

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

TO VIEW TOWN COUNCIL MEETING & OFFER PUBLIC COMMENT:

<https://scarboroughmaine.zoom.us/j/86994247951>

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.
- Item 4.** General Public Comments.
- Item 5.** Minutes: October 4, 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.
 - a. Update on the Cannabis [Marijuana] Moratorium

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

Order No. 23-097, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, H. Lighting; and Chapter 405B- Design Standards for Commercial Districts. *[Planning Director]*

Order No. 23-098, 7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section VI. Definitions and Section IX. Performance Standards. *[Planning Director]*

Order No. 23-116, 7:00 p.m. Public Hearing on the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Planning Director]*

Order No. 23-117, 7:00 p.m. Public Hearing and second reading 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]*

Order No. 23-118, 7:00 p.m. Public hearing and action on the following new requests for a Food Handlers License; Ahmen Rizk d/b/a Fresco del Forno, located at 491 Payne Road and Starbucks Coffee #68630, located at 465 Payne Road. *[Town Clerk]*

OLD BUSINESS:

Order No. 23-109. First reading 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 second reading for Wednesday, November 8, 2023. *[Town Council]*

Order No. 23-110. First reading 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 second reading for Wednesday, November 8, 2023. *[Town Council]*

NEW BUSINESS:

Order No. 23-119. First reading and schedule public hearing and second reading on the proposed amendment to the Official Zoning Map, for a portion of R052006 and U056001, being an approximately 9.4-acre parcel located off of Haigis Parkway, currently zoned Haigis Parkway (HP) to Crossroads Planned Development (CPD). *[Planning Director]*

Order No. 23-120. First reading and schedule a public hearing and second reading to the proposed amendment to the Official Zoning Map, for R053004, being an approximately 35.8-acre parcel located off of Preservation Way, currently zoned Village Residential 4 (VR-4) to Crossroads Planned Development (CPD). *[Planning Director]*

Item 9. Non-Action Item.

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

Item 11. Council Member Comments.

Item 12. Adjournment.



To: Scarborough Town Council
From: Thomas J. Hall, Town Manager
RE: Town Manager's Report
Date: October 18, 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 18, 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 - 10/10 Neighborhood Meeting
 - Title research- Track View Terrace
 - Buyers Obligations under the Purchase Option Agreement -
 - November 8- culmination of obligations
 - Option Fee Authorization
- **Election Update**- In-Person Early Voting started October 10- Chamber B
 - Low Turnout: 1,859 Issued
 - 787 Returned/Voted
 - 1,072 Outstanding
- **Eastern Trail - Close The Gap**—
- **Impact Fee Update** - Workshop Request for Dec 6, 2023
- **"Scarborough" Sign - Acura Dealership** Contract Zone Requirement
- **East Grand Avenue On-Street Parking** - loss of four spaces
- **Downs Project Fiscal Model** - Committed to an update by end of the year

- **Curbside Collection**- Private Roads/Condo Associations

- **Piper Shores**- Crossing on Spurwink Road

- **Affordable Housing** - Housing Alliance to tour Jocelyn Place and Village Commons on October 25

- **Grand Openings**
 - Hannaford - October 6
 - Downs Town Center Groundbreaking- October 25 at noon
 - Costco - November 17



AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 23-097. Move approval of the second reading on the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, H. Lighting; and Chapter 405B- Design Standards for Commercial Districts. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

09/06/2023 – Vote: 7 Yeas.

First Reading/Vote

10/18/2023

Public Hearing

10/18/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Order No. 23-097

SUBJECT:

7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, H. Lighting; and Chapter 405B- Design Standards for Commercial Districts. [*Planning Director*]

PURPOSE:

To review ordinance amendments required to update the lighting standards required for Site Plan review.

BACKGROUND:

The Comprehensive Plan identifies five *Visions* for the Town of Scarborough:

Vision 1: The Scarborough Marsh is central to the Town's identity, creating a special awareness by our residents of the importance of all of the Town's natural resources, therefore future land use will follow a pattern of development that is sensitive to protecting our beaches, dunes, rivers, open spaces, farmlands, and other elements that comprise our unique ecosystem.

Visions 2: Future land use patterns will create opportunities for the efficient delivery of municipal services and infrastructure, resulting in fiscal sustainability.

Vision 3: Our ordinances will support the diversity and characteristics of existing and emerging neighborhoods, centers and open spaces. – Simplify Zoning Ordinance

Vision 4: Scarborough's economy will support a broad assortment of businesses that provides stability for the tax base, respects the Town's natural resources, and that supports opportunities for residents.

Vision 5: Scarborough's transportation network will support current and future land uses that create efficiencies which reduce the impact of traffic on residents and businesses.

Under each of these visions are action items that have been assigned to various boards and committees within the Town. The Planning Department is working on a long-term project that includes simplifying our existing ordinances (Vision 3) and finding opportunities to incorporate changes where recommended with these consolidations.

The project includes reviewing the Zoning Ordinance, Site Plan Ordinance, Commercial Design Guidelines, Subdivision Ordinance and other policies in the Town for opportunities to consolidate/merge ideas and review and enhance existing requirements. The overall goal is to create a more cohesive set of standards, while removing ambiguity and subjectivity in the review process.

The **Zoning Ordinance**, Chapter 405 includes the following related elements:

- Uses and Bulk Standards
- Buffers
- Performance Standards
- Signage
- Parking

The **Site Plan Ordinance** Chapter 405 B Includes the following related elements:

- Site Design and Access
- Parking Areas and Circulation
- Pedestrian Spaces and Transportation
- *Landscape and Buffers*
- Stormwater Management
- *Lighting*
- *Architectural Standards*
- Signage
- Utilities
- *Outdoor Storage*
- Preservation and of Resources
- Environmental Considerations

The **Design Standards for Commercial Districts** published in 2001, amended in 2009 includes the following elements:

- Circulation Planning
- Parking Areas
- Pedestrian Spaces
- Sidewalks
- *Service Areas*
- *Buffering and Screening*
- Stormwater Management
- *Architectural Standards*
- *Materials*
- *Landscape Standards*
- *Plant List*
- Sign Standards
- *Lighting*

The various pieces of these ordinances and standards have been divided up and assigned to the board or committee that is best suited for review and additions. The items in italics are included in current work plans.

To date the project has been proceeding as follows:

- Lighting – Sustainability Committee
- Landscape Plant List – Conservation Commission
- Landscaping Requirements – Long Range Planning Committee
- Architectural Standards – Long Range Planning Committee

Near Term Efforts:

- Parking – Transportation Committee – Long Range Planning Committee
- Environmental Standards – Conservation Commission

The first section for review is the proposed Section H **Outdoor Lighting Standards** that will be incorporated in Chapter 405B Site Plan Review ordinance. The lighting standards found in Design Standards for Commercial Districts will be repealed. Over time, the Design Standards for Commercial Districts will be repealed in its entirety and its contents will be merged into Chapter 405B Site Plan ordinance or other applicable sections.

When presenting these items before the committees for review, staff starts with a color-coded markup to better understand the merging of the two/three documents and suggestions. (attached)

The Sustainability Committee reviewed the proposed draft on May 24, 2023, and again on July 26, 2023. Staff also forwarded final draft for a peer review from the Lighting Engineer on our Planning Board.

The changes proposed include:

- Clarified applicability, adding language to ensure redevelopment must comply with these standards.
- Added definitions
- Added specific requirements for the lighting plan, enabling staff and the Board a much easier review.
- Added the requirement lighting plans must show the IES standards applied and that the site does not exceed minimums
- Updated permitted lamps and fixtures
- Removed all references to metal halide lamps and replace language with “LED or better fixtures”
- Added time limits for lighting and addressed lighting when businesses are closed
- Required that landscaping up-lights not be on all night.
- Added specific requirements for energy demand, color rendering
- Defined fixture height and placement
- Removed redundant language
- Removed service station lighting – (IES standards will apply)
- Added lighting requirements for athletic fields.
- Addressed service areas

- Removed references to specific wattage.
- Added non-cutoff fixtures and fixtures containing mercury to list of prohibited fixtures
- Addressed temporary and permanent decorative lighting
- Addressed seasonal and holiday lighting
- Removed all language that “encourages” and replace it with requirements.
- Added specific waivers that are available with Planning Board approval

The Ordinance Committee review the proposed changes on August 24, 2023, and recommended moving the proposal to the full Council for review.

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- Sustainability Committee: May 4, 2023
- Sustainability Committee: July 26, 2023
- Ordinance Committee: August 24, 2023
- First reading before the Town Council: September 6, 2023
- Planning Board Public Hearing: October 10, 2023
- Public hearing and second reading before the Town Council: October 18, 2023

PROPOSED ACTION:

Move approval of the second reading and refer to the Planning Board, the proposed amendments to Chapter 405B Site Plan Review, IV Performance and Design Standards, H. Lighting; and Chapter 405B-1 Design Standards for Commercial Districts.

ATTACHMENTS:

- Proposed Amendments – Color Version – Information Only
- Draft Proposed Amendments Chapter 405B Site Plan Review
- Draft Proposed Amendments – Chapter 405B-1 Design Standards for Commercial Districts
- Memo regarding Planning Board Review

Planning Board Recommendation

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

RE: Proposed Amendments to Chapter 405B Site Plan Review Ordinance and Chapter 405B-1 Design Standards for Commercial Districts. Council Order No. 23-097.

Chairman Anderson and members of the Town Council,

On October 10, 2023, the Planning Board reviewed the proposed amendments to Chapter 405B Site Plan Review, Section IV Performance and Design Standards, Subsection H. Lighting; and Chapter 405B-1 Design Standards for Commercial Districts. The amendments pertain to updates to lighting standards required for Site Plan review. After consultation with the Board and Chair of the meeting, the recommendation is as follows:

1. The Board was fully supportive of the proposed amendments.

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

BLACK – Existing Site Plan Requirements (Chapter 405B)

BLUE – Commercial Design Standards Excerpts – Strike-through = duplicates

GREEN – Proposed additions (including IES, Dark Sky and other ordinances)

RED – Sustainability and PB Peer Review

H. OUTDOOR LIGHTING STANDARDS

PURPOSE

Outdoor ~~site~~ lighting shall be designed to balance visibility and safety on the site, while respecting abutting properties and minimizing light pollution and sky glow. Function, safety, **energy consumption and demand**, and aesthetic goals shall be achieved with fixtures, **color rendering** and locations that are planned as part of the overall site design.

- ~~1. Promotes wise energy consumption.~~
- ~~2. Provide lighting that offers a high level of visibility and safety throughout Scarborough's commercial districts.~~
- ~~3. Upgrading the visual character and human scale of commercial districts through particular attention to architecture, site planning, signage, and lighting.~~
- ~~4. Outdoor lighting directly impacts the visual appearance of Scarborough, as well the town's safety and security. The following lighting standards are designed to help balance the need for visibility and safety and enhance the visual quality of Scarborough, while respecting the privacy of abutting residential properties. Lighting plans shall consider illumination levels and fixtures that accommodate safety and visibility needs, but are also respectful of neighbors.~~
- ~~5. Help to unify the quality of the visual environment through the selection of attractive, appropriately scaled fixtures.~~
- ~~6. Avoid light fixtures or mountings that can cause distractions or hazards to motorists or pedestrians.~~
- ~~7. Minimize reflected light from parking lots and large commercial users that contributes to skyglow.~~
- ~~8. Avoid intrusions onto abutting property owners, especially residential uses.~~
- ~~9. Enhance noteworthy features in Scarborough's commercial districts, such as monuments, sculpture, or architectural elements.~~

APPLICABILITY

All outdoor lighting installed after the date of effect of this Ordinance shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location.

The provisions of this section shall not apply to individual single and two-family dwellings and their accessory buildings, structures, and areas for parking.

The provisions of this section shall not apply to streetlights installed in public rights-of-way. See the Town of Scarborough Streetlight policy.

Temporary outdoor decorative lighting (including lighting for temporary uses, special events, and seasonal holiday lighting) is exempt where the lighting does not exceed sixty (60) consecutive days or more than 120 days during any one-year period and does not cause undue burden on adjacent properties.

GENERAL STANDARDS

~~The location and design of lighting systems shall complement adjacent buildings, pedestrian amenities, and site elements. Poles and fixtures shall be proportionate to the buildings and spaces they are illuminating.~~

The location, design, and color of fixtures (poles and luminaries) shall complement the architecture, landscaping, parking areas, and street furnishings of the site to be developed or redeveloped in terms of form, style, and placement.

~~Lighting for commercial facilities shall be designed to provide the minimum level of illumination necessary for security, safety, and visual appeal for both pedestrians and vehicles. Lighting shall encourage activity after sunset without adding to unnecessary skyglow. Functional, aesthetic, and safety goals shall be met with fixtures that are designed as integral site elements.~~

Lighting shall not cause spillover onto neighboring residential properties or create dangerous conditions due to glare on adjacent roadways.

~~Any modifications, expansions, or replacements to the lighting systems shall be subject to the Standard Note.~~

DEFINITIONS

Astronomic Time Switch: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Decorative Lighting: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

Footcandle: The unit of measure expressing the quantity of light received on a surface.

Full cut-off fixture: Full-cutoff fixtures permit zero light intensity at or above horizontal (90° above nadir) and limited to a value not exceeding 10% of lamp lumens at or above 80°.

Glare: Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

IES: Illuminating Engineering Society.

Lamp: A generic term for a source of optical radiation (i.e. “light”), often called a “bulb” or “tube”.

Light Pollution: Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light Trespass: Light that falls beyond the property it is intended to illuminate.

Luminaire: The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Mounting Height: The height of the photometric center of a luminaire above grade level.

Sky Glow: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one’s ability to view the night sky.

Uplight: For an exterior luminaire, light directed in the hemisphere at or above the horizontal plane.

Vertical Illuminance: Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

LIGHTING PLAN REQUIRED

A lighting plan shall be furnished with all the site plan applications or amended site plan applications. It shall include the following:

- A narrative that describes the hierarchy of site lighting, how lighting will be used to provide safety and security, and aesthetic effects. The lighting plan narrative shall describe how the facades of individual buildings and/or landscaping will be lit (if at all) and the design intent behind such lighting.
- A photometric diagram shall be provided to show showing the illumination levels that will result from the proposed lighting; including This plan shall include the location of all lighting fixtures proposed to illuminate the buildings, entryways, travelways, loading areas, service areas, walkways and landscaping on the site.

- ~~A photometric diagram that shows illumination levels from all externally and internally visible lighting sources, including existing sources, to show how the minimum amount of illumination will be provided and the maximum amounts will not be exceeded.~~
- ~~A plan showing the lighting fixtures proposed to illuminate all buildings, roadways, service areas, landscaping, parking areas, and pedestrian areas.~~
- Calculation Summary indicating foot-candle levels on the lighting plan, noting the maximum, average, and minimum, as well as the uniformity ratio of maximum to minimum and average to minimum levels to avoid “hot” spots of light.
- Summary of the IES lighting standards applied to the site and table showing compliance not exceeding minimum requirements.
- Lighting manufacturer-supplied specifications that include photographs of the fixtures, lamp source type, lumen output, color rendering and wattage. **This specification must contain the exact make and model number of the light fixture.**
- ~~Lighting details and illustrations of the proposed fixtures shall also be included. Specifications and illustrations of all proposed lighting fixtures including mounting heights, photometric data, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information.~~
- Mounting height with distance noted to the nearest property line for each luminaire. All façade mounted lights are also required to be shown on the architectural elevations.
- **Permanently installed decorative outdoor lighting, such as string lights or patio lights, must be included on the lighting plan submitted with site plan submittals.**
- **Types of timing devices used to control the hours set for illumination, as well as the proposed hours when each fixture will be operated.**
- An environmental impact statement may be required as to the impact of the exterior lighting proposed on adjacent open space or waterways to include flora, fauna, and the night sky. Location of species sensitive to light at night needs to be indicated.
- A note stating no substitutions, additions, or changes may be made without prior approval by the governing authority; and that all lighting not on the plan shall be removed and no additional lighting shall be installed without prior approvals.

Energy Saving Devices. ~~Wherever practicable, lighting design shall include the installation of timers, photo sensors, and other energy saving devices to reduce the overall energy required for the development and eliminate unnecessary lighting.~~

~~Wherever practical, lighting fixtures shall include timers, photo sensors, and other energy saving devices to lessen both energy consumption and unnecessary lighting.~~

- ~~A Lighting Plan shall be presented to the Planning Board during Site Plan review. It shall contain:~~
- ~~A Maintenance and Replacement Plan discussing lighting maintenance.~~

~~**Lighting Plan.** Site lighting for MBD's shall be coordinated with all other elements of the site. A lighting plan shall be prepared by a qualified lighting professional and submitted to the Planning Board as part of the Site Plan review process.~~

~~**Coordination with Planting Plan.** The lighting plan shall be coordinated with the landscape plan to avoid obstructions from large trees, dark spots from shadows, or other conflicts as plantings mature.~~

~~**1. Safety.** Buffers, screen walls, fencing, and other landscape elements shall be coordinated with the lighting plan to eliminate dark spots and potential hiding places.~~

LIGHTING LEVELS

For safety and energy conservation purposes, illumination levels shall not exceed the **current recommended** minimums ~~recommendations to provide safe conditions as currently recommended~~ by the [Illuminating Engineering Society](#) of North America (IESNA) **except as outlined below:**

Light levels at the property line should not exceed 0.1 foot-candles (fc) adjacent to business properties, and 0.05 fc at residential property boundaries.

~~Where commercial development abuts residential uses, cut off fixtures shall be used to eliminate spillover onto adjacent residential properties to less than 0.1 foot candles. The lighting within the parking lots of commercial uses abutting residential areas shall reduce the lighting to an average of 0.2 foot candles within one hour after closing.~~

~~**Safety and Energy Conservation.** Illumination levels shall not exceed the minimums to provide safe conditions as currently defined by the Illuminating Engineering Society of North America (IESNA).~~

~~The individual IESNA standards shall be followed for roadway lighting, lighting for parking facilities, and pedestrian lighting. **The use of metal halide lamps is required for parking lots and driveways for its color rendition and energy efficiency, unless an alternative is specifically approved by the Applicable Reviewing Authority.**~~

~~Maximum level of illumination on any vertical surface shall not exceed 5.0 foot candles.~~

~~A minimum level of lighting shall be provided, following the current standards of the Illuminating Engineering Society of North America (IESNA), to safely guide the pedestrian from the front entrance to the parking lot and/or the public sidewalk.~~

~~Illumination levels shall be 1.0 minimum horizontal average foot candle on the ground. At six feet above the ground the illumination level shall be 2.2 average vertical maintained foot candles.~~

~~sidewalks shall be lit to the minimum standards recommended by the Illuminating Engineering Society of North America (IESNA) to promote safe use during evening hours.~~

~~Mounting heights for pedestrian lighting shall be appropriate for the project and the setting.~~

~~**Driveway Lighting:** Illumination levels shall be defined by IESNA recommendation RP 8 2000 "ANSI Standard Practice for Roadway Lighting", or the current manual. Levels shall be designed for specific locations.~~

~~**Parking Lot Drive Aisle.** Illumination levels shall be defined by IESNA recommendation RP 20 2000 "Lighting for Parking Facilities" or current manual. Illumination Levels for general parking and pedestrian areas shall maintain a minimum of 0.6 horizontal foot candles with a uniformity ratio of 4:1 average to minimum. This standard shall be met both on the ground and six feet above the ground.~~

~~**Adjacencies.** Cut-off fixtures shall be designed to limit spillover onto adjacent residential properties to less than 0.1 foot candles. Ordinance now calls for a maximum of 1.0 fc at property lines.~~

PERMITTED LIGHTING

~~The design and color of fixtures (poles and luminaries) used along driveways shall complement the architecture, landscaping, and street furnishing of the site to be developed or redeveloped in terms of color, form, and style.~~

~~. Maximum wattage in general shall not exceed 100 watts.~~

~~All lamps source to be used on site are required to be classified as dark sky compliant and full cutoff, except as otherwise permitted in this ordinance.~~

~~Exterior light sources shall be LED or the current highest efficiency available.~~

~~Warm lighting color temperature is to be specified for all exterior light applications. Provide a maximum color temperature of 3000K, with a color rendering index (CRI) of 80.~~

~~lamps shall be housed in a luminaire that is classified by IESNA as a cutoff distribution. Decorative fixtures may be used, provided they meet the cutoff criteria.~~

~~Ornamental and decorative lighting shall be used to highlight significant design elements (e.g., gateways, plazas, major building entrances).~~

~~The light poles and fixtures shall be selected to complement the roadway and parking lot lighting, as well as the other elements of the streetscape. cut-off fixtures shall be used to control glare, skyglow, and spillover onto adjacent properties. Cut-off fixtures control these impacts by directing light well below the horizontal.~~

Additional lighting during the holiday seasons of November through January is encouraged

TIME LIMITS FOR OUTDOOR LIGHTING

All outdoor lighting located more than 30 feet from any building or outdoor product display or storage area shall be turned off no later than 30 minutes after the business closes and remain off for the remainder of the night or until the business reopens. All exterior lights that remain on during after hours must be dimmed to fifty (50) percent of their total lumen output until 30 minutes before business reopens. An astronomic time switch or other permanent lighting control device must be provided to facilitate controlled dimming.

All landscape lighting must be turned off when the business is closed.

All temporary or permanent decorative outdoor lights must be turned off when the business is closed. Temporary decorative lights not related to the functionality of the business that are seasonal and/or related to a Federal Holiday may remain on at the business' discretion.

~~Where commercial properties abut residential areas, lighting in parking lots shall be reduced to an average of 0.2 foot-candles within one hour after closing.~~

FIXTURE HEIGHT AND PLACEMENT

~~The mounting height of light fixtures shall be in scale with adjacent buildings, access drives, and pedestrian ways.~~

~~Facade lighting may be used to illuminate buildings or landscaping. The location and alignment of fixtures shall be coordinated with the orientation of buildings, the layout of parking and landscaped islands, and the driveway patterns. Light fixtures shall be sited within raised landscaped areas to avoid damage from vehicles and plows., but shall also be coordinated with the plantings to avoid shadowing and dark spots from mature trees. Light poles must not obstruct sidewalks or bicycle paths.~~

The following requirements apply:

Facade mounted lights In general, the maximum mounting height along adjacent to driveways or access ways shall not exceed 25 feet in height **from ground level.**

Facade mounted lights adjacent to sidewalks and shall be a minimum of twelve (12) feet high **from ground level** and not exceed sixteen (16) feet **from ground level.** where sidewalks are present. Fixture heights in parking lots shall vary depending on the size and configuration of the lot. In general, the maximum mounting height shall be 20 feet, unless an increase in

height can significantly reduce the number of fixtures necessary. The final height of fixtures shall be determined by the Applicable Reviewing Authority.

~~The lighting of Pedestrian spaces shall consider user needs and safety. Light standards shall adequately, but not excessively, illuminate not only the space occupied by people, but also the elements within those spaces such as stairs, walls, benches, curbs, and landscaping.~~

Indirect landscape lighting (uplighting and washes) **may be used.** ~~is encouraged over~~

High branch-mounted flood-lights aimed toward the ground **are prohibited.**

Bollard fixtures (full cutoff) are permitted **up to 3-4 feet in height from ground level.**

Ornamental fixtures **are permitted up to 12 feet in height from ground level upon approval by the Planning Board.** ~~encouraged as pedestrian area lighting.~~

~~Both small Parking Areas (less than 150 cars) and large Parking Areas (greater than 150 cars) light fixtures shall have a maximum overall pole height of 20 feet from grade level to the top of the fixture. unless higher poles will reduce the total number necessary in a large parking lot.~~

~~Light poles shall be incorporated within raised planting areas wherever possible to avoid damage from vehicles and plows.~~

~~Parking lot lighting shall be designed to provide the minimum lighting necessary for safety, visibility, and comfort, without causing glare or avoidable spillover onto adjacent properties or roadways, or an increase in skyglow. In general, parking areas shall have less illumination than their surrounding commercial uses.~~

~~The alignment and spacing of fixtures in parking lots shall follow a regular pattern that is coordinated with the orientation of buildings and other site elements.~~

The use of metal halide lamps is strongly recommended ~~in parking lots through out Scarborough's commercial districts for its color rendition and energy efficiency.~~

~~The layout of light fixtures shall compliment the spacing and rhythm of surrounding plantings, especially large shade trees. The lighting plan shall take into consideration growth patterns of trees to avoid excessive pruning as trees mature.~~

~~The design and color of fixtures used in parking lots shall complement the roadway and pedestrian lighting, the architecture, and other street furnishings in terms of color, form, and style.~~

~~Proposed driveway lighting shall be designed to provide the minimum lighting necessary for traffic and pedestrian safety, using the minimum number of poles. Lighting shall not cause glare or avoidable spillover onto adjacent properties. Poles and fixtures shall be proportional in size to the roadways they are illuminating.~~

~~Driveway lighting shall be designed to illuminate the roadway and sidewalk, with a concentration on roadways. Light fixtures shall be selected and aimed to prevent glare.~~

~~The alignment and spacing of fixtures shall follow a regular pattern that is coordinated with the layout of buildings, parking lots, and other site elements.~~

~~Light fixtures used in driveways and parking lots shall be in scale with adjacent buildings. In general, the maximum mounting height along driveways shall not exceed 25 feet. Mounting heights shall be reduced to 12-16 feet where sidewalks are present.~~

~~Fixture heights shall vary with the size and position of the lot.~~

~~The use of bases raised above the level of plantings (when installed in islands or plant beds) or higher than one foot above the level of the pavement (when installed in walkways) is discouraged.~~

~~When decorative or special lighting is used, pole height shall be a maximum of 16 feet above the ground.~~

~~Facade lighting is a way of highlighting special architectural features and attractively landscaped areas, while adding depth and variety to Scarborough at night. Lighting used to illuminate building facades and landscaping shall be limited to areas where it enhances particular features in accordance with the overall lighting plan and does not disturb surrounding residential areas.~~

~~Lighting fixtures that are mounted on the facade and designed to wash the face with even light in a downward direction are preferred, but must be properly sited, aimed, and shielded so that the lighting is directed only onto the building façade or plantings. Lighting fixtures shall not be directed toward adjacent streets, sidewalks or properties.~~

~~**Location.** Lighting fixtures shall be properly sited, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets, sidewalks, or properties.~~

~~Landscape lighting shall be properly sited, aimed, and shielded so that light is directed only onto the selected tree or shrub.~~

~~Unique building or landscape features may be highlighted if the lighting does not create glare or distraction. Neon tubes may not be used as lighting features on the exterior of buildings.~~

~~Lighting fixtures shall not be directed toward adjacent streets, sidewalks, or properties. The lighting plan shall demonstrate that the installation will not generate excessive light levels, cause glare, or direct light beyond the landscaping toward the night sky.~~

SERVICE STATION CANOPY LIGHTING

~~Lit canopies or architectural features or devices used to illuminate gas stations, convenience stores, and drive through elements of a building shall facilitate the activities taking place in such locations without creating glare onto adjacent properties or roadways.~~

~~Areas around gasoline pumps and under canopies where a higher level of light is necessary for effective use of pumps shall be illuminated so the average horizontal illuminance at ground level is 30 fc or less, with a uniformity ratio of 1.25 (average to minimum).~~

~~The maximum levels shall only apply to the area under and within 20 feet of the canopy. Areas beyond 20 feet from canopies and gasoline pumps shall follow the standards for parking lots. If gasoline pumps are not provided under a canopy, the entire apron shall be treated as a parking area.~~

~~Recessed luminaires with flat or regressed lenses shall be used in canopies so the motorist cannot see the source of light. Drop fixtures are not allowed. The cut off angle shall not exceed 8 degrees above the vertical to make the light source invisible to passing motorists.~~

~~Lights shall not be mounted on the sides (fascia) or top of the canopy. Sides and tops of canopies shall not be illuminated.~~

OUTDOOR RECREATION FACILITIES

Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

All fixtures used for event lighting shall be fully shielded, or be designed or provided with full cut-off capability, so as to minimize up-light, spill-light, and glare.

All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

The maximum height permitted is to be determined during the site plan process as approved by the Planning Board.

PROHIBITED FIXTURES AND LIGHTING

Bare lamps ~~bulbs~~ are not allowed, unless permitted as temporary outdoor lighting or approved as permanent decorative lighting by the Planning Board through the waiver process.

Neon tubes as lighting features are not allowed on building exteriors. The use of internally illuminated bands of color and/or light is prohibited.

Non-cutoff fixtures, other than those specifically permitted by this ordinance.

Mercury vapor lamps.

Outdoor floodlighting by flood light projection above the horizontal plane.

Search lights, flood lights, laser source lights, or any similar high intensity light, except in emergencies by police, fire, or medical personnel or at their direction; or for meteorological data gathering purposes.

Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

WAIVERS

The Planning Board may review waivers to lighting standards for the following:

- Maximum pole and fixture height greater than 20' for large parking lots over 150 spaces if the ~~unless an~~ increase in height can significantly reduce the number of fixtures necessary. **Under no circumstances shall the combined height of the pole and light exceed 30' in height.** Poles within 200' of residential property lines shall not exceed 20' in height.
- Non-cut-off fixtures, such as decorative or historic lamps, may be allowed by the ~~Applicable Reviewing Authority~~ Planning Board where they are designed to be lower luminance, limited in number, or distant from abutting residential uses.

- Nonconforming (exposed lamps) permanent decorative lighting may be permitted by the Planning Board where they are limited in number, or distant from abutting residential uses.

SIGNS

Standards for external and internal sign illumination are provided in Section XII of the Zoning Ordinance. Lighting used for the external illumination of signs is included toward the Total Outdoor Light Output standards.

DRAFT

**CHAPTER 405B
TOWN OF SCARBOROUGH
SITE PLAN REVIEW**

IV. Performance & Design Standards [amended 04/21/2021; 07/19/2023]

H. OUTDOOR LIGHTING STANDARDS

1. PURPOSE

Outdoor ~~site~~-lighting shall be designed to balance visibility and safety on the site, while respecting abutting properties and minimizing light pollution and sky glow. Function, safety, **energy consumption and demand**, and aesthetic goals shall be achieved with fixtures, **color rendering** and locations that are planned as part of the overall site design.

2. APPLICABILITY

All outdoor lighting installed after the date of effect of this Ordinance shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location.

The provisions of this section shall not apply to individual single and two-family dwellings and their accessory buildings, structures, and areas for parking.

The provisions of this section shall not apply to streetlights installed in public rights-of-way. See the Town of Scarborough Streetlight policy.

Temporary outdoor decorative lighting (including lighting for temporary uses, special events, and seasonal holiday lighting) is exempt where the lighting does not exceed sixty (60) consecutive days or more than 120 days during any one-year period and does not cause undue burden on adjacent properties.

3. GENERAL STANDARDS

The location, design, and color of fixtures (poles and luminaries) shall complement the architecture, landscaping, parking areas, and street furnishings of the site to be developed or redeveloped in terms of form, style, and placement.

Lighting shall not cause spillover onto neighboring residential properties or create dangerous conditions due to glare on adjacent roadways.

4. DEFINITIONS

Astronomic Time Switch: An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Decorative Lighting: Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

Footcandle: The unit of measure expressing the quantity of light received on a surface.

Full cut-off fixture: Full-cutoff fixtures permit zero light intensity at or above horizontal (90° above nadir) and limited to a value not exceeding 10% of lamp lumens at or above 80°.

Glare: Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

IES: Illuminating Engineering Society.

Lamp: A generic term for a source of optical radiation (i.e. “light”), often called a “bulb” or “tube”.

Light Pollution: Any adverse effect of artificial light including, but not limited to, glare, light trespass, skyglow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light Trespass: Light that falls beyond the property it is intended to illuminate.

Luminaire: The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Mounting Height: The height of the photometric center of a luminaire above grade level.

Sky Glow: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one’s ability to view the night sky.

Uplight: For an exterior luminaire, light directed in the hemisphere at or above the horizontal plane.

Vertical Illuminance: Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

4. LIGHTING PLAN REQUIRED

A lighting plan shall be furnished with all the site plan applications or amended site plan applications. It shall include the following:

- a. Narrative that describes the hierarchy of site lighting, how lighting will be used to provide safety and security, and aesthetic effects. The lighting plan narrative shall describe how the facades of individual buildings and/or landscaping will be lit (if at all) and the design intent behind such lighting.

