SUSTAINABILITY, CONSERVATION & CLIMATE CHANGE**

**A. 10/4/23 UPDATE:** *The Conservation Commission is working on an Environmental Standards Ordinance focusing on natural resource buffers. The Long Range Planning Committee is paralleling their efforts with a focus on ordinance framework.*

*Staff is working on the RFP for the Vulnerability Assessment to be released early November. The RFP for the Open Space Master Plan will also be released by the end of the year.*

*The Planning Department continues to work with the Scarborough Land Trust to identify potential lands for conservation as they come in for review.*



## GOAL: SUSTAINABILITY, CONSERVATION & CLIMATE CHANGE – CON'T

- B. Partner with the Conservation Commission & Sustainability Committee to:
- 1) Integrate into the Town's planning process, and
  - 2) Provide 2-3 recommendations that identify programs, resource needs and quick wins that lead to a more sustainable Scarborough by June 30th 2023.

**B. 10/4/23 UPDATE:** *The Conservation Commission is working on an Environmental Standards Ordinance focusing on natural resource buffers. The Long Range Planning Committee is paralleling their efforts with a focus on ordinance framework.*

*Staff is working on the RFP for the Vulnerability Assessment to be released early November. The RFP for the Open Space Master Plan will also be released by the end of the year.*

*Conservation Commission continues to be involved in the development process through the receipt of all development submittals and opportunity for comments.*



## GOAL: TRAFFIC AND TRANSPORTATION

### **Traffic & Transportation:**

Support transportation initiatives that will improve traffic flow in Scarborough

- A. Partner with the Transportation Committee with execution of the Town-Wide Transportation Study, which shall include assess and identify additional access points into school/municipal campus or reconfiguration to improve traffic flow.
- B. Continue to support the Gorham Connector to reduce traffic impacts in West & North Scarborough.

**A. 10/04/23 UPDATE:** *Staff has been working with the Transportation Committee and consultants to form small subcommittees to focus on detailed aspects of the master plan. The Town held a Public Transportation Open House to get feedback on targeted aspects of the plan including: Mobility, Safety, Pedestrian and Bike facilities, and the Re-envisioning of Haigis Parkway. General comments and concerns were also gathered. This will help inform the draft plan being developed.*

**B. 10/4/23 UPDATE:** *Director of Planning has participated in several meeting related to potential land use implications of the new roadway. Councilor Caterina and the Town Manager has contributed to an educational video that will be used a part of the public outreach campaign. Town has agreed to host at least one public meeting last this year.*



## Public Engagement & Communications:

Enhance our engagement with the public to facilitate decision making and build trust in our government

A. Maintain current levels of engagement including continuing with Councilor Corner and Council Corner Live.

B. Increase Council outreach efforts by conducting one new engagement effort in 2023 (e.g. "door knocking", BBQ

C. Fund a Town-wide survey in the 2024 budget to continue to monitor resident satisfaction

## GOAL: PUBLIC ENGAGEMENT AND COMMUNICATIONS

**A. 10/4/23 UPDATE:** *Ongoing staff support for these communication efforts.*

***B. No Update.***

**C. 10/4/23 UPDATE:** *Staff has supported the Communication Committee's efforts to finalize the survey instruments. Survey questions finalized in September 2023, survey to be administered in October with results available for the new Town Council to consider in annual goal setting.*



**To: Members of the Scarborough Town Council**

**From: Thomas J. Hall, Town Manager**

**Date: October 4, 2023**

**Re: Town Council Goals Staff Updates - Volume 3**

Goal Statement	Key Actions
<b>Financial Management:</b> Deliver a 2024 Budget, comply with our Financial & Fiscal policy and give more attention to monitoring the financial health of the Town	<p>(PRIORITY ACTION) Pursue a budget that allows for the appropriate amount of investment in our community, improving access and quality of amenities and is mindful of the financial impacts to our residents. The following items will be taken into consideration:</p> <ul style="list-style-type: none"> <li>- Mil rate increase as close to +3% as possible. New mil rate = 15.85</li> <li>- Gross Budget increase less than +5%. New Gross Budget in Budget Order &lt;\$121.9M</li> <li>- Target taxpayer funded Capital Spending (Overall Debt Service, Net Capital Appropriation and money put into reserve accounts) at 14.4% (\$15.9M) of the overall Town, School &amp; County Gross Budget.</li> </ul> <p>Provide a Quarterly Town Council Update/Health Check on Financial Execution at Town Council Meetings</p> <p>Review the Town Financial and Fiscal Policy and assess compliance. Begin to document potential improvements to the budget process and capital planning with a lens to improve our debt rating.</p>
<b>Housing Choice &amp; Homelessness:</b> Study and determine steps to address homelessness in Scarborough, including addressing housing choice for affordable and workforce housing options	<p>(PRIORITY ACTION) Homelessness: Provide public safety the necessary resources to conduct a needs analysis to identify the scope and cause of the challenge in Scarborough and begin to identify strategies and resource needs to address housing and services - with emphasis on leveraging federal, state, regional, outside agencies and foundation grant sources.</p> <p>Establish a baseline and set goals and timing to achieve and maintain a target percentage of affordable and workforce housing (Housing Alliance)</p>
<b>Residential Growth Management:</b> Update our ordinances to better	<p>(PRIORITY ACTION) Review and revise the Growth Management Ordinance (GMO) by June 30, 2023 to enhance the predictability of residential growth in Scarborough and make progress on prioritized elements of the Comprehensive Plan.</p>

manage the pace and impacts of growth on the community	<p><b>(PRIORITY ACTION)</b> Revise zoning to better align with future growth goals and at a minimum:</p> <ul style="list-style-type: none"> <li>- Update Zoning Ordinance to ensure compliance with LD2003 prior to the law going into effect - Updates: Scheduled for Town Council July 5th.</li> <li>- Review and make recommendations to update existing Impact Fees and identify new areas for consideration (School, Traffic, Recreation, and new areas - e.g. Environmental)</li> </ul>
<p><b>Strategic Capital &amp; Facilities Planning:</b></p> <p>Act on municipal and school facility needs to advance the new school and community center</p>	<p><b>(PRIORITY ACTION)</b> Partner with the Board of Education, School Department and School Building Committee in their pursuit for system-wide facilities needs in 2023</p> <p><b>(PRIORITY ACTION)</b> Charge an Ad-hoc Committee with advising on Community Center site selection, design, budget estimates/impacts. The committee shall also consider town-wide space needs, including the Library, in their recommendations to leverage economies of scale in the design of the building.</p> <p>Pursue land acquisition for municipal and school purposes</p>
<p><b>Sustainability, Conservation &amp; Climate Change:</b></p> <p>Develop a plan to conserve more land in Scarborough and better integrate conservation and sustainability principles into our planning processes</p>	<p><b>(PRIORITY ACTION)</b> Partner with the Conservation Commission, Parks &amp; Land Conservation Board, &amp; Scarborough Land Trust to define how Scarborough can achieve the "30 x 30" goal with a plan to support it by the end of 2023. The plan may include recommendations in the following areas:</p> <ul style="list-style-type: none"> <li>- Develop a new evaluation system by the Parks &amp; Land Conservation Board to identify and preserve land.</li> <li>- Understands specific actions that can be taken to better manage the Marsh.</li> <li>- Define baseline of what's available + adding wetlands</li> <li>- Evaluate opportunities to incentivize more conservation within subdivisions that has use for public purposes</li> </ul> <p>Partner with the Conservation Commission &amp; Sustainability Committee to:</p> <ol style="list-style-type: none"> <li>1) Integrate into the Town's planning process, and</li> <li>2) Provide 2-3 recommendations that identify programs, resource needs and quick wins that lead to a more sustainable Scarborough by June 30th 2023</li> </ol>
<p><b>Traffic &amp; Transportation:</b></p> <p>Support transportation initiatives that will improve traffic flow in Scarborough</p>	<p>Partner with the Transportation Committee with execution of the Town-Wide Transportation Study, which shall include assess and identify additional access points into school/municipal campus or reconfiguration to improve traffic flow.</p> <p>Continue to support the Gorham Connector to reduce traffic impacts in West &amp; North Scarborough</p>
<p><b>Public Engagement &amp; Communications:</b></p> <p>Enhance our engagement with the public to facilitate decision making and build trust in our government</p>	<p>Maintain current levels of engagement including continuing with Councilor Corner and Council Corner Live.</p> <p>Increase Council outreach efforts by conducting one new engagement effort in 2023 (e.g. "door knocking", BBQ)</p> <p>Fund a Town-wide survey in the 2024 budget to continue to monitor resident satisfaction</p>

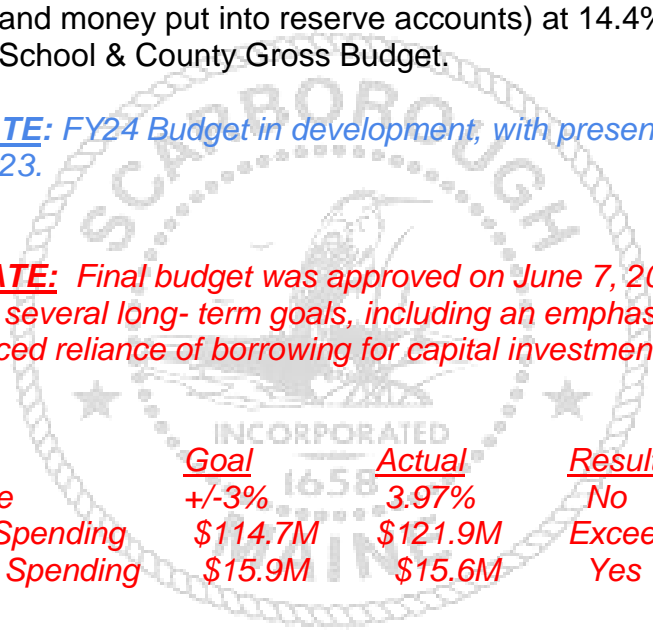
## **GOAL: FINANCIAL MANAGEMENT**

### **DEPARTMENTS: TOWN MANAGER AND FINANCE**

- A. Pursue a budget that allows for the appropriate amount of investment in our community, improving access and quality of amenities and is mindful of the financial impacts to our residents. The following items will be taken into consideration:
- Mil rate increase as close to +3% as possible. New mil rate = 15.85
  - Gross Budget increase less than +5%. New Gross Budget in Budget Order <\$121.9M
  - Target taxpayer funded Capital Spending (Overall Debt Service, Net Capital Appropriation and money put into reserve accounts) at 14.4% (\$15.9M) of the overall Town, School & County Gross Budget.

***3/1/23 UPDATE:** FY24 Budget in development, with presentation scheduled for March 29, 2023.*

***6/21/23 UPDATE:** Final budget was approved on June 7, 2023, and accomplished several long- term goals, including an emphasis on building fund balance, reduced reliance of borrowing for capital investments and key new investments.*



	<u>Goal</u>	<u>Actual</u>	<u>Result</u>
Mil Rate	+/-3%	3.97%	No
Gross Spending	\$114.7M	\$121.9M	Exceeded
Capital Spending	\$15.9M	\$15.6M	Yes

- B. Provide a Quarterly Town Council Update/Health Check on Financial Execution at Town Council Meetings.

***3/1/23 UPDATE:** Detailed discussion regarding Fund Balance is scheduled for the March 8, 2023 Finance Committee meeting. Financial reports and Fund Balance discussion scheduled at the regular Town Council meeting on March 15, 2023.*

***6/21/23 UPDATE:** Financial Reports provided by Finance Director and Town Manager on June 21, 2023. New software (Executive Insights) procured that will allow enhance reporting- to be used starting at the next report.*

***10/4/23 UPDATE:** Unaudited FY23 Year End Financial Report to be provided. Brief overview of YTD report on revenues and expenditures for FY24 Q1.*



- c. Review the Town Financial and Fiscal Policy and assess compliance. Begin to document potential improvements to the budget process and capital planning with a lens to improve our debt rating.

***3/1/23 UPDATE:** Finance Director immersed in audit finalization and FY24 budget preparation. It is expected that the detailed review and recommendations regarding the Financial and Fiscal Policy will occur during the summer and fall months.*

***6/21/23 UPDATE:** Staff still committed to timeline previously established.*

***10/4/23 UPDATE:** Finance Director's review of the Financial and Fiscal Policy underway, observations/recommendations forthcoming. Notable improvements to funding capital investments made in the FY24 budget. Finance Director will take a more active role in the FY25 budget process.*

## **GOAL: HOUSING CHOICE AND HOMELESSNESS**

### **DEPARTMENTS: POLICE/SOCIAL SERVICES AND TOWN MANAGER**

- A. Provide public safety the necessary resources to conduct a needs analysis to identify the scope and cause of the challenge in Scarborough and begin to identify strategies and resource needs to address housing and services - with emphasis on leveraging federal, state, regional, outside agencies and foundation grant sources.

***3/1/23 UPDATE:** Town Manager intends to include an additional staff member to assist the Social Service Navigator, which will include the administration of General Assistance.*

***6/21/23 UPDATE:** The approved FY24 includes funding for an additional position that will administer General Assistance and provide support to the Social Service Navigator.*

*Additional award of \$5000 for the CDBG grant to study homelessness in Scarborough, total funding of \$20,000.*

***10/4/23 UPDATE:** The Social Services Division of Scarborough Police Department expanded with the hiring of a Social Services Coordinator. This position began on 07/10/2023 with the role to help support the Social Services Manager and individuals in the community with the navigation of basic referrals and follow up to ensure continuity in their care and adverse challenges/unmet needs they identify. The Social Services Coordinator is embedded at the Public Safety Building and is also responsible for running the Town's General Assistance Program.*

Milestone's Hometeam contracted with the Town of Scarborough under the Cumberland County Community Block Grant and began their work on August 15th. Under this grant, the Hometeam is providing roughly 5 hours (30-40 hours in total) of direct service in Scarborough over the next 6-8 weeks. Hometeam is also available 1-5 p.m. Monday-Friday through an on-call method for officers through dispatch. The work of the Hometeam includes compassionately helping to compile data in regards to unhoused individuals in Scarborough that can then be analyzed with the goal of creating next steps and identifying gaps for unhoused individuals within the community. Hometeam includes a team of 2 staff members in a 12-passenger van, who can not only engage with the unhoused, but can also transport to additional services. Hometeam carries and distributes food, water, clothing and hygiene items to individuals, as well as, can provide initial assessment of medical issues and some first aid level of care directly to encampments 1 day of week by their contracted physician. The Social Services Manager is in communication with the Hometeam several times a week to ensure effective collaboration. Following this contract, the Town of Scarborough will be utilizing monies from the Opioid Settlement Fund to expand the work of the Hometeam in Scarborough until June 2024.

- .....
- B. Establish a baseline and set goals and timing to achieve and maintain a target percentage of affordable and workforce housing (Housing Alliance).

**3/1/23 UPDATE:** The Housing Alliance has provided input to the GMO discussion and expressed preference for exemptions for affordable and workforce housing.

Housing Alliance has considered the request for funding for the Safe in Maine program through GPCOG to the “new Mainers” seeking asylum. The recommendation of \$50,000 from the Affordable Housing Initiative Fund will be advanced to the Town Council for consideration

**6/21/23 UPDATE:** This item is scheduled for discussion at the next Housing Alliance meeting.

**10/4/23 UPDATE:** The Alliance continues to support affordable housing projects, including recommend support through the Affordable Housing Initiative Fund as well as recommending support for requested Credit Enhancement Agreements.

## **GOAL: RESIDENTIAL GROWTH MANAGEMENT**

### **DEPARTMENTS: PLANNING**

- A. Review and revise the Growth Management Ordinance (GMO) by June 30, 2023 to enhance the predictability of residential growth in Scarborough and make progress on prioritized elements of the Comprehensive Plan.

**3/1/23 UPDATE:** *In process and on-schedule for April review*

**6/21/23 UPDATE:** *In process and on-schedule for adoption June 21, 2023*

**10/4/23 UPDATE:** *Adopted June 21, 2023*

- B. Revise zoning to better align with future growth goals:
- Update Zoning Ordinance to ensure compliance with LD2003 prior to the law going into effect –

**3/1/23 UPDATE:** *Workshop Scheduled for April 2023*

**6/21/23 UPDATE:** *Planning Board Workshop and Public Hearing scheduled for June 26, 2023. The State granted a six-month time extension for the ordinance to go into effect; however, the adoption process is underway and final reading is anticipated in July 2023*

**10/4/23 UPDATE:** *Adopted July 19, 2023*

- C. Revise zoning to better align with future growth goals:
- Review and make recommendations to update existing Impact Fees and identify new areas for consideration (School, Traffic, Recreation, and new areas - e.g. Environmental).

**3/1/23 UPDATE:** *The Town Manager is tasked with preparing a “plan” regarding the implementation of new impact fees. It is expected a workshop will be scheduled to review the statutory framework that must be followed.*

*Initial thinking includes the pursuit of new impact fees in a series of phases as the requisite rationale is available. Perhaps the first fee considered is a Recreation Impact Fee ordinance draft is being developed. The Town Council is scheduled to accept the Parks Master Plan on March 1, 2023. The Parks Master plan provides the detailed estimates required to assess the impact fees. A draft ordinance is anticipated to be ready for Community Services Advisory Committee review and Ordinance Committee review in April/May with potential adoption in June/July.*

**6/21/23 UPDATE:** *On June 7, 2023tThe Town Manager provided an overview of impacts fees and suggested a phased plan for implementation of new fees. It is anticipated that an updated School fee, two new Traffic fees and a new Recreation fee will be ready for consideration in Fall 2023. Other fees to include additional Traffic fees and an Open Space/Conservation fee will be considered once proper documentation and rationale are established.*

*The draft Recreation Impact Fee is anticipated to be ready for review in the fall of 2023.*

*The additions to the Traffic Impact Fee ordinance are being discussed with the Town Engineer. The first phase of new Traffic impact Fees includes the Nonesuch River crossing on Payne Road and potentially, intersection improvements at Ginn Road and Payne Road and a widened bridge deck over the Nonesuch River on Gorham Road. The estimates for the Ginn Road improvements are contingent on a private development occurring. As part of their off-site improvements staff has requested the intersection design and estimates necessary to create the impact fee as an equitable contribution to the intersection improvements. The timing for estimates being complete is May 2023. Once these estimates are complete we can work with our Traffic Engineer to develop a per trip fee and create the draft ordinance for review by the Ordinance Committee. This is anticipated in June/July 2023 with potential adoption in August.*

*The estimates are not complete at this time. The per trip fee calculation work and revised ordinance is anticipated to be ready for review in the fall of 2023.*

*It is anticipated that the Transportation Master Plan, to be completed in early 2024, will inform the next phases of traffic impact fees. The 2025 CIP request includes Phase 2 of the Traffic impact Fee Study which would be completed after the completion of the Transportation Master Plan and provide more detailed information on design and cost estimates from which additional traffic impact fee can be established.*

*The 2024 CIP requests include an Open Space Conservation Plan that would identify locations to create opportunities for small and large open space areas that could be used for passive park space, trail connections or other conservation opportunities. These efforts would go hand in hand with our Climate Action Plan and would aid in protecting natural resources and cultural heritage. This plan will also lead to the development of a conservation and open space ordinance or impact fee.*

*The Open Space Master Plan was approved through the budgeting process. Staff will begin working on the RFP for this plan in the coming months.*

**10/4/23 UPDATE:** *Workshop scheduled for October 4, 2023, regarding Phase 1 of implementation for updated School Impact Fee, a new Recreation Impact Fee and an update concerning the additions of new Traffic Impact Fees along the Payne Road Corridor..*

## **GOAL: STRATEGIC CAPITAL AND FACILITIES PLANNING**

### **DEPARTMENTS:**

- A. Partner with the Board of Education, School Department and School Building Committee in their pursuit for system-wide facilities needs in 2023.

**3/1/23 UPDATE:** *FY24 CIP request includes a Town-Wide Facilities Condition Assessment.*

**6/21/23 UPDATE:** *Immense effort underway. Update Business Case provided to justify the proposed Unified School proposal. The Town has been lead negotiator to secure land suitable for a school and/or other municipal facilities.*

**10/4/23 UPDATE:** *Town Council approved a Purchase Option Agreement for school site on September 6, 2023 and approved the referendum question for the Unified Primary School solution for the November 7, 2023 ballot.*

*Town continues to improve the Debt Model and forecasting for tax impact of various capital investments. Continued coordination with the School Building Committee regarding proper communication regarding estimated tax impacts.*

- B. Charge an Ad-hoc Committee with advising on Community Center site selection, design, budget estimates/impacts. The committee shall also consider town-wide space needs, including the Library, in their recommendations to leverage economies of scale in the design of the building.

**3/1/23 UPDATE:** *Staff has prepared a draft Committee Charge which has been referred to the Appointments and Negotiations Committee. Initial discussion of ANC occurred on February 8, 2023, with more substantive review scheduled for the next meeting.*

**6/21/23 UPDATE:** *Town Council adopted Order No.23-030 on April 19, 2023 to establish the Ad-Hoc Community Center Advisory Committee and to provide a clear charge and mandate. Thorough effort undertaken to advertise for appointments to the Committee. The ANC met on June 14, 2023 and have recommendation for consideration at the July 19 town Council meeting.*

**10/4/23 UPDATE:** *The Ad-Hoc Committee has met twice and organized itself by electing a Chair and identifies a consistent meeting schedule. Staff continues to support this effort, supported by consulting assistance.*

- C. Pursue land acquisition for municipal and school purposes.

**3/1/23 UPDATE:** *Town Manager and Town Council Leadership actively involved in negotiations with a land owner. Town Manager is pursuing two other potential opportunities. As negotiations proceed, the expectation is to schedule an executive session to brief the Town Council (and Board of Education) on the particulars.*



**6/21/23 UPDATE:** *The Town has secure land with a Letter of Intent. Appraisals are underway to inform Purchase Price as well as detailed review of potential off-site costs. Assuming Purchase Price is agreed to and all costs are identified, an Option Agreement is expected in July 2023.*

**10/4/23 UPDATE:** *The preferred school site secured on September 6, 2023 with the approval of the Purchase Option Agreement. The Town Council is methodically addressing the various "Buyer's Obligations" that are conditions of closing the land purchase.*

## **GOAL: SUSTAINABILITY, CONSERVATION & CLIMATE CHANGE**

### **DEPARTMENTS: PLANNING, ENGINEERING, COMMUNITY SERVICES**

- A. Partner with the Conservation Commission, Parks & Land Conservation Board, & Scarborough Land Trust to define how Scarborough can achieve the "30 x 30" goal with a plan to support it by the end of 2023.

The plan may include recommendations in the following areas:

- Develop a new evaluation system by the Parks & Land Conservation Board to identify and preserve land.
- Understands specific actions that can be taken to better manage the Marsh.
- Define baseline of what's available + adding wetlands.
- Evaluate opportunities to incentivize more conservation within subdivisions that have use for public purposes.

**3/1/23 UPDATE:** *The Conservation Commission is working on defining what is included in the 30x30 goal. At this point they are suggesting the marsh not be included in the overall acreage. This is still in discussion. The 2024 CIP requests include a Vulnerability Assessment which is part of a climate action and adaptation plan (it represents the "adaptation" portion of the plan). The vulnerability assessment will identify areas and infrastructure that are most susceptible to damage from sea level rise and help prioritize where investments are needed. Understanding how sea level rise will affect Scarborough residents, businesses, and the community services and infrastructure we rely on is the first and most crucial step in building a prepared, resilient community.*

*The 2024 CIP requests also includes an Open Space Conservation Plan that would identify locations to create opportunities for small and large open space areas that could be used for passive park space, trail connections or other conservation opportunities. These efforts would go hand in hand with our Climate Action Plan and would aid in protecting natural resources and cultural heritage. This plan will also lead to the development of a conservation and open space ordinance or impact fee.*

**6/21/23 UPDATE:** On April 19, 2023 the Town Council conducted a workshop with the Conservation Commission, the Parks and Conservation Land Board and the Scarborough Land Trust to discuss conservation goals and strategies.

On June 7, 2023, the Town Council meeting unanimously adopted Resolution 23-003, originally put forth by the Scarborough Conservation Commission to support the 30x30 campaign, which is an effort to conserve at least 30% of Scarborough's land by 2030. The formation of an Ad-Hoc Committee to focus on conservation efforts is under consideration.

The Open Space Master Plan and Vulnerability Assessment were both approved through the budgeting process. Staff will begin working on the RFP's for both of these projects in the coming months.

**10/4/23 UPDATE:** The Conservation Commission is working on an Environmental Standards Ordinance focusing on natural resource buffers. The Long Range Planning Committee is paralleling their efforts with a focus on ordinance framework.

Staff is working on the RFP for the Vulnerability Assessment to be released early November. The RFP for the Open Space Master Plan will also be released by the end of the year.

The Planning Department continues to work with the Scarborough Land Trust to identify potential lands for conservation as they come in for review.

- B. Partner with the Conservation Commission & Sustainability Committee to:
- 1) Integrate into the Town's planning process, and
  - 2) Provide 2-3 recommendations that identify programs, resource needs and quick wins that lead to a more sustainable Scarborough by June 30th 2023.

**3/1/23 UPDATE:** Planning Staff met with the Conservation Commission on January 9, 2023 to outline potential integration into the Town's planning process. The Conservation Commission has specific review authority under Town ordinances:

- Transfer of Development Rights are Proposed
- Planned Developments are Proposed (Master Plan Phase)

Planning Staff has integrated the Commission into the Development Review Team process. The Commission worked to create a review checklist and presented their first round of comments to the Planning Board at their February 21, 2023 meeting. We anticipate this process will continue and they will be able to provide comments as appropriate moving forward.

They are also working to revise the Town's approved plant list and ensuring it includes the appropriate native species and removes any invasive species.

*Two specific proposals that the Engineering Department is working with the Planning Board on and for which this is great opportunity for collaboration with the Conservation Commission:*

- Updates to the Post-Construction Stormwater Ordinance that includes better defining applicable projects and areas in Town that must meet the Ordinance requirements, as well as providing necessary enforcement actions and compliance timelines for projects.*
- Creating an Erosion & Sediment Control Ordinance that would provide the Town with a higher level of enforcement for environmental impacts during all construction project activities in town.*

***6/21/23 UPDATE:*** *The Open Space Master Plan and Vulnerability Assessment were both approved through the budgeting process. Staff will begin working on the RFP's for both of these projects in the coming months.*

*Integration of the Conservation Commission into the Planning process is underway and ongoing.*

***10/4/23 UPDATE:*** *The Conservation Commission is working on an Environmental Standards Ordinance focusing on natural resource buffers. The Long Range Planning Committee is paralleling their efforts with a focus on ordinance framework.*

*Staff is working on the RFP for the Vulnerability Assessment to be released early November. The RFP for the Open Space Master Plan will also be released by the end of the year.*

*Conservation Commission continues to be involved in the development process through the receipt of all development submittals and opportunity for comments.*

## **GOAL: TRAFFIC AND TRANSPORTATION**

### **DEPARTMENTS: ENGINEERING, PLANNING**

- A. Partner with the Transportation Committee with execution of the Town-Wide Transportation Study, which shall include assess and identify additional access points into school/municipal campus or reconfiguration to improve traffic flow.