- b. ~~A photometric diagram shall be provided to show~~ showing the illumination levels that will result from the proposed lighting; ~~including This plan shall include the location of~~ all lighting fixtures proposed to illuminate the buildings, entryways, travelways, loading areas, service areas, walkways and landscaping on the site.
 - c. Calculation Summary indicating foot-candle levels on the lighting plan, noting the maximum, average, and minimum, as well as the uniformity ratio of maximum to minimum and average to minimum levels to avoid “hot” spots of light.
 - d. Summary of the IES lighting standards applied to the site and table showing compliance not exceeding minimum requirements.
 - e. Lighting manufacturer-supplied specifications that include photographs of the fixtures, lamp source type, lumen output, color rendering and wattage. This specification must contain the exact make and model number of the light fixture.
 - f. ~~Lighting details and illustrations of the proposed fixtures shall also be included.~~ Mounting height with distance noted to the nearest property line for each luminaire. All façade mounted lights are also required to be shown on the architectural elevations.
 - g. Permanently installed decorative outdoor lighting, such as string lights or patio lights, must be included on the lighting plan submitted with site plan submittals.
 - h. Types of timing devices used to control the hours set for illumination, as well as the proposed hours when each fixture will be operated.
 - i. An environmental impact statement may be required as to the impact of the exterior lighting proposed on adjacent open space or waterways to include flora, fauna, and the night sky. Location of species sensitive to light at night needs to be indicated.
 - j. A note stating no substitutions, additions, or changes may be made without prior approval by the governing authority; and that all lighting not on the plan shall be removed and no additional lighting shall be installed without prior approvals.
 - k. Maintenance and Replacement Plan discussing lighting maintenance.
- ~~Wherever practical, lighting fixtures shall include timers, photo sensors, and other energy saving devices to lessen both energy consumption and unnecessary lighting.~~

5. LIGHTING LEVELS

- a. For safety and energy conservation purposes, illumination levels shall not exceed the current recommended minimums ~~recommendations to provide safe conditions as currently recommended~~ by the [Illuminating Engineering Society of North America \(IESNA\)](#) except as outlined below:
- b. Light levels at the property line should not exceed 0.1 foot-candles (fc) adjacent to business properties, and 0.05 fc at residential property boundaries.

~~Where commercial development abuts residential uses, cut-off fixtures shall be used to eliminate spillover onto adjacent residential properties to less than 0.1 foot-candles. The~~

~~Lighting within the parking lots of commercial uses abutting residential areas shall reduce the lighting to an average of 0.2 foot candles within one hour after closing.~~

~~The individual IESNA standards shall be followed for roadway lighting, lighting for parking facilities, and pedestrian lighting. The use of metal halide lamps is required for parking lots and driveways for its color rendition and energy efficiency, unless an alternative is specifically approved by the Applicable Reviewing Authority.~~

6. PERMITTED LIGHTING

- a. All lamps source to be used on site are required to be classified as dark sky compliant and full cutoff, except as otherwise permitted in this ordinance.
- b. Exterior light sources shall be LED or the current highest efficiency available.
- c. Warm lighting color temperature is to be specified for all exterior light applications. Provide a maximum color temperature of 3000K, with a color rendering index (CRI) of 80.

~~cut-off fixtures shall be used to control glare, skyglow, and spillover onto adjacent properties. Cut-off fixtures control these impacts by directing light well below the horizontal.~~

7. TIME LIMITS FOR OUTDOOR LIGHTING

- a. All outdoor lighting located more than 30 feet from any building or outdoor product display or storage area shall be turned off no later than 30 minutes after the business closes and remain off for the remainder of the night or until the business reopens. All exterior lights that remain on during after-hours must be dimmed to fifty (50) percent of their total lumen output until 30 minutes before business reopens. An astronomic time switch or other permanent lighting control device must be provided to facilitate controlled dimming.
- b. All landscape lighting must be turned off when the business is closed.
- c. All temporary or permanent decorative outdoor lights must be turned off when the business is closed. Temporary decorative lights not related to the functionality of the business that are seasonal and/or related to a Federal Holiday may remain on at the business' discretion.

8. FIXTURE HEIGHT AND PLACEMENT

~~The mounting height of light fixtures shall be in scale with adjacent buildings, access drives, and pedestrian ways.~~

~~Facade lighting may be used to illuminate buildings or landscaping.~~The location and alignment of fixtures shall be coordinated with the orientation of buildings, the layout of

parking and landscaped islands, and the driveway patterns. Light fixtures shall be sited within raised landscaped areas to avoid damage from vehicles and plows., ~~but shall also be coordinated with the plantings to avoid shadowing and dark spots from mature trees.~~ Light poles must not obstruct sidewalks or bicycle paths.

The following requirements apply:

- a. Façade mounted lights ~~In general, the maximum mounting height along~~ adjacent to driveways or access ways shall not exceed 25 feet in height from ground level.
- ~~b. Façade mounted lights adjacent to sidewalks and shall be reduced to a minimum of twelve (12) feet high from ground level and not exceed sixteen (16) feet from ground level. where sidewalks are present. Fixture heights in parking lots shall vary depending on the size and configuration of the lot. In general, the maximum mounting height shall be 20 feet, unless an increase in height can significantly reduce the number of fixtures necessary. The final height of fixtures shall be determined by the Applicable Reviewing Authority.~~
- e. Indirect landscape lighting (uplighting and washes) may be used.
- d. High branch-mounted flood-lights aimed toward the ground are prohibited.
- e. Bollard fixtures (full cutoff) are permitted up to ~~3-4~~ 4 feet in height from ground level.
- f. Ornamental fixtures are permitted up to 12 feet in height from ground level upon approval by the Planning Board.
- g. Parking Areas light fixtures shall have a maximum overall pole height of 20 feet from grade level to the top of the fixture.

~~, but must be properly sited, aimed, and shielded so that the lighting is directed only onto the building façade or plantings. Lighting fixtures shall not be directed toward adjacent streets, sidewalks or properties.~~

9. OUTDOOR RECREATION FACILITIES

- a. Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:
- b. All fixtures used for event lighting shall be fully shielded, or be designed or provided with full cut-off capability, so as to minimize up-light, spill-light, and glare.
- c. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing

field, court, or track be permitted after 11:00 p.m. except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.

- d. The maximum height permitted is to be determined during the site plan process as approved by the Planning Board.

10. PROHIBITED FIXTURES AND LIGHTING

- a. Bare lamps are not allowed, unless permitted as temporary outdoor lighting or approved as permanent decorative lighting by the Planning Board through the waiver process.
- b. Neon tubes as lighting features are not allowed on building exteriors. The use of internally illuminated bands of color and/or light is prohibited.
- c. Non-cutoff fixtures, other than those specifically permitted by this ordinance.
- d. Mercury vapor lamps.
- e. Outdoor floodlighting by flood light projection above the horizontal plane.
- f. Search lights, flood lights, laser source lights, or any similar high intensity light, except in emergencies by police, fire, or medical personnel or at their direction; or for meteorological data gathering purposes.
- g. Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating or strobe light illumination.

11. WAIVERS

The Planning Board may review waivers to lighting standards for the following:

- a. Maximum pole and fixture height greater than 20' for large parking lots over 150 spaces if the ~~unless an~~ increase in height can significantly reduce the number of fixtures necessary. Under no circumstances shall the combined height of the pole and light exceed 30' in height. Poles within 200' of residential property lines shall not exceed 20' in height.
- b. Non-cut-off fixtures, such as decorative or historic lamps, may be allowed by the ~~Applicable Reviewing Authority~~ Planning Board where they are designed to be lower luminance, limited in number, or distant from abutting residential uses.
- c. Nonconforming (exposed lamps) permanent decorative lighting may be permitted by the Planning Board where they are limited in number, or distant from abutting residential uses.

12. SIGNS

Standards for external and internal sign illumination are provided in Section XII of the Zoning Ordinance. Lighting used for the external illumination of signs is included toward the Total Outdoor Light Output standards.

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DEFINITION OF TERMS

These definitions are provided to assist the reader while using Scarborough's Design Standards.

Adaptive Reuse - The development of a new use for a preexisting building. If a historic structure is involved, the conversion strives to maintain the structure's historic character.

Americans with Disabilities Act. A 1990 federal law designed to bring disabled Americans into the economic mainstream to provide them equal access to jobs, transportation, public facilities, and services.

Architectural Feature -A prominent or significant part or element of a building, structure or site.

Bollards -Posts used in the landscape for functional (e.g., separation of pedestrian and vehicular traffic) or decorative purposes.

Buffering -Landscape areas, berms, fencing, walls or other physical features that are planted or installed to physically and visually separate land uses.

Building Mass The height, width, and depth of a structure.

Cape Cod Curbs -A relatively low fiat asphalt curb, typically used at the edge of parking lots or roadways to minimize snow plow damage.

Community Character - The image of a community as defined by such factors as its built environment, natural features, open space, architectural styles of houses and buildings, infrastructure, and the type and quality of public facilities and services.

Compact Parking -A parking space with a dimension of 8' in width and 15 feet in depth.

Cross Easement _The reciprocal legal right to pass from one property to another.

Curb Cut - The opening along the curb line at which point vehicles may enter or leave the roadway.

~~**Cut-off fixtures**—A type of light fixture that prevents most light from projecting above the horizontal plane of the fixture.~~

Fenestration - Window treatment in a building or on a building facade.

~~**Footcandles**—The basic unit of illumination.~~

Gateways -Entrances into recognizable places or areas of significant changes in land use.

Human Scale. The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to human beings.

~~**IESNA**—Illuminating Society of North America—the professional society that makes recommendations for lighting standards.~~

Landscape Plan -A component of a development plan which shows the quantity, species, and size of all proposed vegetation.

Massing - The grouping of three-dimensional forms to achieve variation (as in a building or landscape planting).

Mixed-Use Development -The combination of two or more land uses within one building, project, or site. The most common combination of uses is business/retail and residential.

Modular Pavers -Preformed paving blocks that are installed on the ground to form patterns.

Neckdowns -Located at the openings of curb lines, the curb width is extended, usually 7-8", to decrease the distance between opposing curb lines and to prohibit parking. Sometimes referred to as "bump outs."

Outdoor Storage - The keeping, in an unenclosed area, of any goods, materials, merchandise, junk, or vehicles in the same place for more than twenty-four hours.

Parapet - The extension of the main walls of a building above the roof line.

Peer Review - The use of qualified professionals to review specific aspects of a Site Plan application for conformance with the Town's Ordinances or Design Standards.

Performance Guarantee -Any security that may be accepted by a municipality to assure that improvements required as part of an application for development will be satisfactorily completed.

Reader boards -A sign affiliated with a business or institution that contains temporary announcements about events or activities occurring on the premises.

Coordination with Landscaping. Areas adjacent to walkways shall be landscaped with trees, shrubs, benches, flower beds, ground covers, or other such materials. Walkways in parking lots shall include landscaped islands to provide visual relief, shade, and scale. Shrubs shall be used with care to avoid blind spots. Special features, such as benches, flower beds, planters, and artwork can be used to enhance the walkway. Trees along all walkways shall be trimmed to provide adequate sight distance and to remove potential obstacles. Vertical clearances of at least eight feet shall be maintained.



An internal walkway oriented toward the main entry of a restaurant. The planting strips with ornamental grasses and perennials separate the pathway from vehicles.

Crosswalks. Internal crosswalks shall be marked by a change in pavement texture, pattern, or color to maximize pedestrian safety in parking areas and other potentially hazardous areas. The materials selected for road crossings shall be highly durable and low maintenance. Raised crosswalks shall be considered at key locations as a traffic calming device to make crosswalks more visible. Signs may be warranted in certain situations as determined by the Institute for Traffic Engineers (ITE). Materials selected for crosswalks shall allow safe bicycle movement across the surface.

~~**Lighting.** A minimum level of lighting shall be provided, following the current standards of the Illuminating Engineering Society of North America (IESNA), to safely guide the pedestrian from the front entrance to the parking lot and/or the public sidewalk.~~

Drainage. Sheet flow of stormwater across walkways shall be avoided. Culverts shall be sized to prevent ponding and provide uninterrupted use of the walkway.

Maintenance. All internal walkways shall be designed to facilitate maintenance by the property owner. The site plan shall coordinate the location of walkways with utilities, plantings, drainage, and other site elements that could affect long-term maintenance.



Decorative plantings can add to the attractiveness of walkways while helping to set them apart from parking lots.



A wide walkway that provides a well-marked, attractive pathway to the main entrance. Separated walkways are more desirable than systems that end behind parked cars.

Drive Through Facilities. Where drive-through facilities are a component of a MBD, the building and site plan shall emphasize pedestrian access.

Signage Plan. Applicants for MBD's shall submit a master signage plan that shows how graphics will complement and unify the proposed development. See **Signage**.

~~**Lighting Plan.** Site lighting for MBD's shall be coordinated with all other elements of the site. A lighting plan shall be prepared by a qualified lighting professional and submitted to the Planning Board as part of the Site Plan review process. See **Lighting**.~~

Landscape Plan. Landscaping for MBD's shall be coordinated with all other elements of the site. As part of the application for Site Plan approval, applicants shall submit a master landscape plan that shows how landscaping will be used to complement proposed buildings, reinforce circulation paths, help define pedestrian use areas, highlight entrances, provides shade, and adds seasonal interest to the landscape. See **Landscaping Chapter** for further standards on landscape materials.

Shared Stormwater Management. Wherever appropriate, treatment basins shall be designed to be shared by multiple building sites to minimize the land area devoted to stormwater management. (See Stormwater Management, p. 19 for further details).



This MBD encourages pedestrian use and enjoyment through well-connected sidewalks, mature landscaping, high quality lighting and paved public plaza.



This MBD is unified by a common architectural style and coordinated landscaping, lighting, and outdoor spaces.



Buildings in this multi-building development are oriented to a grid pattern, with strong pedestrian circulation.

OBJECTIVES

Outdoor lighting directly impacts the visual appearance of Scarborough, as well the town's safety and security. The following lighting standards are designed to help balance the need for visibility and safety and enhance the visual quality of Scarborough, while respecting the privacy of abutting residential properties. Lighting plans shall consider illumination levels and fixtures that accommodate safety and visibility needs, but are also respectful of neighbors.

Lighting Goals

Provide lighting that offers a high level of visibility and safety throughout Scarborough's commercial districts.

Help to unify the quality of the visual environment through the selection of attractive, appropriately scaled fixtures.

- Avoid light fixtures or mountings that can cause distractions or hazards to motorists or pedestrians.
- Minimize reflected light from parking lots and large commercial users that contributes to skyglow.
- Avoid intrusions onto abutting property owners, especially residential uses.
- Enhance noteworthy features in Scarborough's commercial districts, such as monuments, sculpture, or architectural elements.
- Promotes wise energy consumption.

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The lighting plan for this business considers both security and visual appeal for motorists and pedestrians.

OBJECTIVES

Lighting for commercial facilities shall be designed to provide the minimum level of illumination necessary for security, safety, and visual appeal for both pedestrians and vehicles. Lighting shall encourage activity after sunset without adding to unnecessary skyglow. Functional, aesthetic, and safety goals shall be met with fixtures that are designed as integral site elements.

DESIGN STANDARDS

Site Plan. A Lighting Plan shall be presented to the Planning Board during Site Plan review. It shall contain:

A plan showing the lighting fixtures proposed to illuminate all buildings, roadways, service areas, landscaping, parking areas, and pedestrian areas.

A narrative that describes the hierarchy of site lighting, how lighting will be used to provide safety and security, and aesthetic effects.

A Maintenance and Replacement Plan discussing lighting maintenance.

A photometric diagram that shows illumination levels from all externally and internally visible lighting sources, including existing sources, to show how the minimum amount of illumination will be provided and the maximum amounts will not be exceeded.

Specifications and illustrations of all proposed lighting fixtures including mounting heights, photometric data, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information.

Safety and Energy Conservation. Illumination levels shall not exceed the minimums to provide safe conditions as currently defined by the Illuminating Engineering Society of North America (IESNA).

Coordinated Design. The location and design of lighting systems shall complement adjacent buildings, pedestrian amenities, and site elements. Poles and fixtures shall be proportionate to the buildings and spaces they are illuminating.

Safety. Buffers, screen walls, fencing, and other landscape elements shall be coordinated with the lighting plan to eliminate dark spots and potential hiding places.

Feature Lighting. Unique building or landscape features may be highlighted if the lighting does not create glare or distraction. Neon tubes may not be used as lighting features on the exterior of buildings.

Light Pollution. Lighting shall not cause spillover onto neighboring residential properties or create dangerous conditions due to glare on adjacent roadways. Bare bulbs are not allowed.

Replacement and Modifications. Any modifications, expansions, or replacements to the lighting systems shall be subject to the Standard Note.

Energy Saving Devices. Wherever practicable, lighting design shall include the installation of timers, photo sensors, and other energy saving devices to reduce the overall energy required for the development and eliminate unnecessary lighting.



The color, form, and line of this fixture reflect the contemporary design of this office building. Its height and placement contribute to the human scale of the entrance.

Lighting Reductions. Where commercial properties abut residential areas, lighting in parking lots shall be reduced to an average of 0.2 foot-candles within one hour after closing.

Holiday Lighting. Additional lighting during the holiday seasons of November through January is encouraged.

Site plans shall consider the aesthetic as well as the functional aspects of lighting.



Three examples of light fixtures that complement the surrounding architecture and site furnishings through the use of similar materials and appropriate scale.



OBJECTIVES

Proposed driveway lighting shall be designed to provide the minimum lighting necessary for traffic and pedestrian safety, using the minimum number of poles. Lighting shall not cause glare or avoidable spillover onto adjacent properties. Poles and fixtures shall be proportional in size to the roadways they are illuminating.

DESIGN STANDARDS

Illumination. Driveway lighting shall be designed to illuminate the roadway and side walk, with a concentration on roadways. Light fixtures shall be selected and aimed to prevent glare.

Illumination levels. Illumination levels shall be defined by IESNA recommendation RP 8 2000 "ANSI Standard Practice for Roadway Lighting", or the current manual. Levels shall be designed for specific locations.

Luminaries. The use of metal halide lamps is strongly recommended throughout Scarborough for its color rendition and energy efficiency. Lamps shall be housed in a luminaire that is classified by IESNA as a cutoff distribution. Decorative fixtures may be used, provided they meet the cutoff criteria.

Design. The design and color of fixtures (poles and luminaries) used along driveways shall complement the architecture, landscaping, and street furnishing of the site to be developed or redeveloped in terms of color, form, and style.

Layout. The alignment and spacing of fixtures shall follow a regular pattern that is coordinated with the layout of buildings, parking lots, and other site elements.

Coordination with Planting Plan. The layout of light fixtures shall compliment the spacing and rhythm of surrounding plantings, especially large shade trees. The lighting plan shall take into consideration growth patterns of trees to avoid excessive pruning as trees mature.

Mounting Height. Light fixtures used in driveways and parking lots shall be in scale with adjacent buildings. In general, the maximum mounting height along driveways shall not exceed 25 feet. Mounting heights shall be reduced to 12-16 feet where sidewalks are present.



Driveway lighting effectively used to add character to a new road and illuminate the adjacent sidewalk



Parking lot and driveway lighting shall not exceed the lowest levels recommended by IESNA to minimize skyglow and spillage onto adjacent properties.



OBJECTIVES

Parking lot lighting shall be designed to provide the minimum lighting necessary for safety, visibility, and comfort, without causing glare or avoidable spillover onto adjacent properties or roadways, or an increase in skyglow. In general, parking areas shall have less illumination than their surrounding commercial uses.

DESIGN STANDARDS

Layout. The alignment and spacing of fixtures in parking lots shall follow a regular pattern that is coordinated with the orientation of buildings and other site elements.

Location. Light poles shall be incorporated within raised planting areas wherever possible to avoid damage from vehicles and plows.

Bases. The use of bases raised above the level of plantings (when installed in islands or plant beds) or higher than one foot above the level of the pavement (when installed in walkways) is discouraged.

Coordination with Planting Plan. The lighting plan shall be coordinated with the landscape plan to avoid obstructions from large trees, dark spots from shadows, or other conflicts as plantings mature.



The alignment and spacing of these lighting fixtures follow a regular pattern that coordinates with the orientation of the buildings and parking lot.

Illumination Levels. Illumination levels shall be defined by IESNA recommendation RP-20-2000 "Lighting for Parking Facilities" or current manual. Illumination Levels for general parking and pedestrian areas shall maintain a minimum of 0.6 horizontal foot candles with a uniformity ratio of 4:1 average to minimum. This standard shall be met both on the ground and six feet above the ground.

Luminaries. The use of metal halide lamps is strongly recommended in parking lots throughout Scarborough's commercial districts for its color rendition and energy efficiency. Lamps shall be housed in a luminaire that is classified by IESNA as a cutoff distribution. Decorative fixtures may be used, provided they meet the cutoff criteria.

Mounting Heights. Fixture heights shall vary with the size and position of the lot. Both small Parking Areas (less than 150 cars) and large Parking Areas (greater than 150 cars) shall have a maximum pole height of 20 feet unless higher poles will reduce the total number necessary in a large parking lot. Poles within 200' of residential property lines shall not exceed 20' in height.

Adjacencies. Cut-off fixtures shall be designed to limit spillover onto adjacent residential properties to less than 0.1 foot candles. Ordinance now calls for a maximum of 1.0 fc at property lines.

Design. The design and color of fixtures used in parking lots shall complement the roadway and pedestrian lighting, the architecture, and other street furnishings in terms of color, form, and style.



These lighting fixtures are well-placed throughout the parking lot and located within planting beds to minimize damage.



This parking lot lighting illuminates walkway and emphasizes the route to the main door



Lighting placed at the circumference of this parking lot blends into the surrounding trees, reducing its visibility during the day.



This light fixture at a crosswalk in a parking is scaled to the pedestrian.



An example of lighting fixtures which are taller than the main building and out of scale with the site.

OBJECTIVES

The lighting of pedestrian spaces shall consider users' needs and safety. Light standards shall adequately, but not excessively, illuminate not only the space occupied by people, but also the elements within those spaces such as stairs, walls, benches, curbs, and landscaping.

DESIGN STANDARDS

Heights. Mounting heights for pedestrian lighting shall be appropriate for the project and the setting. Bollard fixtures, 3-4 feet in height, and ornamental fixtures, up to 12 feet in height, are encouraged as pedestrian area lighting. When decorative or special lighting is used, pole height shall be a maximum of 16 feet above the ground.

Luminaries. Lamps should be metal halide housed in a luminaire that is classified by IESNA as a non-cutoff. Maximum wattage in general shall not exceed 100 watts.

Illumination Levels. Illumination levels shall be 1.0 minimum horizontal average foot-candle on the ground. At six feet above the ground the illumination level shall be 2.2 average vertical maintained foot-candles.

Decorative. Ornamental and decorative lighting shall be used to highlight significant design elements (e.g., gateways, plazas, major building entrances).

Design. The light poles and fixtures shall be selected to complement the roadway and parking lot lighting, as well as the other elements of the streetscape.



Ornamental lighting can add human scale to exterior spaces while providing necessary illumination for pathways and outdoor spaces.

OBJECTIVES

Facade lighting is a way of highlighting special architectural features and attractively landscaped areas, while adding depth and variety to Scarborough at night. Lighting used to illuminate building facades and landscaping shall be limited to areas where it enhances particular features in accordance with the overall lighting plan and does not disturb surrounding residential areas.

DESIGN STANDARDS

Intent. The lighting plan narrative shall describe how the facades of individual buildings and/or landscaping will be lit (if at all) and the design intent behind such lighting.

Levels. Maximum level of illumination on any vertical surface shall not exceed 5.0 foot-candles.

Location. Lighting fixtures shall be properly sited, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets, sidewalks, or properties.

Types. Lighting fixtures that are mounted on the facade and designed to wash the face with even light in a downward direction are preferred.

Landscape Lighting. Landscape lighting shall be properly sited, aimed, and shielded so that light is directed only onto the selected tree or shrub.

Lighting fixtures shall not be directed toward adjacent streets, sidewalks, or properties. The lighting plan shall demonstrate that the installation will not generate excessive light levels, cause glare, or direct light beyond the landscaping toward the night sky. Indirect landscape lighting (up lighting and washes) is encouraged over high branch-mounted flood lights aimed toward the ground.

Bands of Light. Neon tubes as lighting features are not allowed on building exteriors. The use of internally illuminated bands of color and/or light is prohibited.



These facade-mounted lighting fixtures are visually compatible with the form and color of the building.



Neon lighting, shown here outlining the roof is prohibited in Scarborough's commercial districts.



Lighting can be used to achieve dramatic effects, especially in gateway locations.

OBJECTIVES

~~Lit canopies or architectural features or devices used to illuminate gas stations, convenience stores, and drive through elements of a building shall facilitate the activities taking place in such locations without creating glare onto adjacent properties or roadways.~~

DESIGN STANDARDS

~~**Light Levels under Canopies.** Areas around gasoline pumps and under canopies where a higher level of light is necessary for effective use of pumps shall be illuminated so the average horizontal illuminance at ground level is 30 fc or less, with a uniformity ratio of 1.25 (average to minimum).~~

~~**Parking Areas.** The maximum levels shall only apply to the area under and within 20 feet of the canopy. Areas beyond 20 feet from canopies and gasoline pumps shall follow the standards for parking lots. If gasoline pumps are not provided under a canopy, the entire apron shall be treated as a parking area.~~

~~**Canopy Luminaries.** Recessed luminaries with flat or regressed lenses shall be used in canopies so the motorist cannot see the source of light. Drop fixtures are not allowed. The cut off angle shall not exceed 8~degrees above the vertical to make the light source invisible to passing motorists.~~

~~**Fascia.** Lights shall not be mounted on the sides (fascia) or top of the canopy. Sides and tops of canopies shall not be illuminated.~~



Lighting being considered as an integral part of the canopy design. The canopy light fixtures are recessed so the light source is not visible and do not create 'hot spots' that are distracting to the passing motorist

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-098. Move approval of the second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section VI. Definitions and Section IX. Performance Standards. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

09/06/2023 – Vote: 7 Yeas.

First Reading/Vote

10/18/2023

Public Hearing

10/18/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Order No. 23-098.

SUBJECT:

7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section VI. Definitions and Section IX. Performance Standards.
[Planning Director]

PURPOSE:

To review ordinance amendments that would allow small scale seafood sales under the ‘Accessory Agriculture Activities’ use in all residential districts. The proposed changes would also allow commercial seafood sales under ‘Farm Stands’ and ‘Agriculture Products Stores’ uses in the RF district.

BACKGROUND:

The Planning Department received a request from a local commercial shellfish harvester hoping to sell products directly to people at their home.

Currently the only method to allow seafood sales on residential property is for the applicant to request a Special Exception for a home occupation through the Zoning Board of Adjustment.

At the July 13, 2023, meeting, Staff presented the existing ordinance and potential additions to allow seafood sales. The Ordinance Committee requested staff prepare a draft to address seafood sales outside of the Special Exception process.

The Zoning Ordinance currently includes definitions and performance standards for similar uses that are proposed to allow fishing and shellfish harvesting as follows:

1. Amend **definition** for Accessory Agricultural Activities (permitted in all residential district) to include fishing and shellfish harvesting
2. Amend the **performance standards** for Accessory Agricultural Activities to include:
 - a. The sale of any type of seafood may only be permitted by those who meet all Federal, State and municipal requirements to do so.
 - b. Accessory agricultural activities that include any type of seafood are not subject to site plan review, *but do require a permit from the Zoning Administrator to verify licensing requirements and safe storage practices are in place.*
3. Add **definition** for Commercial Fishing and Harvesting
4. Amend **definition** for Farm Stands (permitted in the RF district) to include Commercial Fishing and Harvesting.
5. Amend the **performance standards** for Farm Stands to include Commercial Fishing and Harvesting.

6. Amend the **definition** for Agricultural Products Store (permitted in the RF district) to include Commercial Fishing and Harvesting.
7. Amend the **performance standards** for Agricultural Products Store to include Commercial Fishing and Harvesting

The proposed changes would allow small scale seafood sales under the ‘Accessory Agriculture Activities’ use in all residential districts. The proposed changes would also allow commercial seafood sales under ‘Farm Stands’ and ‘Agriculture Products Stores’ uses in the RF district.

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- Ordinance Committee: July 13, 2023
- Ordinance Committee: August 24, 2023
- First reading before the Town Council: September 6, 2023
- Public hearing before the Planning Board: October 10, 2023
- Public hearing and second reading before the Town Council: October 18, 2023

PROPOSED ACTION:

First reading and refer to the Planning Board, the proposed amendments to Chapter 405 – the Zoning Ordinance, Section VI. Definitions and Section IX. Performance Standards.

ATTACHMENTS:

- Ordinance Committee Memo: July 13, 2023
- Proposed Amendments
- Memo regarding Planning Board review

Planning Board Recommendation

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

RE: Proposed Amendments to Chapter 405 Zoning Ordinance, Section VI. Definitions and Section IX. Performance Standards relating to Seafood Sales. Council Order No. 23-098.

Chairman Anderson and members of the Town Council,

On October 10, 2023, the Planning Board reviewed the proposed amendments to Chapter 405 Zoning Ordinance, Section VI. Definitions and Section IX. Performance standards. The amendments pertain to allowance of seafood sales outside of a Special Exception approval from the Zoning Board of Appeals. After consultation with the Board and Chair of the meeting, the recommendation is as follows:

1. The Board was fully supportive of the proposed amendments.

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

SECTION VI. DEFINITIONS

Accessory Agricultural Activities:

The growing of plants including but not limited to forages and sod crops, grains and seed crops, fruits and vegetables, ornamental and nursery stock, and flowers and/or the keeping, breeding, or raising of animals, other than household pets, or fishing and/or shellfish harvesting that is incidental and subordinate to the primary use of the property for residential or nonresidential use in which the agricultural products are primarily for use by the owner, lessor, or occupant of the property. Accessory Agricultural Activities are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Agricultural Products Store:

A building or structure, including the adjacent outdoor area, with a total area devoted to retail sales of more than 400 square feet, the primary activity of which is retail sales of agricultural products grown, raised, or produced by a Commercial Agriculture, ~~or Commercial Animal Husbandry, or Commercial Fishing and Harvesting~~ use as well as other agricultural and related food products not produced by the Commercial Agriculture, ~~or Commercial Animal Husbandry, or Commercial Fishing and Harvesting~~ use, and handmade crafts and similar products. Agricultural Products Stores are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

Commercial Fishing and Harvesting:

The attempt to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds.

Farm Stand:

A building, structure, or outdoor location with a total area devoted to retail sales of 400 square feet or less, the primary activity of which is retail sales of agricultural products grown, raised, or produced by a Commercial Agriculture, ~~or Commercial Animal Husbandry, Commercial Fishing and Harvesting use~~ use or Accessory Agricultural Activities as well as other agricultural and related food products not produced by the Commercial Agricultural, ~~or Commercial Animal Husbandry, Commercial Fishing and Harvesting~~ use or Accessory Agricultural Activities and handmade crafts and similar products. Farm Stands are subject to performance standards contained in Section IX of this Ordinance. [05/05/10]

SECTION IX. PERFORMANCE STANDARDS

P. PERFORMANCE STANDARDS – ACCESSORY AGRICULTURAL ACTIVITIES

[Adopted 05/05/2010][amended 09/02/2020]

Accessory Agricultural Activities must be carried out in conformance with the following performance standards:

1. Chickens may be kept on a lot in accordance with the following standards:
 - a. Up to five (5) chickens may be kept on a lot with a lot area of less than ten thousand (10,000) square feet.
 - b. Up to ten (10) chickens may be kept on a lot with a lot area of ten thousand (10,000) square feet or more but less than forty thousand (40,000) square feet.
 - c. Any number of chickens may be kept on a lot with a lot area of forty thousand (40,000) square feet or more.
 - d. All chickens must be female unless on lots in the RF with a lot area of at least eighty thousand (80,000) square feet. [amended 09/02/2020]
 - e. On lots with a lot area of less than forty thousand (40,000) square feet, the chickens must be kept in an enclosure or fenced area at all times. This requirement can be met through the use of a mobile enclosure or a so called “chicken tractor”.
 - f. The chickens must be confined within a henhouse during non-daylight hours.
 - g. The henhouse must be enclosed on all sides, have a roof and door, and the access doors must be able to be shut and locked. The henhouse must be constructed from substantial materials and be visually compatible with the property. The hen house must be setback from any property line at least fifteen feet or the minimum required setback for the district in which it is located, whichever is greater
 - h. The henhouse and enclosure must be maintained so that it is clean, dry, and odor free. All manure or other wastes must be stored in a fully enclosed structure or in airtight containers and must be periodically removed from the property or composted so there is no accumulation of waste material on the lot.
2. Small animals (such as sheep, goats, pot-belly pigs, or fowl that typically weigh not more than 100 pounds at maturity) other than domestic pets or chickens may be kept on a lot that has a lot area of at least 40,000 square feet.
3. Large animals (such as horses, cows, hogs, or llamas that typically weigh more than 100 pounds at maturity) may be kept on a lot that has a lot area of at least 80,000 square feet.
4. Any building or structure that is used to house animals other than domestic pets or chickens must meet the setback requirements for the zone in which it is located.
5. The sale of any type of seafood may only be permitted by those who meet all Federal, State and municipal requirements to do so.
6. Accessory agricultural activities that include any type of seafood are not subject to site plan review, but do require a permit from the Zoning Administrator to verify licensing requirements and safe storage practices are in place.

75. The sale of products produced on the property **or seafood caught or harvested** by the owner in excess of what is consumed by the occupants of the property is permitted. The sales must occur in a designated area not more than twenty (20) square feet in area and may include a display stand or table. The stand or table may only be in place during the season when products are being sold and must be removed during the “off-season”.

R. PERFORMANCE STANDARDS – FARM STANDS [Adopted 05/05/2010]

A Farm Stand must conform to the following performance standards:

1. A farm stand must be associated with and accessory to a Commercial Agriculture, ~~and/or~~ Commercial Animal Husbandry ~~or use.~~ Commercial Fishing and Harvesting use.
2. A farm stand must be located on a parcel that is actively used for the Commercial Agriculture or Commercial Animal Husbandry use or in the case of Commercial Fishing and Harvesting, be the primary residence of the owner of the commercial operation.
3. A farm stand may be a free-standing ~~building,~~ structure or outdoor location or may be part of another building or structure (for example, an area in a barn or house that is used for sales).
4. The total area devoted to retail sales is limited to four hundred (400) square feet. This includes the area of a free-standing building or structure, the area for outside display and/or sales, the outdoor area used for retail sales if there is no building or structure, and the area used for sales in another building.
5. The sale of products is limited to: a) those grown, raised, caught, harvested or produced by the Commercial Agriculture, ~~or~~ Commercial Animal Husbandry or Commercial Fishing and Harvesting use with which the farm stand is associated, b) processed products that are made from products grown or raised by the agricultural use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the agricultural use), c) agriculture products including processed products that are not produced by the agricultural use with which the stand is associated, and d) live or fresh fish, shellfish, and lobsters, and e) handmade art and craft products.
6. If the stand sells products that are not grown, ~~or~~ raised, caught or harvested by the use or made from products grown, ~~or~~ raised caught or harvested by the use, at least 51% of the dollar amount of gross retail sales per calendar year must be from products associated with the Commercial Agriculture, ~~and/or~~ Commercial Husbandry or Commercial Fishing and Harvesting use. In January of each year, the owner shall calculate and report to the Code Enforcement Officer the percentage of gross retail sales attributable to off-premises products for the preceding calendar year and, if requested by the Code Enforcement Officer, shall provide documentation of the calculated percentage.
7. The farm stand must be located on the parcel so that it meets side and rear setback requirements but a free-standing farm stand is not required to meet the front setback requirements.
8. The farm stand must be located so that it provides appropriate parking and access for customers. Customer vehicles must not be required to back out on to a public street.

9. The farm stand may be open for business only when it is selling products that are grown, raised, caught, harvested or produced as part of the Commercial Agriculture or Commercial Animal Husbandry use.

10. A farm stand is not subject to site plan review but does require a permit from the CEO Zoning Administrator.

S. PERFORMANCE STANDARDS – AGRICULTURAL PRODUCTS STORES [Adopted 05/05/2010]

An Agricultural Products Store must conform to the following performance standards:

1. An agricultural product store must be associated with and accessory to a Commercial Agriculture, ~~or Commercial Animal Husbandry use,~~ or Commercial Fishing and Harvesting use.

2. A store must be located on a parcel that is actively used for the Commercial Agriculture and/or Commercial Animal Husbandry use, or in the case of Commercial Fishing and Harvesting, be the primary residence of the owner of the commercial operation.

3. The primary vehicle access to the store must be from a street/road that is classified by the Town as an arterial, collector, or minor collector.

4. An agricultural products store may be a free-standing building or may be part of another building or structure (for example, an area in a barn or house that is used for sales)

5. A free-standing building used for retail sales or the area used for sales in another building is limited to one thousand (1,000) square feet of sales area. An additional outside area of not more than five hundred (500) square feet may be used for the display and/or sales of products. These limits shall not apply to greenhouses or areas for the growing and/or display of nursery stock or other plants for sale as part of the agricultural use.

6. The sale of products may include: a) those grown, raised, caught, harvested or produced by the Commercial Agriculture, ~~or Commercial Animal Husbandry~~ or Commercial Fishing and Harvesting use with which it is associated, b) processed products that are made from products grown or raised by the use (for example, cheese or ice cream made from milk, yarn made from wool, processed foods such as apple butter or salsa made from items grown by the use, or baked goods made using items grown by the use), c) agriculture products including processed products that are not produced by the Commercial Agriculture or Commercial Animal Husbandry use with which the store is associated, ~~d) live or fresh fish, shellfish, and lobsters,~~ and de) handmade art and craft products.

7. If the store sells products that are not grown, ~~or raised,~~ caught or harvested by the use or made from products grown or raised by the use, at least 51% of the dollar amount of gross retail sales per calendar year must be from products associated with the Commercial Agriculture, ~~or Commercial Husbandry~~ or Commercial Fishing and Harvesting use. In January of each year, the owner shall calculate and report to the Code Enforcement Officer the percentage of gross retail sales attributable to off-premises products for the preceding calendar year and, if requested by the Code Enforcement Officer, shall provide documentation of the calculated percentage.

8. The building in which the store is located must meet the front, side, and rear setback requirements for the district in which it is located
9. The store must be located so that it provides appropriate parking and access for customers. Parking must be provided in accordance with the requirements of Section XI. for retail uses.
10. The store may be open for business only when it is selling products that are grown, raised, caught, harvested or produced as part of the Commercial Agriculture, ~~or~~ Commercial Animal Husbandry or Commercial Fishing and Harvesting -use.
11. The construction of a building or the conversion of an existing building for use as an an agricultural products store is subject to minor site plan review.

DRAFT

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-116, 7:00 p.m. Public Hearing on the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance and schedule the second reading for Wednesday, November 8, 2023. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/04/2023 – Vote: 7 Yeas.

First Reading/Vote

10/18/2023

Public Hearing

11/08/2023

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October ,18 2023

ACTION ITEM: Ordinance No. 23-116.

SUBJECT:

Public hearing on 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 of 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.

The revised draft includes a fee for violations of \$500, but not more than \$1,000. Staff also proposes an application fee of \$300 per days requested for the permit, with a not to exceed amount of \$5,000. Staff will bring forth an amendment to the fee schedule in November.

FISCAL IMPACT: NA

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
- First reading before the Town Council October 4, 2023
- Public Hearing before the Town Council: October 18, 2023

PROPOSED ACTION:

The second reading for the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance will be scheduled for Wednesday, November 8, 2023.

ATTACHMENTS:

- Revised – Draft Chapter 602B Temporary Event Overflow Parking Ordinance
- Sketch Plan Request Letter
- Prouts Neck Draft Ordinance Letter 10.2.23

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*. Fees shall be \$300 per days of operation, not to exceed \$5,000.

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 \$500 but not more than \$1,000. 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

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

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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."*¹

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."*²

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

¹ Scarborough Complete Streets Policy, 8A and 8C

² 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.

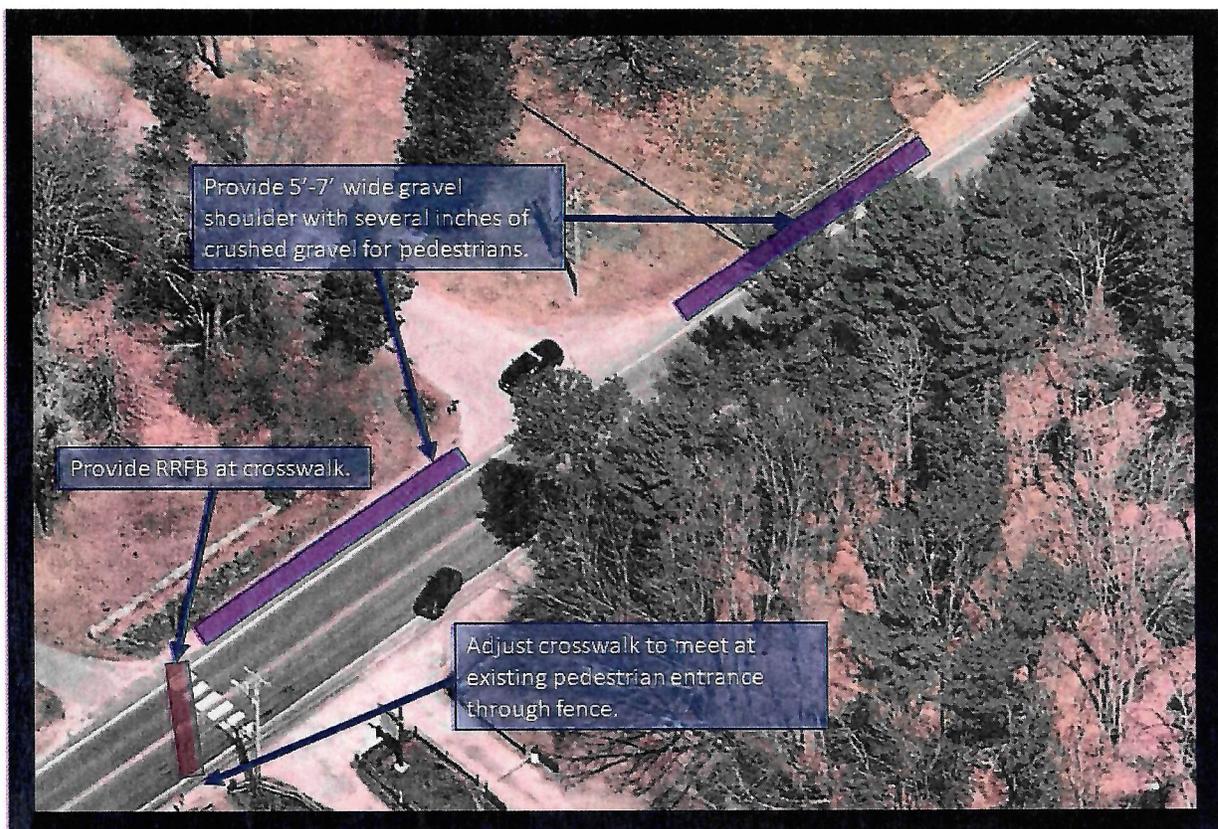
8. Other than at signalized intersections, a new crosswalk shall not be marked within 200 feet of an existing crosswalk.

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.



MATTHEW D. MANAHAN

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Admitted in: MA, ME, NH

October 2, 2023

VIA ELECTRONIC MAIL

janderson@scarboroughmaine.org
towncouncil@scarboroughmaine.org

Jonathan Anderson, Chair
Town Council
Town of Scarborough
259 US-1
Scarborough, ME 04070

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

Dear Chairman Anderson and Members of the Town Council:

On behalf of the Prouts Neck Improvement Association (PNIA), please accept this letter as support for the proposed Temporary Event Overflow Parking Ordinance (Chapter 602B), to be considered at the October 4, 2023 Town Council meeting. We believe the proposed ordinance is a sensible and thoughtful solution to the parking issues at Scarborough Beach State Park.

We request one minor change, however, to ensure that those most interested in the application have adequate time to review and comment on the application. Specifically, we suggest adding the following language to the end of Section F(1) (New Applications), requiring notice to abutters:

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.

With this change, we believe you should adopt the proposed ordinance.

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

Sincerely,



Matthew D. Manahan

cc: Autumn Speer, Town Planner
John Hawkins, PNIA

MATTHEW D. MANAHAN

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Admitted in: MA, ME, NH

October 17, 2023

VIA ELECTRONIC MAIL

janderson@scarboroughmaine.org
towncouncil@scarboroughmaine.org

Jonathan Anderson, Chair
Town Council
Town of Scarborough
259 US-1
Scarborough, ME 04070

Re: Proposed Temporary Event Overflow Parking Ordinance (Chapter 602B); Public Notice

Dear Chairman Anderson and Members of the Town Council:

On behalf of the Prouts Neck Improvement Association (PNIA), I want to reiterate our support for the proposed Temporary Event Overflow Parking Ordinance (Chapter 602B), to be considered again at the October 18, 2023 Town Council meeting. We believe the proposed ordinance is a sensible and thoughtful solution to the parking issues at Scarborough Beach State Park.

At the Council's October 4, 2023 meeting, however, I advocated for additional language that would require applicants to provide public notice at the time the application is filed. The issue I identified is that 10 days advance notice of the public hearing, if that is the first notice of the application that abutters receive, is insufficient to allow abutters adequate time to review and prepare comments on the application. Receiving notice less than 10 days prior to the public hearing does not allow sufficient time to get a copy of the application, review it, determine whether it presents a concern, engage technical experts, and prepare technical comments in advance of the hearing. In addition to needing to address the 17 often technical items in proposed section G(2), the application also must include a pedestrian access plan, a vehicular access plan, a traffic control plan, and an operation and maintenance plan. Those four plans are very important, and it may be necessary for anyone interested in or concerned about the application to hire one or more technical consultants to review them.

For that reason, my proposal is to require the applicant to provide notice at the time the application is submitted, which would give interested persons more time for their review prior to the hearing. Provisions requiring the applicant to give notice, and to certify on the application that they have provided such notice, are commonly used in Maine land use ordinances (and by Maine DEP in its Chapter 2 rules), and they do not require any additional staff or town resources. It would be a simple matter to add my suggested language at the end of Section F(1) relating to the permit application process for new applications.

In an effort to simplify our proposed language, however, but still to ensure that those most interested in the application have adequate time to review and comment on the application,

Jonathan Anderson, Chair, Town Council
October 17, 2023
Page 2

we suggest adding the following language (modified from my October 2 letter) to the end of Section F(1) (New Applications), requiring notice to abutters:

At or before the time of filing a new application for a Temporary Event Overflow Parking area proposed to contain more than ten (10) spaces and to be used more than five (5) days per calendar year, an applicant shall give public notice of the filing of the application. The notice must be mailed by certified mail to the owners (as shown on the Town's tax records) of properties within 1,000 feet of any boundary of the property for which application is being made. 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.

With this change, we believe you should adopt the proposed ordinance.

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

Sincerely,



Matthew D. Manahan

cc: Autumn Speer, Town Planner
John Hawkins, PNIA

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 23-117. Move approval of the second reading 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

Sponsor

Recommendation

10/04/2023 – Vote: 7 Yeas.

First Reading/Vote

10/18/2023

Public Hearing

10/18/2023

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Ordinance No. 23-117.
SUBJECT: 7:30 p.m. Public hearing and second reading 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>
PURPOSE: Approve adult use cannabis manufacturing licenses for the establishment listed above.
BACKGROUND: Application has been received and the facility will be inspected prior to the public hearing and second reading.
FISCAL IMPACT: \$2,500 (+)
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">● The application is under review● First reading before Town Council: October 4, 2023● Public hearing and second reading before the Town Council: October 18, 2023
PROPOSED ACTION: Recommend move approval of the second reading on Order No. 23-117.
ATTACHMENTS:

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 23-118. Move approval on the following new requests for a Food Handlers License:
Ahmen Rizk d/b/a Fresco del Forno, located at 491 Payne Road and Starbucks Coffee #68630,
located at 465 Payne Road. *[Town Clerk]*

Town Clerk

Ought to Pass

Sponsor

Recommendation

10/18/2023

First Reading/Vote

10/18/2023

Public Hearing

N/A

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Order No. 23-118.
SUBJECT: 7:00 p.m. Public hearing and action on the requests for a new Food Handlers License, from Ahmen Rizk d/b/a Fresco del Forno, located at 491 Payne Road and Starbucks Coffee #68630, located at 465 Payne Road. <i>[Town Clerk]</i>
PURPOSE: To allow the applicant to conduct business according to the license requested and the Ordinances of the Town of Scarborough.
BACKGROUND: This is a new business with Scarborough. Once this business has received their Occupancy Permit, the Food Handlers License will be issued.
FISCAL IMPACT: \$220.00 per application
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">• Applications have been reviewed, found to be complete and are on file in the Town Clerk's Office.• Public hearing and final action: October 18, 2023.
PROPOSED ACTION: Recommend move approval of Order No. 23-118.
ATTACHMENTS:



Option Agreement Rezoning, TIF, CEA, Buffers

October 18, 2023

Executive Summary

- As part of the **Option Agreement** approved in September 2023, the Town agreed to closing conditions that **modify the zoning of existing land owned by the Down's to be consistent with the CPD District**.
- The agreement contemplates **updating the economic TIF boundary** to include the land, and incorporate the rezoned land as part of the **CEA for tax reimbursements** to the Downs for the new value generated, if they meet the performance standards outlined in the contract
- The School site in the Option is currently located between two zones, and also needs to **reduce the existing buffer to make the school fit on the site**. If the school passes, the net difference of the rezone is **~15 acres from VR4 to CPD**, going from 4 units/acre to up to 20 units/acre.
- These items were offered by the Town in coordination with legal counsel to the Down's in January 2023 as consideration for the **Option Agreement** to acquire 22 acres of land for a school site. The terms were incorporated into **the Letter of Intent** approved by the Council in May 2023.
- The Option Agreement contemplates that the Town will take **reasonable efforts by 10/31** to make these changes to ensure the Council who approved the Option agreement is responsible to approve terms the terms within



Overview of Changes Contemplated by Nov 8th

- ▶ Proposed Zoning Adjustments
 - ▶ Rezone Down's 37 acre parcel from **VR4 to CPD**
 - ▶ Rezone Down's 9 acre parcel from **HP to CPD**
 - ▶ Amend the buffer required from 100' for **all uses** adjacent to a residential district to 15' for **residential and municipal uses** adjacent to a residential district and **maintain the 100' buffer for non-residential uses**

- ▶ Proposed TIF and CEA Adjustments
 - ▶ Incorporate Down's owned acreage into the Downtown Tax Increment Financing District
 - ▶ Incorporate rezoned 35 acres into Credit Enhancement Agreement, of which 12 acres is part of the School Site

Timeline

Town to act on 10/18 for 1st read for TIF Boundary, CEA Amendments and Zoning map changes

	Planning Board	Public Hearing	1st Read	2nd Read/Action
TIF Boundary		October 4 th	October 18 th	November 8 th
CEA Amendment		October 4 th	October 18 th	November 8 th
Zoning Map Change	Sept 18 Public Hearing		October 18 th	November 8 th (incl. Public Hearing)
CPD Buffer	October 10 th – Review and Comments		September 20 th & refer to Planning Board	November 8 th (incl. Public Hearing)

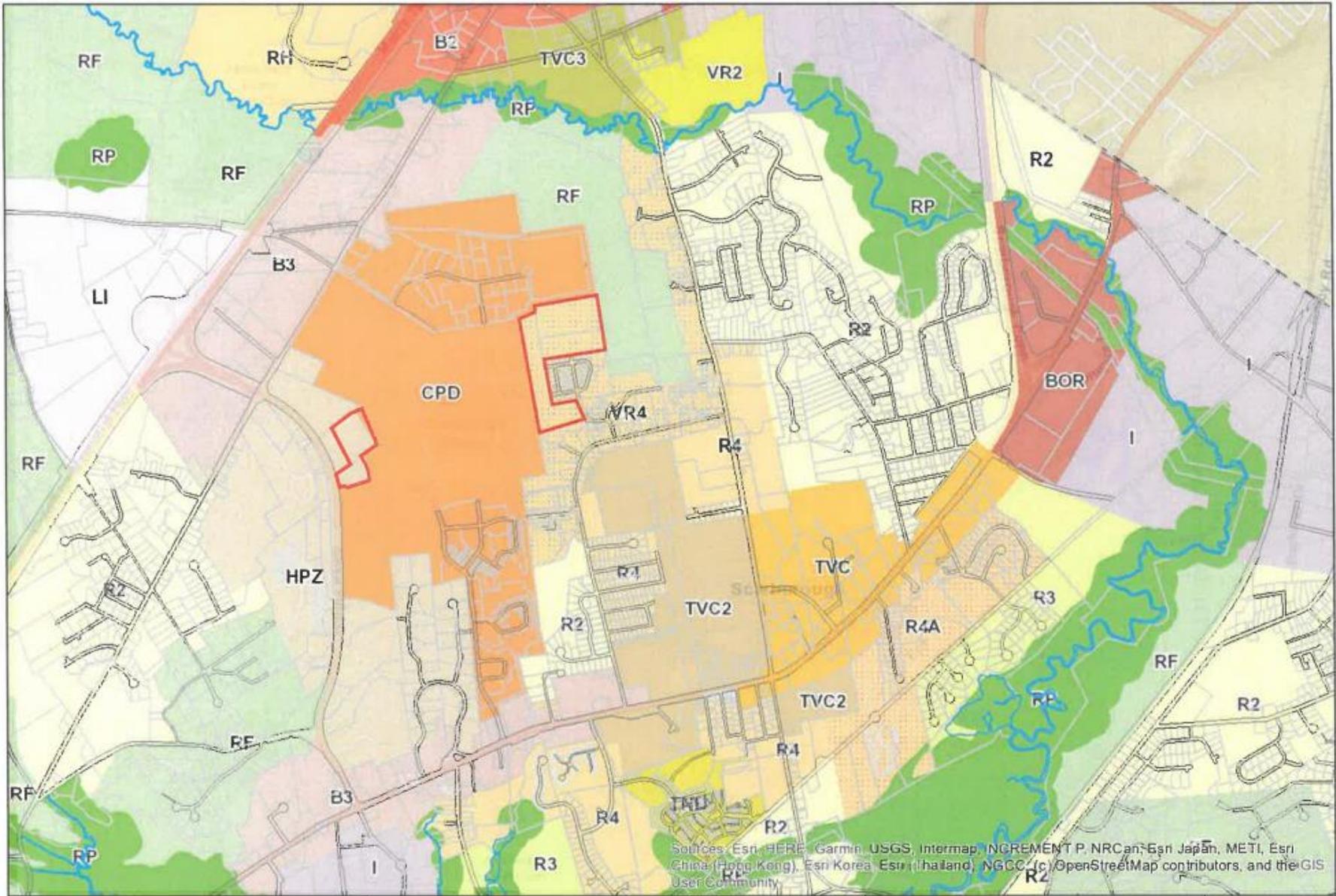


Zoning Adjustments Key Points in Option Agreement

- ▶ Proposed parcels for rezoning consideration are owned by the Seller
- ▶ Both rezonings are in compliance with the Comprehensive Plan
 - ▶ Both locations designated as Regional Activity Center
- ▶ Amend the CPD buffer from 100' to 15' for municipal and residential uses adjacent to residential districts (VR4 zone and RF zone are affected)
 - ▶ Enables the proposed school location
- ▶ Partial consideration for closing
- ▶ Changing zoning back prior to closing may lead to a termination of the option agreement

Expressed Concerns:

- Does not bind future Councils
- Legally Permissible
- No housing exemptions, Rate of Growth Ordinance impacts permitting



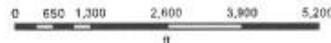
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Italy), NGCC, c/ OpenStreetMap contributors, and the GIS User Community

The Downs - Proposed Zone Changes

EXHIBIT C

- Current Crossroads Planned Development (CPD) District
- Proposed Additions to CPD

1 in = 3,000 feet



Both locations are compliant with the Comprehensive Plan and are designated as Regional Activity Center

CPD Zoning vs. HP Zoning

	CPD Existing	HP
Buffer Required	100' for <u>all uses</u> adjacent to residential districts	50' for <u>all uses</u> adjacent to residential districts
Residential Density	20 units/acre	5 units/acre
Use Difference	Similar non-residential and residential Uses to HP, with exception of single family	No single family allowed

No buffer adjustments to occur in 9 acres; change is to land uses only

Planning Board Review – HP Rezone (Sept 10th)



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,

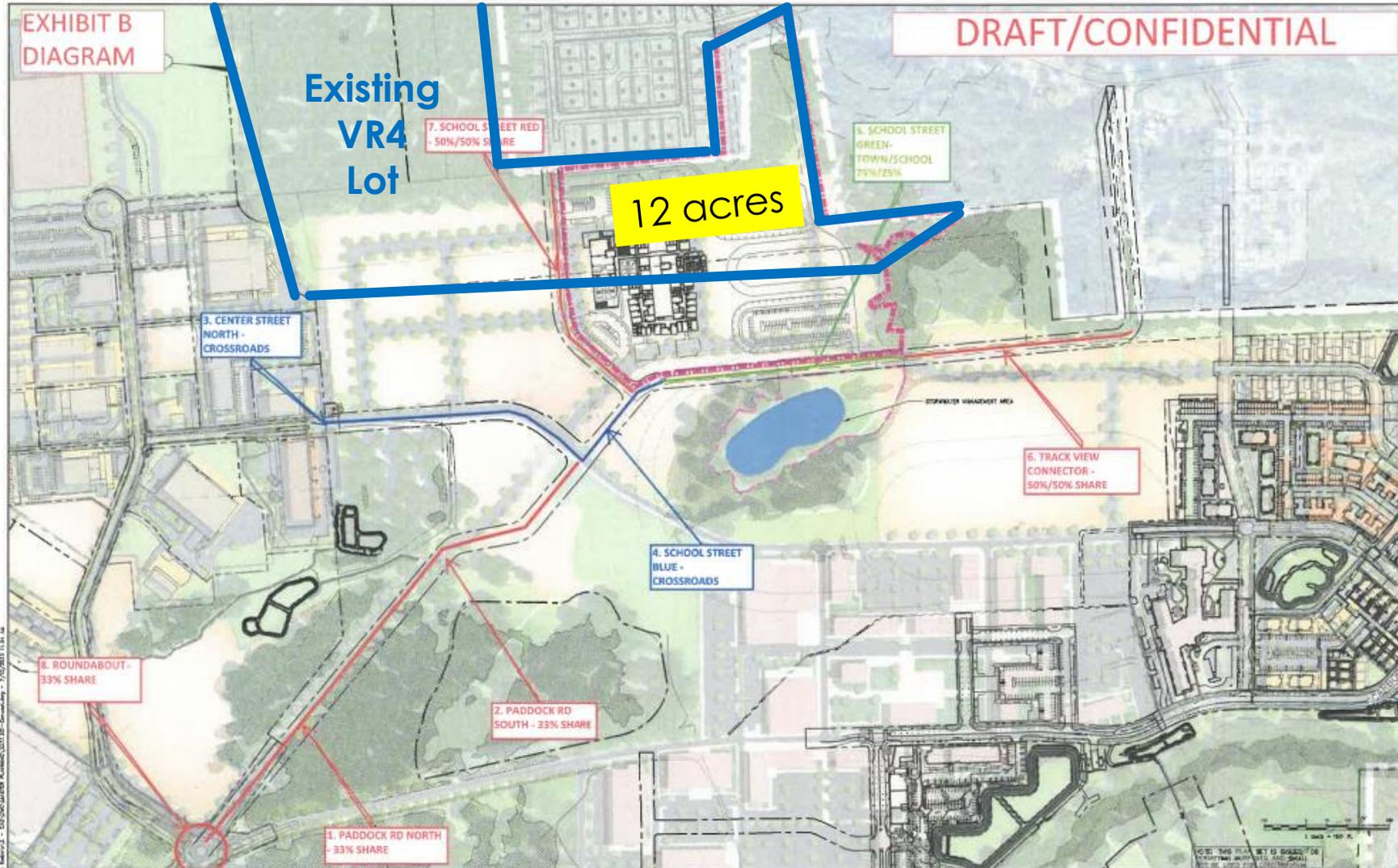
A handwritten signature in black ink, appearing to read "Autumn Speer".

Autumn Speer
Director of Planning & Code Enforcement

- CPD and HP land use is similar, Planning Board found this to be a reasonable land use change
- Higher Density is a concern for impacts on natural resources

CPD Zoning vs. VR4 Zoning

	CPD Existing	CPD Proposed	VR4
Buffer Required	100' for <u>all uses</u> adjacent to residential districts	15' for <u>municipal & residential uses</u> adjacent to residential districts (Planning Board recommended this apply to VR4 and not RF) Keep 100' for all <u>non-residential uses</u> adjacent to residential districts Keep 100' setback for all <u>uses adjacent to RF</u> (Planning Board recommendation)	15' - 25' based on residential type and adjacent development
Residential Density	20 units/acre		4 units/acre
Use Difference	Single Family, Multi-family, Commercial *Industrial limited to Innovation District		Predominantly Single Family



DRAFT/CONFIDENTIAL

Existing
VR4
Lot

12 acres

Of the 35 acres being rezoned in VR4, approximately 12 acres is part of the K-3 School Solution

Rev	Date	Revision

Issued For	Date	By

Scale: 1" = 100'
 Date: 10/13/2011
 This plan shall not be graded without written permission from Gorilla Palmer. Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to Gorilla Palmer.