***3/1/23 UPDATE:*** *Traffic Consultants will be discussing the draft scope of the Transportation Master Plan with the Transportation Committee on January 28, 2023.*

***6/21/23 UPDATE:*** *Consultants have been selected and the Transportation Master Plan project is underway. Public input is planned for fall 2023 and a final plan winter 23/24. The Transportation Committee and staff are taking the lead on this project.*



**10/04/23 UPDATE:** Staff has been working with the Transportation Committee and consultants to form small subcommittees to focus on detailed aspects of the master plan. The Town held a Public Transportation Open House to get feedback on targeted aspects of the plan including: Mobility, Safety, Pedestrian and Bike facilities, and the Re-envisioning of Haigis Parkway. General comments and concerns were also gathered. This will help inform the draft plan being developed.

- B. Continue to support the Gorham Connector to reduce traffic impacts in West & North Scarborough.

**3/1/23 UPDATE:** Staff attended MTA's monthly meeting on February 22, 2023. They presented proposals that will be reviewed by the Army Corp of Engineers and began discussing potential public outreach groups and opportunities.

**6/21/23 UPDATE:** There has been little activity on this project as federal permitting is ongoing. The Town Manager authored an OpEd for the Portland Press Herald expressed advocacy and support for the project.

**10/4/23 UPDATE:** Director of Planning has participated in several meeting related to potential land use implications of the new roadway. Councilor Caterina and the Town Manager has contributed to an educational video that will be used a part of the public outreach campaign. Town has agreed to host at least one public meeting last this year.

## **GOAL: PUBLIC ENGAGEMENT AND COMMUNICATIONS**

### **DEPARTMENTS:**

- A. Maintain current levels of engagement including continuing with Councilor Corner and Council Corner Live.

**3/1/23 UPDATE:** Next Council Corner Live event is scheduled for March 2, 2023. Town Staff continue to provide technical support to this effort.

**6/21/23 UPDATE:** The next session is scheduled for June 27, 2023 on the topic of the Unified School Project. Town staff continues to provide technical and planning support for this effort.

**10/4/23 UPDATE:** Ongoing staff support for these communication efforts.

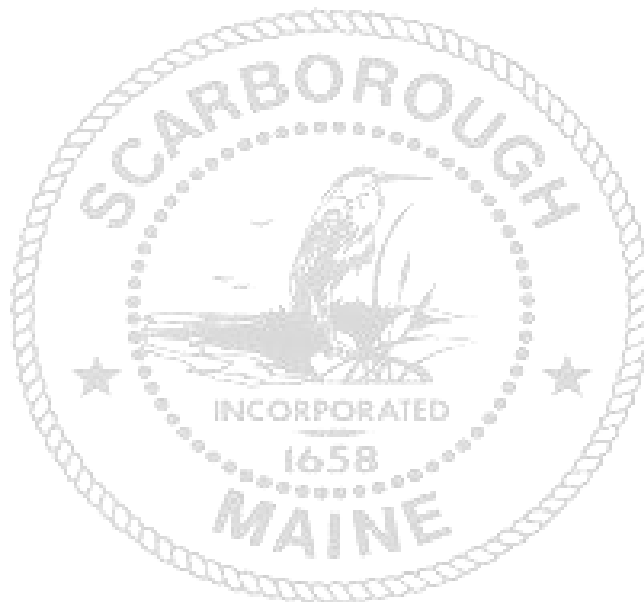
- B. Increase Council outreach efforts by conducting one new engagement effort in 2023 (e.g. "door knocking", BBQ

- c. Fund a Town-wide survey in the 2024 budget to continue to monitor resident satisfaction

**3/1/23 UPDATE:** *Town Manager intend to include funding in the FY24 budget for an update to the community survey*

**6/21/23 UPDATE:** *Funds for updated survey included in approved FY24 budget. Questions under development, expected Fall 2023 to go live.*

**10/4/23 UPDATE:** *Staff has supported the Communication Committee's efforts to finalize the survey instruments. Survey questions finalized in September 2023, survey to be administered in October with results available for the new Town Council to consider in annual goal setting.*





**TOWN OF SCARBOROUGH**  
**Executive Summary for the period ending June 30, 2023**

Attached is a preliminary look at fiscal year 2023 results. The Finance Department continues to prepare and submit schedules to the external auditors for preparation of the Annual Comprehensive Financial Report (ACFR). The plan is for the completion of the ACFR in mid-November allowing for a cushion prior to the December 30 deadline should the schedule need to be altered. *The quarterly reports attached herein, are unaudited and the numbers could change as we work through the various year end processes and adjusting journal entries.*

**Positive indicators:**

Overall, the municipal departments spent 97% of their budget. Exceptions are the Executive and the Public Health and Welfare Departments. Total revenues collected were at 98.2% of the annual estimate. State revenue sharing was 109.7% of the annual estimate. Excise tax revenues were 103.9% of the annual estimate. Building and Electrical permits collections were 131% and 143.1%, respectively, of the estimate. Finally, the property tax collections were 99.3% compared to 100.4% collected last year. The ten-year average for property tax collections is 98.96%.

**Negative indicators:**

The Town was not able to sell bonds in fiscal year 202. An estimated \$805,000 of bond proceeds were budgeted for the general fund. Community Services collected 96.7% of their estimated revenues due to the inability to hire sufficient staff to offer all programs budgeted. To offset this shortfall, they expended only 97.9% of their appropriations.

General Assistance was overspent \$58,481 in Emergency Housing, \$85,440 in General Assistance Housing, and \$21,149 in General Assistance Food; however, the town is governed by the State's guidelines as adopted by the Town. The town also receives reimbursement from the State for general assistance and this reimbursement was 399.8% of estimated collections.

**Fund Balance:**

Annually, the fund balance is updated. This year's update will occur near the completion of the annual audit. Per our fund balance policy, the Town's goal is to maintain unassigned fund balance equal to 10% of the prior year operating budget, not to fall below 8.33%. at the end of fiscal 2022, unassigned fund balance represented 10.04% of prior year budgeted expenditures which exceeded the Town's goal. As of this report, there is a surplus of revenues over expenditure, thus we can project an increase in the unassigned fund balance percentage at the end of fiscal 2023.

Respectfully submitted,

Norman Kildow  
Finance Director

**Town of Scarborough  
Comparative Year To Date Expenditures**

	Through June 30, 2023 - Unaudited					Through June 30, 2022				
	Revised Appropriation	YTD Expended	Encumb	Available Budget	Percent Used	Revised Appropriation	YTD Expended	Encumb	Available Budget	Percent Used
<b>1100 General Fund</b>										
55 Legislative	11,573	11,367	-	206.00	98.2%	11,573	10,875	-	698.00	94.0%
56 Executive	3,489,687	3,810,968	-	(321,281.00)	109.2%	3,410,138	3,958,238	2,536.00	(550,636.00)	116.1%
57 Finance	1,385,174	1,310,811	1,934.00	72,429.00	94.8%	1,314,927	1,231,303	6,006.00	77,618.00	94.1%
58 Management Information Systems	1,798,078	1,676,505	22,369.00	99,204.00	94.5%	1,603,775	1,452,876	8,677.00	142,222.00	91.1%
59 Planning	1,343,170	1,243,083	28,000.00	72,087.00	94.6%	1,210,012	1,052,786	12,180.00	145,046.00	88.0%
62 Community Services	3,212,109	3,138,137	5,596.00	68,376.00	97.9%	2,905,735	2,885,820	7,977.00	11,938.00	99.6%
63 Library	1,108,633	1,108,633	-	-	100.0%	1,071,119	1,071,119	-	-	100.0%
66 Public Health & Welfare	116,010	292,778	-	(176,768.00)	252.4%	105,813	97,570	-	8,243.00	92.2%
68 SEDCo	268,510	271,353	-	(2,843.00)	101.1%	258,326	259,687	-	(1,361.00)	100.5%
97 Other Public Service	-	-	-	-	0.0%	-	-	-	-	0.0%
71 Fire Services	6,677,161	6,765,874	3,314.00	(92,027.00)	101.4%	6,261,923	6,290,951	38,132.00	(67,160.00)	101.1%
72 Police Services	8,054,576	7,656,575	2,076.00	395,925.00	95.1%	7,583,068	6,916,113	58,309.00	608,646.00	92.0%
81 Public Works	7,813,928	7,586,752	57,979.00	169,197.00	97.8%	7,452,764	7,075,339	68,037.00	309,388.00	95.8%
83 Engineering/Technical	-	-	-	-	0.0%	17,000	1,571	-	15,429.00	9.2%
85 Debt	6,733,651	6,388,650	-	345,001.00	94.9%	6,287,816	6,361,084	-	(73,268.00)	101.2%
86 Intragovernmental	-	-	-	-	0.0%	229	229	-	-	100.0%
91 County Tax	3,119,411	3,119,411	-	-	100.0%	3,081,933	3,081,933	-	-	100.0%
94 Capital Equipment	2,290,205	1,885,665	249,989.00	154,551.00	93.3%	2,507,669	1,611,570	414,796.00	481,303.00	80.8%
97 Other	3,878,883	3,590,586	-	288,297.00	92.6%	2,143,416	1,438,754	-	704,662.00	67.1%
<b>Total General Fund Expenditures</b>	<b>51,300,759</b>	<b>49,857,148</b>	<b>371,257.00</b>	<b>1,072,354.00</b>	<b>97.9%</b>	<b>47,227,236</b>	<b>44,797,818</b>	<b>616,650.00</b>	<b>1,812,768.00</b>	<b>96.2%</b>
Fund 7150 Adult Education	184,370	153,920	-	30,450.00	83.5%	179,639	147,602	-	32,037.00	82.2%
Fund 7100 Total School General Fund	58,801,486	56,626,282	-	2,175,204.00	96.3%	55,686,517	54,076,593	-	1,609,924.00	97.1%
<b>Total School General Fund Expenditures</b>	<b>58,985,856</b>	<b>56,780,202</b>	<b>-</b>	<b>2,205,654.00</b>	<b>96.3%</b>	<b>55,866,156</b>	<b>54,224,195</b>	<b>-</b>	<b>1,641,961.00</b>	<b>97.1%</b>
<b>Grand Total</b>	<b>110,286,615</b>	<b>106,637,350</b>	<b>371,257.00</b>	<b>3,278,008.00</b>	<b>97.0%</b>	<b>103,093,392</b>	<b>99,022,013</b>	<b>616,650.00</b>	<b>3,454,729.00</b>	<b>96.6%</b>

**12 Months = 100%**

**Town of Scarborough  
Comparative Year To Date Revenues**

	<b>Through June 30, 2023 - Unaudited</b>			<b>Through June 30, 2022</b>		
	<b>Revised</b>			<b>Revised</b>		
	<b>Estimated</b>	<b>Actual YTD</b>	<b>%</b>	<b>Estimated</b>	<b>Actual YTD</b>	<b>%</b>
	<b><u>Revenue</u></b>	<b><u>Revenue</u></b>	<b><u>Collected</u></b>	<b><u>Revenue</u></b>	<b><u>Revenue</u></b>	<b><u>Collected</u></b>
<b><u>1100 General Fund</u></b>						
90 Taxes	30,941,690	31,044,206	100.3%	29,127,939	29,194,907	100.2%
91 Interest On Delinquent Taxes	68,000	58,624	86.2%	70,000	58,620	83.7%
92 Licenses And Permits	1,064,590	1,289,106	121.1%	921,480	1,128,607	122.5%
93 Intergovernmental Revenues	6,221,504	6,700,824	107.7%	5,855,256	5,611,934	95.8%
94 Charge For Services	6,992,661	7,154,087	102.3%	6,810,789	6,216,817	91.3%
95 Fines Forfeits And Assessments	94,700	61,663	65.1%	94,700	91,282	96.4%
96 Miscellaneous Revenues	806,341	1,093,032	135.6%	881,421	1,069,086	121.3%
99 Other Financing Sources	4,499,319	2,866,889	63.7%	3,099,085	1,155,454	37.3%
<b>Total General Fund Revenues</b>	<b>50,688,805</b>	<b>50,268,431</b>	<b>99.2%</b>	<b>46,860,670</b>	<b>44,526,707</b>	<b>95.0%</b>
 Fund 7150 Adult Education	 184,370	 159,272	 86.4%	 179,639	 142,206	 79.4%
Fund 7100 Total School General Fund	58,801,486	57,263,389	97.4%	55,683,015	54,585,150	97.5%
<b>Total School General Fund Revenues</b>	<b>58,985,856</b>	<b>57,422,661</b>	<b>97.3%</b>	<b>55,862,654</b>	<b>54,727,356</b>	<b>2.1%</b>
 <b>Grand Total</b>	 <b>109,674,661</b>	 <b>107,691,092</b>	 <b>98.2%</b>	 <b>102,723,324</b>	 <b>99,254,063</b>	 <b>96.4%</b>

**Town of Scarborough**  
**Through June 30, 2023 - Unaudited**

	<b><u>Original Appropriation</u></b>	<b><u>Revised Budget</u></b>	<b><u>YTD Expended</u></b>	<b><u>Encumb</u></b>	<b><u>Available Budget</u></b>
<b><u>Other Town Fund Expenditures</u></b>					
Fund 1200 Total Special Revenue Fund	-	2,000	9,155,719	5,091	(9,158,810)
Fund 1300 Total Capital Projects Fund	514,319	565,600	438,518	18,110	108,972
Fund 1310 Total Capital Projects Fund	5,623,010	5,527,510	4,729,299	313,210	485,001
Fund 1500 Total Cemetery Permanent Fund	-	-	-	-	-
<b>Total Town Other Fund Exp</b>	<b>6,137,329</b>	<b>6,095,110</b>	<b>14,323,536</b>	<b>336,411</b>	<b>(8,564,837)</b>

<b><u>Other School Fund Expenditures</u></b>					
Fund 72xx Total School Special Revenue Fund	925,642	925,642	1,954,109	2,485	(1,030,952)
Fund 7300 Total School Capital Projects Fund	150,000	150,000	303,134	-	(153,134)
Fund 7400 Total School Capital Projects Fund	2,163,283	2,163,283	2,582,867	-	(419,584)
Fund 7600 Total School Nutrition Program	2,041,000	2,041,000	2,100,219	-	(59,219)
Fund 7800 Total School Scholarship Funds	-	-	3,250	-	(3,250)
<b>Total School Other Fund Exp</b>	<b>5,279,925</b>	<b>5,279,925</b>	<b>6,943,579</b>	<b>2,485</b>	<b>(1,666,139)</b>

**Through June 30, 2023 - Unaudited**

	<b><u>Original Estimated Revenue</u></b>	<b><u>Revised Estimated Revenue</u></b>	<b><u>Actual YTD Revenue</u></b>	<b><u>Remaining Revenue</u></b>	<b><u>% Collected</u></b>
<b><u>Other Town Fund Revenues</u></b>					
Fund 1200 Total Special Revenue Fund	-	-	8,072,027	(8,072,027)	100.0%
Fund 1300 Total Capital Projects Fund	514,319	514,319	713,863	(199,544)	138.8%
Fund 1310 Total Capital Projects Fund	5,523,010	5,523,010	2,458,095	3,064,915	44.5%
Fund 1500 Total Cemetery Permanent Fund	-	-	6,420	(6,420)	100.0%
<b>Total Town Other Fund Rev</b>	<b>6,037,329</b>	<b>6,037,329</b>	<b>11,250,405</b>	<b>(5,213,076)</b>	<b>186.3%</b>

<b><u>Other School Fund Revenues</u></b>					
Fund 72xx Total School Special Revenue Fund	925,642	925,642	1,954,108	(1,028,466)	211.1%
Fund 7300 Total School Capital Projects Fund	150,000	150,000	303,134	(153,134)	202.1%
Fund 7400 Total School Capital Projects Fund	2,163,283	2,163,283	2,582,867	(419,584)	119.4%
Fund 7600 Total School Nutrition Program	2,041,000	2,041,000	2,100,219	(59,219)	102.9%
Fund 7800 Total School Scholarship Funds	-	-	3,250	(3,250)	100.0%
<b>Total School Other Fund Rev</b>	<b>5,279,925</b>	<b>5,279,925</b>	<b>6,943,578</b>	<b>(1,663,653)</b>	<b>131.5%</b>

Year To Date Education Expenditures  
Through June 30, 2023 - Unaudited

<b>Education:</b>	<b><u>Original</u></b> <b><u>Appropriation</u></b>	<b><u>Revised</u></b> <b><u>Budget</u></b>	<b><u>YTD</u></b> <b><u>Expended</u></b>	<b><u>Encumb</u></b>	<b><u>Available</u></b> <b><u>Budget</u></b>	<b><u>Percent</u></b> <b><u>Used</u></b>
Regular instruction	36,216,196	36,216,196	35,415,371	-	800,825	97.8%
Improvement of instruction	902,090	902,090	826,760	-	75,330	91.6%
Special services	5,627,716	5,627,716	5,458,536	-	169,180	97.0%
General & special administration	309,961	309,961	323,479	-	(13,518)	104.4%
Board of education	36,971	36,971	33,212	-	3,759	89.8%
Office of the superintendent	896,492	896,492	865,359	-	31,133	96.5%
Business administration	2,438,522	2,438,522	2,338,245	-	100,277	95.9%
Transportation	2,059,134	2,059,134	1,917,254	-	141,880	93.1%
Operation and maintenance of plant	4,601,844	4,601,844	4,235,507	-	366,337	92.0%
Adult Education	184,370	184,370	153,920	-	30,450	83.5%
Food Service Allocation	-	-	-	-	-	0.0%
Debt service	5,712,560	5,712,560	5,212,559	-	500,001	91.2%
<b>Total Education</b>	<b>58,985,856</b>	<b>58,985,856</b>	<b>56,780,202</b>	<b>-</b>	<b>2,205,654</b>	<b>96.3%</b>

**Town of Scarborough  
Year To Date Revenues  
Through June 30, 2023 - Unaudited**

<b><u>Selected Revenues</u></b>	<b><u>Estimated Revenue</u></b>	<b><u>Actual YTD Revenue</u></b>	<b><u>% Collected</u></b>
Excise Tax Collections	7,100,000	7,369,371.00	103.8%
State Revenue Sharing	3,135,000	3,440,495.00	109.7%
Rescue Revenues	1,150,000	1,150,000.00	100.0%
LRAP-Local Road Assist.	319,948	317,636.00	99.3%
Building Permits	700,000	916,953.00	131.0%
Investment Interest	100,000	398,439.00	398.4%
Plumbing Permits	45,000	45,175.00	100.4%
Electrical Permits	95,000	135,923.00	143.1%
Education Subsidy	5,003,528	5,031,553.00	100.6%

**Town General Fund Revenues by Department**

Executive (TM, HR, TC)	846,431	547,111	64.6%
Finance	7,059,153	7,732,721	109.5%
Property Taxes	23,911,090	23,739,706	99.3%
MIS	862,305	780,820	90.6%
Planning	951,050	1,210,656	127.3%
Community Serv	2,556,100	2,471,042	96.7%
General Assist. Misc Rev	-	7,606	0.0%
SEDCO	267,914	267,914	100.0%
Fire Dept	1,308,500	1,454,718	111.2%
Police Dept	866,883	1,067,420	123.1%
Public Works	1,637,175	1,787,573	109.2%
Technical/Engineering	37,553	300	0.8%
Debt	1,079,364	274,364	25.4%
Intergovernmental	6,218,446	6,698,023	107.7%
TIFs and Interfund Transfer	3,086,841	2,228,458	72.2%
	<b><u>50,688,805</u></b>	<b><u>50,268,432.00</u></b>	<b>99.2%</b>



**Town of Scarborough  
Year To Date Revenues  
Through September 30, 2023**

	<b>Original Estimated <u>Revenue</u></b>	<b>Revised Estimated <u>Revenue</u></b>	<b>Actual YTD <u>Revenue</u></b>	<b>Remaining <u>Revenue</u></b>	<b>% <u>Collected</u></b>
<b><u>1100 General Fund</u></b>					
90 Taxes	33,263,023	33,263,023	26,256,572	7,006,451	78.9%
91 Interest On Delinquent Taxes	60,000	60,000	3,791	56,209	6.3%
92 Licenses And Permits	1,247,284	1,247,284	247,034	1,000,250	19.8%
93 Intergovernmental Revenues	6,745,567	6,745,567	2,150,413	4,595,154	31.9%
94 Charge For Services	7,426,707	7,426,707	1,192,366	6,234,341	16.1%
95 Fines Forfeits And Assessments	75,700	75,700	28,626	47,074	37.8%
96 Miscellaneous Revenues	1,026,840	1,026,840	256,462	770,378	25.0%
99 Other Financing Sources	3,437,310	3,437,310	10,900	3,426,410	0.3%
<b>Total General Fund Revenues</b>	<b>53,282,431</b>	<b>53,282,431</b>	<b>30,146,164</b>	<b>23,136,267</b>	<b>56.6%</b>
Fund 7150 Adult Education	183,149	183,149	66,739	116,410	36.4%
Fund 7100 Total School General Fund	62,052,141	62,052,141	55,808,693	6,243,448	89.9%
<b>Total School General Fund Revenues</b>	<b>62,235,290</b>	<b>62,235,290</b>	<b>55,875,432</b>	<b>6,359,858</b>	<b>89.8%</b>
<b>Grand Total</b>	<b>115,517,721</b>	<b>115,517,721</b>	<b>86,021,596</b>	<b>29,496,125</b>	<b>74.5%</b>

**3 Months = 25%**

**Town of Scarborough  
Year To Date Expenditures  
Through September 30, 2023**

	<b>Original</b>	<b>Revised</b>	<b>YTD</b>		<b>Available</b>	<b>Percent</b>
<b><u>1100 General Fund</u></b>	<b><u>Appropriation</u></b>	<b><u>Budget</u></b>	<b><u>Expended</u></b>	<b><u>Encumb</u></b>	<b><u>Budget</u></b>	<b><u>Used</u></b>
55 Legislative	11,573	11,573	-	-	11,573	0.0%
56 Executive	3,757,591	3,757,591	937,975	131	2,819,485	25.0%
57 Finance	1,503,966	1,503,966	313,424	-	1,190,542	20.8%
58 Management Information Systems	1,918,277	1,918,277	677,582	20,186	1,220,509	36.4%
59 Planning	965,408	965,408	286,132	(1,250)	680,526	29.5%
62 Community Services	3,615,790	3,615,790	1,173,101	58,277	2,384,412	34.1%
63 Library	1,287,748	1,287,748	321,937	-	965,811	25.0%
66 Public Health & Welfare	260,637	260,637	71,397	-	189,240	27.4%
68 SEDCO	284,512	284,512	56,024	-	228,488	19.7%
71 Fire Services	7,236,335	7,236,335	1,661,369	19,136	5,555,830	23.2%
72 Police Services	8,271,341	8,271,341	1,777,882	-	6,493,459	21.5%
81 Public Works	8,220,004	8,220,004	1,410,390	2,863,832	3,945,782	52.0%
83 Engineering/Technical	593,640	593,640	22,998	-	570,642	3.9%
85 Debt	5,061,028	5,061,028	-	-	5,061,028	0.0%
91 County Tax	3,481,081	3,481,081	-	-	3,481,081	0.0%
94 Capital Equipment	1,948,500	1,948,500	312,848	90,382	1,545,270	20.7%
297 Other - Intragovernmental	4,865,000	4,865,000	-	-	4,865,000	0.0%
<b>Total General Fund Expenditures</b>	<b>53,282,431</b>	<b>53,282,431</b>	<b>9,023,059</b>	<b>3,050,694</b>	<b>41,208,678</b>	<b>22.7%</b>
Fund 7150 Adult Education	183,149	183,149	34,441	5,966	142,742	22.1%
Fund 7100 Total School General Fund	58,801,486	58,801,486	56,626,282	-	2,175,204	96.3%
<b>Total School General Fund Expenditures</b>	<b>58,984,635</b>	<b>58,984,635</b>	<b>56,660,723</b>	<b>5,966</b>	<b>2,317,946</b>	<b>96.1%</b>
<b>Grand Total</b>	<b>112,267,066</b>	<b>112,267,066</b>	<b>65,683,782</b>	<b>3,056,660</b>	<b>43,526,624</b>	<b>61.2%</b>

**3 Months = 25%**

**Town of Scarborough  
Year To Date Revenues  
Through September 30, 2023**

<b><u>Selected Revenues</u></b>	<b><u>Estimated Revenue</u></b>	<b><u>Actual YTD Revenue</u></b>	<b><u>% Collected</u></b>
Excise Tax Collections	7,250,000	1,914,880.00	26.4%
State Revenue Sharing	3,628,179	923,440.00	25.5%
Rescue Revenues	1,200,000	-	0.0%
LRAP-Local Road Assist.	317,636	-	0.0%
Building Permits	850,000	173,058.00	20.4%
Investment Interest	200,000	99,309.00	49.7%
Plumbing Permits	45,000	8,225.00	18.3%
Electrical Permits	125,000	24,624.00	19.7%
Education Subsidy	5,941,838	1,480,367.00	24.9%

**Town General Fund Revenues by Department**

Executive (TM, HR, TC)	889,328	182,521	20.5%
Finance	7,336,569	2,102,556	28.7%
Property Taxes	26,057,154	24,312,211	93.3%
MIS	805,784	-	0.0%
Planning	1,109,200	219,659	19.8%
Community Serv	2,850,779	713,830	25.0%
SEDCO	284,512	-	0.0%
Fire Dept	1,403,500	50,307	3.6%
Police Dept	911,687	249,460	27.4%
Public Works	1,760,604	203,588	11.6%
Technical/Engineering	43,553	-	0.0%
Debt	1,299,613	-	0.0%
Intergovernmental	6,742,767	2,150,413	31.9%
TIFs and Interfund Transfers	1,787,381	-	0.0%
	<b><u>53,282,431</u></b>	<b><u>30,184,545.00</u></b>	<b>56.7%</b>

Year To Date Education Expenditures  
Through September 30, 2023

<b>Education:</b>	<b><u>Original Appropriation</u></b>	<b><u>Revised Budget</u></b>	<b><u>YTD Expended</u></b>	<b><u>Encumb</u></b>	<b><u>Available Budget</u></b>	<b><u>Percent Used</u></b>
Regular instruction	38,710,734	38,710,734	7,342,536	136,693	31,231,505	19.3%
Improvement of instruction	958,547	958,547	386,144	9,094	563,309	41.2%
Special services	5,803,598	5,803,598	1,275,948	24,658	4,502,992	22.4%
General & special administration	322,597	322,597	68,053	-	254,544	21.1%
Board of education	35,008	35,008	25,756	-	9,252	73.6%
Office of the superintendent	963,080	963,080	250,015	12,970	700,095	27.3%
Business administration	2,485,525	2,485,525	494,325	621	1,990,579	19.9%
Transportation	2,218,712	2,218,712	347,514	-	1,871,198	15.7%
Operation and maintenance of plant	5,005,760	5,005,760	1,058,022	52,549	3,895,189	22.2%
Adult Education	183,149	183,149	34,441	5,966	142,742	22.1%
Food Service Allocation	-	-	-	-	-	0.0%
Debt service	5,548,580	5,548,580	-	-	5,548,580	0.0%
<b>Total Education</b>	<b>62,235,290</b>	<b>62,235,290</b>	<b>11,282,754</b>	<b>242,551</b>	<b>50,709,985</b>	<b>18.5%</b>

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-109, 7:00 p.m. Public hearing** on the Council Order approving the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program and schedule the first reading for Wednesday, October 18, 2023. *[Town Council]*

*Town Council*

*Ought to Pass*

\_\_\_\_\_  
Sponsor

\_\_\_\_\_  
Recommendation

*10/18/2023*  
\_\_\_\_\_

First Reading/Vote

*10/08/2023*  
\_\_\_\_\_

Public Hearing

*11/08/2023*  
\_\_\_\_\_

Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

**ACTION ITEM: Ordinance No. 23-109.****SUBJECT:**

7:00 p.m. Public hearing on the Council Order approving the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program and schedule the first reading for Wednesday, October 18, 2023. *[Town Council]*

**PURPOSE:**

To modify the boundary of the Scarborough Downtown Omnibus Tax Increment Financing District (hereinafter the “TIF District”) to include an adjacent additional parcel (37.09 acres), more specifically referred to as RO53-004 by the Scarborough Tax Assessor. After the boundary modification, the total acreage of the TIF District will be 985.22 acres.