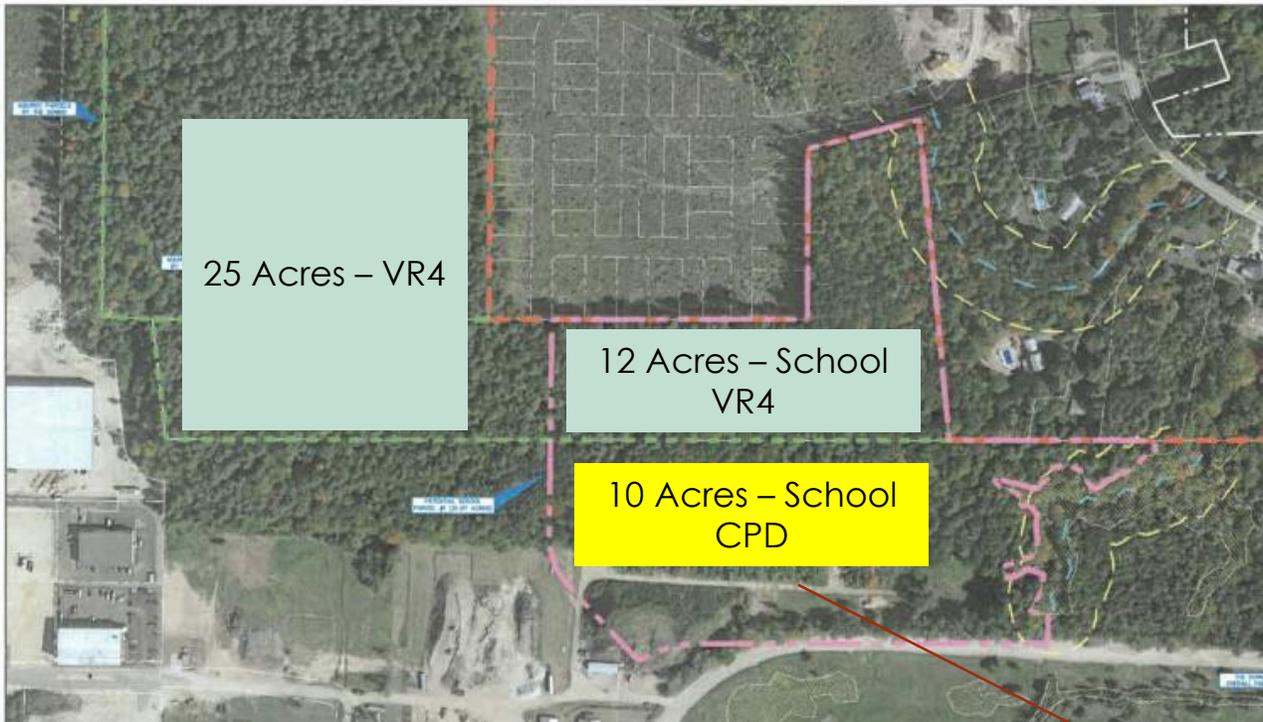
Relationship, Responsiveness, Results
 www.gorillapalmer.com
 207.773.2515
 300 Southborough Drive - Suite 200
 South Portland, ME 04106

Working Title: School Base Plan
 Project: The Downs
 Southport, Maine
 Client: Crossroads Holdings, LLC
 PO Box 100, Southport, ME 04270

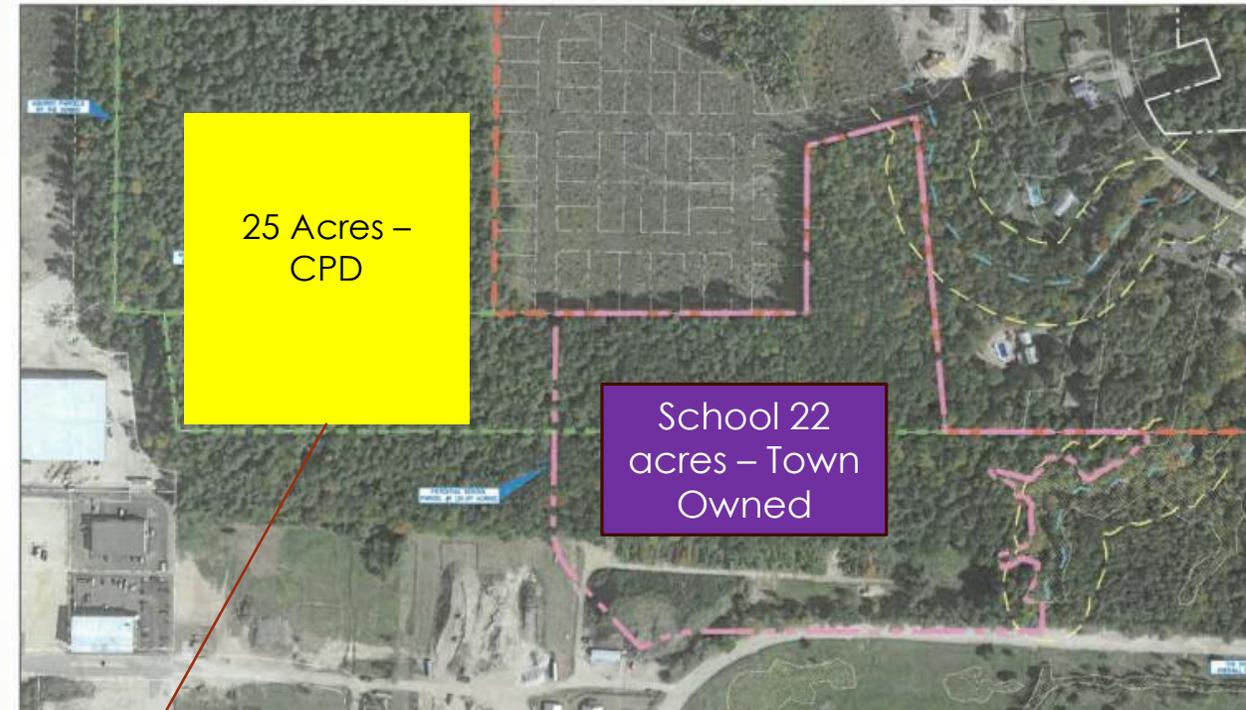
Drawing No.
 1

Current Situation vs. Future State

Current State – Existing Zoning



Future State School Passes; Close on Option Agreement



Net Zoning Change = **+15 acres** for CPD from VR4
~2.5% land increase for CPD District Acres for CEA Reimbursement

Planning Board – VR4 Rezoning (Sept 10th)



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,

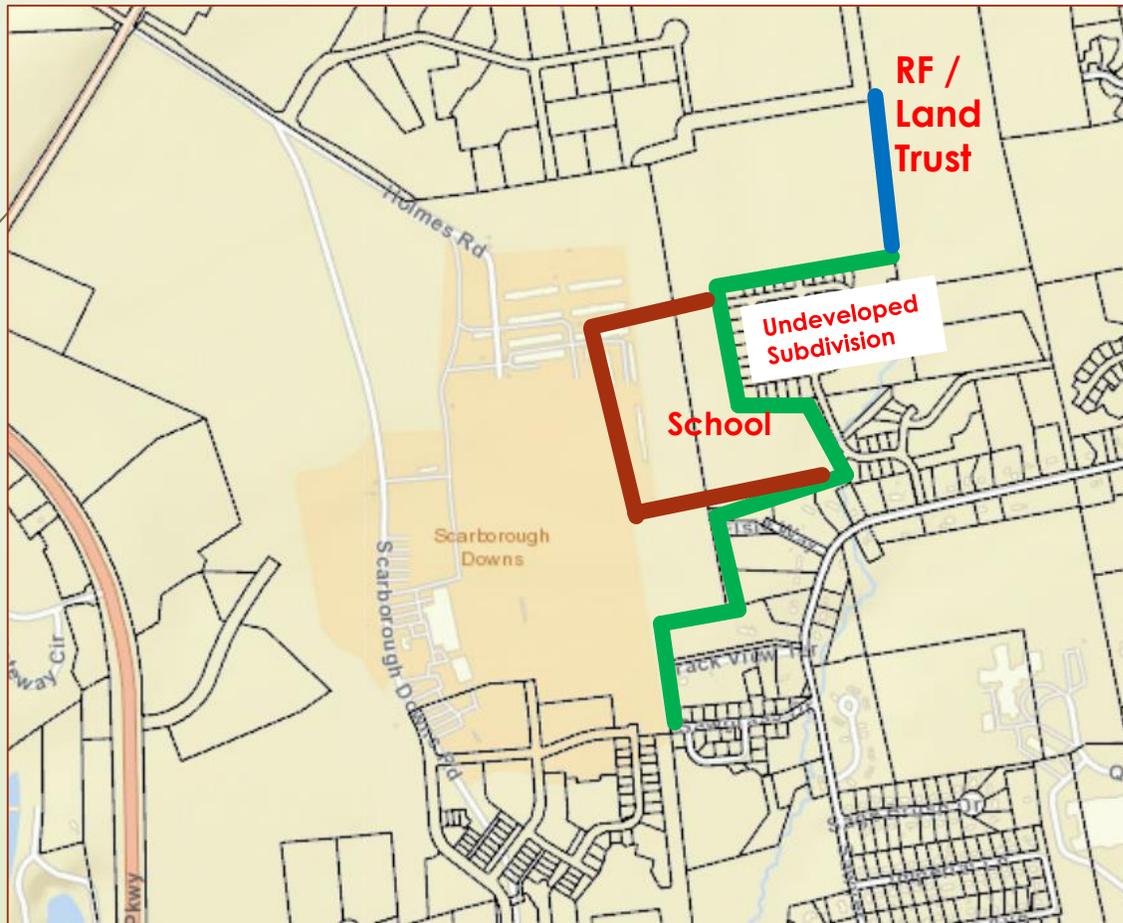
Autumn Speer
Director of Planning & Code Enforcement

Planning & Code Enforcement

259 US Route One | PO Box 360 | Scarborough, ME 04070 | P: 207.730.4040 | scarboroughmaine.org

- Unknown use without a plan
 - Limited to residential and commercial; industrial not allowed except in Innovation District
 - Down's stated at 9/20 meeting focus will mostly be on residential with potential for some light commercial near the Innovation District.
- Potential impact to lower density residential to South
 - Currently undeveloped to the South
 - Likely residential bordering VR4; Proposed 15 ft buffer residential, maintain 100ft non-residential
- CPD near municipal uses
 - Less than ¼ of school boundary at risk, back of the school; School comfortable
 - Roadway will separate school from any residential or commercial space
- Land Trust nearby
 - 100 ft buffers will still apply with Planning Board recommendation included
 - New ordinances for stormwater mitigation require proper treatment

What's the impact of the Buffer Change?



Reduction to 15 ft buffer required to support the school on the site (**green**)

Remaining setbacks support roadway infrastructure to support school for potential easterly access way via Trackview Terrace

Planning Board recommendation to maintain existing built buffers and RF (**blue**)

Planning Board – Buffer Amendment (October 10th)



Planning Board Recommendation

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

RE: Proposed Amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments. Council Order No. 23-104.

Chairman Anderson and members of the Town Council,

On October 10, 2023, in accordance with the Town of Scarborough Zoning Ordinance, the Planning Board reviewed the proposed text amendments to the CPD Zoning District relating to buffers between municipal uses, schools, and residential uses. 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 and Chair of the meeting, the recommendation is as follows:

1. The Board was generally supportive (3-2 straw poll) on reduction of the buffer between residential uses in the CPD and abutting residential districts to 15 feet, particularly for single family and lower density residential development. In this assessment, the Board discussed that a smaller buffer is sufficient for single family development in this area given the surrounding uses in the VR4 district, but that the Council should carefully consider larger buffering for multifamily uses. Additionally, the Board noted the importance of a larger buffer for the town's students and outdoor learning opportunities, as well as allowing for connectivity between neighborhoods.
2. The Board was unanimously in favor of an additional text amendment requiring a 100 foot buffer for all uses in the CPD District from the Rural Farming District (in this area the parcel containing Warren Woods).
3. The Board was unanimously in favor of the addition of a caveat for lots developed prior to the adoption of this change to maintain the 100 foot buffer, starting October 31, 2023.

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 & Code Enforcement

259 US Route One | PO Box 360 | Scarborough, ME 04070 | P: 207.730.4040 | scarboroughmaine.org

- Generally supportive on reduction of the buffer between residential uses in the CPD and abutting VR4 districts to 15'
- Concerned about impacts from multifamily uses adjacent to VR4
- Concerned about a small buffer for the town's students and outdoor learning opportunities, as well as allowing for connectivity between neighborhoods
- In favor of an additional text amendment requiring a 100 foot buffer for all uses in the CPD District from the Rural Farming District (in this area the parcel containing Warren Woods)
- In favor of the addition to protect existing 100' buffers



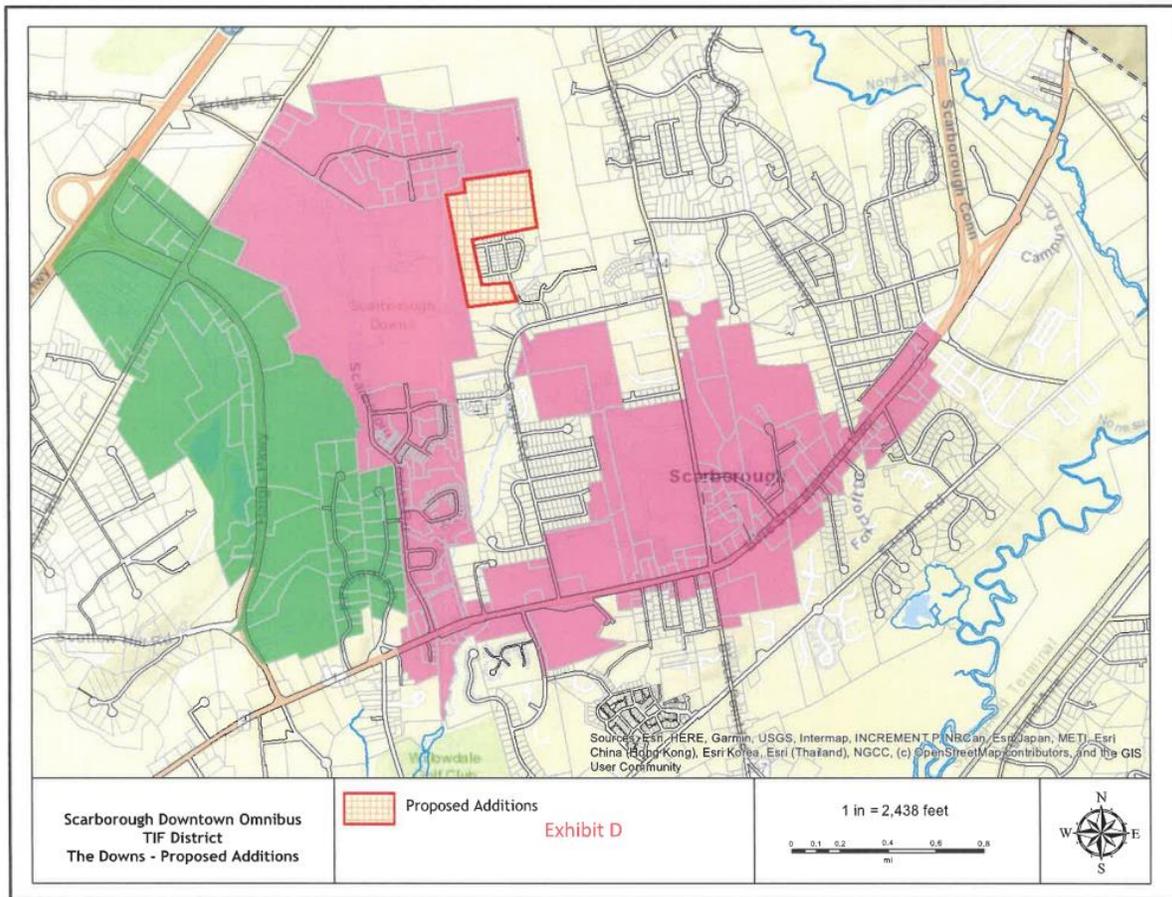
Summary of Terms

- Include VR4 rezoned land as part of the Scarborough Downtown Omnibus TIF District
- Include rezoned land into CEA Agreement to allow for reimbursement to tax increment revenue paid by seller
- If changed before closing, Option Agreement can be canceled

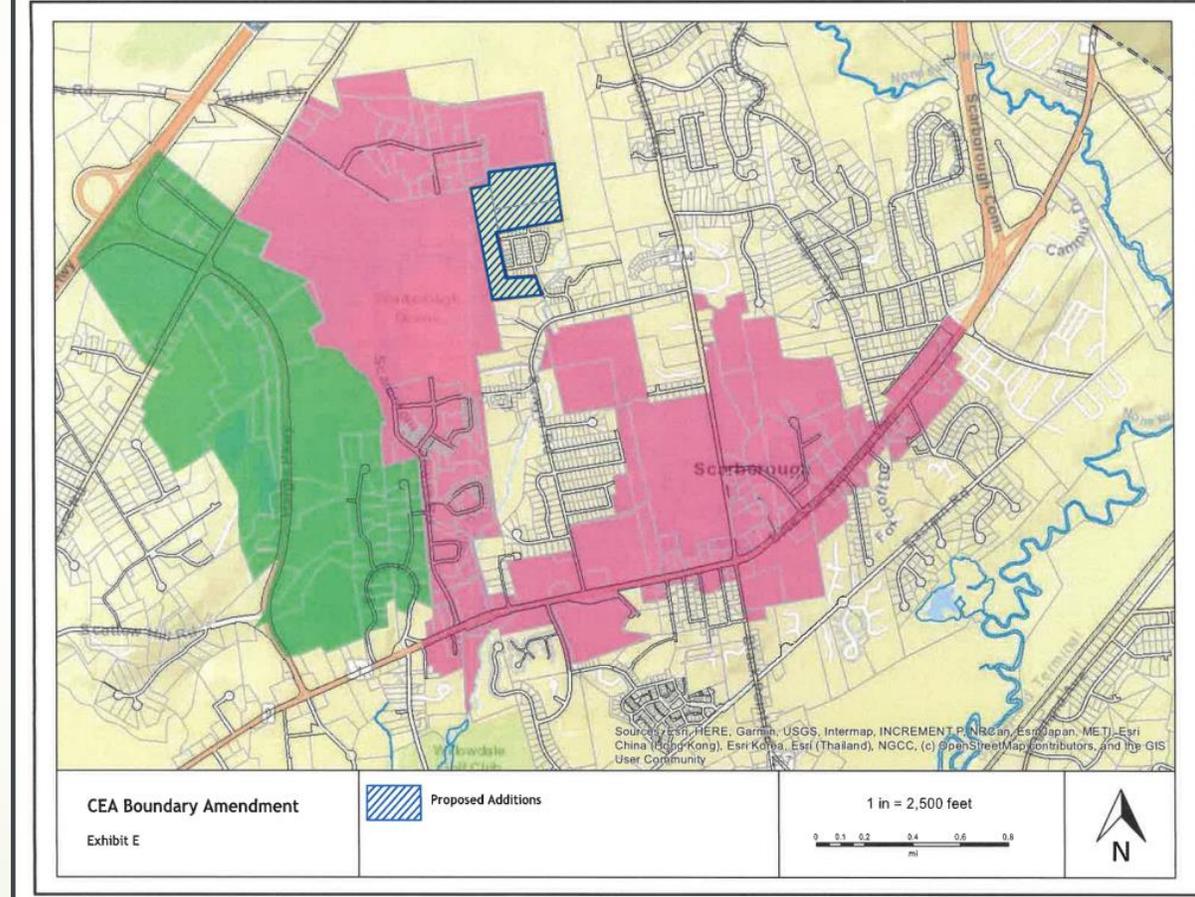
If the school is approved at the ballot, this change will result in only 13 net acres of CPD land as part of the TIF and CPD

TIF & CEA Adjustments

TIF Boundary Adjustment



CEA Boundary Adjustment





TIF Changes

- ▶ TIF = Tax Increment Financing; tool allows the Town to offer tax credits to incentivize economic development
- ▶ Adds ~25 acres to the TIF District
- ▶ Shields new tax revenue developed that improves likelihood of reducing county taxes and improving state subsidy = tax rate stabilization
- ▶ Shielded revenue can only be applied to qualified projects

Key Points

- ▶ Town is the only beneficiary from this change
- ▶ If School is approved, Town will work with DECD to pursue having the school as a qualified use for TIF Revenues

Between 1st and 2nd Read, the Town may elect to include the Cottages at Sawyer as part of the TIF to shield additional revenue

CEA Changes

- CEA = Credit Enhancement Agreement; allows developer to receive tax reimbursements based on meeting performance criteria
- Entered into CEA for Down's to take on the risk of **enabling infrastructure**; lessons learned from **HP TIF. Performance criteria** focused on **new value creation and sf from non-residential construction.**
- CEA Reimbursement of **\$2.6M** to date, while developer has implemented in **\$65M+** of enabling infrastructure in the development
- Adds **+35 acres to the TIF District**; after development taxes collected eligible for reimbursement pending performance requirements in the CEA
 - **12 acres dedicated to new school** would be **tax exempt** and not contribute to the CEA
- As of Year 5, performance currently is **\$178M of new value** and **1,370,000 sf of “nonresidential” construction** completed, underway or permitted; performing ahead of schedule in the CEA.

CEA Payments

- Change essentially keeps the Down's CPD district consistent with 22 acres of a tax exempt school site as part of the Option Agreement.
- Capped at \$55M through Year 20 for general tax reimbursements
- Year 21-30 eligible for \$2M per year if Developer has achieved the cap and met other valuation targets outlined below
- Eligible for \$2M bonuses per year prior to Year 21 if both conditions are met:
 1. Built
 - \$615 million of new value and there is a Downtown and a Community Center are constructed, OR
 - Built \$500 million of new value and no Downtown and a community center, and
 2. Built 1,500,000 sf of "nonresidential"

Down's currently ahead of schedule with \$178M of new value and 1.37M sf of non-residential constructed, underway or permitted

Financial Impact - Rezoning, TIFs and CEA

- Rezones contiguous parcel owned by Crossroads Holding LLC
- TIF boundary adjustment allows for additional tax shielding to build TIF Fund and potentially apply towards qualified project costs in the TIF development program
- Fiscal Benefit & Tax Rate Stabilization
- With CEA adjustment, Town has greater potential to be in a better financial position than without these adjustments
- At full development, Down's to potentially receive approximately \$300K to \$800K in reimbursements from rezoning in accordance with CEA

VR4 Analysis Only

Options with Zoning, TIF and CEA Adjustments	Annual <u>Net Benefit</u> (Revenue – Costs) at Full Build Out Potential	Margin Difference Compared to “Do Nothing”
Do Nothing – VR4	(1,200,000)	
Scenario 1: Current VR4 zoning with TIF and CEA	(1,057,000)	+143,000
Scenario 2: Mixed use residential at current density	(504,000)	+700,000
Scenario 3: Non-Residential	183,000	+1,383,000
Scenario 4: 50/50 Residential and Non-Residential	(41,000)	+1,159,000

Source Documents for Reference:
9/13/23 Finance Committee Revision

Housing Density Impacts

- ▶ Net **Potential** impact to CPD after the school closing is +15 CPD acres
 - ▶ **MAXIMUM** Residential Differences (excludes buffers, roads, stormwater management, etc.):
 - ▶ Current State; no school
 - ▶ VR4: Up to 148 single family homes (4/units per acre X 37 acres zoned VR4)
 - ▶ CPD: Up to 200 Multi-family units (20/units per acre X 10 acres zoned CPD)
 - ▶ TOTAL: 348 units
 - ▶ Future State; School passes
 - ▶ CPD: Up to 500 Multifamily units (20/units X 25 acres rezoned VR4 to CPD)
 - ▶ Total: 500 Units; Difference of ~152 potential multi-family units
 - ▶ **Rate of Growth Ordinance** will still dictate the pace of growth within CPD and will be reviewed annually and revised every 3 years.
 - ▶ **No Exemptions to Growth Permits provided**



Summary

- Zoning, Buffer Boundary and TIF and CEA changes part of Option Agreement to **acquire 22 acres of school land**.
- **Buffer Boundary changes are necessary for school** to fit on the 22 acre parcel and to support roadway network
- TIF and CEA changes essentially **keeps Down's "neutral"** with 22 acres of tax exempt land provided for a school, and 23 acres of CPD land available in the rezoned VR4 parcel.
- If the school passes, only **+13 acres (+2.5%) of Down's already owned land will be added to CPD** that would otherwise not have transpired
- The **rate of growth ordinance** will still dictate the pace of residential development
- The TIF, CEA and Zoning adjustments will result in a **lower subsidy** by the rest of Scarborough supporting **tax rate stabilization**



APPENDIX

Zoning Adjustments

- f. **Zoning Adjustments.** No later than October 31, 2023, Buyer shall have undertaken reasonable efforts to adopt any ordinances or ordinance amendments to include the Premises, the Property and other adjacent property owned by the Seller as shown on Exhibit C, (to be identified by the parties and incorporated herein on or before July 15, 2023) within the Crossroads Planned Development District. The zoning adjustments and ordinance amendments contemplated in this subsection shall include the reduction of the 100' buffer/setback requirement between the boundary of the CPD District and the adjacent VR4 District to a 15' setback for residential and school uses. The zoning adjustments identified herein are recognized by the parties as partial consideration for the purchase of the Premises and this condition of Buyer's obligation to close is recognized as a contractual obligation upon which Seller intends to rely in good faith and proceed with development accordingly. Once taken, any future zoning adjustments and/or ordinance amendments with the effect of reversing or undoing the actions of Buyer that are described under this provision shall be deemed a breach of Buyer's obligations hereunder for which Seller shall be permitted (at its option and after any required notice and opportunity to cure) to terminate this Agreement.

TIF & CEA Adjustments

- g. **TIF District Amendment.** No later than October 31, 2023, Buyer shall have undertaken reasonable efforts to approve and submit all applications necessary to include the Premises, the Property and other adjacent property owned by the Seller as shown on Exhibit D within the Scarborough Downtown Omnibus TIF District. Following approval of the amendment to the Scarborough Downtown Omnibus TIF District, Buyer shall undertake reasonable efforts to approve an amendment to the credit enhancement agreement between Buyer and Seller to allow for reimbursement of tax increment revenue paid by the Seller on the Property, and its adjacent land within the TIF District, as shown on Exhibit E, as agreed to by the parties. The amendments identified herein are recognized by the parties as partial consideration for the purchase of the Premises and this condition of Buyer's obligation to close is recognized as a contractual obligation upon which Seller intends to rely in good faith and proceed with development accordingly. Once taken, any TIF District adjustments and/or amendments with the effect of reversing or undoing the actions of Buyer that are described under this provision shall be deemed a breach of Buyer's obligations hereunder for which Seller shall be permitted (at its option and after any required notice and opportunity to cure) to terminate this Agreement.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 23-109. Move approval of the first reading 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 second reading for Wednesday, November 8, 2023. *[Town Council]*

Town Council

Ought to Pass

Sponsor

Recommendation

10/18/2023 – Vote:

First Reading/Vote

10/08/2023

Public Hearing

11/08/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Ordinance No. 23-109.

SUBJECT:

First reading 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 second reading for Wednesday, November 8, 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
- Town Council Public Hearing; October 4, 2023
- First reading before the Town Council: October 18, 2023 and second reading/adoption on November 8, 2023

PROPOSED ACTION:

Move approval of the First reading 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 second reading for Wednesday, November 8, 2023.

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

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

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

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EXHIBITS:

- EXHIBIT A AMENDED MAPS OF THE DISTRICT**
- EXHIBIT B AMENDED ASSESSOR’S CERTIFICATE**
- EXHIBIT C NOTICE OF PUBLIC HEARING**
- EXHIBIT D CERTIFIED COPY OF THE PUBLIC HEARING MINUTES**
- EXHIBIT E TOWN COUNCIL ORDER**
- EXHIBIT F STATUTORY REQUIREMENTS AND THRESHOLDS FORM**

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.¹

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

¹ 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.

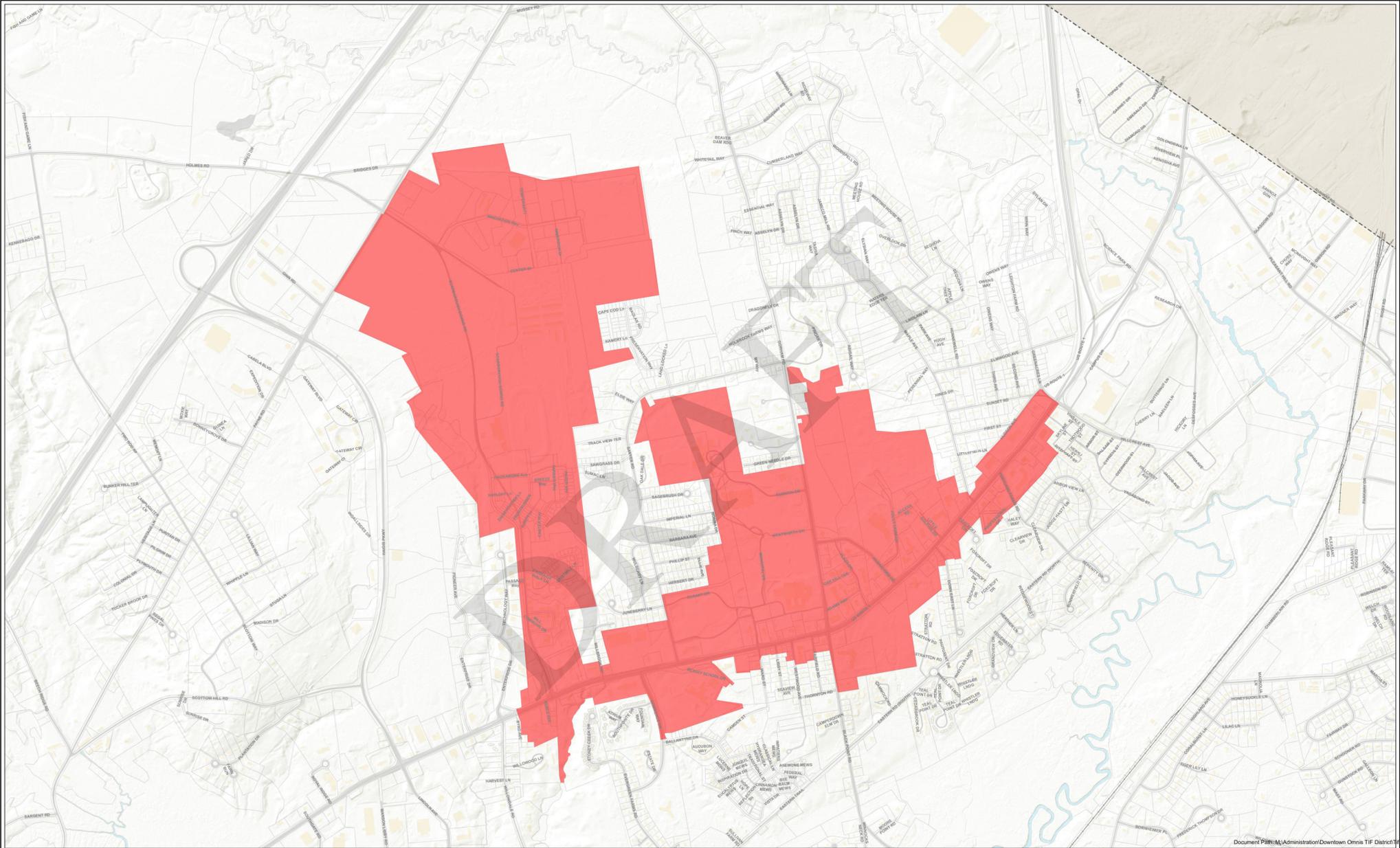
D. Statutory Requirements & Thresholds form

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

Exhibit A

(Amended Maps of the District)

DRAFT



Document Path: M:\Administration\Downtown Omnibus TIF District\TIF District1



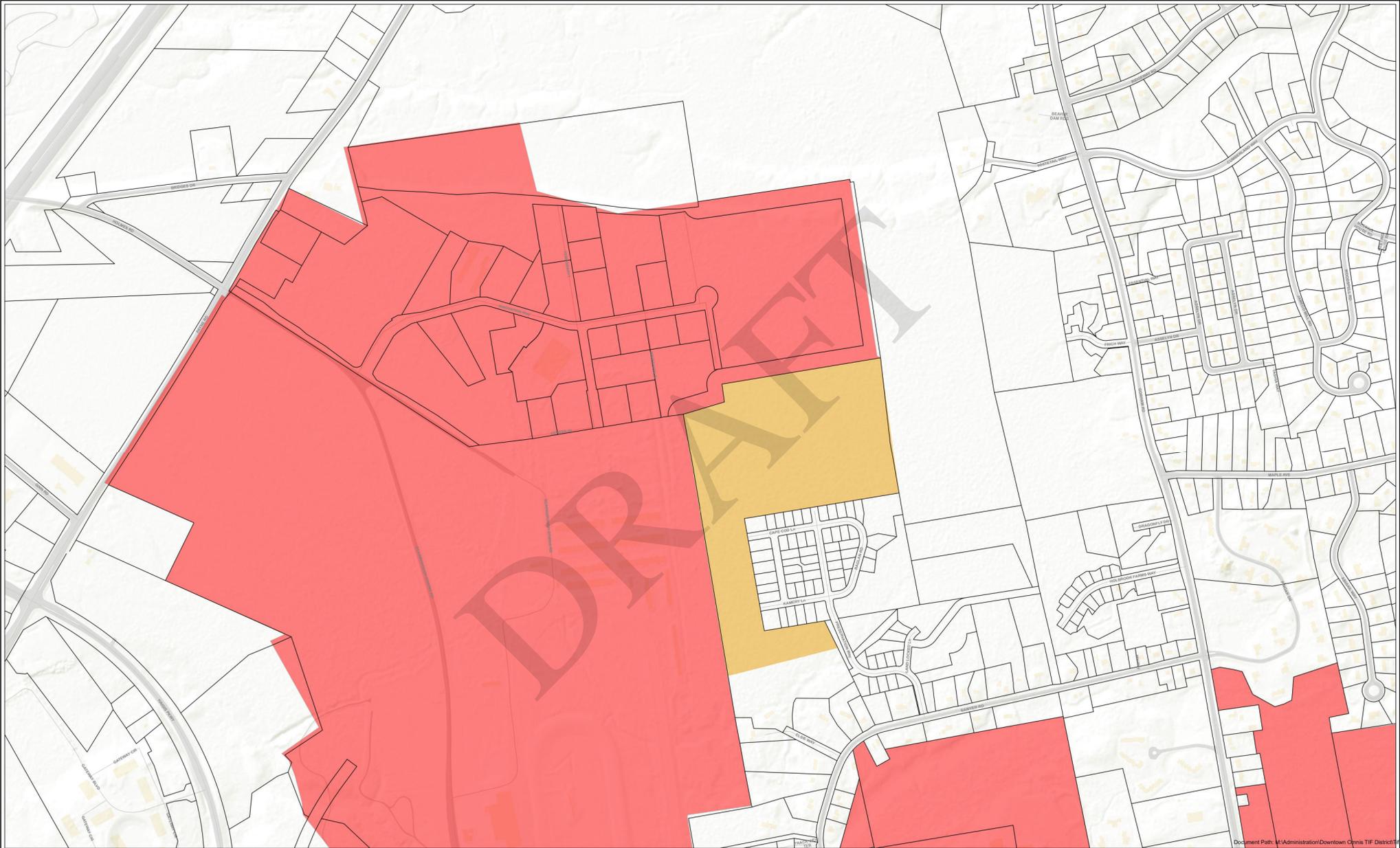
Town Of Scarborough Maine
<http://www.scarborough.me.us/dpw/>

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

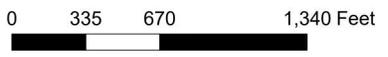


Document Path: \\Administration\DownTown Omnis TIF District\TIF District1



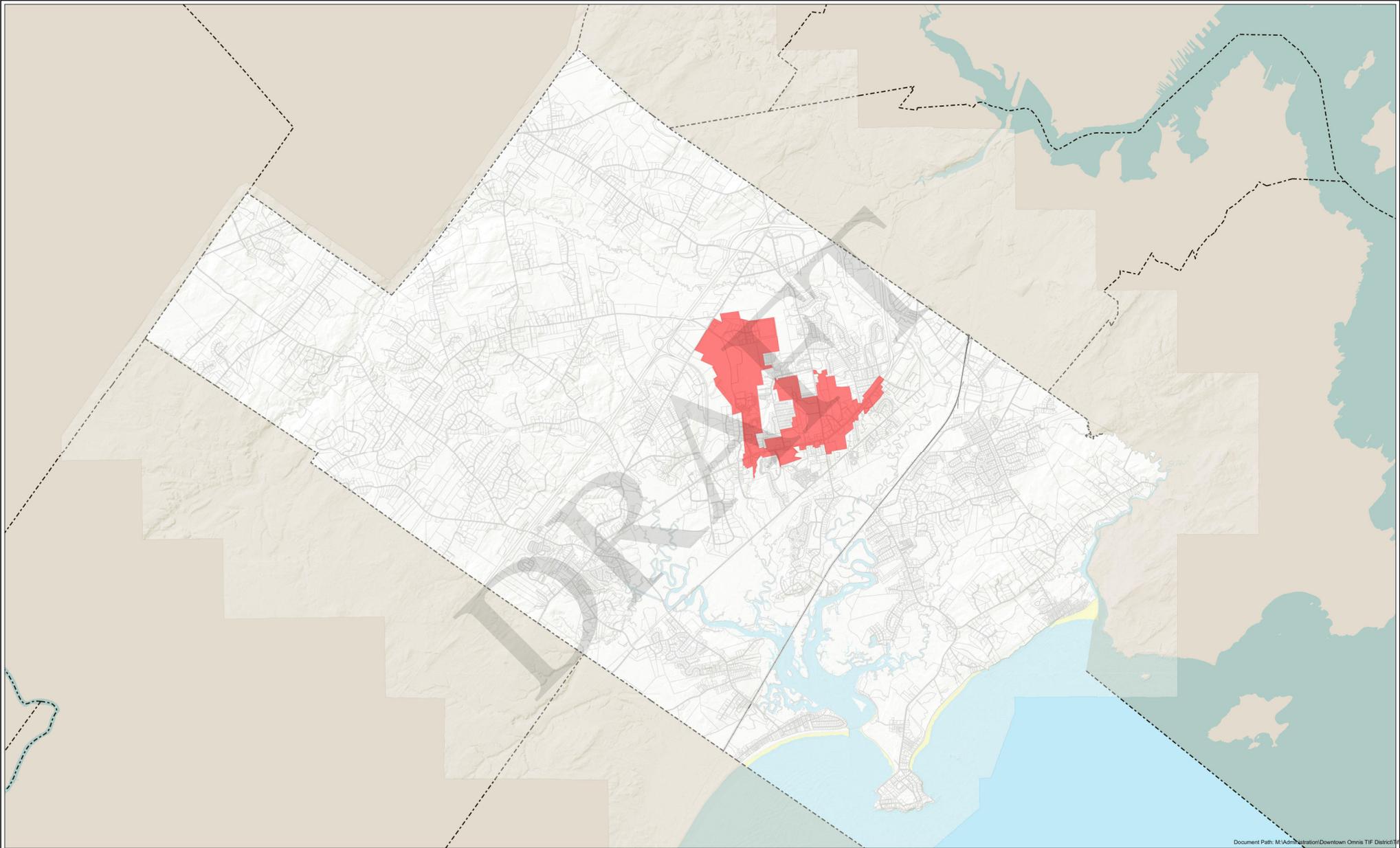
**Town Of
Scarborough
Maine**
<http://www.scarborough.me.us/dpw>

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■ Addition to Omnibus TIF District
■ Current Omnibus TIF District
 Print Date: 9/25/2023

EXHIBIT A
Scarborough downtown Omnibus TIF district
Total of 985.22 acres



Document Path: M:\Administration\Downtown Omnibus TIF District\TIF District1



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

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0 3,000 6,000 12,000 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

**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 25th day of Sept. 2023.



Nicholas Cloutier Assessor, Town of Scarborough

9/25/2023

Date

ORIGINAL ASSESSED VALUE PARCEL TABLE

Tax Map and Lot Number	Acreage	Original Assessed Value as of March 31, 2018 (April 1, 2017)
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 ¹	\$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

¹ 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
		Original Assessed Value as of March 31, 2021 (April 1, 2020)
U043056	.31 ²	\$0
		Original Assessed Value as of March 31, 2023 (April 1, 2022)
R053004	37.09	\$196,400
Totals	985.22	\$95,819,300

² 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)

DRAFT

**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

Public comments will be taken at the meeting and written comments should be submitted to 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

SECTION A. Acreage Caps		
1. Total municipal acreage;		34,560
2. Acreage of proposed Municipal TIF District;		985.22
3. Downtown-designation ¹ acres in proposed Municipal TIF District;		985.22
4. Transit-Oriented Development ² acres in proposed Municipal TIF District;		0
5. Total acreage [=A2-A3-A4] of proposed Municipal TIF District counted toward 2% limit;		0
6. Percentage [=A5÷A1] of total acreage in proposed Municipal TIF District (CANNOT EXCEED 2%).		0
7. Total acreage of all <u>existing/proposed</u> Municipal TIF districts in municipality including Municipal Affordable Housing Development districts: ³ 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 ⁴
	Proposed	985.22
	Total:	1,377.55
30-A § 5223(3) EXEMPTIONS⁵		
8. Acreage of an <u>existing/proposed</u> Downtown Municipal TIF district;		985.22
9. Acreage of all <u>existing/proposed</u> Transit-Oriented Development Municipal TIF districts:		0
10. Acreage of all <u>existing/proposed</u> Community Wind Power Municipal TIF districts:		0
11. Acreage in all <u>existing/proposed</u> Municipal TIF districts common to ⁶ Pine Tree Development Zones per 30-A § 5250-I (14)(A) excluding any such acreage also factored in Exemptions 8-10 above:		0
12. Total acreage [=A7-A8-A9-A10-A11] of all <u>existing/proposed</u> Municipal TIF districts counted toward 5% limit;		392.33
13. Percentage of total acreage [=A12÷A1] of all <u>existing/proposed</u> Municipal TIF districts (CANNOT EXCEED 5%).		1.14%
14. Real property 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%
TOTAL (except for § 5223 (3) exemptions a., b. OR c. must be at least 25%)		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.

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

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

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

⁴ Although this district already exists, the SR&T includes its entire acreage in the “proposed” category only.

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

⁶ PTDZ districts approved through December 31, 2008.

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

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

COMPLETED BY			
PRINT NAME	Philip Saucier, Esq.		
SIGNATURE		DATE	
<p style="font-size: small;">If this form has not be completed by the municipal or plantation assessor, 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

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

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-110. Move approval of the first reading 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 second reading for Wednesday, November 8, 2023. *[Town Council]*

Town Council

Ought to Pass

Sponsor

Recommendation

10/18/2023 – Vote:

First Reading/Vote

10/08/2023

Public Hearing

11/08/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Ordinance No. 23-110.

SUBJECT:

First reading 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 second reading for Wednesday, November 8, 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 1st 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 amended 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

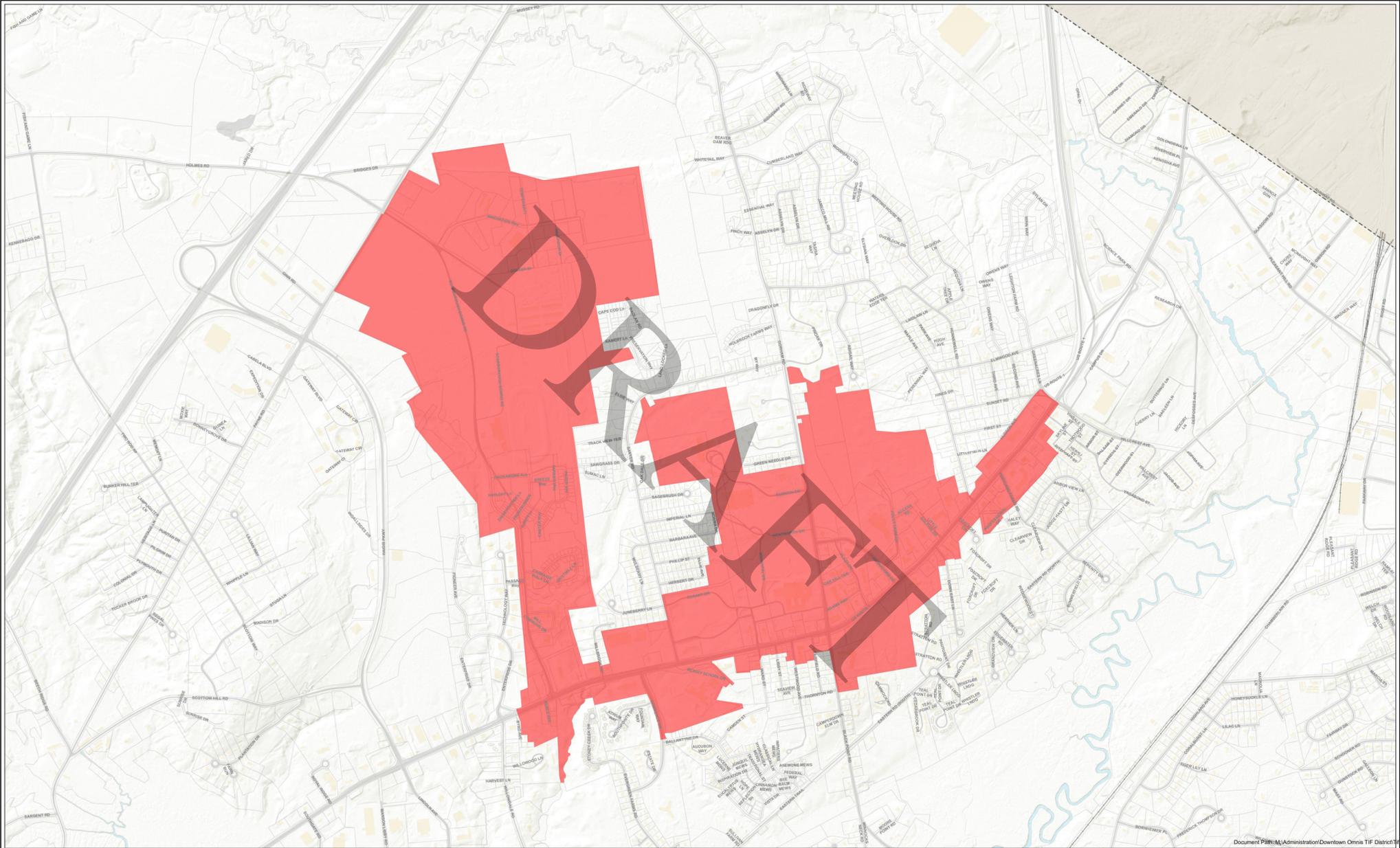
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EXHIBIT B

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EXHIBIT A

DRAFT



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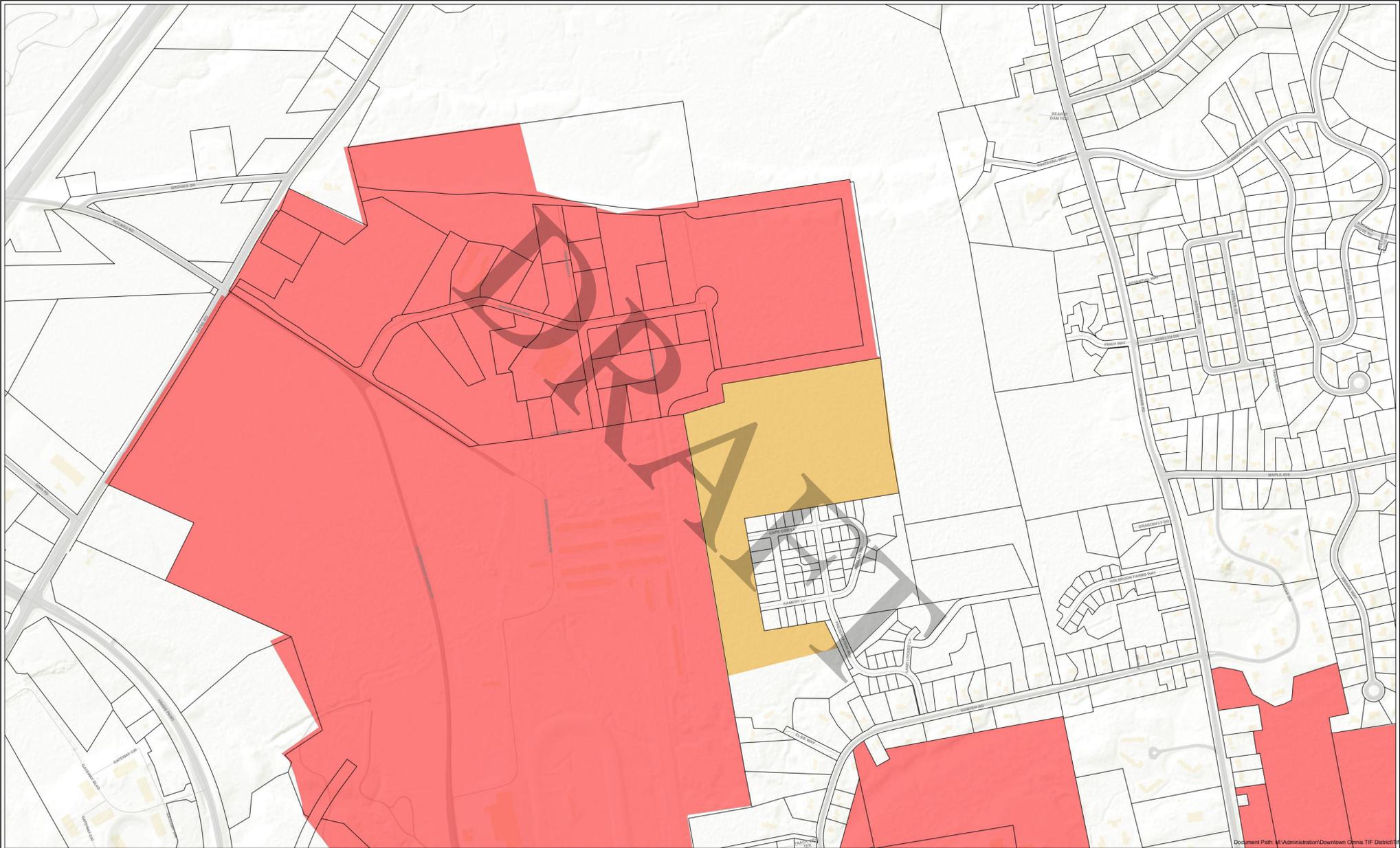
**Town Of
Scarborough
Maine**
<http://www.scarborough.me.us/dpw/>

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

EXHIBIT A
Scarborough downtown Omnibus TIF district
Total of 985.22 acres

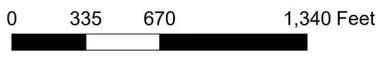


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**Town Of
Scarborough
Maine**
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■ Addition to Omnibus TIF District
■ Current Omnibus TIF District
 Print Date: 9/25/2023

EXHIBIT A
Scarborough downtown Omnibus TIF district
Total of



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**Town Of
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0 3,000 6,000 12,000 Feet



Proposed TIF District
Print Date: 9/25/2023

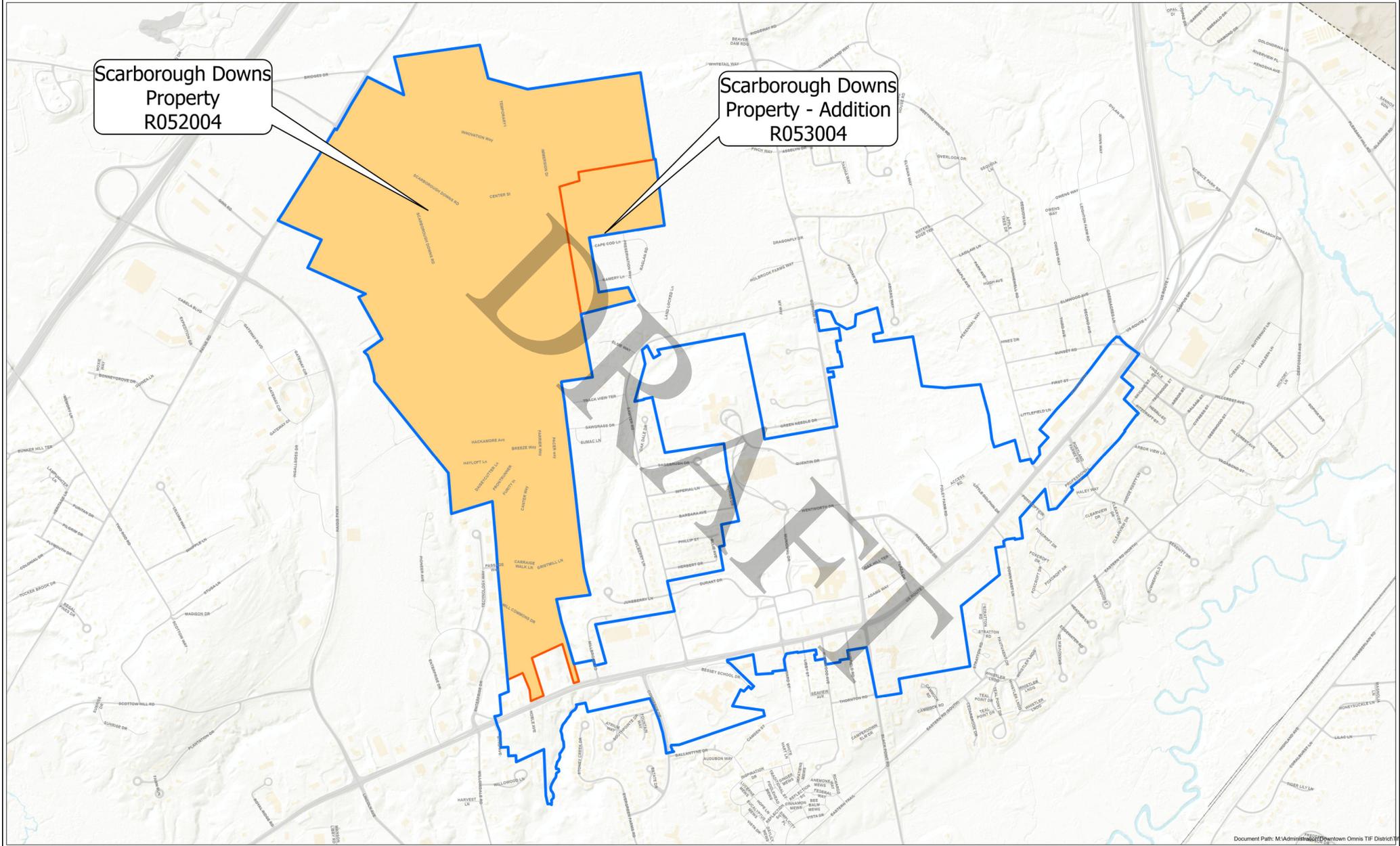
EXHIBIT A
Scarborough downtown Omnibus TIF district
Total of

EXHIBIT B

DRAFT

Scarborough Downs
Property
R052004

Scarborough Downs
Property - Addition
R053004

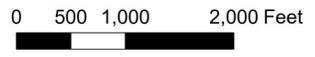


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**Town Of
Scarborough
Maine**
<http://www.scarborough.me.us/dpw/>

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

EXHIBIT B
Credit Enhancement Agreement
Total of 985.22 Acres

CREDIT ENHANCEMENT AGREEMENT

between

THE TOWN OF SCARBOROUGH, MAINE

and

CROSSROADS HOLDINGS LLC

DATED: December 12, 2018

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THIS CREDIT ENHANCEMENT AGREEMENT dated as of December 12, 2018, 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 Crossroads Zoning District mandates a mixed use development of commercial, residential and industrial; and

WHEREAS, this Agreement creates a partnership to embrace a mixed use development of the Crossroads Zoning District; and

WHEREAS, the Developer sought and received zoning amendments to further promote non-residential uses; and

WHEREAS, the Developer has submitted to the Scarborough Planning Board a Master Plan for the Light Industrial area within the Crossroads Zoning District; and

WHEREAS, the Developer has commenced construction of infrastructure consistent with the requirements to serve the needs of the Light Industrial area; and

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”); and

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

WHEREAS, at the Vote, the Town Council also authorized execution of a credit enhancement agreement 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 and intend that this Credit Enhancement Agreement be and constitute the credit enhancement agreement contemplated by and described in the Development Program.

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:

**ARTICLE I
DEFINITIONS**

Section 1.1 Definitions.

The terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, unless the context clearly requires otherwise:

“Act” means chapter 206 of Title 30-A of the Maine Revised Statutes and regulations adopted thereunder, as amended from time to time.

“Agreement” shall mean this Credit Enhancement Agreement between the Town and the Developer dated as of the date set forth above, as such may be amended from time to time.

“Approved Master Plan” means the Crossroads Planned Development District Master Plan – Phase 1 approved by the Scarborough Planning Board on April 5, 2018, and as further amended by the Planning Board, including any and all additional phases of development on the Developer Property.

“Captured Assessed Value” means the amount, stated as a percentage, of the Increased Assessed Value that is retained in the Developer Property in each Tax Year during the term of the District, as specified in Section 2.3 hereof.

“Commissioner” means the Commissioner of the Department.

“Community Center” means a facility or building leased or owned and operated by the Town for the purpose of providing public meeting space and recreation opportunities.

“Current Assessed Value” means the then current assessed value of the Developer Property as determined by the Town Tax Assessor as of April 1 of each Tax Year during the term of this Agreement.

“Department” means the Maine Department of Economic and Community Development.

“Developer” shall have the meaning given such term in the first paragraph hereto.

“Development Program” shall have the meaning given such term in the recitals hereto.

“Developer Project Cost Subaccount” means that portion of the Project Cost Account of the Development Program Fund set aside for the Developer as described in the Financial Plan Section of the Development Program and established and maintained pursuant to Article II hereof.

“Development Program Fund” means the Downtown Omnibus Development Program Fund described in the Financial Plan section of the Development Program and established and maintained pursuant to Article II hereof and 30-A M.R.S.A § 5227(3)(A). The Development

Program Fund shall consist of a Project Cost Account with two subaccounts: the Developer Project Cost Subaccount and the Town Project Cost Subaccount.

“Developer Property” means the portion of the District owned by the Developer and subject to this Agreement as depicted on Exhibit B hereto.

“District” shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately 955.06 acres of real property and identified on Exhibit A to the Development Program and any future improvements to such real property.

“Downtown” means a central business district within the Developer Property that provides a core of commercial and mixed-use buildings, along with civic and residential buildings and public spaces that center along a main street and intersecting side streets to be incorporated into the Approved Master Plan.

“Effective Date” means the date of approval of the District and the Development Program by the Commissioner pursuant to the Act.

“Financial Plan” means the financial plan described in the “Financial Plan” Section of the Development Program.

“Fiscal Year” means July 1 to June 30 each year or such other fiscal year as the Town may from time to time establish.

“Increased Assessed Value” means, for each Fiscal Year during the term of this Agreement, the amount by which the Current Assessed Value for such year exceeds the Original Assessed Value. If the Current Assessed Value is less than or equal to the Original Assessed Value in any given Tax Year, there is no Increased Assessed Value in that year.

“Original Assessed Value” means \$7,265,700, the taxable assessed value of the Developer Property as of March 31, 2019 (April 1, 2018).

“Project Cost Account” means the project cost account described in the Financial Plan Section of the Development Program and established and maintained pursuant to Title 30-A M.R.S.A. § 5227(3)(A)(1) and Article II hereof.

“Property Tax” means any and all *ad valorem* property taxes levied, charged or assessed against real property located in the District by the Town, or on its behalf.

“State” means the State of Maine.

“Tax Increment Revenues” means that portion of all real property taxes assessed and paid to the Town in any Tax Year, in excess of any state, or special district tax, upon the Captured Assessed Value.

“Tax Payment Date” means the later of the date(s) on which property taxes levied by the Town are due and payable from the owners of property located within the Town, or are actually paid by or on behalf of the Developer to the Town.

“Tax Year” shall have the meaning given such term in 30-A M.R.S.A. §5222(18), as amended, to wit: April 1 to March 31.

“Town” shall have the meaning given such term in the first paragraph hereto.

“Town Project Cost Subaccount” means that portion of the Project Cost Subaccount of the Development Program Fund for the District as defined in the Financial Plan Section of the Development Program and established and maintained according to Article II hereof.

Section 1.2 Interpretation and Construction.

In this Agreement, unless the context otherwise requires:

- (a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of this Agreement.
- (b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.
- (c) Words importing persons means and include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public or governmental bodies, as well as any natural persons.
- (d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.
- (e) All approvals, consents and acceptances required to be given or made by any signatory hereto shall not be withheld unreasonably.
- (f) All notices to be given hereunder shall be given in writing, and, unless a certain number of days is specified, within a reasonable time.
- (g) If any clause, provision or Section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or Section shall not affect any of the remaining provisions hereof.

**ARTICLE II
DEVELOPMENT PROGRAM FUND AND FUNDING REQUIREMENTS**

Section 2.1 Creation of Development Program Fund.

Within sixty (60) days after the Effective Date, the Town shall create and establish a segregated fund in the name of the Town designated as “Downtown Omnibus Development Program Fund” (hereinafter the “Development Program Fund”) pursuant to, and in accordance with the terms and conditions of, the Development Program and 30-A M.R.S.A. § 5227(3). The Development Program Fund shall consist of the Project Cost Account that is pledged to and charged with the payment of project costs as outlined in the Financial Plan of the Development Program and as provided in 30-A M.R.S.A. § 5227(3)(A)(1). The Project Cost Account shall also contain two subaccounts designated as the “Developer Project Cost Subaccount” and the “Town Project Cost Subaccount.”

Section 2.2 Liens.

The Town shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the Developer Project Cost Subaccount described in Section 2.1 hereof or any funds therein, other than the interest in favor of the Developer hereunder in and to the amounts on deposit; provided, however, that nothing herein shall prohibit the creation of property tax liens on property in the District in accordance with and entitled to priority pursuant to Maine law.

Section 2.3 Captured Assessed Value; Deposits into Development Program Fund.

- (a) Each year during the term of this Agreement, commencing with the 2019-2020 Tax Year so long as the Effective Date has occurred by such time and continuing thereafter for the next thirty (30) years until the final year, the 2048-2049 Tax Year (CEA year 30) (collectively the “CEA Years”), the Town shall retain in the District a portion of the Increased Assessed Value as Captured Assessed Value as described below.
- (b) For each of the CEA Years, the Town shall deposit into the Development Program Fund contemporaneously with each payment of Property Tax associated with each CEA Year during the term of this Agreement an amount at least equal to the required portion of Tax Increment Revenues for the Developer Project Cost Subaccount as described in Section 2.3(b). The Development Program Fund is pledged to and charged with the payment of costs in the manner and priority provided in 30-A M.R.S.A. § 5227(3)(B). The Town shall deposit the Tax Increment Revenues in the Developer Project Cost Subaccount of the Development Program Fund as follows:
 - 1. CEA Years 1-10 (April 1, 2019 – March 31, 2029): Forty percent (40%) of Property Tax paid on the Increased Assessed Value to Developer Project Cost Subaccount.
 - 2. CEA Years 11-15 (April 1, 2029 – March 31, 2034): Twenty-five percent (25%) of Property Tax paid on the Increased Assessed Value of the Developer Property to

Developer Project Cost Subaccount, unless the Developer meets the following performance standards by the end of CEA Year 10 (March 31, 2029), in which case the percentage of Property Tax paid on the Increased Assessed Value to Developer Project Cost Subaccount shall be forty percent (40%) for CEA Years 11 – 15:

- a. **Non-residential Development Standard:** The Developer shall achieve a minimum of 500,000 square feet of non-residential space as classified by the assessor, either completed as evidenced by an occupancy permit, under construction as evidenced by a building permit, or under contract to be constructed as evidenced by a purchase and sale agreement. Notwithstanding the fact that a development is under construction as evidenced by having obtained a building permit or purchase and sale agreement, such square footage shall be subsequently removed from the count toward achieving the non-residential square footage performance measure if no occupancy permit has been obtained within eighteen months of obtaining the building permit or the purchase and sale agreement. If the performance measure was met as of the relevant performance date, but following the expiration of the eighteen-month period referenced above, the performance measure is not met, the qualification during the eighteen-month period shall stand, but for any years following the expiration of the eighteen-month period, the percentage reimbursement shall be reduced accordingly. The non-residential square footage performance measures shall include all development of the Developer within the Approved Master Plan, whether or not such square footage is located within the District. In addition, development that is exempt from paying Property Tax shall be counted toward the non-residential square footage performance measure up to ten percent (10%) of the performance measure (i.e., 50,000 square feet). The following types of developments shall fully qualify for purposes of calculating the performance measure apart from the ten percent (10%) rule: (1) Town-approved municipal uses (including schools), and (2) non-residential uses of property that are subject to a Payment In Lieu of Taxes (PILOT) agreement so long as the PILOT agreement is in effect; and
- b. **Infrastructure Standard:** All roads and related utilities, including public water and sewer, necessary to meet the development established in Section 2.3(b)(2)(a) must be completed, under construction or permitted; and
- c. **Roads/Utilities Standard:** Major arterial roads and related utilities necessary to meet the development established in Section 2.3(b)(2)(a) will be constructed in such a way to provide sufficient capacity for the connection and construction of additional infrastructure necessary to construct a Downtown when planned and approved.

Notwithstanding the description of performance standards in this Section 2.3(b)(2), in order to be eligible for 40% of the Property Taxes paid on Increased Assessed Value: (1) the Developer shall submit to the Town Manager a written certification no later than April 1, 2029 demonstrating how each of the performance standards has been met; and (2) the Town Manager shall review such written certification and make an objective determination in writing within thirty (30) days of its submission that either

the performance standards have been met or have not been met. The Town Manager may employ other Town staff or officials to inform his or her determination; and (3) the Developer shall have the right to appeal from a determination of the Town Manager to the Town Council by filing a written appeal with the Town Council within thirty (30) days of the Town Manager's determination date. The Town Council shall hear the appeal and make a determination about whether to affirm or reverse the Town Manager's determination within thirty (30) days of the filing of the written appeal, unless a longer period of time is agreed to by the parties.

3. CEA Years 16-20 (April 1, 2034 – March 31, 2039): Twenty-five percent (25%) of Property Tax paid on the Increased Assessed Value to Developer Project Cost Subaccount, unless the Developer meets the following performance standards by the end of CEA Year 15 (March 31, 2034), in which case the percentage of Property Tax paid on the Increased Assessed Value to Developer Project Cost Subaccount shall be forty percent (40%) for CEA Years 16 – 20:
 - a. Non-residential Development Standard: The Developer shall achieve a minimum of 900,000 square feet of non-residential space as classified by the assessor, either completed as evidenced by an occupancy permit, under construction as evidenced by a building permit, or under contract to be constructed as evidenced by a purchase and sale agreement. Notwithstanding the fact that a development is under construction as evidenced by having obtained a building permit or purchase and sale agreement, such square footage shall be subsequently removed from the count toward achieving the non-residential square footage performance measure if no occupancy permit has been obtained within eighteen months of obtaining the building permit or purchase and sale agreement. If the performance measure was met as of the relevant performance date, but following the expiration of the eighteen-month period, the performance measure is not met, the qualification during the eighteen-month period shall stand, but for any years following the expiration of the eighteen-month period, the percentage reimbursement shall be reduced accordingly. The nonresidential square footage performance measures shall include all development of the Developer within the Approved Master Plan, whether or not such square footage is located within the District. In addition, development that is exempt from paying Property Tax shall be counted toward the non-residential square footage performance measure up to ten percent (10%) of the performance measure (i.e., 90,000 square feet). The following types of developments shall fully qualify for purposes of calculating the performance measure apart from the ten percent (10%) rule: (1) Town-approved municipal uses (including schools), and (2) non-residential uses of property that are subject to a Payment In Lieu of Taxes (PILOT) agreement so long as the PILOT agreement is in effect; and
 - b. Infrastructure Standard: All roads and related utilities, including public water and sewer, necessary to meet the development established in Section 2.3(b)(3)(a) must be completed, under construction or permitted; and
 - c. Roads/Utilities Standard: Major arterial roads and related utilities necessary to meet the development established in Section 2.3(b)(3)(a) will be constructed

in such a way to provide sufficient capacity for the connection and construction of additional infrastructure necessary to construct a Downtown when planned and approved.

Notwithstanding the description of performance standards in this Section 2.3(b)(3), in order to be eligible for 40% of the Property Taxes paid on Increased Assessed Value: (1) the Developer shall submit to the Town Manager a written certification no later than April 1, 2034 demonstrating how each of the performance standards has been met; and (2) the Town Manager shall review such written certification and make an objective determination in writing within thirty (30) days of its submission that either the performance standards have been met or have not been met. The Town Manager may employ other Town staff or officials to inform his or her determination; and (3) the Developer shall have the right to appeal from a determination of the Town Manager to the Town Council by filing a written appeal with the Town Council within thirty (30) days of the Town Manager's determination date. The Town Council shall hear the appeal and make a determination about whether to affirm or reverse the Town Manager's determination within thirty (30) days of the filing of the written appeal, unless a longer period of time is agreed to by the parties.