**BACKGROUND:**

The Town entered into a Purchase Option Agreement (the “Agreement”) with Crossroads Holdings, LLC for the purchase of 21.87 acres for a new Unified Primary School. As part of the Agreement, and a condition of Closing, the Town agreed to consider a number of additional actions, including the expansion of the TIF District to include this additional parcel.

**FISCAL IMPACT:**

The likely fiscal impact in terms of creation of new taxable value is negligible since the school site will be tax exempt.

**STATUS / PROCESS TO DATE:**

- Notice of Public Hearing published, documents available for public review
- Public Hearing - October 4, 2023
- Anticipated adoption process includes 1<sup>st</sup> reading on October 18, 2023 and second reading/adoption on November 8, 2023

**PROPOSED ACTION:**

Conduct public hearing.

**ATTACHMENTS:**

- Order No. 23-109
- Third Amendment to Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District Development Program

**IN TOWN COUNCIL  
ORDER #23-109**

**Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District and Development Program**

**WHEREAS**, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to amend the specified area within the Town designated as the *Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District* (the "Downtown District") and amend the development program (the "DowntownDevelopmentProgram") for the Downtown District; and

**WHEREAS**, the Downtown District was first approved by DECD on March 29, 2019 and a Credit Enhancement Agreement ("the CEA") with Crossroads Holdings, LLC ("the Developer") was approved by the Town Council on November 28, 2018 pursuant to the Downtown District and Development Program; and

**WHEREAS**, the First Amendment to the District was approved by DECD on July 30, 2021; and

**WHEREAS**, the Second Amendment to the District was approved by DECD on April 12, 2022; and

**WHEREAS**, the Town desires to further amend the Downtown District to add an additional parcel to the District to capture additional value, and to allow a potential amendment to the CEA to include the additional parcel subject to a separate vote of the Town Council; and

**WHEREAS**, there is a need for economic development and affordable housing in the Town of Scarborough, in the surrounding region, and in the State of Maine; and

**WHEREAS**, there is a need to improve and broaden the tax base of the Town; and to improve the general economy of the Town and the surrounding region; and

**WHEREAS**, the Town has held public hearings on the Third Amendment to the Downtown District and its Development Program in accordance with the requirements of 30-A M.R.S.A. § 5226 and contained in the Development Program, upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town; and

**WHEREAS**, it is expected that approval will be obtained from the Maine Department of Economic and Community Development (the "Department") approving the amendment to the Downtown District.

**ORDERED AS FOLLOWS:**

**Section 1.** The Town of Scarborough hereby approves the **Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing**

**District and the Downtown Development Program** in such form and as presented to the Town Council, such amendment to be pursuant to the following findings, terms, and provisions.

**Section 2.** The Town Council hereby finds and determines that:

(a) The Third Amendment to the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** will not result in the District falling out of compliance with any of the conditions of 30-A M.R.S.A. Section 5223(3) (Pursuant to Title 30-A M.R.S.A. Section 5223(3)(D), downtown tax increment financing districts are exempt from certain statutory requirements and thresholds, including valuation and acreage caps); and

(b) The Town Council has considered all evidence, if any, presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the Downtown District and the Downtown Development Program.

**Section 3.** The Town Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed amendment of the Downtown District and the proposed amendment to the Downtown Development Program for the District to the Department for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

**Section 4.** The foregoing amendment of the Downtown District and approval of the amendment to the Downtown Development Program shall automatically become final and shall take full force and effect upon receipt by the Town of approvals thereof by the Department, without requirement of further action by the Town, the Town Council, or any other party.

**Section 5.** The Town Manager, or his duly appointed representative, is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the Downtown Development Program as the Town Manager, or his duly appointed representative, deems reasonably necessary or convenient in order to facilitate the process for review and approval of the amendment to the Downtown District and/or the Downtown Development Program by the Department, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Downtown District and the Downtown Development Program.

Dated: \_\_\_\_\_



**ECONOMIC DEVELOPMENT  
SCARBOROUGH, MAINE**

*An Application for a Municipal Development and Tax Increment Financing District*

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**THIRD AMENDMENT TO  
SCARBOROUGH DOWNTOWN OMNIBUS MUNICIPAL DEVELOPMENT AND  
TAX INCREMENT FINANCING DISTRICT DEVELOPMENT PROGRAM**

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*Presented to:*

**SCARBOROUGH TOWN COUNCIL**

**October 4, 2023**

## APPLICATION COVER SHEET

### MUNICIPAL TAX INCREMENT FINANCING

#### A. General Information

1. Municipality Name: Town of Scarborough		
2. Address: 259 U.S. Route 1, PO Box 360, Scarborough, ME 04070-360		
3. Telephone: 207-730-4031	4. Fax: 207-730-4033	5. Email: thall@scarboroughmaine.org
6. Municipal Contact Person: Thomas Hall, Town Manager		
7. Business Name:		
8. Address:		
9. Telephone:	10. Fax:	11. Email:
12. Business Contact Person:		
13. Principal Place of Business:		
14. Company Structure (e.g. corporation, sub-chapter S, etc.):		
15. Place of Incorporation:		
16. Names of Officers:		
17. Principal Owner(s) Name:		
18. Address:		

#### B. Disclosure

1. Check the public purpose that will be met by the business using this incentive (any that apply):		
<input type="checkbox"/> job creation	<input type="checkbox"/> job retention	<input checked="" type="checkbox"/> capital investment
<input type="checkbox"/> training investment	<input checked="" type="checkbox"/> tax base improvement	<input checked="" type="checkbox"/> public facilities improvement
<input type="checkbox"/> other (list):		
2. Check the specific items for which TIF revenues will be used (any that apply):		
<input type="checkbox"/> real estate purchase	<input type="checkbox"/> machinery & equipment purchase	<input type="checkbox"/> training costs
<input type="checkbox"/> debt reduction	<input checked="" type="checkbox"/> other (list): Please see Project Costs Table.	

#### C. Employment Data

List the company's goals for the number, type and wage levels of jobs to be created or retained as part of this TIF development project (*please use next page*).

N/A

## **TABLE OF CONTENTS**

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<b>B. The Existing District and Development Program .....</b>	<b>1</b>
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### **EXHIBITS:**

<b>EXHIBIT A</b>	<b>AMENDED MAPS OF THE DISTRICT</b>
<b>EXHIBIT B</b>	<b>AMENDED ASSESSOR'S CERTIFICATE</b>
<b>EXHIBIT C</b>	<b>NOTICE OF PUBLIC HEARING</b>
<b>EXHIBIT D</b>	<b>CERTIFIED COPY OF THE PUBLIC HEARING MINUTES</b>
<b>EXHIBIT E</b>	<b>TOWN COUNCIL ORDER</b>
<b>EXHIBIT F</b>	<b>STATUTORY REQUIREMENTS AND THRESHOLDS FORM</b>

## **I. Development Program Amendment Narrative**

### **A. Introduction/ Summary of the Amendment to the Scarborough Downtown Omnibus TIF Development Program**

The Town seeks its third amendment (the “Third Amendment”) to the Scarborough Downtown Omnibus Tax Increment Financing (the “TIF”) District (the “District”) and Development Program (the “Development Program”).

The Third Amendment seeks to add a 37.09 acre parcel located at tax map R053-004 to the District in order to make the area available to capture the increased assessed value within the District and for purposes of a potential amended credit enhancement agreement with Crossroads Holdings, LLC subject to a separate vote of the Town Council. The Town is seeking to build a new elementary school on approximately 21.87 acres partially within the existing District boundaries and partially within the new parcel to be added to the District.<sup>1</sup>

Through this Third Amendment, the Town intends to further encourage and facilitate economic development within the District and in the Town at large. To the extent this Third Amendment does not address provisions of the original Development Program as amended by the First and Second Amendment, such previously approved documents remain in full force and effect.

This Third Amendment is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the “TIF Statute”).

### **B. The Existing District and Development Program**

On November 28, 2018 the Town designated the Downtown Omnibus Municipal Development and Tax Increment Financing District and adopted the Development Program for the District. The Department of Economic and Community Development (“DECD”) approved the District and the Development Program on March 29, 2019. The Town created the District in order to capture new taxable investment primarily from commercial development occurring within downtown Scarborough including the redevelopment area known as Scarborough Downs, to enter into a credit enhancement agreement with the developer of such area, and to fund public facilities and improvements and Town economic development projects and activities. The original term of the District is thirty (30) years. The original acreage of the District was 947.91 acres and the original assessed value was \$95,622,900.

On June 16, 2021 the Town approved the First Amendment to the District and its Development Program. DECD approved the First Amendment to the District and Development Program on July 30, 2021. The purpose of this First Amendment was to adjust the acreage of the District from 947.19 acres to 948.13 acres by adding in a parcel identified as U043-66 on the

<sup>1</sup> The Developer has estimated that the increased assessed value (IAV) within the Amended District over the term of the TIF will not meaningfully change given that the parcel of land where the new school would be located, will become tax-exempt while some new development will occur on a portion of the newly added portion.

Town's tax maps. The acreage was added to make the area available for the Council to approve a credit enhancement agreement relating to an affordable rental housing project. The additional acreage did not change the original assessed value, due to the value of the parcel being zero dollars (\$0) as of April 1, 2020. A credit enhancement agreement for an affordable housing development project was approved by the Town at the same time as the First Amendment, pursuant to the Town Council's authority to authorize credit enhancement agreements with developers in the District.

On March 3, 2022 the Town approved the Second Amendment to the District and its Development Program. DECD approved the Second Amendment to the District and Development Program on April 12, 2022. The purpose of the Second Amendment was to adopt, designate and confirm that the Town would capture one hundred percent (100%) of the increased assessed value as captured assessed value and use the increased TIF revenues for municipal project costs.

### **C. Physical Description and Original Assessed Value**

Prior to this Amendment, the District was comprised of 948.13 acres and had an original assessed value of \$95,622,900. Following the addition of parcel R053-004, the District will be comprised of 985.22 acres and will have an original assessed value of \$95,819,300. Please see Exhibit A for amended maps of the District and Exhibit B for an amended Assessor's Certificate for the District.

### **D. Special Procedural Explanation**

Please note that this Amendment is also presented to the Town Council on the same date as a proposal for an Amendment to the Crossroads Holdings, LLC CEA. The amendment to the CEA seeks to add the additional acreage in order to capture the increased assessed value on the added parcel.

## **II. Evidence of Public Hearing and Vote for Amendment**

### **A. Notice of Public Hearing**

Attached as Exhibit C is a copy of the Notice of Public Hearing published in the \_\_\_\_\_, a newspaper of general circulation in the Town, a date at least ten (10) days prior to the public hearing. The public hearing was held on October 4, 2023, in accordance with the requirements of 30-A M.R.S.A. § 5226(1).

### **B. Minutes of Public Hearing**

Attached as Exhibit D, is a certified copy of the minutes of the public hearing held on October 4, 2023, at which time the proposed District was discussed by the public.

**C. Authorizing Votes**

Attached as Exhibit E is an attested copy of the Scarborough Town Council Order, which was approved by the Town Council at a Town Council meeting duly called and held on \_\_\_\_\_, 2023 adopting the Third Amendment to the Development Program.

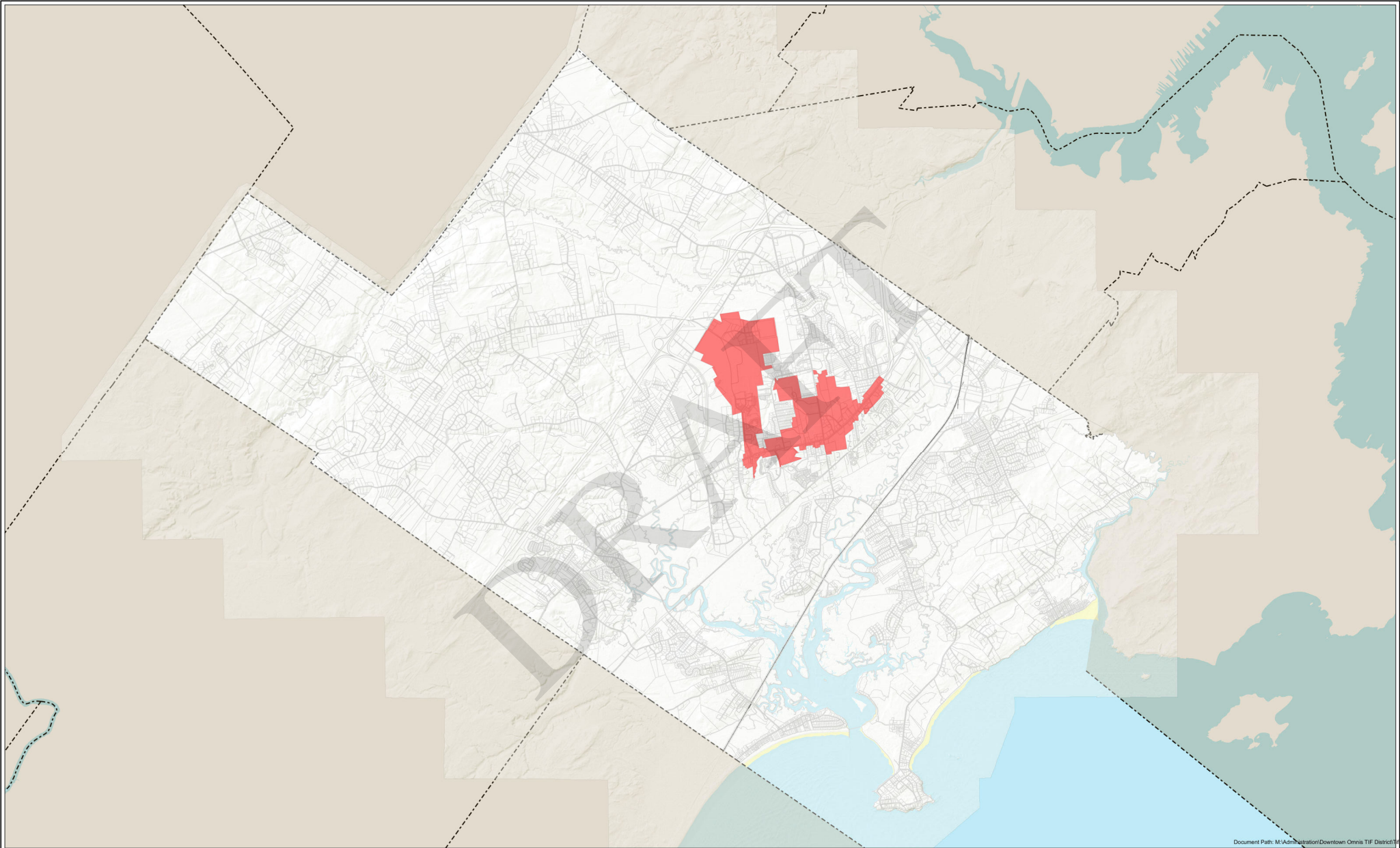
**D. Statutory Requirements & Thresholds form**

Attached as Exhibit F, is a completed statutory requirements and thresholds form for the District.

# **Exhibit A**

**(Amended Maps of the District)**

DRAFT

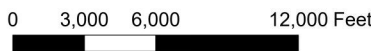


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**Town Of  
Scarborough  
Maine**  
<http://www.scarborough.me.us/dpw/>

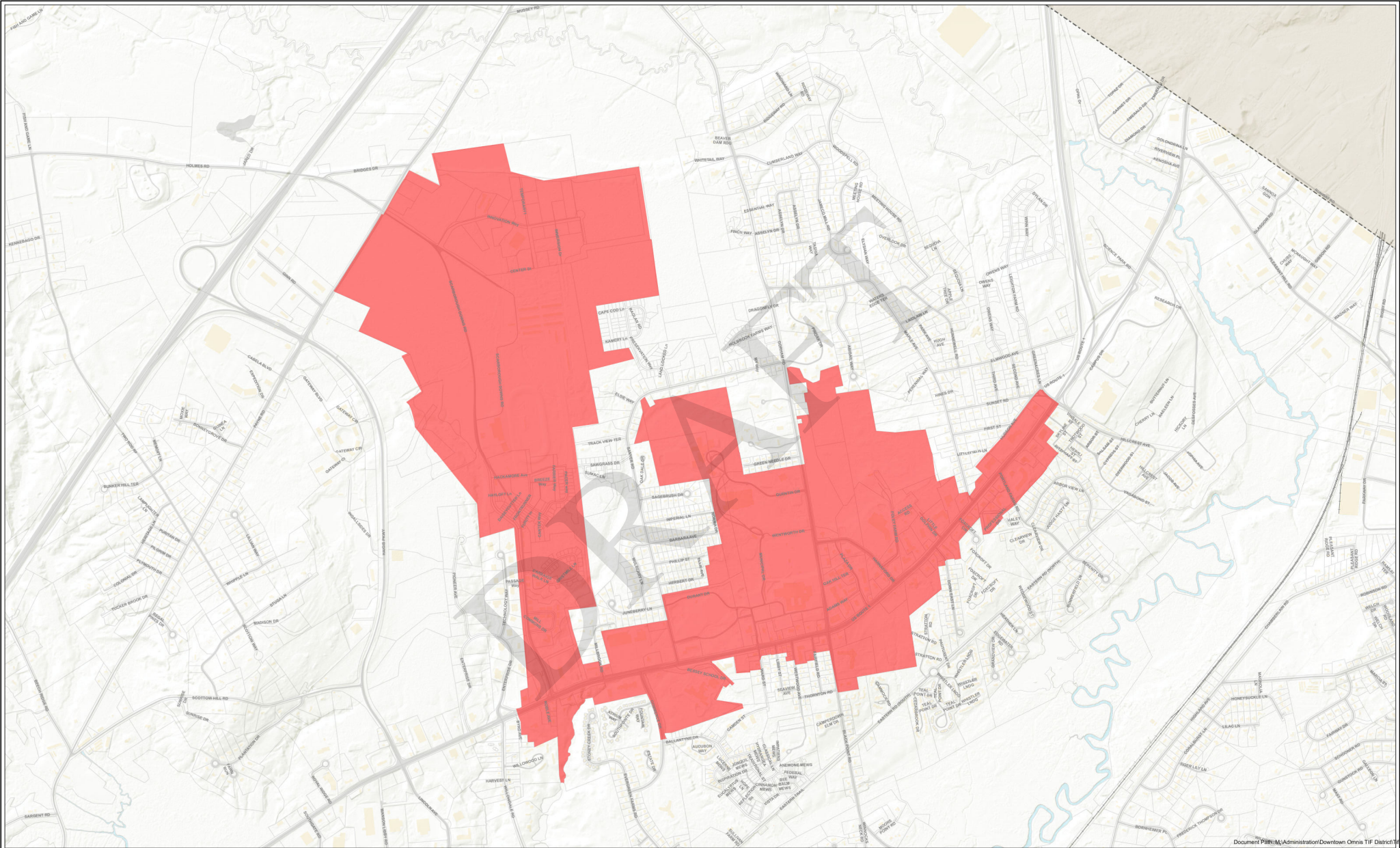
Disclaimer: The data contained within the Scarborough GIS is intended as a public resource of general information. The Town of Scarborough makes no warranty or representation as to the accuracy, timeliness or completeness of any of the data, and shall assume no liability for the data contained, for omissions, or any decision made or action taken or not taken in reliance upon any of the data. Parcel data is intended for general map reference only and is a general representative of approximate lot configuration, and is not intended for boundary determination, legal description, delineation, or transfer. Any service utility information shown is intended for general information only. Other utilities may be present, and the appropriate utility owner should be contacted for detailed information. GIS data is not intended for engineering design. Field verification is recommended.



Proposed TIF District  
Print Date: 9/25/2023

**EXHIBIT A**  
**Scarborough downtown Omnibus TIF district**  
**Total of 985.22 acres**





Document P:\98\1\Map\Administration\Downtown Omnibus TIF District\TIF District1



**Town Of  
Scarborough  
Maine**  
<http://www.scarborough.me.us/dpw/>

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0 500 1,000 2,000 Feet



Proposed TIF District  
Print Date: 9/25/2023

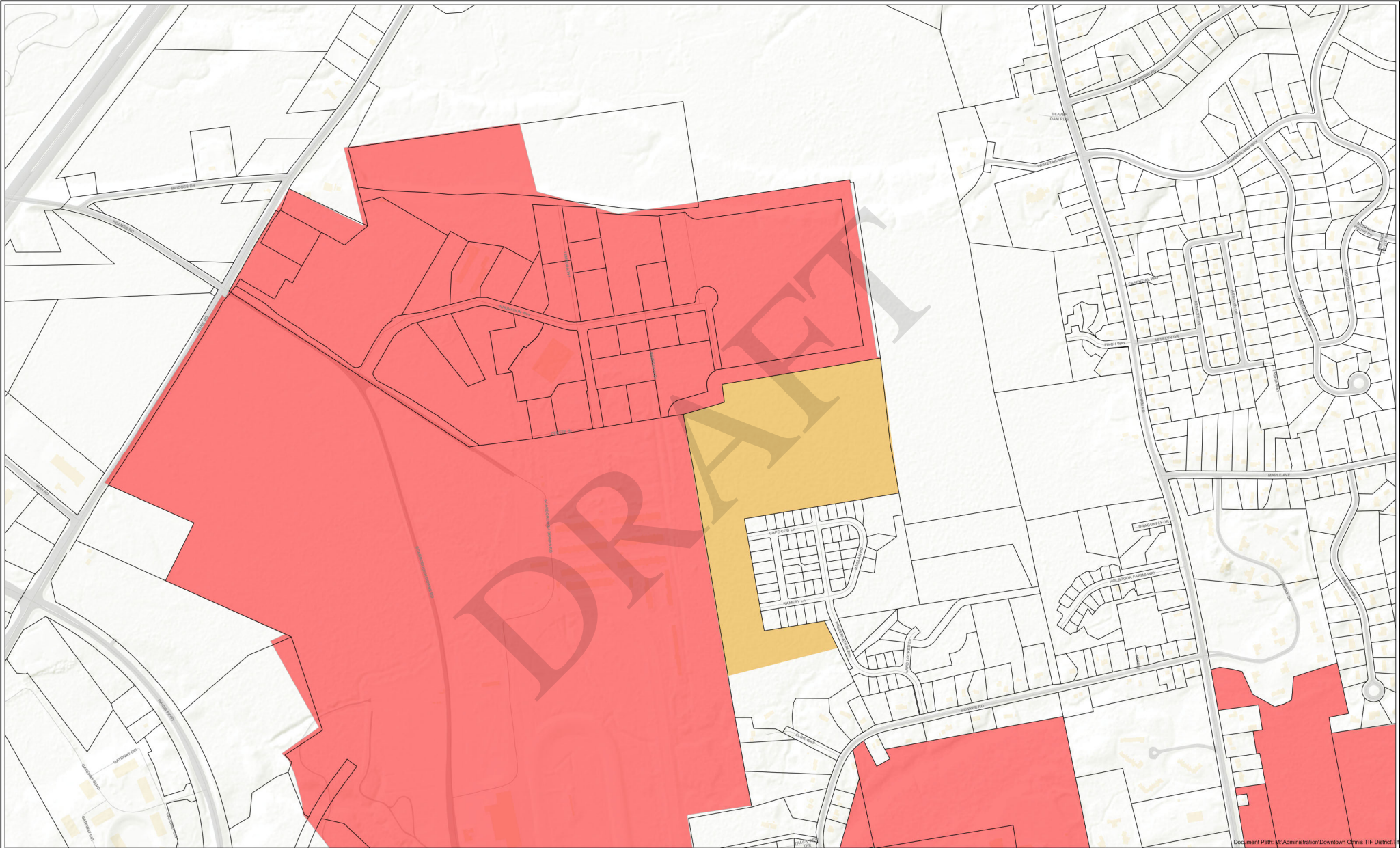
**EXHIBIT A**  
**Scarborough downtown Omnibus TIF district**  
**Total of 985.22 acres**

# **Exhibit B**

**(Amended Assessor's Certificate)**

DRAFT



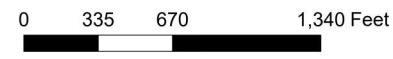


Document Path: \\Administration\Downtown Omnis TIF District\TIF District\1



**Town Of  
Scarborough  
Maine**  
<http://www.scarborough.me.us/dpw/>

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Print Date: 9/25/2023

**EXHIBIT A**  
**Scarborough downtown Omnibus TIF district**  
**Total of 985.22 acres**

**TOWN OF SCARBOROUGH THIRD AMENDMENT TO  
SCARBOROUGH DOWNTOWN OMNIBUS MUNICIPAL DEVELOPMENT AND TAX  
INCREMENT FINANCING DISTRICT ASSESSOR CERTIFICATE**

The undersigned Assessor for the Town of Scarborough does hereby certify pursuant to the provisions of M.R.S.A. Title 30-A § 5227(2), that the assessed value of taxable real property in the **Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** as described in the Development Program to which this certificate is attached, was **\$95,622,900** as of March 31, 2018 (April 1, 2017). *[Note that the portion of the District added in the First Amendment had an original assessed value date of March 31, 2021 (April 1, 2020) and an original assessed value of \$0, and the portion of the District being added in the Third Amendment has an original assessed value date of March 31, 2023 (April 1, 2022) and an original assessed value of \$196,400].* A table showing the original assessed value by parcel is provided below.

IN WITNESS THEREOF, this Certificate has been executed this 25<sup>th</sup> day of Sept. 2023.



Nicholas Cloutier Assessor, Town of Scarborough

9/25/2023

Date

**ORIGINAL ASSESSED VALUE PARCEL TABLE**

<b>Tax Map and Lot Number</b>	<b>Acreage</b>	<b>Original Assessed Value as of March 31, 2018 (April 1, 2017)</b>
R052004	423.64	\$7,888,900
R053002	2.6	\$211,000
R053003	15	\$30,000
R058028D	16.23	\$82,800
R058032	16.3	\$752,800
R058032D	0.69	\$197,700
R058032E	0.69	\$162,200
R058032F	0.69	\$163,000
R058032H	0	\$28,400
R058032A	0.78	\$1,451,000
R058032B	0.9	\$425,200
R058032C	2.5	\$841,300
R058032J	0.68	\$493,700
R058032K	0.28	\$166,400
R058032M	1.5	\$795,600
R058032N	0.6	\$401,000
R058032P	1.6	\$834,300
R058032Q	1.19	\$561,600
R058032R	1	\$958,400
R058032S	4.7	\$500
R058032T	8	\$800

R059016	23.34	\$0
R059021	1.3	\$0
R059024	53.3	\$0
R059025	9	\$0
R059026	16	\$0
U039001	0.43	\$219,000
U039002	0.18	\$130,500
U039003	0.37	\$127,400
U039006	0.73	\$276,300
U039010	5.02	\$0
U039048	0.76	\$268,700
U039049	0.92	\$291,400
U039050	0.7	\$416,900
U040002	4.72	\$2,363,900
U040004	1.33	\$84,000
U040005	0.59	\$234,600
U040006	0.79	\$341,600
U040007	6.8	\$221,200
U040008	5.72	\$2,885,300
U040009	1.34	\$825,000
U040023	0.5	\$626,200
U040025	14.51	\$0
U040025A	1.27	\$0
U040031	0.9	\$150,300
U041001	1.85	\$2,002,400
U041002A	22	\$0
U041005	2.44	\$1,440,900
U041006	25.6	\$0
U041010	0.6	\$0
U041011	1.22	\$0
U041012	0.19	\$0
U041013	5.7	\$0
U042067	3.97	\$0
U043001	2.66	\$0
U043002	1.01	\$668,200
U043003	0.83	\$513,800
U043005	0.33	\$365,400
U043006	0.75	\$723,100
U043703	0.83	\$233,800
U043702	0.83	\$121,600
U043704	0.83	\$261,800
U043701	0.83	\$156,400
U043008	0.5	\$0
U043009	0.77	\$512,400

U043009A	1.44	\$0
U043010	0.42	\$337,200
U043011	1.38	\$179,500
U043033	0.19	\$190,700
U043034	0.19	\$177,400
U043035	0.18	\$278,500
U043040	0.59	\$238,500
U043042	0.31	\$0
U043043	0.23	\$238,700
U043054	0.25	\$217,900
U043054A	0.14	\$144,900
U043054B	0.19	\$167,900
U043055	0.24	\$226,200
U043056	2.18 <sup>1</sup>	\$0
U043069	0.2	\$0
U043077	0.56	\$285,300
U043078	0.55	\$432,000
U044001	1.51	\$1,521,600
U044002	1.6	\$1,115,500
U044003	0.99	\$1,169,200
U044004	0.64	\$192,000
U044005	0.19	\$219,500
U044006	0.8	\$388,100
U044007	3.32	\$1,400,000
U044007A	0	\$140,900
U044008	35.6	\$537,700
U044008A	1.41	\$696,100
U044008B	18.19	\$6,165,100
U044008C	0	\$317,700
U044008D	0.6	\$76,200
U044009	1.64	\$1,146,600
U044011	2.87	\$1,260,400
U044012	0.78	\$377,500
U044014	1.03	\$727,800
U044015	6.43	\$2,289,700
U044016	2.6	\$1,610,300
U044017	21.33	\$0
U044017A	8.3	\$7,979,600
U044018	1.26	\$500,800
U045001	2.31	\$309,800
U045001B	2.57	\$155,900
U045001A	2.57	\$1,761,000
U045002	0.42	\$252,800
U045003A	2.1	\$1,180,900
U045004	3.96	\$1,724,900

<sup>1</sup> This is a partial lot acreage – an additional .31 acres of Lot U043056 was added to the District in the First Amendment and noted below. The overall District acreage was increased by a total of .22 acres. As of April 1, 2020, the parcel currently identified as U043-56 was two separate parcels identified as U043-56 (2.27 acres) and U043-66 (.31 acres). When these two parcels merged following a real estate transaction occurring later in 2020, the two parcels merged into one lot now identified as U043-56. Given the updated survey undertaken in connection with this transaction, the Town was able to correct the acreage for the lot formerly identified as U043-56 from 2.27 acres to 2.18 acres. For this reason, the overall adjustment to the District acreage is the addition of .22 acres (following the addition of the .31 lot formerly known as U043-66 and the reduction in the acreage of the lot formerly identified as U043-56 from 2.27 acres to 2.18 acres).

U045004A	5.68	\$305,100
U045005	3.9	\$1,548,900
U045006	0.84	\$436,100
U045013A	1.5	\$1,041,600
U045013B	1.08	\$812,500
U045013C	2.1	\$1,937,300
U045017	0.71	\$801,700
U045018	0.5	\$245,300
U045018A	0.33	\$366,500
U045018B	0.93	\$499,100
U045019	0.51	\$390,700
U045020	0.95	\$406,400
U045022	1.17	\$788,800
U045025	1.02	\$420,800
U045035	0.23	\$194,500
U045036	0.39	\$265,000
U0452101	0.25	\$153,600
U046001	3.1	\$0
U046002	0.92	\$392,600
U046003	1.34	\$1,619,600
U046004	6.05	\$3,346,200
U047069	1.05	\$717,300
U047091	0.94	\$484,100
U047092	1.91	\$3,982,100
U047094	5.83	\$3,226,100
Roads	46.5	\$0
		<b>Original Assessed Value as of March 31, 2021 (April 1, 2020)</b>
U043056	.31 <sup>2</sup>	\$0
		<b>Original Assessed Value as of March 31, 2023 (April 1, 2022)</b>
R053004	<b>37.09</b>	\$196,400
<b>Totals</b>	<b>985.22</b>	<b>\$95,819,300</b>

<sup>2</sup> This is a partial lot the rest of which is noted in the table above. Because this .31 acres was added to the District in the First Amendment, it has a different Original Assessed Value date.

# **Exhibit C**

**(Notice of Public Hearing)**



**NOTICE OF PUBLIC HEARINGS  
TOWN OF SCARBOROUGH**

**Regarding**

**The Approval of the Third Amendment to the “Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District” and the Development Program therefor,  
and**

**The Approval of an Amendment to the Credit Enhancement Agreement between the Town of  
Scarborough  
and Crossroads Holdings, LLC**

Notice is hereby given that the Town of Scarborough will hold two public hearings at its Town Council Meeting on

**Wednesday, October 4, 2023**

**Via Zoom and in Person**

**At the Scarborough Municipal Building**

**located at 259 US-1, Scarborough, ME 04074 at 7:00 p.m.**

The purpose of the public hearings is to receive public comments on each of the items identified above, all pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended.

The proposed Third Amendment to the Scarborough Downtown Omnibus TIF seeks to amend the District’s acreage by adding a portion to the area identified on Town of Scarborough Tax Map U053, Lot 4, in order to make it available for the Town Council to consider approval of an amendment to the credit enhancement agreement between the Town of Scarborough and Crossroads Holdings, LLC by also adding the new area.

A copy of the materials relating to the amendment to the Downtown Omnibus TIF District and the proposed credit enhancement agreement will be on file with the Town Clerk prior to the public hearings. All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time. Copies of the proposed applications are available at the Town Clerk’s Office and can also be obtained by calling the Town Clerk at 207-730-4000 during normal business hours and requesting that a copy be mailed to you. All interested persons are invited to participate in the public hearing and will be given an opportunity to be heard.

The Scarborough Town Council will hold these public hearings both remotely using Zoom and in person. Virtual meetings are allowed using emergency legislation approved by LD 2167; Title 1 M.R.S. §403A, that authorizes towns to conduct meetings online. If members of the public prefer to participate remotely, allow your computer to install the free Zoom app to get the best meeting experience.

**ZOOM MEETING INSTRUCTIONS:** The link to the on-line meeting will be posted on the ‘town calendar’ on the Town’s website: [scarboroughmaine.org](http://scarboroughmaine.org)

Public comments will be taken at the meeting and written comments should be submitted to [clerk@scarboroughmaine.org](mailto:clerk@scarboroughmaine.org).

# **Exhibit D**

**(Certified Copy of the Public Hearing Minutes)**

DRAFT

# **Exhibit E**

**(Town Council Order)**

DRAFT

**IN TOWN COUNCIL  
ORDER # \_\_\_\_\_**

**Third Amendment to the Scarborough Downtown Omnibus Municipal Development and  
Tax Increment Financing District and Development Program**

**WHEREAS**, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to amend the specified area within the Town designated as the ***Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District*** (the "Downtown District") and amend the development program (the "Downtown Development Program") for the Downtown District; and

**WHEREAS**, the Downtown District was first approved by DECD on March 29, 2019 and a Credit Enhancement Agreement ("the CEA") with Crossroads Holdings, LLC ("the Developer") was approved by the Town Council on November 28, 2018 pursuant to the Downtown District and Development Program; and

**WHEREAS**, the First Amendment to the District was approved by DECD on July 30, 2021; and

**WHEREAS**, the Second Amendment to the District was approved by DECD on April 12, 2022; and

**WHEREAS**, the Town desires to further amend the Downtown District to add an additional parcel to the District to capture additional value, and to allow a potential amendment to the CEA to include the additional parcel subject to a separate vote of the Town Council; and

**WHEREAS**, there is a need for economic development and affordable housing in the Town of Scarborough, in the surrounding region, and in the State of Maine; and

**WHEREAS**, there is a need to improve and broaden the tax base of the Town; and to improve the general economy of the Town and the surrounding region; and

**WHEREAS**, the Town has held public hearings on the Third Amendment to the Downtown District and its Development Program in accordance with the requirements of 30-A M.R.S.A. § 5226 and contained in the Development Program, upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town; and

**WHEREAS**, it is expected that approval will be obtained from the Maine Department of Economic and Community Development (the "Department") approving the amendment to the Downtown District.

**ORDERED AS FOLLOWS:**

**Section 1.** The Town of Scarborough hereby approves the **Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing**

**District and the Downtown Development Program** in such form and as presented to the Town Council, such amendment to be pursuant to the following findings, terms, and provisions.

**Section 2.** The Town Council hereby finds and determines that:

(a) The Third Amendment to the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** will not result in the District falling out of compliance with any of the conditions of 30-A M.R.S.A. Section 5223(3) (Pursuant to Title 30-A M.R.S.A. Section 5223(3)(D), downtown tax increment financing districts are exempt from certain statutory requirements and thresholds, including valuation and acreage caps); and

(b) The Town Council has considered all evidence, if any, presented to it with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the Downtown District and the Downtown Development Program.

**Section 3.** The Town Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed amendment of the Downtown District and the proposed amendment to the Downtown Development Program for the District to the Department for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

**Section 4.** The foregoing amendment of the Downtown District and approval of the amendment to the Downtown Development Program shall automatically become final and shall take full force and effect upon receipt by the Town of approvals thereof by the Department, without requirement of further action by the Town, the Town Council, or any other party.

**Section 5.** The Town Manager, or his duly appointed representative, is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the Downtown Development Program as the Town Manager, or his duly appointed representative, deems reasonably necessary or convenient in order to facilitate the process for review and approval of the amendment to the Downtown District and/or the Downtown Development Program by the Department, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the Downtown District and the Downtown Development Program.

Dated: \_\_\_\_\_

# **Exhibit F**

**(Statutory Requirements and Thresholds Form)**

DRAFT

**STATUTORY REQUIREMENTS AND THRESHOLDS**  
**SCARBOROUGH DOWNTOWN OMNIBUS | AMD-3**

<b>SECTION A.   Acreage Caps</b>		
1. Total <b>municipal</b> acreage;	34,560	
2. Acreage of <b>proposed</b> Municipal TIF District;	985.22	
3. <b>Downtown-designation</b> <sup>1</sup> acres in proposed Municipal TIF District;	985.22	
4. <b>Transit-Oriented Development</b> <sup>2</sup> acres in proposed Municipal TIF District;	0	
5. <b>Total acreage</b> [=A2-A3-A4] of proposed Municipal TIF District counted toward 2% limit;	0	
6. <b>Percentage</b> [=A5÷A1] of total acreage in proposed Municipal TIF District (CANNOT EXCEED 2%).	0	
7. <b>Total acreage</b> of all <u>existing/proposed</u> Municipal TIF districts in municipality <b>including</b> Municipal Affordable Housing Development districts: <sup>3</sup>  Avesta Housing/2.78      Bessey School Affordable Housing (I&II)/7.15      BOR Zone/6.60* Downtown Omnibus/985.22      Haigis Parkway/375.8	Existing	392.33 <sup>4</sup>
	Proposed	985.22
	Total:	1,377.55
<b>30-A § 5223(3) EXEMPTIONS<sup>5</sup></b>		
8. Acreage of an <u>existing/proposed</u> <b>Downtown</b> Municipal TIF district;	985.22	
9. Acreage of all <u>existing/proposed</u> <b>Transit-Oriented Development</b> Municipal TIF districts:	0	
10. Acreage of all <u>existing/proposed</u> <b>Community Wind Power</b> Municipal TIF districts:	0	
11. Acreage in all <u>existing/proposed</u> Municipal TIF districts <b>common to</b> <sup>6</sup> Pine Tree Development Zones per 30-A § 5250-I (14)(A) <b>excluding</b> any such acreage also factored in Exemptions 8-10 above:	0	
12. <b>Total acreage</b> [=A7-A8-A9-A10-A11] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit;	392.33	
13. <b>Percentage of total acreage</b> [=A12÷A1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%).	1.14%	
14. <b>Real property</b> in proposed Municipal TIF District that is:	ACRES	% [=Acres÷A2]
a. A blighted area;	0	0
b. In need of rehabilitation, redevelopment or conservation;	0	0
c. Suitable for commercial or arts district uses.	892.55	90.61%
<b>TOTAL (except for § 5223 (3) exemptions a., b. <u>OR</u> c. must be at least 25%)</b>		90.61%

\*Please note that the original acreage for the BOR TIF in 2009 was mistakenly recorded as 6.0 acres when the parcel comprising the lot is actually 6.6 acres.

<sup>1</sup> Before final designation, the Commissioner will seek advice from MDOACF and MDOT per 30-A § 5226(2).

<sup>2</sup> For Transit-Oriented Development (TOD) definitions see 30-A § 5222 sub-§§ 19-24.

<sup>3</sup> For AH-TIF acreage requirement see 30-A § 5247(3)(B). Alternatively, Section B. must exclude AH-TIF valuation.


<sup>4</sup> Although this district already exists, the SR&T includes its entire acreage in the "proposed" category only.

<sup>5</sup> Downtown/TOD overlap nets single acreage/valuation caps exemption.

<sup>6</sup> PTZ districts approved through December 31, 2008.

**STATUTORY REQUIREMENTS AND THRESHOLDS  
SCARBOROUGH DOWNTOWN OMNIBUS | AMD-3**

SECTION B.   Valuation Cap		
1. <b>Total TAXABLE</b> municipal valuation—use most recent April 1;	\$5,142,583,176	
2. <b>Taxable Original Assessed Value (OAV)</b> of proposed Municipal TIF District as of March 31 preceding municipal designation—same as April 1 prior to such March 31;	\$95,819,300	
3. <b>Taxable OAV of all <u>existing/proposed</u> Municipal TIF districts in municipality <u>excluding</u> Municipal Affordable Housing Development districts:</b> BOR Zone/\$2,312,000      Haigis Parkway/\$8,563,500      Downtown Omnibus/\$95,819,300	Existing	\$10,875,500
	Proposed	\$95,819,300
	Total:	\$106,694,800
<b>30-A § 5223(3) EXEMPTIONS</b>		
4. <b>Taxable OAV</b> of an <u>existing/proposed</u> <b>Downtown</b> Municipal TIF district;	\$95,819,300	
5. <b>Taxable OAV</b> of all <u>existing/proposed</u> <b>Transit-Oriented Development</b> Municipal TIF districts:	0	
6. <b>Taxable OAV</b> of all <u>existing/proposed</u> <b>Community Wind Power</b> Municipal TIF districts:	0	
7. <b>Taxable OAV</b> of all <u>existing/proposed</u> <b>Single Taxpayer/High Valuation</b> <sup>7</sup> Municipal TIF districts:	0	
8. <b>Taxable OAV</b> in all <u>existing/proposed</u> Municipal TIF districts <b>common to</b> Pine Tree Development Zones per 30-A § 5250-I (14)(A) <b>excluding</b> any such OAV also factored in Exemptions 4-7 above:	0	
9. <b>Total taxable OAV [=B3-B4-B5-B6-B7-B8]</b> of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit;	\$10,875,500	
10. <b>Percentage of total taxable OAV [=B9÷B1]</b> of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%).	.211%	

COMPLETED BY			
PRINT NAME	Philip Saucier, Esq.		
SIGNATURE		DATE	
<p>If this form has <b>not be completed by the municipal or plantation assessor</b>, the assessor must sign and date below, acknowledging he/she agrees with the information reported on this form, and understands the OAV stated in Section B, line 2, will be used to determine the IAV for this District.</p>			
PRINT NAME	Nicholas Cloutier, CMA		
SIGNATURE		DATE	9/25/2023

<sup>7</sup> For this exemption see 30-A §5223(3)(C) sub-§§ 1-4.



**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-110, 7:00 p.m. Public hearing** on the Council Order approving the First Amendment to the Credit Enhancement Agreement between the Town of Scarborough, Maine and Crossroads Holdings LLC and schedule the first reading for Wednesday, October 18, 2023. *[Town Council]*

*Town Council*

*Ought to Pass*

\_\_\_\_\_  
Sponsor

\_\_\_\_\_  
Recommendation

\_\_\_\_\_  
*10/18/2023*

\_\_\_\_\_  
First Reading/Vote

\_\_\_\_\_  
*10/08/2023*

\_\_\_\_\_  
Public Hearing

\_\_\_\_\_  
*11/08/2023*

\_\_\_\_\_  
Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

**ACTION ITEM: Ordinance No. 23-110.****SUBJECT:**

7:00 p.m. Public hearing on the Council Order approving the First Amendment to the Credit Enhancement Agreement between the Town of Scarborough, Maine and Crossroads Holdings LLC and schedule the first reading for Wednesday, October 18, 2023. *[Town Council]*

**PURPOSE:**

To amend the Credit Enhancement Agreement between the Town of Scarborough, Maine and Crossroads Holdings, LLC (hereinafter “the CEA”) to include an adjacent additional parcel (37.09 acres), more specifically referred to as RO53-004 by the Scarborough Tax Assessor, which is contemplated to be included the Scarborough Downtown Omnibus Tax Increment Financing District with the adoption of Order No. 23-109.

**BACKGROUND:**

The Town entered into a Purchase Option Agreement (the “Agreement”) with Crossroads Holdings, LLC for the purchase of 21.87 acres for a new Unified Primary School. As part of the Agreement, and a condition of Closing, the Town agreed to consider a number of additional actions, including amending the CEA to include the additional parcel.

**FISCAL IMPACT:**

Based on the Developer’s suggested development scheme of this area and the fact that the school site( 21.87 acres of the total parcel of 37.09 acres) will be tax exempt, the likely fiscal impact of including this additional acreage in the CEA will be negligible.

**STATUS / PROCESS TO DATE:**

- Notice of Public Hearing published, documents available for public review
- Public Hearing - October 4, 2023
- Anticipated adoption process includes 1<sup>st</sup> reading on October 18, 2023 and second reading/adoption on November 8, 2023

**PROPOSED ACTION:**

Conduct public hearing

**ATTACHMENTS:**

- Order No. 23-110
- First Amendment to the Credit Enhancement Agreement between the Town of Scarborough, Maine and Crossroads Holdings, LLC

**IN TOWN COUNCIL  
ORDER # 23-110**

**Approval of the First Amendment to the Credit Enhancement Agreement with  
Crossroads Holdings, LLC**

**WHEREAS**, the Town of Scarborough (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to amend the specified area within the Town designated as the *Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District* (the "Downtown District") and amend the development program (the "Downtown Development Program") for the Downtown District; and

**WHEREAS**, the Downtown District was first approved by DECD on March 29, 2019 and a Credit Enhancement Agreement ("the CEA") with Crossroads Holdings, LLC ("the Developer") was approved by the Town Council on November 28, 2018 pursuant to the Downtown District and Development Program; and

**WHEREAS**, the First Amendment to the District was approved by DECD on July 30, 2021; and

**WHEREAS**, the Second Amendment to the District was approved by DECD on April 12, 2022; and

**WHEREAS**, the Town desires to further amend the Downtown District a third time to add an additional parcel to capture additional value and to authorize a potential amendment to the CEA to include the additional parcel, subject to a separate vote of the Town Council; and

**WHEREAS**, there is a need to improve and broaden the tax base of the Town; and to improve the general economy of the Town and the surrounding region; and

**WHEREAS**, the Town has held a public hearing on the Third Amendment to the Downtown District and its Development Program, and on the amendment to the CEA, in accordance with the requirements of 30-A M.R.S.A. § 5226 and contained in the Development Program, upon at least ten (10) days prior notice published in a newspaper of general circulation within the Town; and

**WHEREAS**, it is expected that approval will be obtained from the Maine Department of Economic and Community Development (the "Department") approving the amendment to the Downtown District.

**WHEREAS**, the Town and the Developer desire and intend that this amendment to the Credit Enhancement Agreement be and constitute such credit enhancement agreement contemplated by and described in the Development Program as amended.

**ORDERED AS FOLLOWS:**

The Town Manager is hereby authorized and directed to enter into the specific amendment to the credit enhancement agreement with Crossroads Holdings, LLC in substantially the form as presented to the Town Council and consistent with the procedural requirements that are described in the Development Program.

Dated:

**FIRST AMENDMENT TO THE  
CREDIT ENHANCEMENT AGREEMENT**

**between**

**THE TOWN OF SCARBOROUGH, MAINE**

**and**

**CROSSROADS HOLDINGS LLC**

**DATED:** \_\_\_\_\_

**THIS FIRST AMENDMENT TO THE CREDIT ENHANCEMENT AGREEMENT** dated as of \_\_\_\_\_, 2023, is between the Town of Scarborough, Maine (the “Town”), a municipal corporation and political subdivision of the State of Maine, and Crossroads Holdings LLC (the “Developer”), a Maine Limited Liability Company.

**WITNESSETH THAT**

**WHEREAS**, the Town designated the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District (the “District”) pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, by action of the Town Council at a meeting of the Town Council held on November 28, 2018 (the “Vote”) and pursuant to the same Vote adopted a development program and financial plan for the District (the “Development Program”) which was subsequently approved by the Department of Economic and Community Development (“DECD”) on March 29, 2019; and

**WHEREAS**, pursuant to the terms of the Development Program, the Town entered into a credit enhancement agreement with the Developer on December 12, 2018 for a period of 30 years, through the Town’s 2048-2049 tax year (the “2018 CEA”); and

**WHEREAS**, On June 16, 2021 and March 3, 2022, the Town adopted additional amendments to the Original Development Program in order to adjust the acreage of the district and approve a one hundred percent (100%) capture of the increased assessed value as captures assessed value and use the increased TIF Revenues for municipal project costs; DECD approved the First Amendment on July 30, 2021 and the Second Amendment on April 12, 2022; and

**WHEREAS**, On \_\_\_\_\_, 2023 the Town adopted a Third Amendment to the Development Program in order to add an additional parcel to the District; and

**WHEREAS**, the Town anticipates the approval of the Third Amendment to the District and the Development Program by the Maine Department of Economic and Community Development; and

**WHEREAS**, on \_\_\_\_\_, 2023 the Town Council also authorized execution of the First Amendment to the Credit Enhancement Agreement (the “First Amendment”) contemplated by the Development Program with the Developer in the name of and on behalf of the Town; and

**WHEREAS**, the Town and the Developer desire to amend the 2018 CEA to reflect the additional parcel of land in the District; and

**NOW, THEREFORE**, in consideration of the foregoing and in consideration of the mutual promises and covenants set forth herein, the parties hereby agree as follows:

1. Scope of Amendment. Except as amendment by this First Amendment, the 2018 CEA shall, in all other aspects, remain in full force and effect and is hereby ratified, confirmed and approved, the terms of which (as amended hereby) are incorporated herein by reference.

2. Definitions. The following definitions in Section 1.1. of the 2018 CEA are amended as follows:

“Development Program” shall have the meaning given such term in the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District Development Program ~~recitals hereto~~.

“District” shall have the meaning given such term ~~in the first recital hereto~~, in the Third Amendment to the Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District Development Program, which is more specifically comprised of approximately ~~955.06~~ 985.22 acres and identified on Exhibit A to the Development Program and any future improvements to such real property.

“Original Assessed Value” means \$7,462,100 (which includes \$7,265,700, the taxable assessed value of the Developer Property as of March 31, 2019 (April 1, 2018) included in the original CEA together with \$196,400 for Parcel R053004 (March 31, 2023 (April 1, 2022)).

3. Exhibits. Exhibits A and B in the 2018 CEA are replaced by the new Exhibits A and B attached to this Amendment.
4. Due Authorization.
- a. The Town has full corporate power, authority and legal right to execute and deliver and to perform and observe the terms and provisions of this Amendment. This Amendment has been duly authorized, executed and delivered by the Town.
  - b. The Developer has full corporate power, authority and legal right to execute and deliver and to perform and observe the terms and provisions of this Amendment. This Amendment has been duly authorized, executed and delivered by the Company.

**IN WITNESS WHEREOF**, the Town and the Developer have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by the duly authorized officers, all as of the date first above written.