4. Notwithstanding anything to the contrary contained herein, the deposits into the Developer Project Cost Subaccount pursuant to Sections 2.3(b)(1), (2), and (3) shall cease at such time as the cumulative amount of Tax Increment Revenues deposited in the Developer Project Cost Subaccount reaches the maximum developer reimbursement cap of fifty-five million dollars (\$55,000,000).

5. CEA Years 21-30 (April 1, 2039 – March 31, 2049): Ten percent (10%) of Property Tax paid on the Increased Assessed Value to Developer Project Cost Subaccount with a maximum annual deposit during such term per year of two million dollars (\$2,000,000) only if the Developer's project in the District has achieved the "Desired Development" as defined below by meeting all of the following by the end of Year 20 (March 31, 2039) or before:

- a. The Developer has reached the maximum Developer reimbursement cap of \$55 million identified in Section 2.3(b)(4); and
- b. The Developer has met the minimum assessed value creation of \$615 million of Increased Assessed Value within the Approved Master Plan if a Downtown and Community Center are constructed or are under construction as of the end of CEA Year 20 (March 31, 2039), or has met the minimum assessed value creation of \$500 million of Increased Assessed Value within the Approved Master Plan if a Downtown and Community Center are not constructed or under construction by the end of CEA Year 20 (March 31, 2039). The minimum assessed value creation standards in this section shall measure all development of the Developer within the Approved Master Plan, whether or not such assessed value is located within the District; however, such value shall only be counted if related to taxable Increased Assessed Value; and

- c. The Developer has met the minimum of 1.5 million square feet of non-residential space, as measured and described in above performance standards for 2.3(b)(2)(a) and (3)(a).

If the Developer achieves the Desired Development before the end of CEA Year 20, the annual deposit identified in this Section 2.3(b)(5) shall be made for any CEA year thereafter through the full term of CEA Years.

Notwithstanding the description of performance standards in this Section 2.3(b)(5), in order to be eligible for the benefits associated with achieving the Desired Development: (1) the Developer shall submit to the Town Manager a written certification no later than April 1, 2039 demonstrating how each of the performance standards has been met; and (2) the Town Manager shall review such written certification and make an objective determination in writing within thirty (30) days of its submission that either the performance standards have been met or have not been met. The Town Manager may employ other Town staff or officials to inform his or her determination; and (3) the Developer shall have the right to appeal from a determination of the Town Manager to the Town Council by filing a written appeal with the Town Council within thirty (30) days of the Town Manager's determination date. The Town Council shall hear the appeal and make a determination about whether to affirm or reverse the Town Manager's determination within thirty (30) days of the filing of the written appeal, unless a longer period of time is agreed to by the parties.

- (c) Notwithstanding anything to the contrary contained herein, if the Developer constructs more than 750 single-family detached dwelling units, the Town shall have no further deposit of payment obligations hereunder. For purposes of measuring such limitation, the Town's records regarding single-family detached dwelling units less any affordable or age-restricted single family dwelling units shall govern.
- (d) Notwithstanding anything to the contrary contained herein, the Town shall have the authority to decide to discontinue all or a portion of the Town Project Cost Subaccount deposits and instead make those deposits to the Town's general fund without further action or consents required by the Developer, provided that such decision shall not negatively impact the Developer Project Cost subaccount or the Town's ability to fulfill its obligations to the Developer hereunder.

Section 2.4 Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in the Developer Project Cost Subaccount shall in all cases be used and applied to fund fully the Town's payment obligations to Developer described in Articles II and III hereof.

Section 2.5 Monies Held in Segregated Account

All monies required to be deposited with or paid into the Developer Project Cost Subaccount under the provisions hereof and the provisions of the Development Program, and any investment earnings thereon, shall be held by the Town for the benefit of the Developer.

**ARTICLE III
PAYMENTS OBLIGATIONS**

Section 3.1 Developer Payments.

- (a) The Town agrees to pay Developer, within thirty (30) days following the Tax Payment Date, all amounts then on deposit in the Developer Project Cost Subaccount.
- (b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against Developer Property remain unpaid, because of a valuation dispute or otherwise, the property taxes actually paid with respect to such Tax Payment Date shall, first, be applied to taxes due on account of Original Assessed Value; and second, shall constitute payment of Property Tax with respect to Increased Assessed Value, to be applied first to payment in full of the applicable Town percent share for the year concerned; and third, to the extent of funds remaining, to payment of the Developer's share of the Tax Increment Revenues for the year concerned, to be deposited into the Developer Project Cost Subaccount.

Section 3.2 Failure to Make Payment.

- (a) In the event the Town should fail to, or be unable to, make any of the payments at the time and in the amount required under the foregoing provisions of this Article III including in the event that the amount deposited into the Developer Project Cost Subaccount is insufficient to reimburse the Developer for the full amount due to the Developer under this Agreement, the amount or installment so unpaid shall continue as a limited obligation of the Town, under the terms and conditions hereinafter set forth, until the amount unpaid shall have been fully paid. The Developer shall have the right to initiate and maintain an action to specifically enforce the Town's obligations hereunder, including without limitation, the Town's obligation to deposit Tax Increment Revenues to the Developer Project Cost Subaccount and its obligation to make payment out of the Developer Project Cost Subaccount to the Developer.
- (b) Any payment from the Town to the Developer not paid within thirty (30) days following the Tax Payment Date, as specified in Section 3.1 above, shall be subject to payment of interest by the Town at the same rate applicable to refunds of abated property taxes. The provision in this section 3.2(b) of an interest rate on late payments by the Town shall not limit Developer's right under section 5.2 below to collect or require immediate payment of past due Town payments.

Section 3.3 Manner of Payments.

The payments provided for in this Article III shall be paid directly to the Developer at the address specified in Section 8.7 hereof in the manner provided hereinabove for the Developer's own use and benefit by check drawn on the Town.

Section 3.4 Obligations Unconditional.

Subject to compliance with the terms and conditions of this Agreement, the obligations of the Town to make payments described in the Agreement in accordance with the terms hereof shall be absolute and unconditional, and the Town shall not suspend or discontinue any payment hereunder or terminate this Agreement for any cause, other than by court order or by reason of a final judgement by a court of competent jurisdiction that the District is invalid or otherwise illegal.

Section 3.5 Limited Obligation.

The Town's obligations of payment hereunder shall be limited obligations of the Town payable solely from the Tax Increment Revenues pledged therefor under this Agreement. The Town's obligations hereunder shall not constitute a general debt or a general obligation or charge against or pledge of the faith and credit or taxing power of the Town, the State of Maine, or of any municipality or political subdivision thereof, but shall be payable solely from that portion of Tax Increment Revenues payable to Developer hereunder, whether or not actually deposited into the Developer Project Cost Subaccount in the Development Program Fund. This Agreement shall not directly, indirectly or contingently obligate the Town, the State of Maine, or any other Town or political subdivision to levy or to pledge any form of taxation whatever therefore, or to make any appropriation for their payment, excepting the pledge of the Tax Increment Revenues established under this Agreement.

**ARTICLE IV
PLEDGE AND SECURITY INTEREST**

Section 4.1 Pledge of and Grant of Security Interest in Developer Project Cost Subaccount.

In consideration of this Agreement and other valuable consideration and for the purpose of securing payment of the amounts provided for hereunder to the Developer by the Town, according to the terms and conditions contained herein, and in order to secure the performance and observance of all of the Town's covenants and agreements contained herein, the Town does hereby grant a security interest in and pledge the Developer Project Cost Subaccount described in Section 2.1 hereof and all sums of money and other securities and investments therein to the Developer.

Section 4.2 Perfection of Interest.

- (a) To the extent deemed necessary or desirable by the Developer, the Town will at such time and from time to time as requested by Developer establish the Developer Project Cost Subaccount described in Section 2.1 hereof as a segregated fund under the control of an escrow agent, trustee or other fiduciary selected by Developer so as to Perfect Developer's interest therein. The cost of establishing and monitoring such a fund (including the cost of counsel to the Town with respect thereto) shall be borne exclusively by the Developer. In the event such a fund is established under the control of a trustee or fiduciary, the Town shall cooperate with the Developer in causing appropriate financing statements and continuation statements naming the Developer as pledgee of all such amounts from time to time on deposit in the fund to be duly filed and recorded in the appropriate state offices as required by and permitted under the provisions of the Maine Uniform Commercial Code or other similar law as adopted in the State of Maine and any other applicable jurisdiction, as from time to time amended, in order to perfect and maintain the security interests created hereunder.

- (b) In the event Developer requires the establishment of a segregated fund in accordance with this Section 4.2, the Town's responsibility shall be limited to delivering the amounts required by this Agreement to the escrow agent, trustee or other fiduciary designated by the Developer. The Town shall have no liability for payment over of the funds concerned to the Developer by any such escrow agent, trustee or other fiduciary, or for any misappropriation, investment losses or other losses in the hands of such escrow agent, trustee or other fiduciary. Notwithstanding any change in the identity of the Developer's designated escrow agent, trustee or other fiduciary, the Town shall have no liability for misdelivery of funds if delivered in accordance with Developer's most recent written designation or instructions actually received by the Town.

Section 4.3 Further Instruments.

The Town shall, upon the reasonable request of the Developer from time to time execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the provisions of the Agreement; provided, however, that the Developer shall pay the Town's costs of counsel related thereto and no such instruments or actions shall pledge the credit of the Town.

Section 4.4 No Disposition of Developer Project Cost Subaccount.

Except as permitted hereunder, the Town shall not sell, lease, pledge, assign or otherwise dispose, encumber or hypothecate any interest in the Developer Project Cost Subaccount and will promptly pay or cause to be discharged or make adequate provision to discharge any lien, charge or encumbrance on any part thereof not permitted hereby.

Section 4.5 Access to Books and Records.

All nonconfidential books, records and documents in the possession of the Town or the Developer relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into the Developer Project Cost Subaccount shall at all reasonable times be open to inspection by the Town and the Developer, their agents and employees.

**ARTICLE V
DEFAULTS AND REMEDIES**

Section 5.1 Events of Default.

Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

- (a) Any failure by the Town to pay any amounts due to Developer when the same shall become due and payable;
- (b) Any failure by the Town to make deposits into the Developer Project Cost Subaccount as and when due;
- (c) Any failure by the Town or the Developer to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the Town or Developer to be observed or performed, which failure is not cured within thirty (30) days following written notice thereof;
- (d) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Developer's affairs shall have been entered against the Developer or the Developer shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the Developer or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Developer or the failure by the Developer to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Developer.
- (e) If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises of the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of the Town's affairs shall have been entered against the Town or the Town shall have consented to the appointment of a

conservator or receiver or liquidator in any such proceedings of or relating to the Town or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the Town or the failure by the Town to have an involuntary petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the Town.

Section 5.2 Remedies on Default.

Subject to the provisions of Section 8.11, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be below concerning dispute resolution continuing, the nondefaulting party, following the expiration of any applicable cure period, shall have all rights and remedies available to it at law or in equity, including the rights and remedies available to a secured party under the laws of the State of Maine, and may take whatever action as may be necessary or desirable to collect the amount then due and thereafter to become due, to specifically enforce the performance or observance of any obligations, agreements or covenants of the nondefaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder.

Section 5.3 Remedies Cumulative.

Subject to the provisions of Section 8.11 below concerning dispute resolution, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Events of Default to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the parties hereto with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such Events of Default be continued or repeated.

Section 5.4 Agreement to Pay Attorneys' Fees and Expenses.

Subject to the provisions of Section 8.11 below concerning dispute resolution, in the event the Town or the Developer should default under any of the provisions of this Agreement, and the nondefaulting party shall require and employ attorneys or incur other expenses or costs for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Town or the Developer herein contained, the defaulting party shall, on demand therefor, pay to the nondefaulting party the reasonable fees of such attorneys and such other reasonable costs and expenses so incurred by the non-defaulting party.

**ARTICLE VI
EFFECTIVE DATE, TERM AND TERMINATION**

Section 6.1 Effective Date and Term.

This Agreement shall remain in full force from the Effective Date hereof and shall expire upon the sooner of the completion of the CEA Years or the Town fully complies with all deposit and payment obligations herein, unless sooner terminated pursuant to Section 3.4 or any other applicable provision of this Agreement.

Section 6.2 Cancellation and Expiration of Term.

At the acceleration, termination or other expiration of this Agreement in accordance with the provisions of this Agreement, the Town and the Developer shall each execute and deliver such documents and take or cause to be taken such actions as may be necessary to evidence the termination of the Agreement.

**ARTICLE VII
ASSIGNMENT AND PLEDGE OF DEVELOPER'S INTEREST**

Section 7.1 Consent to Pledge and/or Assignment.

The Town hereby acknowledges that the Developer may from time to time pledge and assign its right, title and interest in, to and under this Agreement as collateral for financing improvements by or on behalf of the Developer within the District, although no obligation is hereby imposed on the Developer to make such assignment or pledge. Recognizing this possibility, the Town does hereby consent and agree to the pledge and assignment of all the Developer's right, title and interest in, to and under this Agreement and in, and to the payments to be made to Developer hereunder, to third parties as collateral or security for financing such development, on one or more occasions during the term hereof. The Town agrees to execute and deliver any assignments, pledge agreements, consents or other confirmations required by such prospective pledgee or assignee, including without limitation recognition of the pledgee or assignee as the holder of all right, title and interest herein and as the payee of amounts due and payable hereunder. The Town agrees to execute and deliver any other documentation as shall confirm to such pledgee or assignee the position of such assignee or pledgee and the irrevocable and binding nature of this Agreement and provide to such pledgee or assignee such rights and/or remedies as the Developer or such pledgee or assignee may reasonably deem necessary for the establishment, perfection and protection of its interest herein without the need for additional approval or action by the Town Council. The Developer shall pay the Town's costs of counsel with respect to any such pledge or assignment documentation.

Section 7.2 Pledge, Assignment or Security Interest.

Except as provided in Section 7.1 hereof, and except for the purpose of securing financing for improvements by or on behalf of the Developer within the District or for an assignment to a successor entity, an affiliate entity or any other entity controlled by the

Developer, the Developer shall not transfer or assign any portion of its rights in, to and under this Agreement without consent of the legislative body of the Town, which consent shall not be unreasonably withheld or delayed.

ARTICLE VIII MISCELLANEOUS

Section 8.1 Successors.

In the event of the dissolution, merger or consolidation of the Town or the Developer, or the sale of all or a portion of the assets or equity of the Developer, the covenants, stipulations, promises and agreements set forth herein, by or on behalf of or for the benefit of such party shall bind or inure to the benefit of the successors and assigns thereof from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of such party shall be transferred if the Town consents, which consent shall not be unreasonably withheld.

Section 8.2 Parties-In-Interest.

Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the Town and the Developer any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the Town and the Developer.

Section 8.3 Severability.

In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 8.4 No Personal Liability of Officials of the Town.

No covenant, stipulation, obligation or agreement of the Town contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the Town in his or her individual capacity, and neither the Town nor any official, officer, employee or agent of the Town shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

Section 8.5 Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

Section 8.6 Governing Law.

The laws of the State of Maine shall govern the construction and enforcement of this Agreement.

Section 8.7 Notices.

All notices, certificates, requests, requisitions or other communications by the Town or the Developer pursuant to this Agreement shall be in writing and shall be sufficiently given and shall be deemed given when mailed by first class mail, postage prepaid, addressed as follows:

If to the Town:

Town Manager
Town of Scarborough
P.O. Box 360
Scarborough, Maine 04070-0360

If to the Developer:

Rocco Risbara, III
Peter Michaud
Crossroads Holdings LLC
P.O. Box 485
Scarborough, ME 04070

Either of the parties may, by notice given to the other, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent hereunder.

Section 8.8 Amendments.

This Agreement may be amended only with the concurring written consent of both the parties hereto. If there is a material change in circumstances that impacts either party's ability to perform under the Agreement terms or standards, including but not limited to legislative action of the Town by Town Council vote or referendum that results in a materially negative impact on the Developer's ability to achieve the performance standards set forth in Section 2.3 or achieve the development within the Approved Master Plan, the Town and the Developer agree to meet and negotiate in good faith whether an amendment is warranted.

Section 8.9 Benefit of Assignees or Pledges.

The Town agrees that this Agreement is executed in part to induce assignees or pledgees to provide financing for improvements by or on behalf of the Developer within the District and accordingly all covenants and agreements on the part of the Town as to the amounts payable hereunder are hereby declared to be for the benefit of any such assignee or pledgee from time to time of the Developer's right, title and interest herein.

Section 8.10 Integration.

This Agreement completely and fully supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Town and the Developer relating to the specific subject matter of this Agreement and the transactions contemplated hereby.

Section 8.11 Dispute Resolution.

The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association. In the event of a dispute regarding this Agreement or the transactions contemplated by it, the parties hereto will use all reasonable efforts to resolve the dispute on an amicable basis. If the dispute is not resolved on that basis within sixty (60) days after one party first brings the dispute to the attention of the other party, either party may make a request for mediation. The request shall be made in writing, delivered to the other party, and filed with the person or entity administering the mediation. Any such mediation will take place in Scarborough, Maine or such other location as mutually agreed by the parties. If the mediation is unsuccessful, any party may initiate a lawsuit in a court of competent jurisdiction.

Section 8.12 Tax Laws and Valuation Agreement.

The parties acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town, by entering into this Agreement, is not excusing any non-payment of taxes by Developer. Without limiting the foregoing, the Town and the Developer shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on Developer's property. In addition, the Development Program makes certain assumptions and estimates regarding valuation, depreciation of assets, tax rates and estimated costs. The Town and the Developer hereby covenant and agree that the assumptions, estimates, analysis and results set forth in the Development Program shall in no way (a) prejudice the rights of any party to be used, in any way, by any party in either presenting evidence or making argument in any dispute which may arise in connection with valuation of or abatement proceedings relating to Developer's property for purposes of ad valorem property taxation or (b) vary the terms of this Agreement even if the actual results differ substantially from the estimates, assumptions or analysis.

Section 8.13 Progress Updates.

The Developer agrees to provide a written report and appear before the Town Council at a public meeting on annual basis before the end of CEA Years 1 through 4 for the purpose of providing an update regarding the status and progress of the Developer's project. Such report for each CEA Year must contain the following components:

- Percent completion toward next applicable performance measure(s);
- Complete assessment of infrastructure buildout;
- Outlook of work to be accomplished before the next update;
- Recitation of all conditions restricting non-residential development and initiatives being undertaken to promote non-residential development; and
- Recitation of all conditions restricting satisfactory progress towards fulfillment of the requirements set forth in Sections 2.3(b)(2), 2.3(b)(3) and 2.3(b)(5) herein, including any zoning restrictions.

As a part of the annual updates in CEA Years 1 to 5, the Town shall update the Developer on progress made pursuant to the public processes contemplated in Sections 8.14 and 8.15 below. The Town shall also participate in the preparation and presentation of the reports required under this Section to provide to the Developer and the Town Council all information available to it regarding assessment values, permits issued, zoning amendments, Town initiatives to promote non-residential development, and any other information traditionally within the custody of the Town that is relevant to the reports required hereunder.

Before the end of CEA Year 5 (on or before March 31, 2024) there shall be a more formal review of the Developer's project status. In addition to the reporting requirements above, this review will focus on the progress of non-residential build out, infrastructure and roads/utilities and also to evaluate the pace and mix of the residential build out. The evaluation will provide both parties with opportunity to validate and revise financial assumptions and modeling underlying this Agreement. It will include specific reporting on the key performance metrics enumerated in Section 2.3(b), provided that the Developer shall not be required to share proprietary information related to anticipated projects or other development as part of this reporting requirement. This review may be used for revisions to the Agreement as appropriate and mutually agreed, including current and future funding and payout formulas and timing.

For the remaining term of this Agreement the Developer agrees to provide updates, using the same reporting requirements as CEA Years 1- 4, on at least a biannual basis.

Section 8.14 Downtown Project Process.

The Town agrees to undertake a public process to define and refine the elements and costs of a Downtown, such process to be completed no later than the end of CEA Year 5 (March

31, 2024). It is the expectation of both parties that the Developer will be a prominent participant in such process. The Developer agrees to reserve land within the Developer Property for the inclusion of and suitable for a Downtown within the Approved Master Plan until March 31, 2024. This time period may be extended if the process is underway and the parties agree to a specified extension term in writing. Following the public process, the parties may decide to commit to a new or amended credit enhancement agreement.

Section 8.15 Community Center Process.

The Town agrees to undertake a public process to define and refine the elements and costs of a Community Center, such process to be completed no later than CEA Year 5(March 31, 2024). It is the expectation of both parties that the Developer will be a prominent participant in such process. The Developer agrees to reserve land within the Developer Property for the inclusion of and suitable for a Community Center incorporated into the Downtown area and identified within the Approved Master Plan until March 31, 2024. Following the public process, the parties may decide to commit to a new or amended credit enhancement agreement.

Section 8.16 School Building Process.

The Town agrees to undertake a public process to define and refine the elements and costs of a school building project to be located on the Developer Property, such process to be completed no later than CEA Year 5 (March 31, 2024). It is the expectation of both parties that the Developer will be a prominent participant in such process. The Developer agrees to reserve land within the Developer Property for the inclusion of a site suitable for a school and associated supporting land within the Approved Master Plan. This time period may be extended if the process is underway and the parties agree to a specified extension term in writing. Following the process, the parties may decide to commit to a new or amended credit enhancement agreement.

*Scarborough Downs Credit Enhancement Agreement
Execution Copy*

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

Yolanda Justice

By: *Thomas P. Hall*
Name: Thomas Hall

Its Town Manager, authorized pursuant to
Town Council vote on November 28, 2018

WITNESS:

CROSSROADS HOLDINGS LLC

By: _____
Name: _____
Its _____

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 November 28, 2018

WITNESS:

CROSSROADS HOLDINGS LLC



By: 

Name: Rocco C. Richardson III

Its manager



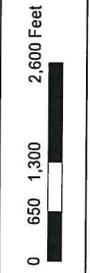
Document Path: \\scc\scadmin\GIS\TIF District\Drawings\TIFD001A.dwg

Exhibit A

Scarborough Downtown Omnibus TIF District

Total of 955.06 Acres

Proposed TIF District
Print Date: 10/25/2018



Disclaimer: The data employed 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 characteristics of the data. The data is provided as is and is not intended for use in any legal proceeding, or for any other purpose. The user assumes all responsibility for any errors, omissions, or damages, or for any liability arising from the use of the data. The data is provided for informational purposes only and is not intended for use in any legal proceeding, or for any other purpose. The user assumes all responsibility for any errors, omissions, or damages, or for any liability arising from the use of the data.

Town Of
Scarborough
Maine
<http://www.sccboroughmaine.org>



Exhibit B to the Credit Enhancement Agreement

Print Date: 12/6/2018



2,600 Feet

1,300

650

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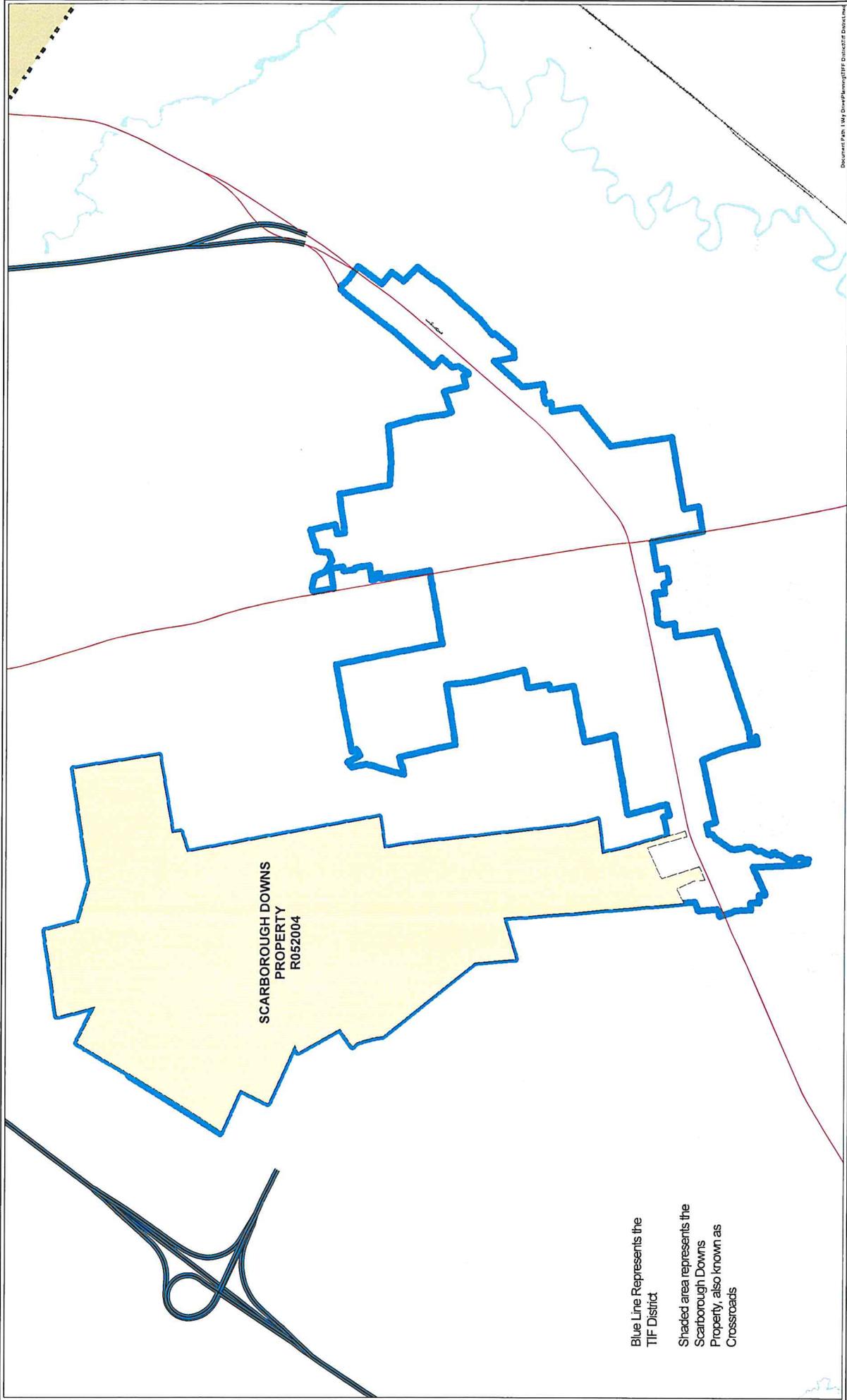


Town Of Scarborough
Maine
<http://www.scarborough.me.us/tipwr>



Blue Line Represents the TIF District
Shaded area represents the Scarborough Downs Property, also known as Crossroads

SCARBOROUGH DOWNS
PROPERTY
R052004



AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 23-119. Move approval of the first reading on the proposed amendment to the Official Zoning Map, for a portion of R052006 and U056001, being an approximately 9.4-acre parcel located off of Haigis Parkway, currently zoned Haigis Parkway (HP) to Crossroads Planned Development (CPD) reading and schedule public hearing and second reading for Wednesday, November 8, 2023. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/18/2023 – Vote:

First Reading/Vote

11/08/2023

Public Hearing

11/08/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Order No. 23-119.

SUBJECT:

First reading and schedule public hearing and second reading on the proposed amendment to the Official Zoning Map, for a portion of R052006 and U056001, being an approximately 9.4-acre parcel located off of Haigis Parkway, currently zoned Haigis Parkway (HP) to Crossroads Planned Development (CPD). [*Planning Director*]

PURPOSE:

To consider a zoning change request for approximately 9.4 acres of property located off of Haigis Parkway.

BACKGROUND:

On September 6, 2023, Town Council authorized the Town Manager to enter into a purchase Option Agreement with Crossroads Holdings LLC for the purchase of land for a new Unified Primary School. The agreement has a number of buyer obligations that the Town must complete as a condition of closing. In particular, the Town has committed to advancing a change to the Zoning map to include additional parcels of land into the CPD as well as a text change to the CPD regarding buffers for residential and school uses.

ZONING COMPARISON:

The HP district was established to be one of the gateways into Scarborough, and anticipates high quality uses such as office parks, hotels, small scale retail, convention centers, places of cultural and civic assembly, high technology and research, and multi-family housing as part of mixed-use development. The development standards are intended to encourage a high quality of campus-style landscape and architectural design, preservation of natural features, integration of pedestrian circulation, and interconnection of open spaces and resource protection areas.

The CPD district was established 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 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. The maximum density of the CPD is 20 units per acre.

The overall purpose of both zoning districts to provide for mixture of non-residential and multifamily or mixed-use development are very similar in nature. The residential density of the CPD district is significantly higher than the HP District. The CPD permits up to 20 units per acre while the HP District permits up to 5 units per acre. Both districts utilize density factors for bedroom size. Both districts include performance measures in place requiring 100' (CPD)

and 50' (HP) buffers for non-residential uses adjacent to residential uses and Planned Development and Site Plan standards.

Planning Board Recommendation:

The Ordinance requires that the Planning Board give its recommendation to the Town Council regarding the land use implications of the request.

At the meeting on September 18, 2023, the Planning Board held a public hearing and made a recommendation to Town Council 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.

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- Planning Board Public Hearing and Recommendation: September 18, 2023
- First Reading before the Town Council: October 18, 2023

PROPOSED ACTION:

Move approval of the first reading on Order 23-119 and schedule a public hearing and second reading For Wednesday, November 8, 2023.

ATTACHMENTS:

- Planning Board Staff Report
- Planning Board Recommendation
- Zoning Exhibits and Draft Official Zoning Map
- Section XVIIIIB Haigis Parkway District
- Section XXC CPD District

**Zoning Request Staff Report
Planning Board Public Hearing September 18, 2023**

Submittal Type: Rezoning for a portion of R052006 and U056001 being approximately 9.4 acres from HP to CPD

Location: Vacant Parcel off of Preservation Way

Applicant: Town Initiated

ACTION REQUIRED:

Hold a public hearing and make a recommendation to Town Council for the zoning change request for a portion of R052006 and U056001, being an approximately 9.4-acre parcel located off of Haigis Parkway, currently zoned Haigis Parkway (HP) to Crossroads Planned Development (CPD).

BACKGROUND:

At the regular public meeting on September 6, 2023, Town Council authorized the Town Manager to enter into a purchase Option Agreement with Crossroads Holdings LLC for the purchase of land for a new Unified Primary School. The agreement has a number of buyer obligations that the Town must complete as a condition of closing. In particular, the Town has committed to advancing a change to the Zoning map to include additional parcels of land into the CPD as well as a text change to the CPD regarding buffers for residential and school uses.

ZONING COMPARISON:

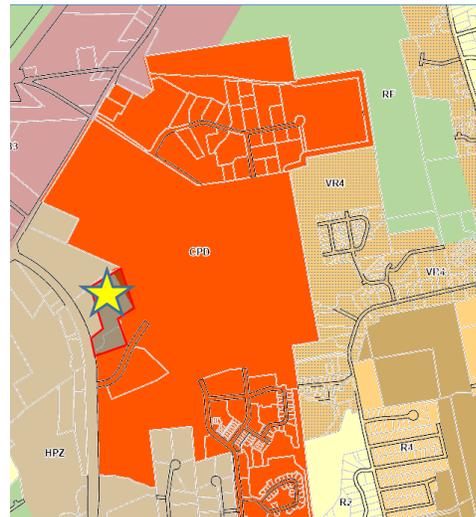
The HP district was established to be one of the gateways into Scarborough, and anticipates high quality uses such as office parks, hotels, small scale retail, convention centers, places of cultural and civic assembly, high technology and research, and multi-family housing as part of mixed-use development. The development standards are intended to encourage a high quality of campus-style landscape and architectural design, preservation of natural features, integration of pedestrian circulation, and interconnection of open spaces and resource protection areas.

The CPD district was established 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 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. The maximum density of the CPD is 20 units per acre.

The overall purpose of both zoning districts to provide for mixture of non-residential and multifamily or mixed-use development are very similar in nature. The residential density of the CPD district is significantly higher than the HP District. The CPD permits up to 20 units per acre while the HP District permits up to 5 units per acre. Both districts utilize density factors for bedroom size. Both districts include performance measures in place requiring 100' (CPD) and 50' (HP) buffers for non-residential uses adjacent to residential uses and Planned Development and Site Plan standards.