WITNESS:

TOWN OF SCARBOROUGH

\_\_\_\_\_

By: \_\_\_\_\_

Name: Thomas Hall

Its Town Manager, authorized pursuant to  
Town Council vote on \_\_\_\_\_

DRAFT



WITNESS:

CROSSROADS HOLDINGS LLC

\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_

DRAFT

**EXHIBIT A**

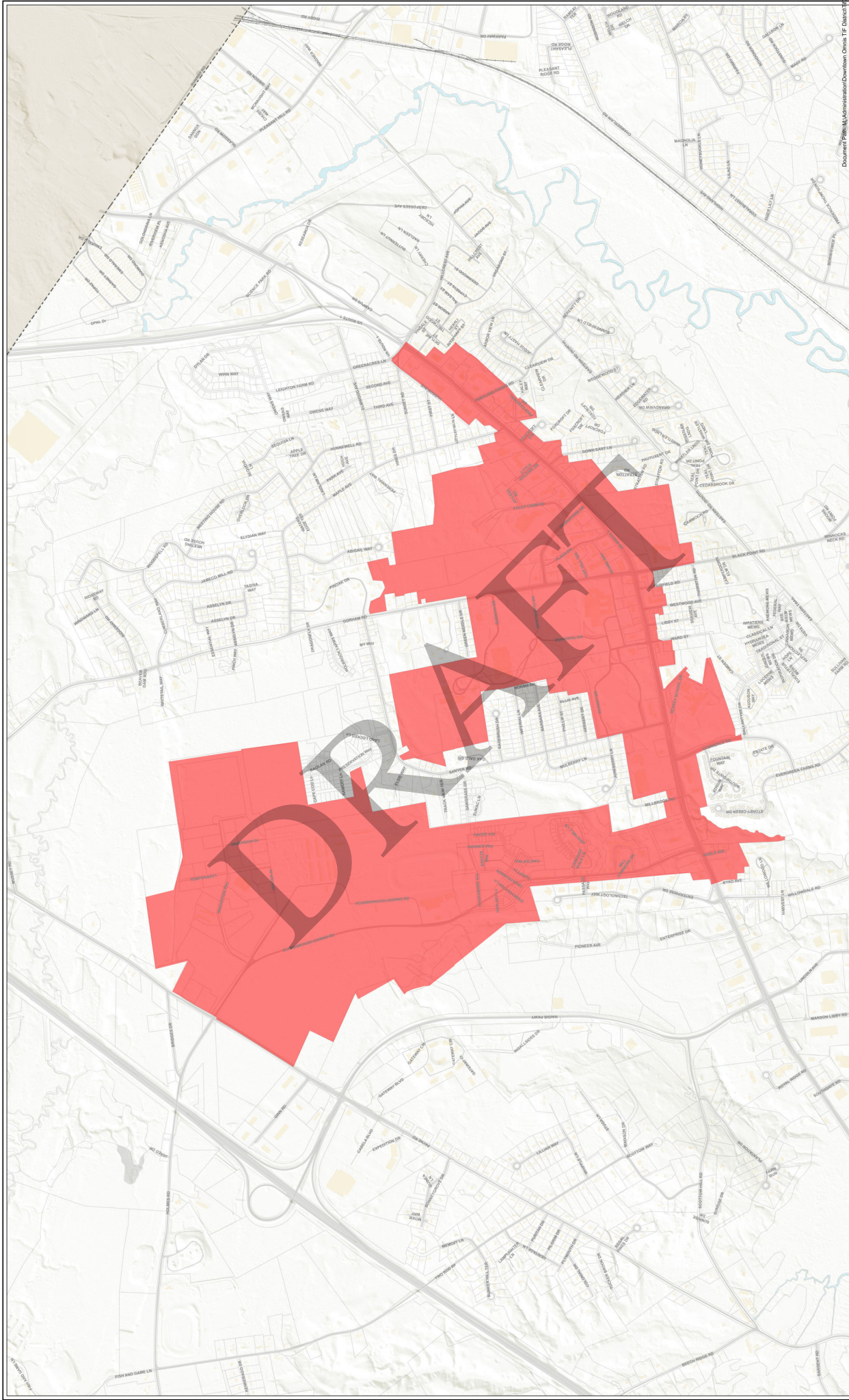
DRAFT

**EXHIBIT B**



DRAFT

**EXHIBIT A**

DRAFT



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 <p><b>Town of Scarborough Maine</b> <a href="http://www.scarborough.me.us/dgw">http://www.scarborough.me.us/dgw</a></p>	<p>Disclaimer: The data contained within the Scarborough GIS is intended as a public resource of general information. The Town of Scarborough makes no warranty or representation as to the accuracy, completeness, or any other aspect of the data. The data is provided "as is" and is not intended for use in any legal proceeding, for any decision-making, or for any other purpose where the accuracy of the data is critical. Periodic data is provided for general reference only and is a general representation of the data. The data is not intended for use in any legal proceeding, for any decision-making, or for any other purpose where the accuracy of the data is critical.</p>	<p>0 500 1,000 2,000 Feet</p> 	<p>Proposed TIF District Print Date: 9/25/2023</p>	<p><b>EXHIBIT A</b> <b>Scarborough downtown Omnibus TIF district</b> <b>Total of 985.22 acres</b></p>
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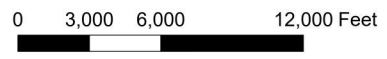


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**Town Of  
Scarborough  
Maine**  
<http://www.scarborough.me.us/dpw/>

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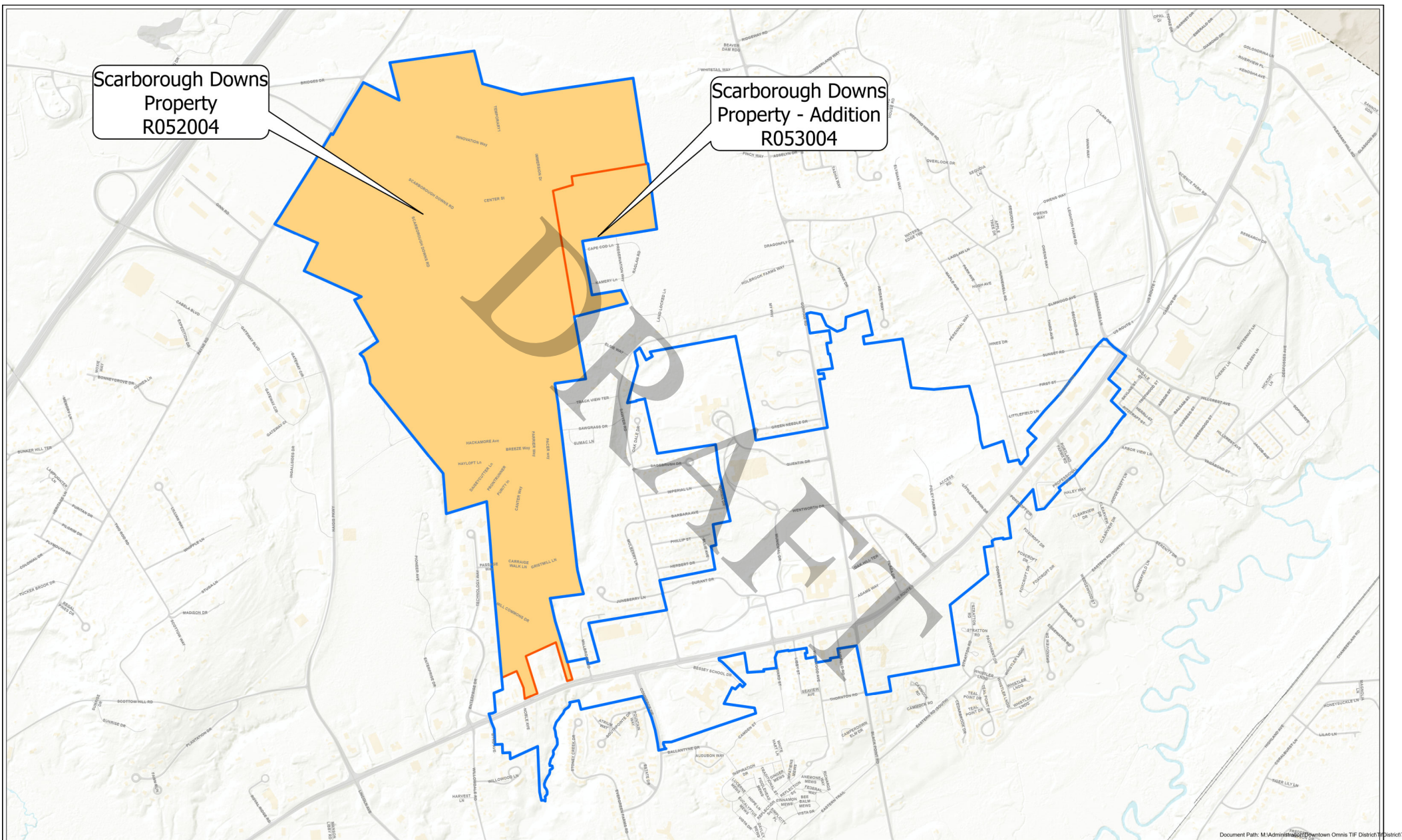
■ Proposed TIF District  
**Print Date: 9/25/2023**

**EXHIBIT A**  
**Scarborough downtown Omnibus TIF district**  
**Total of**

**EXHIBIT B**

DRAFT





Document Path: M:\Admin\GIS\DownTown Omnis TIF District\TIF District1



**Town Of  
Scarborough  
Maine**

<http://www.scarborough.me.us/dpw/>

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0 500 1,000 2,000 Feet



 The Downs Property  
 Downtown Omnis TIF District  
Print Date: 9/27/2023

**EXHIBIT B**  
**Credit Enhancement Agreement**  
**Total of 985.22 Acres**

### **Planning Board Recommendation**

Jonathan Anderson  
Chair, Scarborough Town Council  
259 U.S. Route 1  
P.O. Box 360  
Scarborough, ME 04070

RE: Rezoning of a portion of R052006 and a portion of U056001 being approximately 9.4 acres from HP to CPD.

Chairman Anderson and members of the Town Council,

On September 18, 2023, in accordance with the Town of Scarborough Zoning Ordinance, the Planning Board reviewed the rezoning request for a portion of R052006 and a portion of U056001 being approximately 9.4 acres from HP to CPD located off Haigis Parkway. The Ordinance requires that the Planning Board give its recommendation to the Town Council regarding the land use implications of the request. After consultation with the Board Chair, the recommendation is as follows:

1. The Board finds the mix of permitted uses permitted in both the HP and CPD zoning districts is similar in nature, making the change reasonable from a land use perspective.
2. The CPD district allows a higher residential density than the HP district (20 units per acre in the CPD compared to 4 units per acre in the HP). If the parcels will be used for any type of residential project, the Board has concerns on impacts to natural resources as a result of a possible larger scale development.

If you would like further clarification or discussion on these items, the Planning Department would be happy to provide any requested information in consultation with the Planning Board.

Sincerely,



---

Autumn Speer  
Director of Planning & Code Enforcement

### **Planning Board Recommendation**

Jonathan Anderson  
Chair, Scarborough Town Council  
259 U.S. Route 1  
P.O. Box 360  
Scarborough, ME 04070

RE: Rezoning of a R053004 being approximately 35.8 acres from VR-4 to CPD.

Chairman Anderson and members of the Town Council,

On September 18, 2023, in accordance with the Town of Scarborough Zoning Ordinance, the Planning Board reviewed the rezoning request for R053004 being approximately 35.8 acres from VR-4 to CPD located off Preservation Way. The Ordinance requires that the Planning Board give its recommendation to the Town Council regarding the land use implications of the request. After consultation with the Board Chair, the recommendation is as follows:

1. The CPD district allows a significantly higher residential density than the VR-4 district (20 units per acre in the CPD compared to 4 units per acre in the VR-4). The Board discussed that since this area of Crossroads property has not been included in any master plan or subdivision for The Downs, the town does not know which of the wide range of permitted CPD uses may be proposed. With this parcel so close to existing low density residential housing, from a land use perspective it does not recommend approval of the zoning change.
2. Similarly, with light industrial uses to the North in the Innovation District, this parcel and its uses must be carefully regulated such as to not impact the abutting, lower density residential uses that exist to the South.
3. The Board has concerns regarding permitted CPD uses adjacent to potential municipal uses.
4. With the parcel bordering a Scarborough Land Trust owned conservation area with significant natural resources (wetlands, etc.), the Board has concerns on impact to those resources from potential uses of the parcel. This includes with respect to stormwater runoff, lighting and sound.

If you would like further clarification or discussion on these items, the Planning Department would be happy to provide any requested information in consultation with the Planning Board.

Sincerely,



---

Autumn Speer  
Director of Planning & Code Enforcement

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-111,** Move approval on the new requests for Massage Therapist License from Kelsey Gifford, Jennifer Hannett, Gabrielle Heckman, and Kelsey Taylor, working at Family Chiropractic Associates, located at 20 Black Point Road. *[Town Clerk]*

*Town Clerk*

*Ought to Pass*

---

Sponsor

---

Recommendation

*10/04/2023*

---

First Reading/Vote

*10/04/2023*

---

Public Hearing

*N/A*

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Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

<b>ACTION ITEM: Order No. 23-111.</b>
<b>SUBJECT:</b> 7:00 p.m. Public hearing and action on the new requests for Massage Therapist License from Kelsey Gifford, Jennifer Hannett, Gabrielle Heckman, and Kelsey Taylor, working at Family Chiropractic Associates, located at 20 Black Point Road. <i>[Town Clerk]</i>
<b>PURPOSE:</b> To allow the applicant to conduct business according to the license requested.
<b>BACKGROUND:</b> The applicant is new to the Town of Scarborough and is in compliance with the requirements of our Town Ordinance.
<b>FISCAL IMPACT:</b> Cost of License
<b>STATUS / PROCESS TO DATE:</b> <ul style="list-style-type: none"><li>• Application has been reviewed, found to be complete and is on file in the Town Clerk's Office.</li><li>• Public hearing and final action: October 4, 2023.</li></ul>
<b>PROPOSED ACTION:</b> Recommend move approval of Order No. 23-111.
<b>ATTACHMENTS:</b>



**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-112,** Move approval on the request for a new Food Handlers License, from Michael Shannon d/b/a Shannon’s Best Buds, located at 10 Snow Canning Road #7A. *[Town Clerk]*

*Town Clerk*

*Ought to Pass*

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Sponsor

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Recommendation

*10/04/2023*

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First Reading/Vote

*10/04/2023*

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Public Hearing

*N/A*

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Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

<b>ACTION ITEM: Order No. 23-112.</b>
<b>SUBJECT:</b> <b>7:00 p.m. Public hearing</b> and action on the request for a new Food Handlers License, from Michael Shannon d/b/a Shannon's Best Buds, located at 10 Snow Canning Road #7A. <i>[Town Clerk]</i>
<b>PURPOSE:</b> To allow the applicant to conduct business according to the license requested and the Ordinances of the Town of Scarborough.
<b>BACKGROUND:</b> This is a new business with Scarborough. Once this business has received their Occupancy Permit, the Food Handlers License will be issued.
<b>FISCAL IMPACT:</b> \$220.00
<b>STATUS / PROCESS TO DATE:</b> <ul style="list-style-type: none"><li>• Application has been reviewed, found to be complete and is on file in the Town Clerk's Office.</li><li>• Public hearing and final action: October 4, 2023.</li></ul>
<b>PROPOSED ACTION:</b> Recommend move approval of Order No. 23-112.
<b>ATTACHMENTS:</b>

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-113.** Move approval on the names posted to the various committees/boards, as recommended by the Appointments/Negotiations Committee at the September 20, 2023, Town Council meeting. *[Appointments/Negotiations Committee]*

Community Services Advisory Board:

Appoint Patricia Kafka, as the 2<sup>nd</sup> Alternate to fill a term to expire 2023.

Long Range Planning Committee:

Move Robyn Saunders from 1<sup>st</sup> Alternate to full voting member with a term to expire 2024 and move Portia Hirschman from 2<sup>nd</sup> Alternate to 1<sup>st</sup> Alternate with a term to expire 2024 and appoint Robert Odlin as 2<sup>nd</sup> Alternate with a term to expire 2025.

*Appointments/Negotiations Committee*

*Ought to Pass*

---

Sponsor

---

Recommendation

10/04/2023

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First Reading/Vote

N/A

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Public Hearing

N/A

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Second Reading/Final Approval/Vote



## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

<b>ACTION ITEM: Order No. 23-113.</b>
<b>SUBJECT:</b> Act on the name posted to the various committees/boards, as recommended by the Appointments/Negotiations Committee at the September 20, 2023, Town Council meeting. <i>[Appointments/Negotiations Committee]</i>
<b>PURPOSE:</b> Make formal appointments to serve on the various committees/boards.
<b>BACKGROUND:</b> These assignments are done on an annual basis or when an application is received and there is a vacancy on the Committee/Board.
<b>FISCAL IMPACT:</b> N/A
<b>STATUS / PROCESS TO DATE:</b> <ul style="list-style-type: none"><li>• Appointments and Negotiations Committee meeting: September 13, 2023.</li><li>• Single action before the Town Council: October 4, 2023.</li></ul>
<b>PROPOSED ACTION:</b> Recommend move approval of Order No. 23-113.
<b>ATTACHMENTS:</b>

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-114.** Move approval of the first reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. The Town Council public hearing will be scheduled upon receipt of the Planning Board review. *[Planning Director]*

*Planning Director*

*Ought to Pass*

---

Sponsor

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Recommendation

*10/04/2023*

---

First Reading/Vote

*TBD*

---

Public Hearing

*TBD*

---

Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

**ACTION ITEM: Order No. 23-114.****SUBJECT:**

First reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. *[Planning Director]*

**PURPOSE:**

To review ordinance amendments that would allow greater flexibility for electronic message signs.

**BACKGROUND:**

The Ordinance Committee received a request from a local business to review the existing electronic message sign regulations as they relate to colors and size of images permitted. The existing ordinance limits the size and colors of permitted lettering on electronic message signs from 8-12” in height and only white or gold lettering on a black background. The technology has advanced quite a bit since the ordinance was last amended in 2011. The Ordinance Committee reviewed the request on September 14, and referred the attached amendment to the full Council for review.

**FISCAL IMPACT:**

N/A

**STATUS / PROCESS TO DATE:**

- Ordinance Committee: September 14, 2023
- First reading before the Town Council: October 4, 2023

**PROPOSED ACTION:**

First reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. Town Council public hearing will be scheduled upon receipt of the Planning Board review.

**ATTACHMENTS:**

- Proposed Amendments to Chapter 405, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 405 the Zoning Ordinance, of the Town of Scarborough, Maine, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

## **SECTION XII. SIGN REGULATIONS.**

### **G. ELECTRONIC MESSAGE AND TIME/TEMPERATURE SIGNS**

Electronic message and time and/or temperature signs are permitted only in the B1, B2, B3, BO-R, RH, RH2, I, I-O, L-I, CPD and TVC, TVC-2, TVC-3, TVC-4 Districts subject to the following standards:

#### **1. Electronic Message Signs are required to comply with the following conditions:**

- a. An electronic message sign may only be used as a readerboard on a free-standing sign. Electronic message signs may not be used as stand-alone signs.
- b. An electronic message sign must not give the appearance of motion, flashing, blinking, or shimmering. When the display changes, it must change as rapidly as is technologically practicable with no phasing, rolling, scrolling, flashing, or blending.
- c. The message may be changed no more frequently than twice in each 60 minute period. [Amended 08/19/09]
- ~~d. Electronic message sign lettering or numbering height shall be a minimum of 8" and a maximum of 12" and where any industry standard for colors does not exist, may consist only of white or gold lettering or numbering on a black background. [Adopted 08/19/09][09/21/2011]~~

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-115.** Move approval of the first reading and refer to the Planning Board, the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii. The Town Council public hearing will be scheduled upon receipt of the Planning Board review. *[Planning Director]*

*Planning Director*

*Ought to Pass*

---

Sponsor

---

Recommendation

*10/04/2023*

---

First Reading/Vote

*TBD*

---

Public Hearing

*TBD*

---

Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

**ACTION ITEM: Order No. 23-115.****SUBJECT:**

First reading and refer to the Planning Board, the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii. *[Planning Director]*

**PURPOSE:**

To review ordinance amendments required to permit coffee house uses with accessory drive-through service in the CPD district and to define coffee house as a separate use from restaurants.

**BACKGROUND:**

The Downs has submitted a request to permit coffee house uses with an accessory drive-through service in the CPD. They have met with staff and worked to request a two-part approach to permit coffee house uses with accessory drive-throughs if permitted. The CPD currently permits restaurant uses without drive-throughs in Planned Developments. Coffee shops are currently included under the restaurant use category.

The first part would be to add definition distinct from restaurants which are currently defined as: *A business the principal activity of which is serving food to the public.*

The proposed definition for Coffee House is as follows:

*An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.*

The second part of the proposal would be to amend the restaurant use to exclude coffee houses, and add the coffee house use, allowing drive-through service in Planned Developments as follows:

*19. Restaurants with no drive-through service; excluding coffee houses.*

*20. Coffee house, drive through service permitted*

Chapter 405B Site Plan Ordinance has the following requirements relating to drive-throughs:

1. Drive-through lanes shall minimize conflicts with pedestrian circulation routes. Motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving or other devices. The site plan shall be designed to minimize queuing in parking lots or other areas which would cause congestion or unsafe conditions.
2. Walkways shall be located where motorists can anticipate pedestrians. Likewise, walkways shall be designed to give pedestrians a view of oncoming vehicles and shall

avoid bisecting drive-through lanes, access and service drives, and other high-traffic routes.

In addition, traffic review during the site plan process takes into consideration adequate queuing and spacing for proposed drive-through uses.

**FISCAL IMPACT:**

N/A

**STATUS / PROCESS TO DATE:**

- Received request for change: September 11, 2023.
- First reading before the Town Council: October 4, 2023.

**PROPOSED ACTION:**

First reading and refer to the Planning Board, the proposed amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. permitted Uses ii and Chapter 405 Zoning Ordinance Section VI Definitions. Town Council public hearing will be scheduled upon receipt of Planning Board Review.

**ATTACHMENTS:**

- Applicant Request Letter.
- Proposed Amendments Chapter 405 Zoning Ordinance Section VI Definitions.
- Proposed Amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii.



175 Scarborough Downs Road, Suite 113  
Scarborough, Maine 04070  
207.289.6945

September 11, 2023

**Ms. Autumn Speer**

Town of Scarborough  
P.O. Box 360  
Scarborough, ME 04074

**Subject: Crossroads Planned Development District  
Zoning Amendment Application**

Dear Autumn:

On behalf of **Crossroads Holdings, LLC**, our office is pleased to submit a formal application for a text amendment to the Crossroads Planned Development District (CPD). This amendment proposes to add Coffee Houses (including drive-thru service) as a permitted use within a planned development in the CPD zoning district. In addition, a definition for Coffee Houses is proposed to differentiate this use from the more general use definition for Restaurant.

For a planned community like the Downs, coffee houses are in high demand and are an important amenity for residents, employees and visitors in the project. They provide for daily gathering places and community hubs from meeting friends or family for coffee, to social or business meetings, to an expected place for remote work. Coffee houses are fundamental to fulfilling the vision for the Downs and the CPD, especially as we proceed with the Town Center area of the project and the Market St gateway to it. Further, in modern day to meet the demands and expectations of customers, most every coffee house business platform requires provisions for drive-thru service in addition to walk-in or sit-down service.

With this amendment, coffee houses will be permitted in the Crossroads Planned Development and will be differentiated from Restaurants with no drive-thru service. Further, this amendment will bring the CPD District in line with what's allowed under the permitted uses of very similar mixed use zones in Town, including the abutting Haigis Parkway Zoning District as well as the Town and Village Center District in Oak Hill and Dunstan – both of which allow for coffee houses with drive-thru service (as well as other restaurants).

For all these reasons, we are seeking this critical zoning amendment for CPD District, the Downs project, and all of our residents, businesses and visitors – current and future.

Attached to this cover letter is an excerpt of the zoning amendment language that adds this permitted use and provides for a new definition for Coffee House.

We appreciate your assistance in working with us on this amendment, and request that this application be provided to the Town Council and Planning Board for their review through the zoning amendment process.





We are seeking Council and Planning Board support for this change and look forward to 1<sup>st</sup> Reading and the Public Hearing process.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Bacon". The signature is fluid and cursive, with a long horizontal line extending from the end.

Dan Bacon  
Development Director  
M&R Holdings, LLC

Attachments

Amendment Language

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 405 the Zoning Ordinance, of the Town of Scarborough, Maine, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

## **SECTION VI. DEFINITIONS**

Except where specifically defined herein, all words used in this Ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is always mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied”; the terms “building inspector” and “code enforcement officer” are synonymous. [12/01/04][10/04/17]

### Coffee House:

An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

### Restaurant:

A business the principal activity of which is serving food to the public. [11/16/94]

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 405 the Zoning Ordinance, of the Town of Scarborough, Maine, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

## **SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)**

### **I. BASIC STANDARDS**

#### **A. PURPOSE (CPD)**

The purpose of the Crossroads Planned Development District is to allow a mix of uses, guided by design standards and a conceptual master plan, which results in a vibrant center for development located in the heart of Scarborough. This largely undeveloped area, within the center of the town, offers a unique opportunity for town representatives to work cooperatively with the area's single land-owner, allowing mixed use development to evolve, while ensuring open space, preservation of natural resources, an efficient land use pattern for pedestrian, bicycle and transit use, a coordinated street plan and a cost effective extension of needed utilities. The mix of uses and efficient land development patterns are also intended to promote a number of community places, where people can gather, meet and cross paths.

#### **B. PERMITTED USES (CPD)**

i. The following uses are permitted in both conventional and planned developments:

1. Harness racing facilities.
2. Commercial outdoor recreation uses.
3. Fully enclosed places of assembly, amusement, culture and government, exclusive of video gambling, casino gambling and slot machine facilities.
4. Municipal buildings and uses.
5. Public utility facilities.
6. Accessory uses.

ii. The following uses are permitted only in planned developments:

7. Single-family dwellings but only as part of a planned development that includes a variety of housing types.
8. Two-family dwellings but only as part of a planned development that includes a variety of housing types.
9. Multifamily dwellings.
10. Multiplex dwellings.
11. Townhouses, limited to no more than eight (8) dwelling units per building.
12. Senior housing.
13. Residential and long-term care facilities for the ill, aged, or disabled. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply.
14. Dwelling units in a mixed use building.
15. Live/work units.
16. Accessory units.

- 17. Retail business and service establishments.
- 18. Personal service establishments.
- 19. Restaurants with no drive-through service, excluding coffee houses.
- 20. Coffee Houses, drive-through service permitted.
- 210. Hotels and motels.
- 221. Business and professional offices.
- 232. Financial, insurance and real estate offices.
- 243. Business services.
- 254. Medical/diagnostic facilities.
- 265. Health clubs.
- 267. Non-municipal government buildings and uses.
- 287. Elementary and secondary schools.
- 298. Instructional and educational services.
- 3029. Libraries.
- 310. Museums.
- 321. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions.
- 332. Funeral homes.
- 343. Places of worship.
- 354. Adjunct uses, Place of worship.
- 365. Golf courses.
- 376. Casinos or slot machine facilities, as defined in Chapter 31 of Title 8 of the Maine Revised Statutes, that are located within the same planned development as a harness racing facility and are licenses by the State of Maine in accordance with the requirements of Chapter 31 of Title 8 of the Maine Revised Statues, including the requirements that the casino or slot machine facility must be approved by the voters of the Town in a municipal referendum and that the Town Council has entered into a revenue-sharing agreement with the owner and/or operator of the casino or slot machine facility.
- 387. Pet care facilities. [Adopted 05/16/18]

iii. The following uses are permitted only in planned developments and are subject to specific performance standards set forth in Section IX.

- 398. Home occupations.
- 4039. High technology facilities.
- 410. Family day care homes.
- 421. Group day care homes and day care facilities.
- 432. Nursery schools.
- 443. Passenger transportation facilities.
- 454. Small-scale energy facilities.
- 465. Telecommunication facilities.
- 476. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance with the exception of size limitation. Small batch processing facilities shall be limited to no more than 10,000 square feet of floor area included any accessory uses, such as retail area, a tap room, sampling area, storage or warehousing. [Adopted 10/07/15; amended 05/17/2023]
- 487. Research, development and light industrial. [Adopted 05/16/18]

**498.** Gasoline filling stations whether as a principal or accessory use and located so that all fueling facilities are located within one thousand (1,000) feet of the point of intersection of the centerlines of Payne Road and Holmes Road. Gasoline filling stations shall also be subject to the performance standards of Section IX.(X.) of this Ordinance. [Adopted 05/16/18]

- iv. The following uses are permitted only in planned developments and are subject to the additional development standards of subsection D, of this district, including the standards on location and buffers under subsection D.14.: [Adopted 05/16/18]

**5049.** Manufacturing and assembly.

**510.** Food processing facilities.

**521.** Mini-warehouse/storage facilities.

**532.** Contractors offices, shops and storage yards.

**543.** Motor vehicle repair and service facilities including auto body shops, facilities for the repair or recreational vehicles, small engine repair facilities and vehicle sales accessory to these uses.

**554.** Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars).

**565.** Marijuana Manufacturing Facility. [Adopted 01/08/2020]

**576.** Marijuana Testing Facility. [Adopted 01/08/2020]

**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-116.** Move approval of the first reading and schedule a public hearing and second reading for the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance. The Town Council public hearing will be scheduled upon receipt of the Planning Board review. *[Planning Director]*

*Planning Director*

*Ought to Pass*

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Sponsor

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Recommendation

*10/04/2023*

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First Reading/Vote

*TBD*

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Public Hearing

*TBD*

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Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

**ACTION ITEM: Order No. 23-116.****SUBJECT:**

First reading and schedule a public hearing and second reading for the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Planning Director]*

**PURPOSE:**

To review a new proposed ordinance Chapter 602B Town to create a mechanism to allow for temporary event parking.

**BACKGROUND:**

Staff received a request from the Sprague Corporation to permit an unimproved grass parking lot for seasonal overflow parking at Scarborough Beach State Park in June of this year.

The Zoning Ordinance, in Section XI Off Street Parking Regulations, states that site plan approval is required before any parking or vehicular use is established. Staff referred the applicant to the Planning Board for an interpretation on the town standards via sketch plan.

The Planning Board heard the sketch plan request and voiced concerns that they do not have the authority to approve the parking lot as presented. The applicant requested staff move the request to the Ordinance Committee to ask if a Seasonal Parking Lot ordinance might be warranted.

Staff worked with the applicant, interested parties and the Ordinance Committee over the period a several meetings to create a framework the request could be granted under. The proposed new Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance allows such a request with specific parameters to follow, staff review requirements a public hearing process and an annual renewal process.

**FISCAL IMPACT:**

N/A

**STATUS / PROCESS TO DATE:**

- Planning Board Sketch Plan Review June 26, 2023
- Ordinance Committee July 13, 2023
- Ordinance Committee August 24, 2023
- Ordinance Committee September 14, 2023

**PROPOSED ACTION:**

Recommend approval of the first reading on the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance and schedule a public hearing and second reading for Wednesday, October 18, 2023.



**ATTACHMENTS:**

- Proposed Chapter 602B Temporary Event Overflow Parking Ordinance
- Sketch Plan Request Letter
- Prouts Neck Sketch Plan Letter June 22, 2023
- Prouts Neck Draft Ordinance Letter August 23, 2023



# MEMO

**To: Ordinance Committee**

**From: Autumn Speer, Director of Planning and Codes**

**Date: July 7, 2023**

**Re: Seasonal Parking Lots**

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Staff has received a request from the Sprague Corporation to permit an unimproved grass parking lot for seasonal overflow parking at Scarborough Beach State Park.

The Zoning Ordinance, in Section XI Off Street Parking Regulations, states that site plan approval is required before any parking or vehicular use is established. Staff referred the applicant to the Planning Board for an interpretation on the town standards via sketch plan.

The Zoning and Site Plan Review Ordinances speak to paved parking areas and the required engineering detail for such projects. The ordinance is silent concerning temporary parking requirements. Staff interprets the ordinance such that temporary or seasonal parking must meet permanent/paved parking standards. With a consistent frequency through the summer months, and no means to monitor or enforce the number of days that the lot would be utilized, staff recommended that this parking area be stabilized and stormwater management provisions be provided to address water quantity and quality control.

The Zoning Ordinance, in section XI.K., specifies “where off street parking for any use other than single or two-family dwellings is required or provided, the surface of driveways...and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability of fine gravel.”

The Ordinance also states that “a system of surface drainage shall be provided in such a way that the water runoff shall not run over or across any public sidewalk or street.”

## Planning & Code Enforcement

The Planning Board heard the sketch plan request at their last meeting and voiced concerns that they do not have the authority to approve the parking lot as currently presented. The applicant requested staff move the request to the Ordinance Committee to ask if a Seasonal Parking Lot ordinance might be warranted.

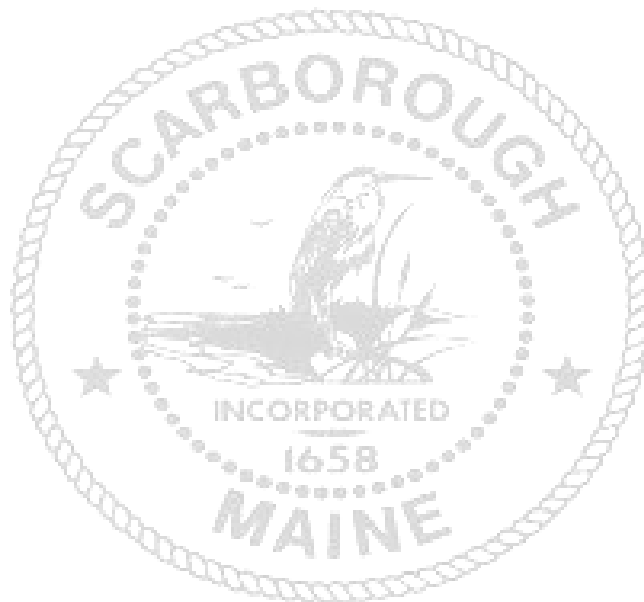
**Attachments:**

Sketch Plan Request  
Staff Comments to Planning Board

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**NEXT STEPS:**

Staff requests input on drafting a Seasonal Parking Lot ordinance.



BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 602B the Temporary Event Overflow Parking Ordinance, of the Town of Scarborough, Maine, be and hereby is adopted, as follows:

**Chapter 602B – Town of Scarborough**  
**Temporary Event Overflow Parking Ordinance**  
**Adopted xxxx**

**ARTICLE I - TITLE, AUTHORITY, AND PURPOSE**

**A. TITLE**

This Ordinance shall be known as and may be cited as the Temporary Event Overflow Parking Ordinance of the Town of Scarborough, Maine.

**B. LEGAL AUTHORITY**

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution and 30-A M.R.S.A. §3001.

**C. PURPOSE**

To allow for temporary event overflow parking. Accordingly, it is deemed necessary in the interests of public welfare to regulate the provision of temporary event overflow parking in order to protect the public health and safety.

Temporary event overflow parking areas used for special event parking (to accommodate occasional or seasonal overflow volumes) may be used with pervious ground cover where such cover can sustain the traffic and use volumes. The owner of the property shall be responsible for the maintenance of such parking in a clean, mud and dust-free condition. Grass and mulch are examples of pervious ground cover; gravel and pavement are examples of impervious surfaces.

**D. PROHIBITIONS**

No person shall permit on her/his property, temporary event overflow parking until a permit has been obtained from the Town Council.

**E. DEFINITIONS**

Any term not specifically defined herein shall be given its customary and ordinary meaning. For the purpose of this Ordinance, the following terms shall be defined as hereinafter set forth:

**Disturbed Area:**

Means all land areas of a Parcel that are stripped, graded, grubbed, filled, or excavated at any time during the Site preparation or removing vegetation for, or construction of, a project. Cutting of

trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area.

**Operator:**

"Operator" means the person responsible for the managing of the event for which the overflow parking area is requested. In the event that no Operator exists, the owner or, in the event of her/his non-availability, the lessee of the ground encompassing the event area, shall be deemed to be the Operator under these regulations.

**Temporary Event Overflow Parking:**

Temporary Event Overflow Parking areas shall be defined as off-street parking areas where the Operator of an event may temporarily provide parking for vehicles for a limited period of time. Temporary Event Overflow Parking areas shall not be used more than thirty (30) days per calendar year. Temporary Event Overflow Parking areas are not permitted greater than 40,000 square feet in size and may not contain more than 115 spaces, nor may any single event location utilize more than one Temporary Event Overflow Parking area. Applicants seeking to use this exception for site design shall provide information in the form of a signed, notarized letter stating the number of times per year that the overflow parking areas will be used. Number of uses per year shall be noted as part of the permit application.

## **F. PERMIT APPLICATION PROCESS**

### **1. New Applications**

New applicants may apply at any time during the year. Applications for a permit shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and when submitted to the Town Council shall bear the recommendation for approval or disapproval with reasons noted by the Town Engineer, Public Works Director, Planning Director, Police Chief, Fire Chief and the Tax Collector.

### **2. Staff Review**

Upon the filing of an application, Town staff shall review the application and notify the applicant by letter issued no later than fifteen (15) business days after the filing of the application as to whether the application is deemed complete, or if not, the specific provisions of this Ordinance for which additional information must be provided.

Upon receipt of each application request for a Temporary Event Overflow Parking License the following shall occur:

- (a) The Town Engineer, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,
- (b) The Public Works Director, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,
- (c) The Planning Director, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,
- (d) The Police Chief, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,
- (e) The Fire Chief, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,
- (f) The Tax Assessor shall submit a report to the Town Clerk on any delinquencies or payments due the Town at the time the license is requested or renewed; and,
- (g) The Town Clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this ordinance and shall report such findings in writing to the Town Council.

If the applicant objects to the determination that its application is not complete, then the completeness of the application may be reviewed by the Town Council at its next regularly scheduled meeting for which adequate time for notice is available. Once the application has been deemed complete either by Town staff or by the Town Council, the application shall be considered as an agenda item at the next regularly scheduled Town Council meeting for which adequate time for notice is available.

### **3. Public Hearing**

The Town Council shall hold a public hearing on all new applications for permit under this Ordinance. Notice of the hearing shall be advertised in a local daily newspaper, at least seven (7) days prior to the meeting at the expense of the applicant. Abutters within 500' to the proposed site shall be notified in writing 10 days prior to the public hearing.

### **4. Town Council Action and Notification**

Within thirty (30) days after the Town Council first substantively considers the application (or longer with the agreement of the Operator) the Town Council shall either issue a Permit, with or without conditions, to the Operator or deny a Permit to the Operator. Any decision of the Town Council shall be in writing and shall set forth with specificity the reasons for the action taken, and in the case of denial, shall include a list of steps which, if followed by the Operator, would result in a Permit being issued, if in the judgement of the Council, the problems that resulted in denial can be cured.

The Town Council shall issue a permit for temporary event overflow parking only if it finds the standards in this Ordinance are met and the applicant demonstrates that the temporary event overflow parking will be conducted in a manner so as not to jeopardize the public health, safety and welfare and that the applicant is not delinquent in the payment of any taxes or fees owed to the Town of Scarborough. When considering the issuance of a permit, the Town Council may seek input from the Town Engineer, Public Works Director, Planning Director, Police Chief, Fire Chief, and other such officials or persons as it deems appropriate, and shall seek from them relevant information, including but not limited to any safety problems that arose at any event overflow parking areas within the previous two years (a) held at the same location or (b) managed or promoted by the operator or a related entity.

A new permit, when granted, shall be valid until December 30th, immediately following said granting of permit.

The Town Council shall deny a permit for event overflow parking if it finds that any of the standards set forth in this Ordinance are or would not be met. If the Town Council fails to either issue the permit or send a notice of denial within the time allowed, the permit shall be deemed to have been denied. A party aggrieved by the decision of the Town Council may appeal to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## **5. Renewal Permits**

Once granted, an existing permit may be renewed by the Town Clerk, provided that the holder of the existing permit makes application for renewal on or before December 30th. If the holder applies for renewal on or before December 30th, the existing permit shall remain in effect until final action on the renewal application. Otherwise, the existing permit shall expire on December 30th and an application for a new permit must be filed.

For renewal applications filed on or before December 30th, the Clerk shall process and issue renewal permits in the same manner as the Town Council processes and issues new permits, except that no public hearing is required for a renewal. The Clerk may renew a permit only if the Clerk is satisfied that the application meets all the requirements of this ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new permit.

## **G. PERMIT APPLICATION REQUIREMENTS**

The permit application shall include the following:

1. An existing conditions plan, including curb cuts, utilities, trees, plantings, drainage features, wetlands and other site features.
2. A narrative and site plan describing the proposed event and temporary event parking area, including the location of proposed parking spaces and any proposed site changes and demonstrating how the proposal meets the requirements below:

- a) The maximum size for proposed event overflow parking areas, including any disturbed area, shall not exceed 40,000 square feet, and any single event location may utilize no more than one Temporary Event Overflow Parking area.
- b) The maximum number of days used shall be 30 per calendar year. The applicant is responsible for including the proposed days the parking area will be used.
- c) The maximum number of vehicles parked shall not exceed 115 vehicles.
- d) The proposed parking area shall not encroach on public rights-of-ways.
- e) Any temporary structure shall comply with the rules and policies of the Town. Grounds, buildings, and related facilities shall be constructed, maintained and used in a manner as to prevent fire and in accordance with the applicable State and local fire prevention regulations.
- f) Temporary Event Overflow Parking areas may only be used between the hours of 9am and 9pm Sunday to Thursday and 9am to 10pm Friday and Saturday. The proposed time of use is required as part of the application.
- g) If the parking area is to be used at night, provide a lighting plan including temporary illumination to provide for the safety of the persons parking. The parking area shall be adequately lighted, but the lighting shall not unreasonably reflect beyond the parking boundaries.
- h) Service road(s) and parking spaces shall be located and developed to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles.
- i) The proposed parking area shall not impede fire and emergency access nor block fire lanes.
- j) Each temporary event parking area shall be well drained and so arranged to provide sufficient space for vehicles.
- k) Trees, underbrush, large rocks and other natural features shall be left intact and undisturbed whenever possible, and natural vegetative cover will be retained, protected and maintained so far as possible to facilitate stormwater drainage, prevent erosion, and preserve scenic attributes.
- l) Overflow parking areas shall not impact the natural drainage patterns on the site. The applicant must demonstrate that the use will not have an adverse impact on drainage patterns from or to an abutting property or public right-of-way.
- m) The parking area shall be designed and maintained to prevent soil or debris from being tracked onto a public street and to prevent dust trespass onto neighboring properties. Exiting for overflow parking areas shall be arranged such that the vehicles must pass over an apron of crushed stone, asphalt or other approved surface to allow any mud to track off prior to vehicle entry onto a public street.
- n) Dust control shall be applied as necessary to prevent dust trespass onto adjoining properties. Planned measures must be provided on the proposed plans.
- o) The Operator shall ensure that adequate communication between local law enforcement, fire prevention, and emergency personnel and any private security personnel, including emergency response protocols is provided.
- p) Grounds shall be maintained free from accumulations of refuse and any health and safety hazards constituting a nuisance. The area where vehicles are parked shall have one (1) fifty (50) gallon refuse container or its equivalent for every twenty-five (25) vehicles and an appropriate number of recycling containers.

- q) All refuse shall be collected from the parking area at least once per day of use, or more often if necessary, and disposed of at a lawful disposal site. The Operator may submit a detailed alternative plan for refuse disposal to be reviewed and, if reasonable and appropriate, approved by the Town Council.
3. Provide a pedestrian access plan to demonstrate safe access for the ingress and egress of pedestrians from the overflow parking lot to the event location. This plan may include temporary signage and/or permanent improvements.
4. Provide a vehicular access plan to demonstrate vehicle movement for the ingress and egress of vehicles from the overflow parking lot and the event location, and the proposed traffic measures that may be necessary. The plan may include temporary signage and/or permanent improvements.
5. Provide a traffic control plan/and or identify personnel required to insure safety to all members of the traveling public, including pedestrians, along all public roadways in the proximity of the event and/or along which the public is likely to travel to reach the event shall be provided.
6. Provide an Operation & Maintenance Plan detailing the measures that will be taken during and after the event to stabilize, revegetate, aerate, and repair the parking area or related access ways.

Information submitted by the applicant is to be reviewed by the Town Engineer, Public Works Director, Planning Director, Police Chief, and Fire Chief to determine whether these standards have been demonstrated. Additional materials may be required to ensure compliance with the standards of this ordinance.

Temporary Event Overflow Parking permits are subject to conditions of approval that may be required for any of the above based on the specific site and request.

#### **H. PERMIT FEES.**

Fees for this Ordinance shall be set forth as specified in Chapter 311, *Schedule of License, Permit and Application fees*.

#### **I. BOND AND INSURANCE.**

The Operator shall carry public liability insurance in at least the following amounts: \$1,000,000 Bodily Injury (per person); \$1,000,000 Bodily Injury (per occurrence); and \$1,000,000 property damage. A copy of the insurance policy shall be provided to the Town at the time of the filing of the application. Additionally, if the Operator carries public liability insurance in an amount greater than the figures set forth in this Section, then the Town shall be named as an additional insured.

#### **J. PENALTIES.**

Any person, including the Operator, violating this Ordinance shall be punished by a civil penalty of at least \$xx but not more than \$xx. The failure to comply with conditions imposed upon the issuance of a temporary event overlay parking permit shall be a violation of this Ordinance. Each violation shall be considered a separate offense, and each day a violation is allowed to exist shall be considered a separate offense. The civil penalty provided for in this Section 602B shall be in



addition to any other penalty provisions provided within this Ordinance, and shall be in addition to all other remedies to the Town of Scarborough at law and in equity. The provisions of this Ordinance shall be enforced by the Town Manager or such other municipal official or employee as the Town Manager shall designate in writing.

#### **K. REVOCATION.**

The Council may revoke a temporary event overflow parking permit issued pursuant to this Ordinance upon finding that the Operator has violated one or more of the provisions of its temporary event overflow parking permit, if the Council finds that the violations are likely to occur again in future temporary event overflow parking sites sponsored by the Operator at the temporary event overflow parking area subject to the permit and where the previous violations occurred. The Council may revoke a permit only after the Operator has been given notice and an opportunity to be heard. In the case of a revocation, the Operator must receive notice of the proposed revocation at least fourteen (14) days prior to the revocation hearing. A decision by the Council to revoke a permit shall not take effect until fourteen (14) days after the Operator has actual notice of the decision. The Council may, however, shorten any of the time periods prescribed in this Section if the Council finds that an emergency posing an imminent threat to the public health, safety or welfare exists and requires immediate action. The decision of the Council to revoke a permit is not appealable to any other board or agency within the Town of Scarborough.

#### **L. SEVERABILITY.**

The invalidity of any provision of this Ordinance shall not invalidate any other part thereof.

#### **M. EFFECTIVE DATE.**

This Ordinance shall take effect immediately upon adoption of the same by the Town Council of the Town of Scarborough.



Civil Engineering | Surveying

June 5, 2023

Autumn Speer  
Planning Director  
Town of Scarborough  
259 US Route One  
Scarborough, Maine 04070

Re: Sketch Plan Resubmission  
Black Point Beach Parking-Sprague Corp, Black Point Resource Management  
Discussion regarding Seasonal Grass Overflow Parking Lot

Dear Autumn;

On behalf of the Applicant, Sprague Corp, we are resubmitting a Sketch Plan Application for a Seasonal Grass Overflow Parking Lot. In support of the application, we have enclosed the following:

- Traffic Assessment - VHB
- Topographic Survey-Statewide Surveys, Inc (Full Size)
- Sketch Plan-BH2M (Full Size)

As you know a sketch plan was submitted previously by the applicant for this project. It is our understanding that this project was discussed in detail with both Planning Staff and the Planning Board. As you know the applicant would like to keep this overflow parking area as an unimproved seasonal grass parking lot. We met onsite with Planning Staff on May 20, 2023 to discuss the permitting of the parking lot and how it could be permitted in this way. Planning Staff recommended we go back to the Planning Board with a sketch plan to specifically discuss whether the parking lot can remain as an unimproved seasonal grass overflow parking area. We understand by submitting today we will be eligible for the Planning Board meeting on June 26, 2023 where we look forward to discussing this matter with the Board and Planning Staff.

The following is a summary of the applicant's perspective on this parking lot for the Planning Board to consider:

- This parking lot will only be used seasonally (Memorial Day to Labor Day).
- This parking lot is an overflow lot and is only used when needed once the other existing gravel lots are full. As you know the applicant has been using this lot for a handful of years and in that time they typically do not exceed the need to use this parking lot 30 times in any given year. The applicant would be willing to allow the Town to put a cap on the number of times this parking lot could be used annually. This could be made a condition of

approval. As discussed with Planning Staff a plan how this requirement would be monitored and enforced would need to be established. The applicant proposes the following enforcement plan for this parking lot. The onsite manager from Scarborough Beach State Park will call the Code Enforcement Officer each day this parking lot is required to be used. The CEO will keep a running tally of the days this parking lot is used. If the number of uses exceeds 30, within any given year, the applicant will no longer be allowed to use the parking lot for the remainder of the year.

- The applicant would like to keep all of the existing trees onsite as they provide shade and a limited buffer for the abutting lots. The applicant does not want to create an impervious parking lot that could impact abutting lots or the abutting natural resources and would be a visual detriment to the surrounding area. The applicant wants to be a good neighbor and protect the abutting resources. We feel an impervious parking lot along with the required stormwater improvements that would be required in this location, when considering how infrequently this parking lot is anticipated to be used, is not warranted.
- As we have discussed the applicant has been using this grass overflow parking lot in this way for 5 to 7 years. In that time the grass parking lot has remained a dense grass ground cover. The only annual maintenance required currently is mowing of this grass area weekly. We understand Planning Staff is concerned that the use of this parking lot will result in the grass area turning into impervious area. Based on the anticipated limited use, the applicant is confident this will not happen. The applicant is willing to take steps to make sure this overflow parking area remains grass and pervious. The applicant is willing to fertilize the grass area each spring to assure that a dense grass growth is established each spring. The applicant is also willing to aerate the area and fertilize again in the fall (if needed) after the summer season is over to assure the grass area recovers properly before the winter season. If during the summer when the parking lot is being used there is an area where the grass is not continuing to grow properly the applicant is willing to stop the use of the parking area until this area has been established with grass growth. The Scarborough Beach State Park has three staff onsite most days the beach is open. As part of their daily duties they can include a regular review of the parking lot to assure grass growth remains. We would encourage the Planning Board to have a site walk to visit the site and see the dense grass growth that currently exists after 5 to 7 years of use before making a decision on this item.
- As discussed with Planning Staff we understand the Town is concerned about setting precedence for this overflow grass parking area remaining unimproved. Certainly this is not the first seasonal grass overflow parking lot to be used in Town. That being said, this use is a benefit to the Town and one that we all want to find a way to permit this project. As stated above the applicant is also willing to cap the use of this parking lot to 30 days annually which is only approximately 8 % of the year. The applicant is also willing to work with the Town to make sure this number of uses is not exceeded annually and is willing to go to great lengths to assure that this parking area remains densely grass covered and does not turn into an impervious surface. As described above the applicant is willing to stop using the parking area if grass growth does not remain. For these reasons the applicant feels they are different than all of the other parking lots in Town and this is why we feel the board would not be setting any precedence by allowing this seasonal overflow parking area to remain grass.

As mentioned above we encourage the Planning Board to hold a site walk onsite to review the area before taking action on this item. We feel a visit to the site will be a valuable use of the board's time to help with their decision making. We look forward to the opportunity to discuss this matter with the planning board at the meeting on June 26, 2023.

We understand we are before the board to only discuss the improvements required for the parking lot, however, we have attached a traffic memo prepared by VHB. This traffic memo was requested by the Town and we wanted to provide a copy for the Town review

Please call me if you have any questions or need any additional information.

Sincerely,



Andrew S. Morrell, PE  
Project Engineer

cc: Trevor McCourt, Sprague Corp.





To: Trevor McCourt  
The Sprague Corporation  
1 Ram Island Farm Road  
Cape Elizabeth, ME 04107

Date: February 3, 2023

## Memorandum

Project #: 52971.00

From: Jason Ready, PE, PTOE  
Mike Cristiani, EI

Re: Traffic Assessment  
Scarborough Beach State Park Overflow Parking Lot

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### Introduction

VHB was requested to provide transportation planning and engineering consulting services regarding a proposed expansion of parking for Scarborough Beach State Park in Scarborough, Maine, off Black Point Road. The proposed parking expansion consists of a new 115-space overflow parking lot which is across the street from the main entrance to Scarborough Beach and within walking distance. Town of Scarborough officials identified safety concerns for pedestrians crossing Black Point Road and the proposed parking lot. This memorandum provides a summary of findings associated with the proposed pedestrian crossing.

### Area Information

The site is located on Black Point Road and is primarily accessed from US Route 1 to the north and from Spurwink Road to the east. This project is proposing to maintain the two curb cuts on Black Point Road serving as one entrance and one exit, respectively. The proposed lot is approximately 300 feet from the entrance to the Beach and is intended to reduce the peak season queue by allowing patrons to park their vehicles and enter the park as pedestrians as opposed to queuing on the road in their vehicles.

Black Point Road is classified as a local road with a posted speed limit of 25 miles per hour (mph) in the vicinity of Scarborough Beach. Bicycle and pedestrian traffic was observed at the location during the VHB site visit on January 9, 2023. Although Black Point Road does not have pedestrian accommodations (e.g., sidewalks), there are shoulders provided on both sides of the road that are used by pedestrians.

### Safety

VHB investigated the presence of High Crash Locations (HCLs) in the vicinity of the proposed development. In order to evaluate whether a location has a crash problem, MaineDOT uses two criteria to define a HCL. First, an HCL is a location with at least 8 reported crashes in a 3-year period. Second, the location has a Critical Rate Factor (CRF) greater than 1.0. The CRF is a statistical indicator to determine if the location has more crashes than other similar locations in Maine. Based on the crash data provided by MaineDOT, there are no HCLs in the site vicinity. In 2019, there was a single bicycle crash on Black Point Road, approximately a half mile south of the Scarborough Beach State Park entrance.

### Traffic Volumes

MaineDOT traffic volume data is available just south of the study area (collected July 10, 2022), with an average daily traffic (ADT) volume of 3,206 vehicles. The weekday AM peak hour volume was 253 vehicles (11 AM-12 PM) and the

weekday PM peak hour was 289 vehicles (2-3 PM). In comparison, US Route 1 west of Black Point Road has an ADT of 29,000 vehicles, and Black Point Road south of US Route 1 has an ADT of 17,000 vehicles.

## Sight Distance

VHB followed the Town of Scarborough sight distance requirements which reference MaineDOT standards. Sight distance is measured to and from the point of centerline of the proposed access that is located 10 feet from the edge of the traveled way.

Based on the posted speed limit of 25 mph along Black Point Road, MaineDOT would require 200 feet of sight distance to be provided in each direction at the driveways. The proposed curb cuts for the proposed parking lot far exceed the minimum sight distance of 200 feet looking both left and right. The sight distance was additionally confirmed by Bill Bray, PE, from *Barton & Loguidice* in their August 2, 2022 memo reviewing the applicant's site plans.

## Guidelines

The Town of Scarborough Complete Streets Policy recommends facilities be placed where *"...the corridor provides a primary access to one or more significant destinations such as a community or regional park or recreational area, a school, a shopping/commercial area, a local transportation center or other multimodal center, or an employment center, [and] the corridor is in an area where a relatively high number of users of non-motorized transportation modes can be anticipated."*<sup>1</sup>

Though there is an existing crosswalk at the Scarborough Beach driveway, the Town's application for new crosswalk markings provides site criteria guidelines that *"the location is adjacent to a public park, playground, or other such public recreation area, [and] the location has been identified as part of a formal development review process or similar development opportunity."*<sup>2</sup>

For relevant general guidelines, the Scarborough Crosswalk Marking Policy requires that:

2. All marked crosswalks shall lead from one safe landing zone to another. A safe landing zone is an area where a pedestrian is safe from vehicle conflict while waiting to cross or when finished crossing a roadway. (Safe landing zones can vary by location. In some areas this may be a wide road shoulder, while in others it could be an ADA accessible ramp).
4. Crosswalks shall be placed in areas where there is sufficient stopping sight distance for the posted speed limit and be adequately signed and lighted for nighttime use, if warranted.
5. Pedestrian crosswalks shall not be located on roadways with more than 3 lanes or on roadways with speeds greater than 40 mph[...].
7. Mid-block crosswalks shall be avoided whenever possible, as they are generally not expected by motorists and create an unsafe condition for pedestrians. However, some circumstances warrant their creation such as a location where a trail or a parking area may require a pedestrian to cross a road to reach their destination, or

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<sup>1</sup> Scarborough Complete Streets Policy, 8A and 8C

<sup>2</sup> Scarborough Crosswalk Marking Policy, D.1.C, D.1.L



continue on the trail. These crosswalks shall be appropriately signed for advanced warning, and if possible, lighted and provide pedestrian actuated signals, so as to be more visible to a driver.