ADJACENT ZONING AND USES:

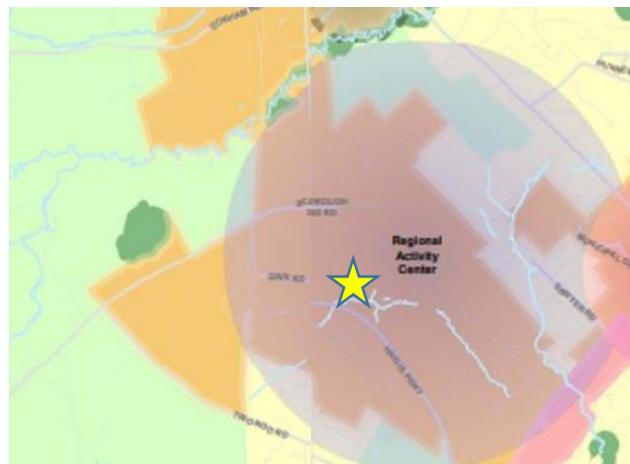
North: HP Future Acura Dealership and CPD
South: CPD - Haigis District and Market Street
East: CPD – Mix of Uses
West: HP – Beacon at Gateway Apartments



COMPREHENSIVE PLAN:

The Town of Scarborough Comprehensive Plan identifies this location as part of a Regional Activity Center.

REGIONAL ACTIVITY CENTER - Scarborough Downs has been identified as a potential development site that provides tremendous opportunity to create an authentic and complete town center within Scarborough that could have regional draw – a mixed-use and walkable area where people live, shop, work, and play. This would be the most intensely developed area of the town. The Regional Activity Center includes the Scarborough Downs property as well as other parcels generally within a one-mile radius. This radius of possible development includes the Haigis Parkway properties where infrastructure has already been provided with easy access to I-95.



PUBLIC NOTIFICATION:

No request for amendment or change shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be given at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Scarborough.

Publication of this zoning change was included in the Portland Press Herald on September 7, 2023 and September 12, 2023. Abutter notification was mailed to 11 adjacent property owners on September 7, 2023.

STAFF RECOMMENDATION:

The Planning Director or designee shall review all requests for amendments or changes and make a recommendation to the Planning Board and/or Town Council in regards to the Comprehensive Plan.

The proposed rezoning is in compliance with the Comprehensive plan. The zoning change request is reasonable given the surrounding uses and the future potential for the immediate area. Staff recommends approval of the requested zoning change.

PLANNING BOARD ACTION:

The Planning Board shall review all requests for amendments or changes and make its recommendations to the Town Council regarding the land use implications of the request. If a substantial change or alteration is contemplated by the Town Council, approval by the Town Council shall not be granted without submitting the proposed changes to the Planning Board for comment.

ATTACHMENTS:

Town Manager Memo Initiating Change
Chapter 405 Section XVIII B Haigis Parkway District
Chapter 405 Section XXC CPD District
Official Zoning Map Exhibit
Newspaper Notification Proof
Abutter List

NEXT STEPS:

- Town Council Public Hearing – October 4

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.

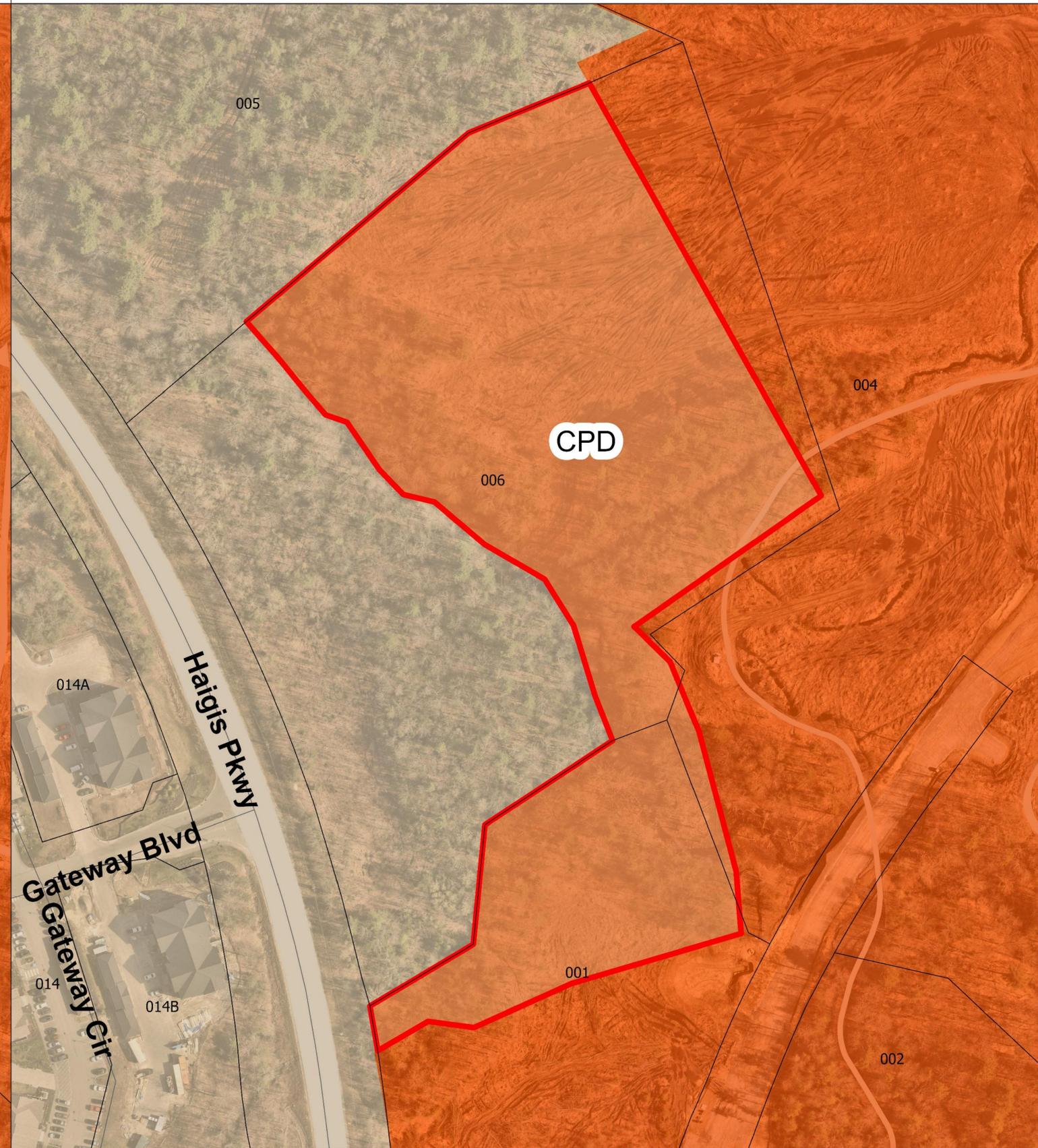
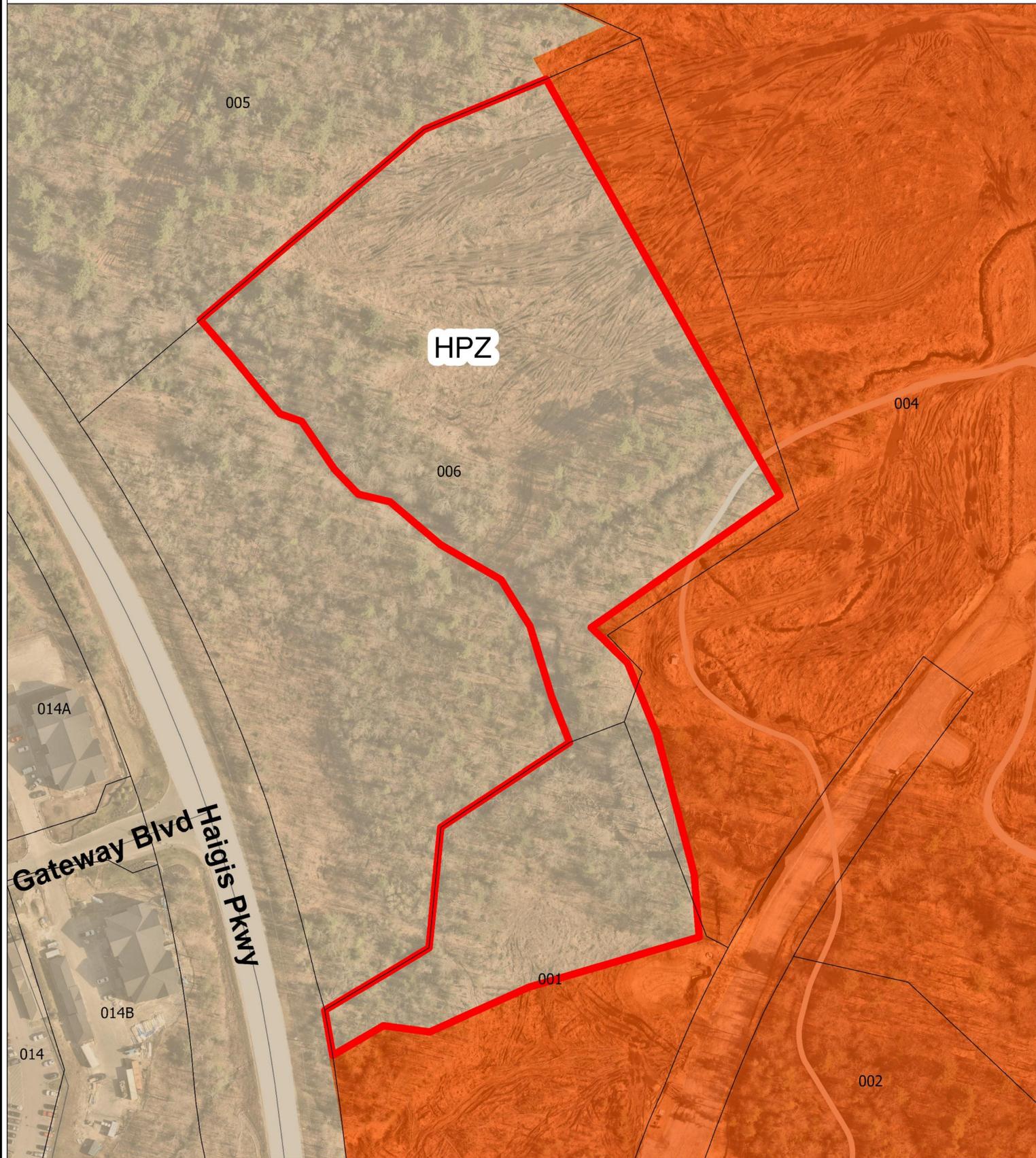
Sincerely,



Autumn Speer
Director of Planning & Code Enforcement

Current Zoning Haigis Parkway(HPZ)

Proposed Zoning Crossroads Planned Development(CPD)



Town Of Scarborough Maine Official Zoning Map

www.scarboroughmaine.org

Zoning Classifications

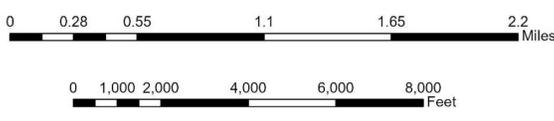
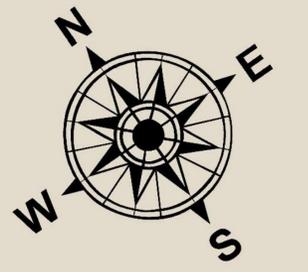
Beach/Mixed Use	Coastal Residential 1	Residential 4	Resource Protection	Town & Village Centers 4
Regional Business	Haigis Parkway Busines	Residential 4A	Residential & Professional	Village Residential 2
General Business	Industrial	Rural Residence & Farming	Traditional Neighborhood	Village Residential 4
Business Office - Research District	Light Industrial	Rural Residence Farming & Manufacture	Town & Village Centers	
Coastal Mixed Use 1	Residential 2	Running Hill Mixed Use District	Town & Village Centers Transition 2	
Crossroads Planned Development	Residential 3	Running Hill Transition District	Town and Village Centers Fringe	

Contract Zones

Contract Zone 1	Contract Zone 11	Contract Zone 2	Contract Zone 5	Contract Zone 8
Contract Zone 10	Contract Zone 12	Contract Zone 3	Contract Zone 7	Contract Zone 9

Zoning Overlays

Industrial Overlay	Stream Protection 1	Aquifer Protection Overlay
Shoreland Zoning	Stream Protection 2	



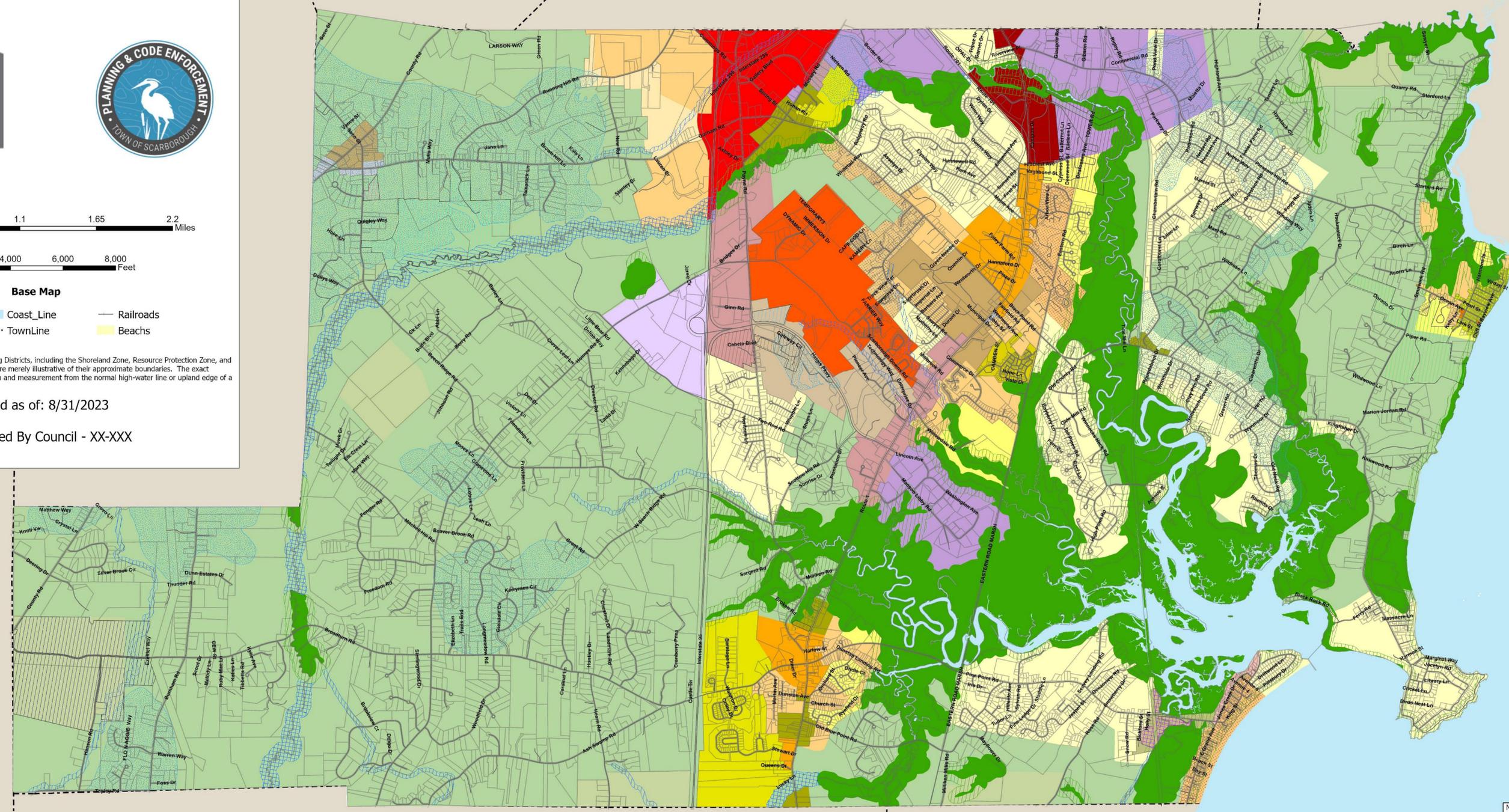
Base Map

ParcelLine	Coast_Line	Railroads
Roads	TownLine	Beachs

Note: The depictions of the boundaries of the Zoning Districts, including the Shoreland Zone, Resource Protection Zone, and Stream Protection District on this GIS Zoning Map, are merely illustrative of their approximate boundaries. The exact boundaries shall be determined by on-site inspection and measurement from the normal high-water line or upland edge of a wetland.

Revised as of: 8/31/2023
As Approved By Council - XX-XXX

Previous Zoning Amendments:
Resolution 23-001 - Approved 4/19/2023
Resolution 23-065 - Approved 7/19/2023



Map Prepared By:
 Micah Warnock, GISP
GIS Administrator

Attested to by:

TOWN CLERK

DATE

See "Town of Scarborough Maine Official Shoreland Zoning Map" for Shoreland zoning districts.

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP [Amended 05/20/2020; 02/17/2021]

I. BASIC STANDARDS

A. PURPOSE

The land immediately surrounding the Haigis Parkway between Payne Road and Route One is unique in its topography, water features, visibility, accessibility and road frontage. Its proximity to Exit 42 makes it highly desirable as a regional center for employment, entertainment, and cultural activities. The Haigis Parkway District is intended to be one of the gateways into Scarborough, and anticipates high quality uses such as office parks, hotels, small scaled retail, convention centers, places of cultural and civic assembly, high technology and research, and multi-family housing as part of mixed-use development. The standards listed below are intended to encourage a high quality of campus-style landscape and architectural design, preservation of natural features, integration of pedestrian circulation, and interconnection of open spaces and resource protection areas. The Haigis Parkway District is a significant commercial and mixed-use growth area off of Exit 42 of the Maine Turnpike and a vital complement to the Oak Hill town center.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES [Adopted 02/17/2021]

Depending on the acreage, scale, uses, and design of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section or may be reviewed as a Planned Development in accordance with the procedures set forth in Section VIIE. Additional Requirements for Planned Developments and applying the qualitative standards and design criteria for Planned Developments set out in this Section.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing any of the following are required to be reviewed as Planned Developments in accordance with Section VIIE. and conform to the applicable standards of this section for Planned Developments:

- a. Develop or redevelop five (5) acres or more of land,
- b. Exceed the space and bulk standards for conventional developments, or
- c. Establish a use that is allowed only as part of a Planned Development.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

NON-RESIDENTIAL USES [Amended 06/20/18; Amended 02/17/2021]

The following non-residential uses are permitted in both conventional and planned developments:

1. Professional offices
2. Financial, insurance, and real estate offices
3. Business services and business offices
4. High technology facilities, subject to the performance standards of Section IX(M) of this ordinance

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

5. Research, development and light industrial with no outdoor storage, subject to the performance standards of Section IX(M.1) of this ordinance
6. Hotels and motels, provided all guest rooms are accessed by interior corridors
7. Restaurants, with no drive-through service [Amended 02/17/2021]
8. Group day care homes, nursery schools and day care centers
9. Retail sales and services with less than 20,000 square feet of retail floor area per unit of occupancy, excluding car washes, automobile repair and service facilities, and outdoor sales and services
10. Municipal buildings and uses
11. Public utility facilities
12. Accessory uses (excluding outdoor storage) including accessory agricultural activities subject to the performance standards of Section IX.P.
13. Health clubs
14. Personal services
15. Non-municipal government offices
16. Medical/diagnostic facilities
17. Places of assembly, amusement, recreation, culture or government, exclusive of arcades, video arcades, amusement parlors, video gambling, casino gambling and off-track betting, fully enclosed within a building or buildings
18. Golf courses and campgrounds
19. Educational institutions
20. Places of worship and adjunct uses, places of worship
21. Small-scale energy facilities, subject to the performance standards of Section IX(W)
22. Commercial outdoor recreation, subject to the performance standards of Section IX(U)
23. Telecommunication Facilities
24. Food processing facilities, subject to the performance standards of Section IX.(M.2.)
25. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance.[adopted 10/07/15]
26. Climate Controlled/Internal Access Storage Facility, subject to Section IX(H) Performance Standards and only within an approved subdivision. [10/04/17]
27. Marijuana Manufacturing Facility. [Adopted 01-08-2020]
28. Marijuana Testing Facility. [Adopted 01-08-2020]

The following residential uses are permitted only in planned developments:

29. Boarding care facilities for the elderly, subject to the performance standards of Section IX(C)
30. Nursing homes
31. Dwelling units in a mixed-use building, limited to a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
32. Multi-family dwellings, limited to a maximum building footprint of 12,500 square feet and only as part of a mixed-use planned development as specified under subsection II.C.5.
33. Live / work units and only as part of a mixed-use planned development as specified under subsection II.C.4.
34. Restaurant with drive-through service in a mixed use building only as part of a planned development as specified under subsection II.C.6 [Adopted 02/17/2021]

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

C. SPACE AND BULK STANDARDS

The following space and bulk regulations are applicable to CONVENTIONAL DEVELOPMENTS:

1. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential and Mixed-Uses	40,000	200 for lots abutting Haigis Parkway and Payne Rd; 50 for lots not abutting Haigis Parkway and Payne Rd	50

2. Minimum Yard Standards

Abutting Streets	Minimum Front Yard (ft.)	Minimum Side and Rear Yard (ft.)
Payne Road and Haigis Parkway	25	15 ^{1&2}
All other streets	15	15 ^{1 & 2}

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² When a site abuts a residential district the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

3. Maximum Building Coverage, Lot Coverage, and Building Height.

Use Types	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height (ft.)
Non-Residential and Mixed Uses	50%	75%	75 feet [Amended 05/20/2020]
Residential Uses	50%	75%	45 feet [Amended 05/20/2020]

The following space and bulk regulations are applicable to PLANNED DEVELOPMENTS:

4. Minimum Lot Area and Dimensions

Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Non-Residential, Residential and Mixed-Uses	40,000	200 for lots abutting Haigis Parkway and Payne Rd; 50 for lots not abutting Haigis Parkway and Payne Rd	50

5. Minimum Yard Standards – Determined by the Planning Board under Section II.C.3, flexible yard standards, except that when a site abuts a residential district the minimum yard shall be 50 ft. and the buffering requirements of Section VIII of this Ordinance shall apply. [Amended 02/17/2021]

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height [Amended 02/17/2021]

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Maximum building height
Determined by the Planning Board under Section II.C.2 , flexible lot coverage	Determined by the Planning Board under Section II.C.2 , flexible lot coverage	75' [Amended 05/20/2020]

RESIDENTIAL DENSITY REGULATIONS

Within this zoning district the Residential Density Factors in Section VIIC(A) of this Ordinance shall apply to live/work, dwelling units in a mixed-use building, and multi-family dwellings.

7. Maximum Residential Density –

Live/work units, dwelling units located in a mixed-use building, and multifamily dwelling units	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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II. ADDITIONAL DEVELOPMENT STANDARDS

A. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS [Amended 02/17/2021]

To ensure attractive, high quality development that is designed and developed in a manner that minimizes impacts on the community and adjacent properties, all uses are subject to following performance standards:

1. Off-Street Parking:

- a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.
- b. In addition, the establishment of off-street parking shall be located to the side or rear of the principal building on the site to the extent practical. In a development with more than one principal building, the off-street parking shall be located to the side or rear of the principal building or group of principal buildings located closest to the abutting street(s) to the extent practical. If locating the parking to the side or rear of the principal building(s) is not practical due to the shape, size or topography of the lot or the building(s) design or orientation, any parking between the buildings and the abutting

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

street(s) shall be screened by landscaping, preservation of existing vegetation and natural features, berms, hardscape, or a combination of these approaches. The Planning Board shall use the Site Plan Review Ordinance and the Commercial Design Standards in reviewing and approving the exact location and design of the off-street parking and its corresponding landscaping and screening.

- c. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses.

2. Commercial Design Standards

All development in the HP District must be consistent with the Design Standards for Scarborough's Commercial Districts. [Adopted 02/17/2021]

3. Signs

Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance. [Amended 02/17/2021]

4. Vehicular Access

- a. Vehicular access to and from Payne Road and Haigis Parkway shall be strictly controlled to limit the number of curbs cuts along these roadways, and in the case of the Haigis Parkway, to curb cuts that are approved by Maine DOT. In addition, provisions shall be made for street and driveway interconnections to abutting properties to enable cross connections, the shared use of curb cuts and intersections and to reduce the overall number of curb cuts on all streets.
- b. There shall be no vehicular access to adjacent residential districts, except for emergency vehicle access approved by the Fire Department and Planning Board.

5. Visual Impacts

Visual impact of structures as viewed from adjacent streets shall be taken into consideration during Site Plan Review. Any application for site plan review within the Haigis Parkway District shall be accompanied by graphic representations of how the development will look upon completion, utilizing artists' renderings, photo manipulation, computer generated imaging or similar techniques, unless the Planning Board determines that the location, scale or nature of the proposed development does not warrant such graphic representations in order for the Planning Board to evaluate the application. [11/06/02]

6. Landscape and Streetscape Buffer

Landscaping and streetscape buffer strips shall be used throughout the district to reinforce the parkway landscape, provide an attractive streetscape on any new streets, and provide buffering and screening between uses and development sites. To this end, a landscaped or naturally vegetated buffer strip shall be established and/or maintained along the property line(s) of a lot where it abuts a street. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts Haigis Parkway and a minimum of fifteen (15) feet to all other streets, and shall be designed to separate the development from the street, enhance

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

the visual environment, and help screen parking from view from the street. The buffer strip shall be maintained as a naturally vegetated area with native, non-invasive vegetation where it is adjacent to water bodies, wetlands, or other areas with significant natural resource value unless an alternative treatment is approved by the Planning Board as part of the site plan review. In other areas, the buffer strip must be landscaped in accordance with the Site Plan Review Ordinance and Design Standards for Scarborough's Commercial Districts. The buffer strip may be crossed by access roads or driveways and may include pedestrian and public utility facilities provided that the buffer function of the strip is maintained. Parking, internal roadways, structures, and storage or service facilities may not be located within the buffer strip.

B. PLANNED DEVELOPMENT STANDARDS

The Haigis Parkway (HP) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the HP District. This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VII(E) Planned Development.

1. Walkable, Pedestrian-Oriented Design Required of all Planned Developments within the HP District

Appropriately designed and oriented sidewalks and other pedestrian amenities are critical to promote walk-ability, pedestrian activity, and a sense of place within planned developments in the HP District. Sidewalks shall be designed to provide linkages and continuity between each use and building within a planned development as well as existing or future connections to abutting uses and/or the pedestrian network along the adjacent roadways.

2. Unified and Coordinated Building Architecture, Signage, and Lighting

Development and redevelopment of larger parcels in the HP District requiring Planned Development Review shall exhibit a high level of architectural planning and design. Planned Developments with multiple buildings and/or building lots shall establish unified and coordinated architectural themes that are exhibited throughout the development. Likewise, a coordinated signage and lighting plan shall be required of the Planned Development that establishes a theme and sense of place within the development.

3. Open Space and Natural Resource Conservation

Planned Developments shall be designed with respect for the natural resources and topography of the site. Significant wetlands, vernal pools and critical wildlife habitat areas shall be avoided, buffered and conserved. These significant natural resource areas that are greater than one (1) acre in size shall be conserved as common open space, while smaller significant natural resource areas may be incorporated into individual building lots or development sites. Open space lands may include a trail system for walking, hiking, biking or similar activities if such a trail system can be accommodated without adverse impact to the natural resources.

4. Required of Planned Developments Incorporating Live/Work Units, Residential Dwellings within a Mixed-Use Building and/or Multi-family Dwellings [amended 03/06/19]

Live/work units, residential dwellings within a mixed-use building and multifamily dwellings are allowed as part of a planned development provided they meet the requirements of this section. In

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

reviewing a planned development with residential uses, the Planning Board shall only permit residential uses that are designed in a manner and sited in locations that are appropriate and conducive to housing. Accordingly, the Planning Board shall find that residential uses within a planned development meet each of the following standards:

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

5. Required of Planned Developments Incorporating Boarding Care Facilities for the Elderly and/or Nursing Homes

Boarding care facilities for the elderly and nursing homes are allowed within this district as planned developments provided they meet the requirements of this section the following standards:

- a. Given the HP District is principally a business district, boarding care facilities for the elderly and nursing homes shall be adequately screened and buffered from adjacent properties and non-residential uses. This buffering shall provide a visual screen as well as minimize the impacts of noise or odors that may be generated by abutting uses. Buffering may include the preservation of natural vegetation, new landscaping, berms or other means to fulfill this standard.
- b. The proposed facility shall be sufficiently setback and/or buffered from major roadways so as to ensure a safe, sanitary, and healthful environment for residents.

SECTION XVIII.B. HAIGIS PARKWAY DISTRICT, HP

- c. If other non-residential uses are proposed within the same planned development, these other uses must be compatible with a boarding care facility or nursing home with respect to noise, odors, intensity of use, health and safety, and aesthetics.

6. Required of Planned Developments Incorporating Restaurant with Drive-Through Service in a Mixed-Use Building [Adopted 02/17/2021]

Restaurants with drive-through service are allowed within this district as planned developments provided they meet the requirements of this section the following standards:

- a. Restaurant with drive-through service use may not exceed 50% of the gross leasable area of the building.
- b. Only one restaurant with drive through service is permitted in a Planned Development.
- c. The entire building must be located within one thousand and two hundred fifty (1,250) feet of the point of intersection of the centerlines of Payne Rd and Haigis Parkway.
- d. The parcel on which the use is located shall be a minimum of one acre.
- e. A minimum of 300 feet drive aisle must be maintained between the required stacking lane for the drive-up ordering station and the intersection with the public roadway.

C. FLEXIBLE DESIGN STANDARDS FOR PLANNED DEVELOPMENTS

The following flexible design standards may be applied to a Planned Development project, subject to Planning Board review and approval.

1. On-street parking – On-street parking is a primary characteristic of compact and pedestrian friendly development. On-street parking can provide spaces directly in front of buildings that are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using a sidewalk and vehicular traffic; and can slow vehicular traffic in the street. A planned development may include new streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

2. Flexible lot coverage – The Planning Board shall determine the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces in a planned development if the planned development includes “green building” technology or approaches that compensate for the additional lot coverage proposed. Examples of “green building” approaches may include green roof systems, porous pavement, photovoltaic and other forms of distributed energy, and other techniques as reviewed and approved by the Planning Board. If the planned development does not include green building technology, then the maximum percent of lot coverage by buildings and maximum percent of lot coverage by buildings and other impervious surfaces shall be governed by subsection I.C.3. of this district

3. Flexible yard standards - The Planning Board shall determine the yard requirements for a planned development by applying the standards of subsection II.B In reviewing a planned development, the Planning Board may use the Yard Standards under subsection I.C.2. as a guideline, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to the street than conventional development to meet the standards of subsection II.C. and further the purpose of this district.

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

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; Amended 05/16/18; Amended 05/20/2020; Amended 04/21/2021]

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.
20. Hotels and motels.
21. Business and professional offices.
22. Financial, insurance and real estate offices.

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

- 23.** Business services.
- 24.** Medical/diagnostic facilities.
- 25.** Health clubs.
- 26.** Non-municipal government buildings and uses.
- 27.** Elementary and secondary schools.
- 28.** Instructional and educational services.
- 29.** Libraries.
- 30.** Museums.
- 31.** Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions.
- 32.** Funeral homes.
- 33.** Places of worship.
- 34.** Adjunct uses, Place of worship.
- 35.** Golf courses.
- 36.** 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.
- 37.** 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.

- 38.** Home occupations.
- 39.** High technology facilities.
- 40.** Family day care homes.
- 41.** Group day care homes and day care facilities.
- 42.** Nursery schools.
- 43.** Passenger transportation facilities.
- 44.** Small-scale energy facilities.
- 45.** Telecommunication facilities.
- 46.** 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]
- 47.** Research, development and light industrial. [Adopted 05/16/18]
- 48.** 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]

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

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]

- 49.** Manufacturing and assembly.
- 50.** Food processing facilities.
- 51.** Mini-warehouse/storage facilities.
- 52.** Contractors offices, shops and storage yards.
- 53.** 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.
- 54.** Sale, rental and/or service of heavy equipment or specialized motor vehicles (other than passenger cars).
- 55.** Marijuana Manufacturing Facility. [Adopted 01/08/2020]
- 56.** Marijuana Testing Facility. [Adopted 01/08/2020]

C. SPECIAL EXCEPTIONS (CPD)

There are no special exception uses in the Crossroads Planned Development District.

D. SPACE AND BULK REGULATIONS (CPD)

1. Conventional Developments

The space and bulk regulations of the B2 Regional Business District are applicable to all conventional developments.