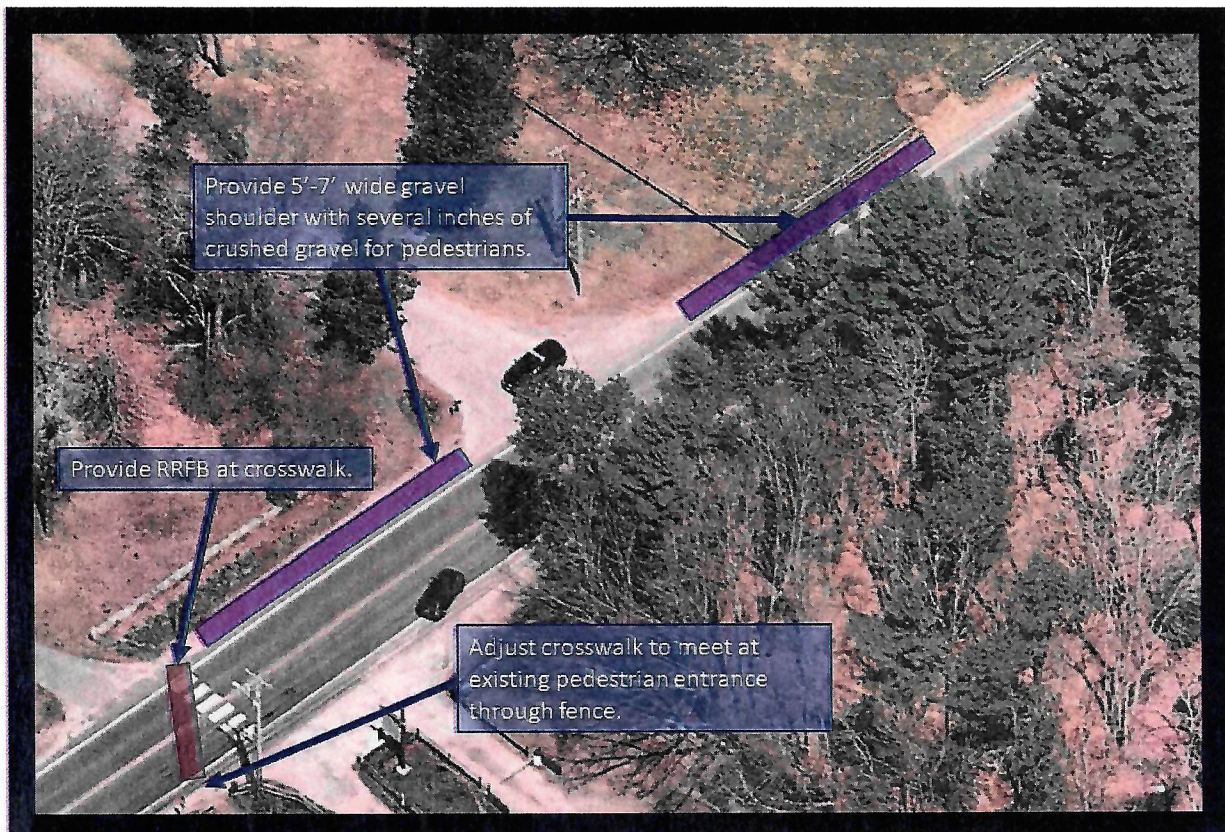
8. Other than at signalized intersections, a new crosswalk shall not be marked within 200 feet of an existing crosswalk.

## Recommendations

In accordance with the Town of Scarborough's policies for crosswalks, VHB recommends that the shoulder on the north side of Black Point Road be widened to provide space for pedestrians to walk from the parking lot to the existing crosswalk on the west side of the driveway. Widening the shoulder would be intended to provide a dedicated area for pedestrians to walk to and from the proposed parking lot that meets Town guidelines for a Safe Landing Zone.

VHB recommends that the crosswalk be retained at the existing location on the west side of the existing driveway where there will be limited pedestrian/vehicle conflicts for patrons leaving or exiting the driveway. In comparison, a new crossing at the driveway of the proposed parking lot may increase the number of pedestrian/vehicle conflicts and may cause pedestrians to walk between queuing vehicles turning into the Scarborough Beach driveway.

VHB additionally recommends that a rectangular rapid flashing beacon (RRFB) be installed at the existing crosswalk, meeting Americans with Disabilities Act (ADA) and Manual on Uniform Traffic Control Devices (MUTCD) guidelines. An RRFB meets Town of Scarborough policy for the use of pedestrian actuated signals at mid-block crossings.



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June 22, 2023

**VIA ELECTRONIC AND U.S. MAIL**

Admitted in: MA, ME, NH

Rachel Hendrickson, Chair  
Planning Board  
Town of Scarborough  
P.O. Box 360  
Scarborough, ME 04070

Re: The Sprague Corporation, Scarborough Beach Overflow Parking Lot Site Plan,  
Resubmitted Sketch Plan Application

Dear Chair Hendrickson and Members of the Planning Board:

On behalf of the Prouts Neck Improvement Association (PNIA), the purpose of this letter is to comment on the resubmitted Sketch Plan Application dated June 5, 2023 and submitted by BH2M on behalf of The Sprague Corporation (Sprague). We appreciate the revised proposal, and Sprague's efforts to address the concerns we have raised. Those efforts result in a revised proposal that will fit in better with the local community. The PNIA supports the revisions proposed by Sprague in its application, and the Board's approval of them, as long as the Board's approval is limited to no more than the 115 spaces requested in Sprague's application materials, and as long as the land remains in a simple, rustic condition (*i.e.*, grass surface, no structures, and unlit), as proposed in the application. These limits are important for traffic, safety, and community impact reasons as well as from a beach carrying capacity perspective.

Given that the Sprague application is a resubmitted application, to ensure that the record is complete I attach a copy of my July 29, 2022 letter to you (Exhibit A), as well as its attachments. Although that letter and its attachments identify issues with the proposed overflow parking, including some raised by our technical consultant Mark Bergeron of TRC Environmental, PNIA will not pursue those issues as long as the Board restricts the proposed overflow parking as proposed in the current application. We appreciate Sprague's changes to its proposal.

The ZBA included the following condition in its July 13, 2022 Miscellaneous Appeal decision in this matter: "That the Scarborough Planning Board determine an appropriate maximum number of parking spaces." As noted in my July 29, 2022 letter to you, Scarborough's natural resource areas such as Scarborough Beach State Park cannot handle massive increases in use resulting from the Town's growth without compromising the resource itself and the visitor experience. Piping plovers, dune grass, coastal erosion, and Massacre Pond are part of the conservation landscape that need to be considered and protected by all those who love the area. There needs to be a balance achieved among the various competing considerations, and 114 (or 115) additional parking spaces in a natural lot accomplishes that. The amount of beach at high tide at Scarborough Beach State Park is limited and the



natural resource and visitor experience both suffer when overburdened. The July 29, 2022 letter from Mark Bergeron, attached to my July 29, 2022 letter, also offered further explanation of why it makes sense to limit the number of parking spaces to no more than 114 (or 115). As I noted in my July 29, 2022 letter, such a limitation avoids a challenge to the validity of the approval and would help with traffic and pedestrian safety on Black Point Road, and would also provide a less crowded beach-going experience for visitors to enjoy. For this reason, we believe the Board should adopt the applicant's 115-space proposal as the appropriate maximum number of parking spaces, to comply with the ZBA's condition. This limitation also would limit the size of the parking area to that proposed in the current application.<sup>1</sup>

In short, we request that the Board expressly limit the approved off-site parking to no more than the 115 spaces proposed and otherwise restrict the proposed parking as set forth in the current application. Thank you for your consideration.

Sincerely,



Matthew D. Manahan

Enclosures

cc: Eric Sanderson, Assistant Town Planner, Planning & Codes, Town of Scarborough  
Brian Longstaff, Zoning Administrator, Town of Scarborough  
Autumn Speer, Planning Director, Planning & Codes, Town of Scarborough  
Andrew Morrell, Project Manager, BH2M  
Trevor McCourt, Property Manager, Sprague Corporation  
Claudia Richards, Black Point Resource Management  
Jeremy Wintersteen, President, Prouts Neck Improvement Association

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<sup>1</sup> Note that there is an error on the BH2M sketch plan included in the resubmitted application, which requires correction. Note 7 states that the "project area" (the shaded part showing 115 spaces) is 59.6 acres. In fact, the project area is approximately one acre; the lot size does not reflect the "project area." PNIA requests that the Board require the applicant to clarify that the "project area" is no more than approximately one acre.

**EXHIBIT A**

**M. Manahan Letter to R. Hendrickson (Chair, Planning Board)**

**July 29, 2022**

**MATTHEW D. MANAHAN**

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Admitted in: MA, ME, NH

July 29, 2022

**VIA ELECTRONIC AND U.S. MAIL**

Rachel Hendrickson, Chair  
Planning Board  
Town of Scarborough  
P.O. Box 360  
Scarborough, ME 04070

Re: The Sprague Corporation  
Scarborough Beach Overflow Parking Lot Site Plan Application

Dear Chair Hendrickson and Members of the Planning Board:

On behalf of the Prouts Neck Improvement Association (PNIA), the purpose of this letter is to comment on the Site Plan Application dated July 12, 2022 and submitted by The Sprague Corporation (Sprague), seeking approval for parking at 395 Black Point Road for use by Scarborough Beach State Park to accommodate overflow parking during peak periods of beach use. The PNIA supports the Sprague application, as long as the Board's approval is limited to no more than the 114 spaces requested in Sprague's prior application materials, and as long as the land remains in a simple, rustic condition (*i.e.*, grass surface, no structures, and unlit). These limits are important for traffic, safety, and community impact reasons as well as from a beach carrying capacity perspective.

By way of background, I attach my June 3, 2022 letter to the Scarborough ZBA, which explains in Exhibit A thereto the applicable ordinance provisions. It is important to understand the limits on the Planning Board's and the ZBA's authority to approve the requested off-site parking. In addition, the application fails to demonstrate the applicant's title, right, or interest (TRI) in the property that underpins this application – the Scarborough Beach State Park property. Ownership of a separate property does not establish standing to apply to expand the use of the park property, when the applicant has not provided evidence that the owner of the park (the State of Maine) joins in the application, or has even authorized it.

At a minimum, the Board may not approve the Site Plan application until the conditions in the ZBA's July 13, 2022 written decision have been met, including the condition requiring a study of the effects of pedestrian traffic, local traffic, as well as visitor traffic in the area to see if any additional requirements need to be put in place from a traffic safety standpoint. Importantly, the ZBA Decision also requires the Planning Board to determine the appropriate maximum number of parking spaces. For the reasons outlined in this letter, that number should be 114.

Notwithstanding the legal issues and concerns discussed above and in my letter to the ZBA, the PNIA believes the best result here would be to expressly limit the number of off-site

parking spaces to the number previously requested by the applicant (114 spaces) and requiring that the parking lot remain simple and rustic (*i.e.*, grass surface, no structures, and unlit). Doing so would avoid a challenge to the validity of the approval and would help with traffic and pedestrian safety on Black Point Road, and would also provide a less crowded beach-going experience for visitors to enjoy. Although it is possible that some cars will have to be turned away during the busiest summer weekends, we believe that result would be best for the environment and for traffic safety, and would help to provide the best beach experience for park patrons.

Scarborough's natural resource areas such as Scarborough Beach State Park cannot handle massive increases in use resulting from the Town's growth without compromising the resource itself and the visitor experience. Piping plovers, dune grass, coastal erosion, and Massacre Pond are part of the conservation landscape that need to be considered and protected by all those who love the area. In 2022 in Scarborough, as in many other places along the southern Maine coast, visitors now unfortunately need to plan summer weekend recreation visits to make sure they will be possible. Scarborough's Comprehensive Plan and the recent Town-wide survey both cite the high value that residents place on natural resources and open space areas and also the growing concern about the rate of growth, sprawl, and traffic. There needs to be a balance achieved among the various competing considerations, and 114 additional parking spaces in a natural lot accomplishes that. The amount of beach at high tide at Scarborough Beach State Park is limited and the natural resource and visitor experience both suffer when overburdened. Roadside parking can be prevented by enforcement of the "no parking" signs along Black Point Road. And we have not witnessed a significant problem related to cars ignoring the no parking signs on Black Point Road, even during the busiest summer weekends. If the Town enforces its parking ordinance, there will not be a roadside parking hazard.

As further support for our request, I attach a letter from Mark Bergeron of TRC Environmental, explaining the technical problems with the application and why it makes sense to limit the number of parking spaces to no more than 114.

In short, we request that the Board approve Sprague's off-site parking application, but expressly limit the approved off-site parking to no more than 114 spaces and require that the parking lot be rustic and simple (grass surface, no structures, and unlit). Thank you for your consideration.

Sincerely,



Matthew D. Manahan

Enclosures

cc: Eric Sanderson, Senior Planner, Planning & Codes, Town of Scarborough  
Brian Longstaff, Zoning Administrator, Town of Scarborough  
Trevor McCourt, Property Manager, Sprague Corporation  
Claudia Richards, Black Point Resource Management  
Jeremy Wintersteen, President, Prouts Neck Improvement Association

## **Letter to Scarborough ZBA (June 3, 2022)**

**MATTHEW D. MANAHAN**

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June 3, 2022

**VIA ELECTRONIC AND U.S. MAIL**

Admitted in: MA, ME, NH

James Hebert, Chair  
Zoning Board of Appeals  
Town of Scarborough  
P.O. Box 360  
Scarborough, ME 04070

Re: The Sprague Corporation and Black Point Resource Management  
Miscellaneous Appeal Application for Off-Site Parking

Dear Chairman Hebert and Members of the Board of Appeals:

On behalf of the Prouts Neck Improvement Association (PNIA), the purpose of this letter is to comment on the Miscellaneous Appeal Application filed on May 18, 2022 by The Sprague Corporation (Sprague), seeking to allow parking at 395 Black Point Road for use by Scarborough Beach State Park to accommodate overflow parking during peak periods of beach use. The PNIA supports the Sprague application, as long as the Board's approval is limited to the requested 114 spaces and as long as the land remains in a simple, rustic condition (*i.e.*, grass surface and unlit). These limits are important for traffic, safety, and community impact reasons as well as from a beach carrying capacity perspective.

*Background on PNIA*

The PNIA is a nonprofit corporation that serves as a homeowners and community organization for Prouts Neck. PNIA represents approximately 200 Scarborough property owners and additional surrounding area residents who visit Prouts Neck. These PNIA members, including its president Jeremy Wintersteen (copied on this letter), are very familiar with Scarborough Beach and Scarborough Beach State Park from a recreation, use, and neighborhood perspective, and they regularly use the park and use and recreate on Scarborough Beach. Prouts Neck residents and visitors must pass the park's entrance on every car trip to or from Prouts Neck, and thus are directly impacted by pedestrian and vehicle traffic on Black Point Road. Scarborough Beach and Scarborough Beach State Park are part of the fabric of Prouts Neck and this local Scarborough community cares a great deal about it.

*Legal Issues and Concerns*

Before explaining why the ZBA should limit the number of off-site parking spaces to 114, it is important to understand the applicable ordinance provisions. Rather than discussing those issues and concerns in the body of this letter, I am including that discussion in Exhibit A hereto, so that the focus of this letter can be on finding a sensible solution to the parking issue.

*Finding a Sensible Solution*

Notwithstanding the attached legal issues and concerns, the PNIA believes the best result here would be approval of the miscellaneous appeal to allow off-site off-street parking, but to expressly limit the number of off-site parking spaces to the number requested by the applicant (114 spaces) and requiring that the parking lot remain simple and rustic (*i.e.*, grass surface, unlit). Doing so would avoid a challenge to the validity of the approval and would help with traffic and pedestrian safety on Black Point Road, and would also provide a less crowded beach-going experience for visitors to enjoy. Although it is possible that some cars will have to be turned away during the busiest summer weekends,<sup>1</sup> we believe that result would be best for the environment and for traffic safety, and would help to provide the best beach experience for park patrons.

Scarborough's natural resource areas such as Scarborough Beach State Park cannot handle massive increases in use resulting from the Town's growth without compromising the resource itself and the visitor experience. Piping plovers, dune grass, coastal erosion, and Massacre Pond are part of the conservation landscape that need to be considered and protected by all those who love the area. In 2022 in Scarborough, as in many other places along the southern Maine coast, visitors now unfortunately need to plan summer weekend recreation visits to make sure they will be possible. Scarborough's Comprehensive Plan and the recent Town-wide survey both cite the high value that residents place on natural resources and open space areas and also the growing concern about the rate of growth, sprawl, and traffic. There needs to be a balance achieved among the various competing considerations, and 114 additional parking spaces in a natural lot accomplishes that. Roadside parking can be prevented by enforcement of the "no parking" signs along Black Point Road. And we have not witnessed a problem related to cars ignoring the no parking signs on Black Point Road, even during the busiest summer weekends. If the Town enforces its parking ordinance, there will not be a roadside parking hazard.

In short, we request that the Board approve Sprague's off-site parking application, but expressly limit the approved off-site parking to no more than 114 spaces and require that the parking lot be rustic and simple (grass surface and unlit). Thank you for your consideration.

Sincerely,



Matthew D. Manahan

Enclosure

cc: Eric Sanderson, Senior Planner, Planning & Codes, Town of Scarborough  
Brian Longstaff, Zoning Administrator, Town of Scarborough  
Rachel Hendrickson, Chair, Planning Board, Town of Scarborough  
Trevor McCourt, Property Manager, Sprague Corporation  
Claudia Richards, Black Point Resource Management  
Jeremy Wintersteen, President, Prouts Neck Improvement Association

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<sup>1</sup> It is important to reiterate a comment made to the ZBA at its February 12, 2020 meeting, that the Gray lot parking (160 spaces) was used only when the Harmon lot parking (128 spaces) was not available, so losing both of those lots results in a loss of 128 spaces, not 288 spaces. Also, the State park parking lot has itself been expanded in the last several years, resulting in additional on-site parking spaces being made available.

**Exhibit A to PNIA June 3, 2022 Comment letter**  
**Sprague Corporation and Black Point Resource Management**  
**Miscellaneous Appeal Application for Off-Site Parking**

***Legal Issues and Concerns***

As noted by the Zoning Administrator in his staff comments on the Sprague application, this Miscellaneous Appeal is under Zoning Ordinance Section V.B.4(c). That section allows the ZBA to hear and decide appeals “to permit the location of required off-street parking on lots other than the lot containing the principal building or use where it cannot reasonably be provided on the same lot, subject to the conditions of Section XI of this Ordinance.” Thus, to approve an application under this section the ZBA must conclude that the off-street parking (1) is “required” by the ordinance, and in what amount, (2) cannot reasonably be provided on the lot containing the principal use, and (3) meets the conditions of Section XI.<sup>1</sup>

With respect to the first criterion, because a government-owned park use is not listed in the off-street parking table in Section XI.B.1, the Planning Board “shall determine the minimum parking requirements.” Zoning Ordinance Section XI.B. In other words, there is no “required” parking stated in the ordinance, so Section V.B.4(c) does not allow the ZBA to approve off-street parking until the Planning Board determines how much parking is “required” and thus how much of the “required” parking “cannot reasonably be provided on the lot containing the principal use.” The ZBA may not simply approve an unlimited amount of off-site parking, but only the amount of parking that (1) is required by the Zoning Ordinance, and (2) cannot reasonably be provided on the primary lot.<sup>2</sup> The Planning Board’s determination of the required number of parking spaces must be based on “the nature of the use, the intensity of the proposed use and the parking demand expected to be generated by the specific proposal.” Zoning Ordinance Section XI.B.

***The Vagueness Problem***

Importantly, however, and as noted by the Zoning Administrator in his staff comments memo, “there are no specific standards for the Board to use in determining if the request can be granted.” Mr. Longstaff therefore suggests that “the Board should explore the issue focusing on elements of public

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<sup>1</sup> Note that Scarborough Beach State Park is not a “commercial outdoor recreation” use because that term does not include a recreational use “operated by a governmental entity,” as is a state park. Zoning Ordinance Section VI. If the Park were a “commercial outdoor recreation” use it would need to “provide adequate off-street parking that is appropriate for the anticipated use of the facility and that will prevent the parking of vehicles along public roads.” Zoning Ordinance Section IX.U.4. Also, “If the use will operate intermittently or will have increased use on an intermittent basis, parking for these times may be provided in unimproved or field type parking areas.” Zoning Ordinance Section IX.U.6. But because the Park is not a commercial outdoor recreation use those provisions do not apply. Rather, the provisions of Section XI apply, as noted above.

<sup>2</sup> Also, Section XI includes provisions relating to maintaining open front yard space and grading of driveway surfaces. Zoning Ordinance Section XI.J-K. To allow off-street parking under Section V.B.4(c) the ZBA must determine that the parking meets those conditions of Section XI. Further, the Zoning Ordinance provides that off-site off-street parking areas “shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.” Zoning Ordinance Section XI.H. The proposed off-street parking serves a nonconforming use that must be treated as a “residential” use because the nonconforming use is in a residential zone. Thus, the ZBA must require proof that the owner of the proposed off-site off-street parking is held under the same ownership or lease as the State Park. It is our understanding that the State of Maine, Department of Conservation owns Scarborough Beach State Park, and that the lot being proposed for off-site parking – Map R103, Lot 17 – is owned by Sprague.



safety, practical use, and minimizing the impact to abutting uses.” This is a problem because such vague ordinance provisions are an unconstitutional and impermissible delegation of legislative authority. As noted by the Maine Municipal Association’s Manual for Local Land Use Appeals Boards (MMA ZBA Manual), “It is very important for an ordinance, especially a zoning ordinance, to contain fairly specific standards of review if it requires the issuance of a permit or the approval of a plan. The standards must be something more than ‘as the Board deems to be in the best interest of the public’ or ‘as the Board deems necessary to protect the public health, safety and welfare.’ It also is very important to have language in the ordinance instructing the board as to the action which the board must take. It is not enough merely to say that the board must ‘consider’ or ‘evaluate’ certain information.” See MMA ZBA Manual, page 56 (citations omitted).

Because the ZBA approval standards for an off-site off-street parking miscellaneous appeal are so vague, the result would be that those standards, if challenged, would not survive, leaving in place the Zoning Ordinance’s general prohibition on the use of off-site off-street parking. No one wants this result, because some off-site parking is necessary and appropriate during times of peak use.

#### *The Nonconforming Use and Shoreland Zone Issue*

Note further that Scarborough Beach State Park is a nonconforming use. See Zoning Ordinance Section VI (“non-conforming use”). In general, nonconforming uses may not be enlarged to occupy a greater area of land, as would be the case if off-site parking is allowed. Zoning Ordinance Section III.D.1. The ZBA, however, may allow such an enlargement under Section V.B.4(a), applying the provisions of Section III.F. Under Section III.F, to approve the enlargement the ZBA first must find that (a) the impact and effects of the enlargement on existing uses in the neighborhood will not be substantially different from or greater than the impact and effects of the non-conforming use before the proposed enlargement, and (b) the enlarged use will comply with the standards for special exceptions in Section IV.I.4. Adding off-site parking to the existing nonconforming park use – which did not include off-site parking prior to the effective date the Zoning Ordinance – will almost certainly result in unsafe vehicular or pedestrian traffic conditions on Black Point Road, contrary to Section IV.I.4(b). Nor would the enlarged park use be compatible with existing uses in the neighborhood, contrary to Section IV.I.4(e).

Importantly, though, Section IV.I.4(f) notes that if the use is located in the shoreland zone, the use must comply with the Shoreland Zoning Ordinance (SZO). The entire State Park parcel is located in the Resource Protection shoreland zone. According to the SZO, expansion of a nonconforming use in the shoreland zone is prohibited.<sup>3</sup> SZO Section 12.D.1. This provision overrides the provisions of the Zoning Ordinance that would otherwise allow expansion with ZBA approval. SZO Section 12.A.1 (SZO nonconformity provisions supersede Zoning Ordinance nonconformity provisions). Thus, expansion of the park to allow off-site parking would be an impermissible expansion of the nonconforming use in the RP Zone.

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<sup>3</sup> Note that the park presumably could be approved by the Planning Board as a “public recreational area involving minimal structural development” under SZO Section 14, Table 1, Row 23, if not for the parking facilities, which are prohibited in the RP zone under SZO, Table 1, Row 27.

## **Letter from Mark Bergeron (TRC Environmental)**

July 29, 2022

Mr. Jeremy Wintersteen  
Prouts Neck Improvement Association  
499 Black Point Road  
Scarborough, ME 04074

Via email at: [jrwintersteen22@aol.com](mailto:jrwintersteen22@aol.com)

**RE: Review of The Sprague Corporation Site Plan Review Submission dated July 12, 2022  
Proposed Overflow Parking Lot for Scarborough Beach State Park, Pine Point Road  
TRC Project Number 499682**

Dear Jeremy,

As requested, TRC has conducted a review of The Sprague Corporation's (Sprague) application for Site Plan Review, dated July 12, 2022, for a proposed overflow parking lot for the Scarborough Beach State Park. TRC reviewed these application materials against the Town of Scarborough's Chapter 405B Site Plan Review Ordinance, last amended April 21, 2021. Our comments correspond with the appropriate portions of Section IV – Performance & Design Standards and Section V – Site Conditions & Environmental Considerations.

#### **Section IV.A. Site Utilization and Layout**

Comment 1: Sprague has increased the proposed number of parking spaces to 176 from 114 in prior applications. TRC is concerned that this increase in parking capacity will attract additional beach goers, which could lead to negative impacts to the fragile coastal environment surrounding the beach. More beach goers will spread further north and south along the beach, potentially increasing negative impacts to the important adjacent sand dune and wildlife habitats. The beach frontage in the state park is a dense mosaic of designated habitats and protected areas (see Town of Scarborough Parcel Viewer and State of Maine GeoLibrary Data Catalog) including:

- Sand Dune Erosion Hazard Area
- Maine Piping Plover and Least Tern Essential Habitat
- Tidal Waterfowl and Wading Bird Habitat
- FEMA flood zones

Negative beach impacts could be mitigated by reducing the number of parking spaces to 114, the number of spaces originally proposed by Sprague, which would limit the number of beach goers.

#### **Section IV.B. Site Access**

Comment 1: Section III, A.3.e of the Chapter 405B Site Plan Review ordinance states in part:

"A traffic impact study shall be submitted for any project forecasted to generate 35 or more trip ends during any peak hour or if a project is forecasted to cause an existing access with less than 35 peak hour trip ends to exceed this threshold. *The Planning Board or Town staff may also require a traffic study if specific safety or capacity issues have been identified for the general vicinity of the development.* {emphasis added}. The scope of the study shall be determined based on discussions with the Town's Traffic Engineer and be completed by a Registered Professional Engineer with significant experience in traffic engineering."

Further, the June 8, 2022, Zoning Board of Appeals (ZBA) Miscellaneous Appeal #2727 Decision contains a motion with Condition 1 that states:

“That the Scarborough Planning Board study the effects of pedestrian traffic, local traffic, as well as visitor traffic in that area to see if any additional requirements need to be put in place from a traffic safety standpoint.”

Therefore, TRC believes that a traffic and pedestrian study is imperative to providing the technical data for the Planning Board to effectively determine if additional safety requirements are needed. The Planning Board needs to have data on the traffic patterns, timing of peak traffic volumes, trip generation data from local and visitor sources, accident data, etc., to understand the impacts the proposed lot will have on Black Point Road and surrounding properties. Sprague has not submitted a traffic or pedestrian study to the Planning Board, and the narrative information in the Site Plan Review application is not adequate.

Comment 2: A minimum of 10 feet must be held between any driveway and a side property line (Chapter 405B, Section IV.B.1.e.). The sketch plan included with the Site Plan Review application (Sheet 1, from BH2M, dated July 6, 2022) shows the driveway to be located very close to the side property line. Additionally, the property line information shown on the sketch plan is only based on town tax map data, which can be inaccurate. Therefore, Sprague has not met their burden of proof that this requirement has been met. (See additional comments on the Sprague sketch plan in Section IV.C below)

Comment 3: Sprague should provide additional information demonstrating why and how the requirements for two curb cuts onto Black Point Road are required. Per Chapter 405B, Section IV.B.1.g, no more than one driveway shall be constructed unless the applicant demonstrates it is required to prevent traffic hazards or congestion. Sprague is showing two connections to Black Point Road, and it is unclear if the driveway spacing requirements of Section IV.B.1.a are met. Therefore, Sprague has not their burden of proof that this requirement has been met.

#### **Section IV.C. Internal Vehicular Circulation**

Comment 1: Sprague notes that the width of the one-way drive aisles will be 12 feet. TRC believes that this width may be inadequate and the turning radii on the entrance drive into each of the parking aisles may be insufficient for emergency vehicles when the lot is full of vehicles. Sprague should provide evidence that this layout has been reviewed and accepted by the Fire Department.

Comment 2: Sprague should provide additional operational measures that will be used for the Planning Board's review and approval. Sprague notes that parking attendants will be onsite to direct traffic into the site, then into parking spaces, and will help guide pedestrians across Black Point Road. For instance, a lack of attendants to assist pedestrians across Black Point Road is a significant safety issue. Also, if no attendants are present a beachgoer searching for a parking space in one aisle and finding none will have to circle back out onto Black Point Road and re-enter the lot, creating congestion and potential safety issues. Who will have control of the locks and chains blocking access to the overflow lot, and how will communications with park staff be handled to know when overflow parking is needed? And will use of the overflow parking lot be restricted to only summer beach access, and how will it be restricted from use for other non-beach related activities?

Comment 3: TRC believes the sketch plan provided is inadequate for purposes of review under the Site Plan Review ordinance. As noted in the prior section, the sketch plan (Sheet 1, from BH2M, dated July 6, 2022) only provides approximate boundary and topographic survey information based on town tax map and GIS

topographic sources. The Site Plan Review Ordinance (Section III.A.3.a) requires the submission of a boundary survey prepared by a professional land surveyor indicating boundary lines, dimensions, easements, topography, etc. Sprague has not met their burden of proof to demonstrate that this standard has been met.

#### **Section IV.D. Parking Areas**

Comment 1: This ordinance section requires that parking areas shall balance the needs of both vehicles and pedestrians. However, no pedestrian aisles or areas are proposed in the parking area. TRC recommends reducing the number of parking spaces to 114 to allow proper and safe walkways within the site for pedestrians.

Comment 2: Sprague has not addressed the ADA Standards for Accessible Design required in Section IV.D.4. For the proposed number of parking spaces, at least 6 ADA parking spaces are required, including at least one van accessible space with an 8-foot-wide accessible aisle. These spaces will need to be marked in accordance with the federal ADA Design Standards.

Comment 3: The applicant notes that there will be no proposed alterations to the parcel for the overflow parking lot. However, it is unclear as to how the parking spaces and rows be delineated on the ground to limit the number of parked vehicles, including delineating the required ADA parking spaces noted above. For instance, how will unauthorized parking be prevented in areas not marked for parking? Sprague should provide additional details for the Planning Board's approval, keeping proposed markings temporary and rustic in nature.

#### **Section IV.E. Pedestrian Ways, Space & Alternative Transportation**

Comment 1: The proposed pedestrian route by Sprague has pedestrians walking with traffic on the shoulder of Black Point Road (no sidewalk) for over 250 feet to use the existing crosswalk leading to the beach. TRC believes it is unsafe to have pedestrians walking with the flow of traffic on Black Point Road.

#### **Section IV.F. Landscape, Buffering & Greenspace**

Comment 1: Sprague notes that there will be no tree clearing for the proposed overflow lot. However, it appears that there are existing trees starting at about 60 feet back from the edge of Black Point Road located within the footprint of the proposed parking area. With no dimensions shown on the applicant's sketch plan, TRC estimates that the four proposed aisles of parking will extend approximately 200 feet from Black Point Road, requiring the clearing of many trees. The removal of trees will negatively alter the appearance of the parcel as viewed from Black Point Road, with the parking being a dominant feature when full of vehicles. TRC recommends that the two rows of parking furthest from the road be eliminated to reduce the number of trees to be removed, to reduce adverse visual impacts, and to get a layout closer to the previously proposed 114 spaces.

Comment 2: The final Site Plan should have the existing individual trees in the field near the road, in addition to the edge of the tree line, located by the surveyor so the Planning Board fully understands the number of trees to be cleared.

#### **Section IV.G. Stormwater Management**

Comment 1: Sprague should provide additional information to the Planning Board about the long-term impacts of vehicular parking on the grassy surfaces. While the soils may be well drained, over time repeated vehicular parking will lead to compacted soils and potential loss of grassy vegetation, all which will increase the amount of stormwater runoff leaving the site. Sprague should be made responsible for any vegetation or grass loss so

that the area remains as a grassy field as it exists today. The photograph provided by the applicant of the Pine Point Beach (Hurd Park) overflow parking area shows an area at the entrance driveway of the complete loss of vegetation, which can lead to erosion and soil tracking onto the public road, which can create additional safety hazards in wet weather conditions.

#### **Section IV.M. Historic and Archaeological Resources**

Comment 1: Sprague has provided information about no known historic or archaeological resources based only on a figure from the Town of Scarborough's 2006 Comprehensive Plan. This section of the Site Plan Review ordinance notes that the applicant and Planning Board can consult with the Maine Historic Preservation Commission (MHPC) on any affected areas. Sprague's Site Plan Review Checklist has a box checked next to the MHPC letter, indicating that a letter has been submitted. TRC recommends that Sprague provide a letter documenting that consultation with MHPC has been completed.

#### **Section V. Site Conditions and Environmental Considerations**

##### **Subsection A. Conservation, Erosion & Sediment Control**

Comment 1: The proposed parking lot appears to be in an area identified as New England Cottontail habitat by the Maine Department of Inland Fisheries and Wildlife (MDIFW) (See State of Maine GeoLibrary Data Catalog). The applicant should consult with the MDIFW on ways to minimize impacts to this endangered species.

Comment 2: Based on the information provided by Sprague, it appears that trees will need to be removed from the parcel to fit the proposed overflow parking. When trees are cut, stumps will need to be removed which leads to the ground surface needing to be graded and leveled, with seeding to follow. These operations have not been described nor have any grading plans or erosion control details have been provided by Sprague.

Comment 3: The approximate topography on the applicant's Sketch Plan indicates that the ground surface is very flat in the wooded area behind the field where parking is proposed. Sprague has not documented that a wetlands survey has been conducted to ensure that those natural resources are not present. If wetlands are present and would be impacted by the proposed parking area, then state and federal permit approvals would be required.

##### **Subsection B. Site Conditions**

Comment 1: See TRC's comment above in Section IV.G Stormwater Management about the need for long-term maintenance of the grassed parking area to ensure soils are not compacted during repeated vehicular use, and to monitor and replace any loss of existing vegetation.

#### **Other general comments:**

The Town Staff comments to the Planning Board on Sprague's materials submitted on June 6, 2022, indicated the three Site Plan elements that the applicant should focus on in future submissions to the Planning Board:

- a. Stormwater Management, including water quantity control and water quality control. Sprague has provided limited narrative information in this Site Plan Review application, but they appear to be requesting a waiver of these materials.
- b. Traffic management and site circulation patterns. See TRC's comments in the preceding sections of this review letter.
- c. Frequency of use. See TRC's comments in the preceding sections of this review letter.

Mr. Jeremy Wintersteen

July 29, 2022

Page 5 of 5

It is TRC's opinion that the applicant should provide additional information requested by Town Staff and for Planning Board review and approval. It appears that Sprague is requesting waivers for a landscaping and buffering plan, stormwater and erosion control details, and traffic analysis, which are many of the topics that Town Staff have recommended be further analyzed by the applicant.

In summary, it is TRC's professional opinion that the Town's Site Plan Review Ordinance standards have not been met regarding the proposed project.

If you have any questions, please contact me at [mbergeron@trccompanies.com](mailto:mbergeron@trccompanies.com) or via phone at 207.313.3675.

Sincerely,



Mark Bergeron, P.E.

Environmental Operations Leader – Maine

cc: Matthew D. Manahan, Pierce Atwood, LLP

**MATTHEW D. MANAHAN**

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*Admitted in:* MA, ME, NH

August 23, 2023

**VIA ELECTRONIC MAIL**

(nmcgee@scarboroughmaine.org)

Nicholas McGee, Chair  
Ordinance Committee  
Town of Scarborough  
259 US-1  
Scarborough, ME 04070

Re: Proposed Town of Scarborough Temporary Event Overflow Parking Ordinance  
(Chapter 602B)

Dear Chairman McGee and Members of the Ordinance Committee:

On behalf of the Prouts Neck Improvement Association (PNIA), please find attached comments and suggested edits to the draft Temporary Event Overflow Parking Ordinance (Chapter 602B) for consideration at the August 24, 2023 Ordinance Committee meeting. I will plan to attend your August 24 meeting to answer any questions you may have.

In short, we believe the ordinance is a reasonable proposal to address the need for temporary off-site parking, but we offer a few suggested edits, including the following:

- We suggest adding language, in two places, to limit any single event to no more than a total of 100 off-site spaces, to protect against the possibility of an end-run around the 100-space limitation, and the resulting potential traffic congestion and safety concerns.
- We suggest that applicants be required to give public notice of intent to file an application to the owners of properties within 1,000 feet of any boundary of the property for which application is being made, and to publish newspaper notice, to ensure that those most interested in the application have adequate time to review and comment on the application.
- We suggest deleting the requirement on page 5 that "exiting for overflow parking areas shall be arranged such that the vehicles must pass over a minimum twenty (20) foot apron of crushed stone, asphalt or other approved surface to allow any mud to track off prior to vehicle entry onto a public street." That sentence is not necessary given that prior language (in paragraph C) requires that "The owner of the property shall be responsible for the maintenance of such parking in a clean, mud and dust-free condition." Fully grassed and stabilized areas are sufficient to prevent tracking of materials onto public roads.



Nicholas McGee, Chair  
Ordinance Committee  
August 23, 2023  
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With those changes, and the additional minor edits offered in the attached markup, we believe you should endorse the proposed ordinance.

Thank you for your consideration of these comments. Please let me know if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Manahan", with a stylized flourish at the end.

Matthew D. Manahan

Enclosure

cc: April Sither, Ordinance Committee  
Jean-Marie Caterina, Ordinance Committee  
Autumn Speer, Town Planner  
John Hawkins, PNIA

## **Chapter 602B – Town of Scarborough Temporary Event Overflow Parking Ordinance**

**Adopted xxxx**

### **ARTICLE I - TITLE, AUTHORITY, AND PURPOSE**

#### **A. TITLE**

This Ordinance shall be known as and may be cited as the Temporary Event Overflow Parking Ordinance of the Town of Scarborough, Maine.

#### **B. LEGAL AUTHORITY**

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution and 30-A M.R.S.A. §3001.

#### **C. PURPOSE**

To allow for temporary event overflow parking. Accordingly, it is deemed necessary in the interests of public welfare to regulate the provision of temporary event overflow parking in order to protect the public health and safety.

Temporary event overflow parking areas used for special event parking (to accommodate occasional or seasonal overflow volumes) may be used with pervious ground cover where such cover can sustain the traffic and use volumes. The owner of the property shall be responsible for the maintenance of such parking in a clean, mud and dust-free condition. Grass and mulch are examples of pervious ground cover; gravel and pavement are examples of impervious surfaces.

#### **D. PROHIBITIONS**

No person shall permit on her/his property, temporary event overflow parking until a permit has been obtained from the Town Council.

#### **E. DEFINITIONS**

Any term not specifically defined herein shall be given its customary and ordinary meaning. For the purpose of this Ordinance, the following terms shall be defined as hereinafter set forth:

##### **Disturbed Area:**

Means all land areas of a Parcel that are stripped, graded, grubbed, filled, or excavated at any time during the Site preparation or removing vegetation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. “Routine maintenance–” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a

building is not considered routine maintenance of the building and is therefore considered Disturbed Area.

**Operator:**

“Operator” means the person responsible for the managing of the event for which the overflow parking area is requested. In the event that no Operator exists, the owner or, in the event of her/his non-availability, the lessee of the ground encompassing the event area, shall be deemed to be the Operator under ~~those~~ these regulations.

**Temporary Event Overflow Parking:**

Temporary Event Overflow Parking areas shall be defined as off-street parking areas providing parking in excess of the maximum number of on-site spaces permitted by this Ordinance. Temporary Event Overflow Parking areas shall not be used more than thirty (30) days per calendar year. Temporary Event Overflow Parking areas are not permitted greater than 40,000 square feet in size and may not contain more than 100 spaces in total for any single event. Applicants seeking to use this exception for site design shall provide information in the form of a signed, notarized letter stating the number of times per year that the overflow parking areas will be used. Number of uses per year shall be noted as part of the permit application.

**F. PERMIT APPLICATION PROCESS**

**1. New Applications**

New applicants may apply at any time during the year. Applications for a permit shall be procured from the Town Clerk, completed and signed by the applicant and filed with the Town Clerk, and when submitted to the Town Council shall bear the recommendation for approval or disapproval with reasons noted by the Town Engineer, Public Works Director, Planning Director, Police Chief, Fire Chief and the Tax Collector. Within 30 days prior to filing, an applicant shall give public notice of intent to file an application. The notice must be mailed by certified mail to the owners of properties within 1,000 feet of any boundary of the property for which application is being made. The notice must also be published once in a newspaper circulated in the area where the project is located. Copies of the published notice of intent to file and a list of abutters to whom notice was provided must be submitted with the application.

**2. Staff Review**

Upon the filing of an application, Town staff shall review the application and notify the applicant by letter issued no later than fifteen (15) business days after the filing of the application as to whether the application is deemed complete, or if not, the specific provisions of this Ordinance for which additional information must be provided.

Upon receipt of each application request for a Temporary Event Overflow Parking License the following shall occur:

- (a) The Town Engineer, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,
- (b) The Public Works Director, or designee, shall review the permit application submittal and

narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,

(c) The Planning Director, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,

(d) The Police Chief, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,

(e) The Fire Chief, or designee, shall review the permit application submittal and narrative and shall report findings and any proposed conditions of approval in writing to the Town Clerk; and,

(f) The Tax Assessor shall submit a report to the Town Clerk on any delinquencies or payments due the Town at the time the license is requested or renewed; and,

(g) The Town Clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this ~~ordinance~~ Ordinance and shall report such findings in writing to the Town Council.

If the applicant objects to the determination that its application is not complete, then the completeness of the application may be reviewed by the Town Council at its next regularly scheduled meeting for which adequate time for notice is available. Once the application has been deemed completed either by Town staff or by the Town Council, the application shall be considered as an agenda item at the next regularly scheduled Town Council meeting for which adequate time for notice is available.

### **3. Public Hearing**

The Town Council shall hold a public hearing on all new applications for permit under this Ordinance. Notice of the hearing shall be advertised in a local daily newspaper, at least seven (7) days prior to the meeting at the expense of the applicant. Abutters within 500' to the proposed site shall be notified in writing 10 days prior to the public hearing.

### **4. Town Council Action and Notification**

Within thirty (30) days after the Town Council first substantively considers the application (or longer with the agreement of the Operator) the Town Council shall either issue a Permit, with or without conditions, to the Operator or deny a Permit to the Operator. Any decision of the Town Council shall be in writing and shall set forth with specificity the reasons for the action taken, and in the case of denial, shall include a list of steps which, if followed by the Operator, would result in a Permit being issued, if in the judgement of the Council, the problems that resulted in denial can be cured.

The Town Council shall issue a permit for temporary event overflow parking only if it finds the standards in this Ordinance are met and the applicant demonstrates that the temporary event overflow parking will be conducted in a manner so as not to jeopardize the public health, safety and welfare and that the applicant is not delinquent in the payment of any taxes or fees owed to the Town of Scarborough. When considering the issuance of a permit, the Town Council may seek input from the Town Engineer, Public Works Director, Planning Director, Police Chief, Fire Chief,

and other such officials or persons as it deems appropriate, and shall seek from them relevant information, including but not limited to any safety problems that arose at any event overflow parking areas within the previous two years (a) held at the same location or (b) managed or promoted by the operator or a related entity.

A new permit, when granted, shall be valid until December 30th, immediately following said granting of permit.

The Town Council shall deny a permit for event overflow parking if it finds that any of the standards set forth in this Ordinance are or would not be met. If the Town Council fails to either issue the permit or send a notice of denial within the time allowed, the permit shall be deemed to have been denied. A party aggrieved by the decision of the Town Council may appeal to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

## **5. Renewal Permits**

Once granted, an existing permit may be renewed by the Town Clerk, provided that the holder of the existing permit makes application for renewal on or before December 30th. If the holder applies for renewal on or before December 30th, the existing permit shall remain in effect until final action on the renewal application. Otherwise, the existing permit shall expire on December 30th and an application for a new permit must be filed.

For renewal applications filed on or before December 30th, the Clerk shall process and issue renewal permits in the same manner as the Town Council processes and issues new permits, except that no public hearing is required for a renewal. The Clerk may renew a permit only if the Clerk is satisfied that the application meets all the requirements of this ~~ordinance~~Ordinance. If the Clerk is not satisfied that the application meets all the requirements of this ~~ordinance~~Ordinance, the Clerk shall refer the application to the Town Council, which shall process the application in the same manner as an application for a new permit.

## **G. PERMIT APPLICATION REQUIREMENTS**

The permit application shall include the following:

1. An existing conditions plan, including curb cuts, utilities, trees, plantings, drainage features, wetlands and other site features.
2. A narrative and site plan describing the proposed temporary event parking area, including the location of proposed parking spaces and any proposed site changes and demonstrating how the proposal meets the requirements below:
  - a) The maximum size for proposed event overflow parking areas, including any disturbed area, shall not exceed 40,000 square feet.
  - b) The maximum number of days used shall be 30 per calendar year. The applicant is responsible for including the proposed days the parking area will be used.
  - c) The maximum number of vehicles parked shall not exceed 100 vehicles in total for any single event.
  - d) The proposed parking area shall not encroach on public rights-of-ways.
  - e) ~~Demonstrate that a~~Any temporary structure shall ~~complies~~ comply with the rules and

policies of the Town. Grounds, buildings, and related facilities shall be constructed, maintained and used in a manner as to prevent fire and in accordance with the applicable State and local fire prevention regulations.

- f) Temporary Event Overflow Parking areas may only be used between the hours of 9am and 9pm Sunday to Thursday and 9am to 10pm Friday and Saturday. The proposed time of use is required as part of the application.
  - g) If the parking area is to be used at night, provide a lighting plan including temporary illumination to provide for the safety of the persons parking. The parking area shall be adequately lighted, but the lighting shall not unreasonably reflect beyond the parking boundaries.
  - h) Service road(s) and parking spaces shall be located and developed to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles.
  - i) The proposed parking area shall not impede fire and emergency access nor block fire lanes.
  - j) Each temporary event parking area shall be well drained and so arranged to provide sufficient space for vehicles.
  - k) Trees, underbrush, large rocks and other natural features shall be left intact and undisturbed whenever possible, and natural vegetative cover will be retained, protected and maintained so far as possible to facilitate stormwater drainage, prevent erosion, and preserve scenic attributes.
  - l) Overflow parking areas shall not impact the natural drainage patterns on the site. The applicant must demonstrate that the use will not have an adverse impact on drainage patterns from or to an abutting property or public right-of-way.
  - m) The parking area shall be designed and maintained to prevent soil or debris from being tracked onto a public street and to prevent dust trespass onto neighboring properties.  
~~Exiting for overflow parking areas shall be arranged such that the vehicles must pass over a minimum twenty (20) foot apron of crushed stone, asphalt or other approved surface to allow any mud to track off prior to vehicle entry onto a public street.~~
  - n) Dust control shall be applied as necessary to prevent dust trespass onto adjoining properties. Planned measures must be provided on the proposed plans.
  - o) The Operator shall ensure that adequate communication between local law enforcement, fire prevention, and emergency personnel and any private security personnel, including emergency response protocols is provided.
  - p) Grounds shall be maintained free from accumulations of refuse and any health and safety hazards constituting a nuisance. The area where vehicles are parked shall have one (1) fifty (50) gallon refuse container or its equivalent for every twenty-five (25) vehicles and an appropriate number of recycling containers.
  - q) All refuse shall be collected from the parking area at least once per day of use, or more often if necessary, and disposed of at a lawful disposal site. The Operator may submit a detailed alternative plan for refuse disposal to be reviewed and, if reasonable and appropriate, approved by the Town Council.
- 3. Provide a pedestrian access plan to demonstrate safe access for the ingress and egress of pedestrians from the overflow parking lot to the event location. This plan may include temporary signage and/or permanent improvements.
  - 4. Provide a vehicular access plan to demonstrate vehicle movement for the ingress and egress of vehicles from the overflow parking lot and the event location, and the proposed traffic

**Commented [MM1]:** This second sentence is not necessary, given that C above requires that "The owner of the property shall be responsible for the maintenance of such parking in a clean, mud and dust-free condition." This sentence is too specific; fully grassed and stabilized areas are sufficient to prevent tracking of materials onto public roads. This sentence should be removed.

measures that may be necessary. The plan may include temporary signage and/or permanent improvements.

5. Provide [a](#) sufficient traffic control plan/and or identify personnel required to insure safety to all members of the traveling public, including pedestrians, along all public roadways in the proximity of the event and/or along which the public is likely to travel to reach the event shall be provided.
6. Provide an Operation & Maintenance Plan detailing the measures that will be taken during and after the event to stabilize, revegetate, aerate, and repair the parking area or related access ways.

Information submitted by the applicant is to be reviewed by the Town Engineer, Public Works Director, Planning Director, Police Chief, and Fire Chief to determine whether these standards have been demonstrated. Additional materials may be required to ensure compliance with the standards of this ~~ordinance~~[Ordinance](#).

Temporary Event Overflow Parking permits are subject to conditions of approval that may be required for any of the above based on the specific site and request.

#### **H. PERMIT FEES.**

Fees for this Ordinance shall be set forth as specified in Chapter 311, *Schedule of License, Permit and Application fees*.

#### **I. BOND AND INSURANCE.**

The Operator shall carry public liability insurance in at least the following amounts: \$1,000,000 Bodily Injury (per person); \$1,000,000 Bodily Injury (per occurrence); and \$1,000,000 property damage. A copy of the insurance policy shall be provided to the Town at the time of the filing of the application. Additionally, if the Operator carries public liability insurance in an amount greater than the figures set forth in this Section, then the Town shall be named as an additional insured.

#### **J. PENALTIES.**

Any person, including the Operator, violating this Ordinance shall be punished by a civil penalty of at least \$xx but not more than \$xx. The failure to comply with conditions imposed upon the issuance of a temporary event overlay parking permit shall be a violation of this Ordinance. Each violation shall be considered a separate offense, and each day a violation is allowed to exist shall be considered a separate offense. The civil penalty provided for in this Section 602B shall be in addition to any other penalty provisions provided within this Ordinance, and shall be in addition to all other remedies to the Town of Scarborough at law and in equity. The provisions of this Ordinance shall be enforced by the Town Manager or such other municipal official or employee as the Town Manager shall designate in writing.

#### **K. REVOCATION.**

The Council may revoke a temporary event overflow parking permit issued pursuant to this Ordinance upon finding that the Operator has violated one or more of the provisions of its temporary event overflow parking permit, if the Council finds that the violations are likely to occur



again in future temporary event overflow parking sites sponsored by the Operator at the temporary event overflow parking area subject to the permit and where the previous violations occurred. The Council may revoke a permit only after the Operator has been given notice and an opportunity to be heard. In the case of a revocation, the Operator must receive notice of the proposed revocation at least fourteen (14) days prior to the revocation hearing. A decision by the Council to revoke a ~~permit n-application~~ shall not take effect until fourteen (14) days after the Operator has actual notice of the decision. The Council may, however, shorten any of the time periods prescribed in this Section ~~602B 501.2~~ if the Council finds that an emergency posing an imminent threat to the public health, safety or welfare exists and requires immediate action. The decision of the Council to revoke a permit is not appealable to any other board or agency within the Town of Scarborough.

#### **L. SEVERABILITY.**

The invalidity of any provision of this Ordinance shall not invalidate any other part thereof.

#### **M. EFFECTIVE DATE.**

This Ordinance shall take effect immediately upon adoption of the same by the Town Council of the Town of Scarborough.



**AGENDA**  
**SCARBOROUGH TOWN COUNCIL**  
**WEDNESDAY – OCTOBER 4, 2023**  
**HYBRID REGULAR MEETING – 6:30 P.M.**

**Order No. 23-117.** Move approval of the first reading and schedule public hearing and action on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Watchtower, LLC, located at 137 Pleasant Hill Road for an Adult Cannabis Products Manufacturing Facility. *[Assistant Town Manager]*

*Assistant Town Manager*

*Ought to Pass*

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Sponsor

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Recommendation

*10/04/2023*

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First Reading/Vote

*10/18/2023*

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Public Hearing

*10/18/2023*

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Second Reading/Final Approval/Vote

## Scarborough Town Council Meeting

Council Meeting Date: October 4, 2023

<b>ACTION ITEM: Ordinance No. 23-117.</b>
<b>SUBJECT:</b> First reading and schedule a public hearing and action on the new request for a Cannabis Adult Use Manufacturing Establishment License from Nickolas Levasseur, d/b/a Watchtower, LLC, located at 137 Pleasant Hill Road for an Adult Cannabis Products Manufacturing Facility. <i>[Assistant Town Manager]</i>
<b>PURPOSE:</b> Approve adult use cannabis manufacturing licenses for the establishment listed above.
<b>BACKGROUND:</b> Application has been received and the facility will be inspected prior to the public hearing and second reading.
<b>FISCAL IMPACT:</b> \$2,500 (+)
<b>STATUS / PROCESS TO DATE:</b> <ul style="list-style-type: none"><li>• The application is under review</li><li>• First reading before Town Council: October 4, 2023</li></ul>
<b>PROPOSED ACTION:</b> Recommend to move approval of the first reading Order No. 23-117 and schedule the public hearing and action for Wednesday, October 18, 2023.
<b>ATTACHMENTS:</b>