2. Planned Developments

The space and bulk standards applicable to planned developments and the individual lots and buildings within an approved planned development shall be the development standards set forth in the approved Master Plan for the planned development subject to the following limits:

Maximum Net Residential Density	The Residential Density Factors in Section VIIC. apply to all residential uses in this district. The maximum allowed residential density is 20 units per net residential acre.
Maximum Building Height	75 feet, except that any portion of a building located within 150 feet of a residential district shall be limited to 35 feet in height. [Amended 05/20/2020]
Maximum Impervious Surface Ratio	75 percent

All buildings and related parking and access drives must be setback from the boundary of the CPD District in accordance with the following standards and the minimum required setback area shall be treated as a buffer in accordance with Section VIII, if applicable. This requirement shall not preclude the construction of streets or utilities that cross the buffer strip. (Amended 05/16/18)

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

Adjacent Zoning District	Minimum Setback
A “Residential District” or “Natural Resource District”	100 feet

E. OFF-STREET PARKING (CPD)

Off-street parking shall be provided in accordance with the requirements of Section XI. In approving the development standards set forth in the Master Plan for a planned development including the Conceptual Development Master Plan for a Planned Mixed-Use Development, the Planning Board may allow the provision of fewer off-street parking spaces than is required by Section XI., including considerations for reduced or shared parking, if the Planning Board finds that less parking will adequately serve the development taking into account the provision of on-street or other public parking, provisions for long-term support of public transit to serve the development, provisions for pedestrian and bicycle movement within and to/from the development, and/or the type and mix of uses within the development and their demonstrated parking demand.

F. SIGNS (CPD)

Signs in the CPD District shall be regulated in accordance with the requirements of Section VIII E.

II. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES (CPD)

Depending on the acreage, type of use, and design of a proposed project, a development/redevelopment project within this district may undergo: **1)** a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section; or **2)** may be reviewed as a Planned Development in accordance with the procedures set forth in Section VIII E. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section; or **3)** if the project involves a Planned Development involving a parcel with more than fifty (50) acres, may be reviewed as a Planned Development under a modified version of the procedures set forth in Section VIII E. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section;

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant’s option.

2. Planned Developments. Projects that are proposing to develop or redevelop five (5) acres or more of land are required to be reviewed as Planned Developments in accordance with Section VIII E. and conform to the applicable standards of this section for Planned Developments unless the parcel involved has more than fifty (50) acres and the owner/applicant chooses to use the modified review procedures in B.

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3. Large-Scale Planned Developments. Projects that include a Planned Development on a parcel with more than fifty (50) acres may be reviewed and developed as a Planned Development in accordance with Section VIIE. as modified in B. Review Procedures for Large-Scale Planned Mixed-Use Developments and conform to the applicable standards of this section for Planned Developments.

B. REVIEW PROCEDURES FOR LARGE-SCALE PLANNED DEVELOPMENTS (CPD)

A Large-Scale Planned Development may be reviewed and approved in accordance with the following procedure which modifies the procedures for the review of a Planned Development set forth in Section VIIE. Additional Requirements for Planned Developments:

1. Two Step Process. Any development involving a Large-Scale Planned Development may be reviewed under a two-step process. The first step is the preparation, review, and approval of a Conceptual Infrastructure Plan. This plan must cover all land held in common ownership as of May 1, 2013. The second step is the preparation, review, and approval of a Site Inventory and Analysis and Master Plan for the development of the project. The Master Plan can cover the entire holding or a portion of the holding that includes at least fifty (50) acres. The applicant may choose to submit the Site Inventory and Analysis for review prior to the submission of the Master Plan.

2. Conceptual Infrastructure Plan. The purpose of the Conceptual Infrastructure Plan is to provide a preliminary assessment of the development suitability and potential of the entire holding based on available information and to provide a preliminary layout of the key infrastructure elements to serve the entire parcel. This Plan is intended to guide and coordinate the phased development of the project with the recognition that the Plan may be modified as detailed information and design is undertaken.

The Conceptual Infrastructure Plan shall include the following elements:

a. The Site Inventory and Analysis Phase of the Additional Requirements for Planned Developments set out in Section VIIE. This analysis may be based on information about the site and its natural resources that is available from publically available sources including state and federal databases and information available from the Town of Scarborough and local utilities. The expectation is that the Site Analysis Plan prepared as part of this effort will guide the overall utilization of the site and the conceptual planning of the various infrastructure components.

b. A Preliminary Infrastructure Plan as set out in subsection E. of Section VIIE. Additional Requirements for Planned Developments. In addition to the elements included in E. this Plan shall also:

- 1) Identify the planned primary pedestrian network within the development as well as connections to existing pedestrian facilities adjacent to the site,
- 2) Identify areas of the site that should be preserved as open space including provisions to create an interconnected network of green space within the development and that links to preserved or protected open space in the vicinity of the site.

The Conceptual Infrastructure Plan shall be reviewed in accordance with the procedures set out in Section VIIE. Additional Requirements for Planned Developments for the review of the Site Inventory and Analysis Phase.

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

3. Conceptual Master Plan. The Conceptual Master Plan for a Large-Scale Planned Development shall consist of an updated Site Inventory and Analysis based on appropriate field data with respect to the location and extent of natural resources and site features and a Master Plan for the development. These shall be prepared and reviewed in accordance with Section VIII.E. Additional Requirements for Planned Developments.

C. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS (CPD)

1. Commercial Design Standards – All development within the District must be consistent with the Design Standards for Scarborough’s Commercial Districts, with the exception of the uses allowed under subsection D.14.of this district. [amended 05/16/18]

2. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough’s Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

3. Public Sewer Service – All new development or redevelopment within this district shall be served by public sewer.

D. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO PLANNED DEVELOPMENTS

1. Mix of Uses – The intention of the CPD District is that the district will develop with a mix of uses (i.e. retail, office, service, light manufacturing, mixed residential, etc.). The Conceptual Master Plan must address how the proposed development will contribute to this objective either individually or in conjunction with other Planned Developments in the district or development adjacent to the district. While the objective is to encourage Planned Developments that include a mix of uses, the Planning Board may approve a Conceptual Master Plan that does not meet this objective if the applicant demonstrates that the intention of the CDP District as a mixed-use development will be met or will be able to be met on a district-wide basis. After the approval of each Planned Development, the Planning Board will report to the Town Council on the mix of uses in the Planned Development as well as the overall District.

2. Overall Location and Pattern of Development – The overall location and pattern of development within the District must reflect the findings of the Site Analysis Map and Report prepared as part of the Conceptual Infrastructure Plan. Similarly, the overall location and pattern of development within an individual Planned Development must reflect the Site Analysis Map and Report prepared as part of the Conceptual Master Plan.

3. Street Network – The intention of the CPD District is that as development occurs, a coordinated, interconnected street system will be created. This street network must be designed to accomplish the following objectives:

- a) At the overall district level, create a connection through the District from Route One to the Payne Road and to the Haigis Parkway. In addition consideration should be given to

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

connecting the street network to the Gorham Road and Enterprise Drive if feasible. These two connections, if provided, should be designed to provide access to development within the district and should avoid creating direct travel routes that result in the establishment of a “short-cut” through the district.

b) At the Planned Development level, create an interconnected network of streets within the development that allows travel within the development without using collector roads. The network should utilize T- intersections where feasible and avoid the use of dead-end streets or cul-de-sacs.

4. Public Water System – The layout of the overall water distribution system must provide for an interconnected, looped network of mains that avoids dead-ends. This requirement must be met at both the district and Planned Development level unless the Fire Chief approves an alternative layout in conjunction with the Portland Water District.

5. Open Space Network – The intention of the CPD District is to preserve the significant natural resources that exist within the District and to develop an interconnected “green network” throughout the District that links the open spaces within the District and to preserved or protected land in the vicinity of the District. At least twenty (20) percent of the total land area within the District and at least ten (10) percent of the land area within an individual Planned Development shall be set aside and preserved as open space. This can include natural areas, parks or other improved green spaces that are open for use by residents/users of the development or the public, or improved recreational facilities with limited structural development (i.e. golf courses, playing fields, etc.). The land set aside as open space shall generally reflect the Site Analysis Map and Report. As part of the Master Plan for each Planned Development, the provisions for ownership and maintenance of the open space shall be established.

6. Relationship of Buildings to the Street – The intention of the CPD District is to encourage a variety of development patterns and forms with the overall objective of establishing a “village center-like” atmosphere within the District. As a general principle, buildings should be located close to streets with parking located to the side and/or rear of the buildings. A Planned Development shall be designed in a manner that reinforces the CPD District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses. In reviewing and approving the Conceptual Master Plans for individual Planned Developments, the Planning Board must find that the proposed development standards will result in a development that has a “village character” rather than a “suburban commercial” character.

7. Access Management and Interconnections – The development standards for each Planned Development must address the issues of access management and interconnections. Direct vehicular access from individual building sites onto Route One, Payne Road, or new collector streets within the District must be restricted. Site access shall be designed in accordance with the Site Plan Review Ordinance.

8. Streetscape Treatment -- The streetscape along internal streets and driveways within a Planned Development shall exhibit a compact layout, form and scale. The streetscape shall be designed with shade trees on both sides; road widths that are of a compact, urban scale; human-scale street lighting; frequent intersections and crosswalks; and sidewalks. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

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

The streetscape along Haigis Parkway, Route One and Payne Road that border the district shall incorporate a landscaped or natural vegetated buffer strip. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts the Haigis Parkway and fifteen (15) feet when it abuts Route One and Payne Road.

9. Walkable, Pedestrian-Oriented Design – The objective of the CPD District is to create a walkable, pedestrian-oriented environment. This can be accomplished in a variety of ways. Appropriately designed and oriented sidewalks and other pedestrian amenities, are critical to promote walkability, pedestrian activity, and a sense of place within the District. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a Planned Development as well as connections to abutting uses to establish a greater pedestrian network.

10. Place making – A Planned Development must include a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a Planned Development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but are not counted as a “place” unless they are available for public use.

11. On-street Parking – The use of on-street parking within a Planned Development is encouraged. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. A Planned Development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the review process the on-street parking design shall require approval from all applicable Town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of subsection I.E.

12. Dimensional Standards – The minimum lot size, net residential density, building height, yard and setback, and other space and bulk requirements for individual lots and buildings that are part of a Planned Development shall be determined in the Conceptual Master Plan except as limited by the provisions of I.D.2. The development standards must provide for the setback from and buffering of residential uses and zones abutting the CPD District and for the buffering of residential uses that are part of the Planned Development from nonresidential uses within or adjacent to the District. In approving the Master Plan and the development standards, the Planning Board shall assure that the proposed requirements will result in a development that reflects the Town’s vision for the Crossroads as a village center for the Town of Scarborough.

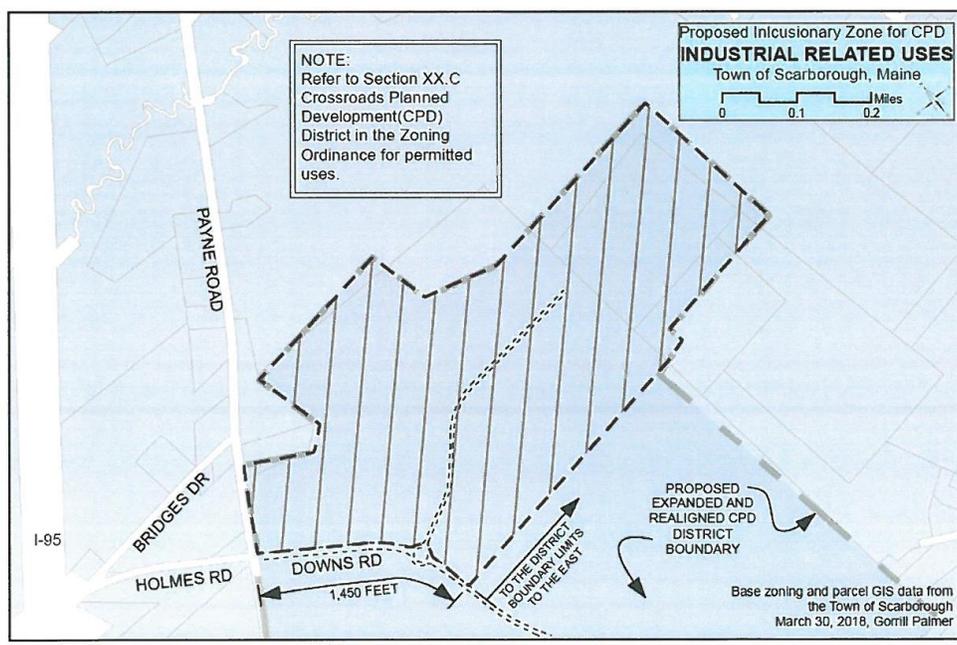
13. Provision of Affordable Housing – A key objective of the Crossroads Planned Development District is the provision of a mix of uses and a mix of housing types. Therefore at least ten percent of the dwelling units in a planned development must qualify as affordable housing in accordance

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

with the definition of affordable housing in this ordinance. This requirement can be met either through affordable housing developments or through providing for affordable units within market-rate housing developments. Since development within a planned development will likely occur incrementally, this requirement must be met cumulatively as development occurs. The initial residential development in a planned development must include affordable housing unless the project has fewer than ten dwelling units. If a housing development provides more than ten percent of its units as affordable or if more than ten percent of the cumulative dwelling units within a planned development are affordable, any balance may be carried forward and applied to future residential development. The Master Plan for the planned development shall address how this requirement will be met and set out any requirements that will be established for assuring the long-term affordability of these units.

14. The land use required to comply with these additional development standards are permitted as part of a planned development with specific standards and limitations on the location within the overall CPD District they are allowed and subject to the buffering requirements below. This inclusionary area within the District is located to the northeast of the Scarborough Downs entrance drive and extending southerly from the Payne Road intersection 1,450 feet and spanning from the Downs Road easterly to the limits of the CPD Zoning District boundary as depicted in the diagram below. The permitted uses specifically allowed within this area are subject to:

- 1) A 250-foot setback from the center line of Payne Road.
- 2) A 250-foot setback from the Downs Road, as depicted on the Approved Conceptual Infrastructure Plan.
- 3) A 100-foot setback and buffer to any adjacent residential district or natural resource district in accordance with subsection D.2. of this District.
- 4) The performance standards of Section IX9(A) of this ordinance.
- 5) The permitted uses specifically allowed within this area shall not be subject to the Design Standards for Scarborough's Commercial District.



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The diagram and description above establish the maximum area allowed for these non-residential uses, but does not bind or require this area to be exclusively developed with these specific uses. The planned development process shall be used to establish the design, buffering details, and extent of these non-residential uses within this inclusionary area and whether this area includes other uses and development allowed district wide.

15. Earthwork, Material Extraction and Construction Activities Incidental to Site Development – Activities that are typical of earthwork, material extraction and construction including, but not limited to the excavation of earthen material and aggregate, material processing, material stockpiling and storage, and similar activities are allowed in accordance with the following performance standards:

- a. Material extraction and processing allowed for under this subsection shall be for the sole purpose of supporting development, site work and the installation of infrastructure located exclusively within the CPD District.
- b. Notwithstanding contrary provisions in the Extractive Industry Ordinance, excavation may occur below the seasonal high-water table for the purpose of creating water features within the development project. Any excavation below 12 inches above the seasonal high-water table shall be in accordance with a plan approved by the Planning Board. This plan shall include the limits, design and final restoration of the excavation area and its functions and values.
- c. The stockpiling and processing of aggregate and earthen materials shall comply with a site plan and operations plan to be reviewed and approved by the Planning Board. This operations plan still include: a description and location of the activity; its proximity to existing development within and outside the District; general hours of operation, methods of operation and safeguards in place to mitigate dust, smoke and other environmental factors, and a restoration plan when applicable.
- d. Any deviation and changes to the Operations Plan must be approved in advance by the Planning Director with consultation with other town staff and departments.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 18, 2023
HYBRID REGULAR MEETING – 7:00 P.M.

Order No. 23-120. Move approval of the first reading to the proposed amendment to the Official Zoning Map, for R053004, being an approximately 35.8-acre parcel located off of Preservation Way, currently zoned Village Residential 4 (VR-4) to Crossroads Planned Development (CPD) and schedule a public hearing and second reading for Wednesday, November 8, 2023. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/18/2023 – Vote:

First Reading/Vote

11/08/2023

Public Hearing

11/08/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: October 18, 2023

ACTION ITEM: Order No. 23-120.

SUBJECT:

First reading and schedule a public hearing and second reading to the proposed amendment to the Official Zoning Map, for R053004, being an approximately 35.8-acre parcel located off of Preservation Way, currently zoned Village Residential 4 (VR-4) to Crossroads Planned Development (CPD). [*Planning Director*]

PURPOSE:

To consider a zoning change request for approximately 35.8 acres of property located off of Preservation Way.

BACKGROUND:

On September 6, 2023, Town Council authorized the Town Manager to enter into a purchase Option Agreement with Crossroads Holdings LLC for the purchase of land for a new Unified Primary School. The agreement has a number of buyer obligations that the Town must complete as a condition of closing. In particular, the Town has committed to advancing a change to the Zoning map to include additional parcels of land into the CPD as well as a text change to the CPD regarding buffers for residential and school uses.

Approximately 12 acres of the zoning change are included in the proposed school site.

Zoning Comparison:

The VR-4 district was established to provide residential neighborhoods of a higher density and accept a significant share of the Town's residential growth. Residential development shall not exceed 4 dwelling units per net residential acre, plus additional density through development transfer or affordable housing. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of households, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All developments in the VR4 District shall be serviced by public sewer and public water supply.

The CPD district was established 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 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. The maximum density of the CPD is 20 units per acre.

The residential density of the CPD district is significantly higher than the VR-4 District. The CPD district also permits uses other than residential, unlike the VR-4 District. However, the CPD district includes performance measures in place requiring 100' buffers for non-residential uses adjacent to residential districts and Planned Development and Site Plan standards.

Planning Board Recommendation:

The Ordinance requires that the Planning Board give its recommendation to the Town Council regarding the land use implications of the request.

At the meeting on September 18, 2023, the Planning Board held a public hearing and made a recommendation to Town Council 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.

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- Planning Board Public Hearing and Recommendation: September 18, 2023
- First reading before the Town Council: October 18, 2023

PROPOSED ACTION:

Move approval of the first reading on Order 23-120 and schedule a public hearing and second reading on November 8, 2023.

ATTACHMENTS:

- Planning Board Recommendation
- Planning Board Staff Report
- Zoning Exhibits and Draft Official Zoning Map
- Section XIV Village Districts
- Section XXC CPD District

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

**Zoning Request Staff Report
Planning Board Public Hearing September 18, 2023**

Submittal Type: Rezoning for R053004 being approximately 35.8 acres from VR-4 to CPD
Location: Vacant Parcel off of Preservation Way
Applicant: Town Initiated

ACTION REQUIRED:

Hold a public hearing and make a recommendation to Town Council for the zoning change request for R053004, being an approximately 35.8-acre parcel located off of Preservation Way, currently zoned Village Residential 4 (VR-4) to Crossroads Planned Development (CPD).

BACKGROUND:

At the regular public meeting on September 6, 2023, Town Council authorized the Town Manager to enter into a purchase Option Agreement with Crossroads Holdings LLC for the purchase of land for a new Unified Primary School. The agreement has a number of buyer obligations that the Town must complete as a condition of closing. In particular, the Town has committed to advancing a change to the Zoning map to include additional parcels of land into the CPD as well as a text change to the CPD regarding buffers for residential and school uses.

ZONING COMPARISON:

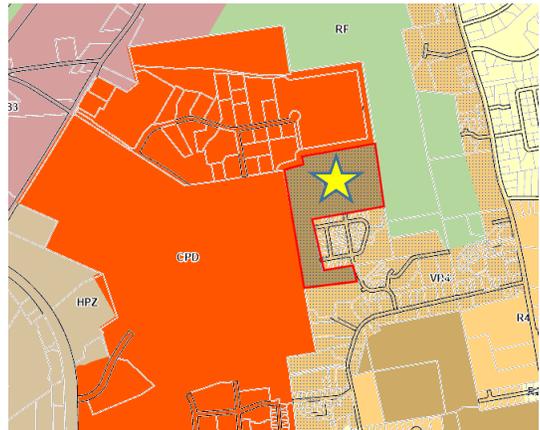
The VR-4 district was established to provide residential neighborhoods of a higher density and accept a significant share of the Town's residential growth. Residential development shall not exceed 4 dwelling units per net residential acre, plus additional density through development transfer or affordable housing. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of households, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All developments in the VR4 District shall be serviced by public sewer and public water supply.

The CPD district was established 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 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. The maximum density of the CPD is 20 units per acre.

The residential density of the CPD district is significantly higher than the VR-4 District. The CPD district also permits uses other than residential, unlike the VR-4 District. However, the CPD district includes performance measures in place requiring 100' buffers for non-residential uses adjacent to residential uses and Planned Development and Site Plan standards.

ADJACENT ZONING AND USES:

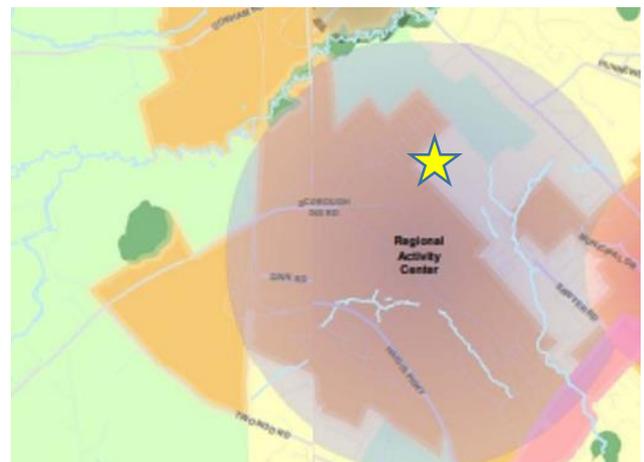
North: CPD – Innovation District
South: VR-2 - Single Family Homes, Cottages at Sawyer
East: RF – SLT Warren Woods
West: CPD – Mix of Uses



COMPREHENSIVE PLAN:

The Town of Scarborough Comprehensive Plan identifies this location as part of a Regional Activity Center.

REGIONAL ACTIVITY CENTER - Scarborough Downs has been identified as a potential development site that provides tremendous opportunity to create an authentic and complete town center within Scarborough that could have regional draw – a mixed-use and walkable area where people live, shop, work, and play. This would be the most intensely developed area of the town. The Regional Activity Center includes the Scarborough Downs property as well as other parcels generally within a one-mile radius. This radius of possible development includes the Haigis Parkway properties where infrastructure has already been provided with easy access to I-95.



PUBLIC NOTIFICATION:

No request for amendment or change shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be given at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Scarborough.

Publication of this zoning change was included in the newspaper on September 7, 2023 and September 12, 2023. Abutter notification was mailed to 23 adjacent property owners on September 7, 2023.

STAFF RECOMMENDATION:

The Planning Director or designee shall review all requests for amendments or changes and make a recommendation to the Planning Board and/or Town Council in regards to the Comprehensive Plan.

The proposed rezoning is in compliance with the Comprehensive plan. The request is reasonable given the surrounding uses and the future potential for the immediate area. Staff recommends approval of the requested zoning change.

PLANNING BOARD ACTION:

The Planning Board shall review all requests for amendments or changes and make its recommendations to the Town Council regarding the land use implications of the request. If a substantial change or alteration is contemplated by the Town Council, approval by the Town Council shall not be granted without submitting the proposed changes to the Planning Board for comment.

ATTACHMENTS:

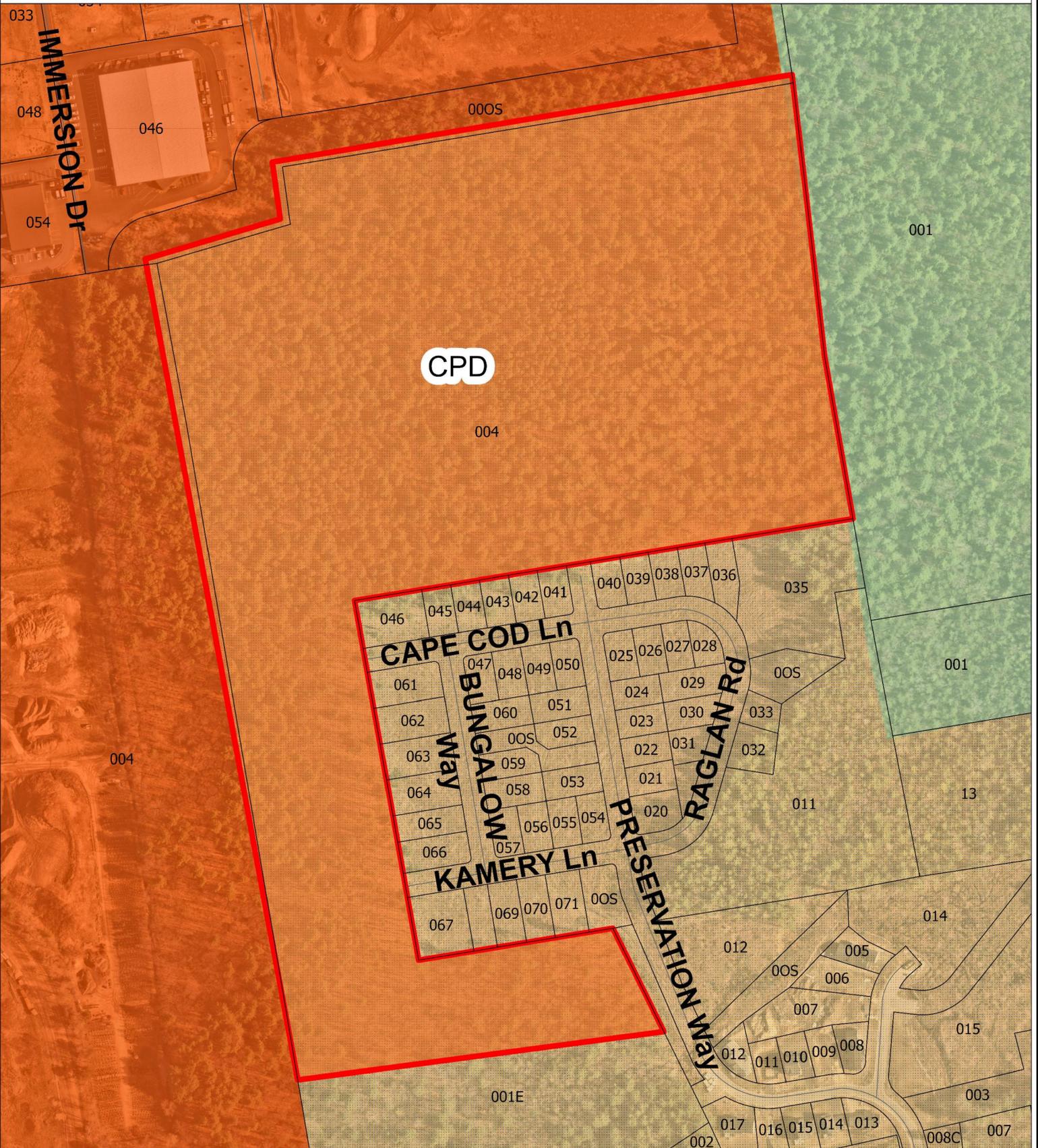
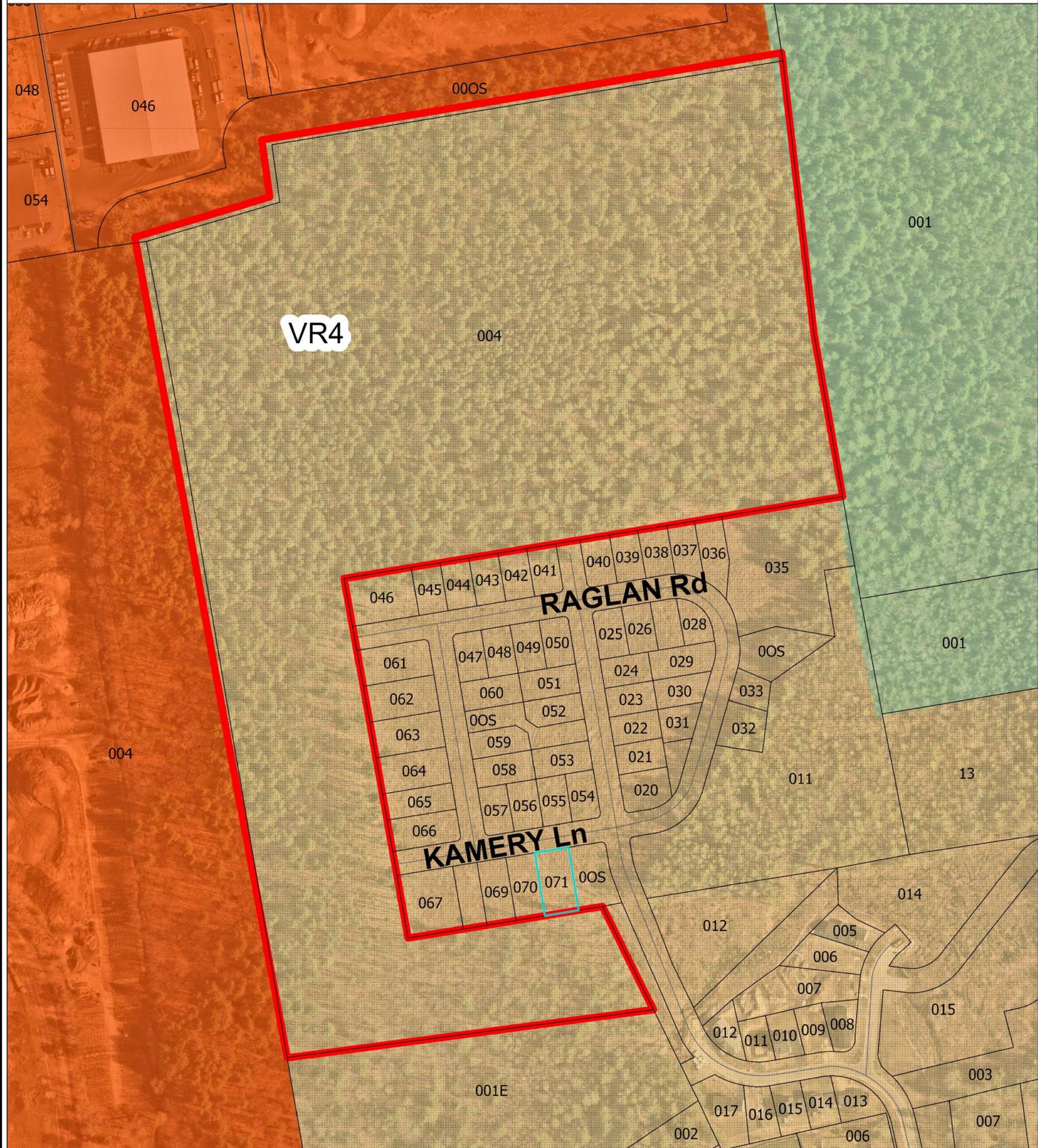
Town Manager Memo Initiating Change
Chapter 405 Section XIV Village Residential Districts
Chapter 405 Section XXC CPD District
Official Zoning Map Exhibit
Newspaper Notification Proof
Abutter List

NEXT STEPS:

- Town Council Public Hearing – October 4

Current Zoning Village Residential 4(VR4)

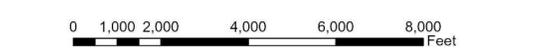
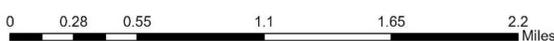
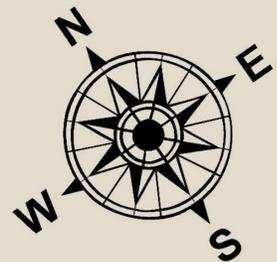
Proposed Zoning Crossroads Planned Development(CPD)



Town Of Scarborough Maine Official Zoning Map

www.scarboroughmaine.org

Zoning Classifications		Zoning Overlays	
Beach/Mixed Use	Coastal Residential 1	Residential 4	Resource Protection
Regional Business	Haigis Parkway Busines	Residential 4A	Residential & Professional
General Business	Industrial	Rural Residence & Farming	Traditional Neighborhood
Business Office - Research District	Light Industrial	Rural Residence Farming & Manufacture	Town & Village Centers
Coastal Mixed Use 1	Residential 2	Running Hill Mixed Use District	Town & Village Centers Transition 2
Crossroads Planned Devolpment	Residential 3	Running Hill Transition District	Town and Village Centers Fringe
Contract Zones		Zoning Overlays	
Contract Zone 1	Contract Zone 11	Contract Zone 2	Contract Zone 5
Contract Zone 10	Contract Zone 12	Contract Zone 3	Contract Zone 7
Contract Zone 8	Contract Zone 9	Industrial Overlay	Stream Protection 1
Contract Zone 6	Contract Zone 7	Shoreland Zoning	Stream Protection 2
			Aquifer Protection Overlay



Base Map

- ParcelLine
- Coast_Line
- Railroads
- Roads
- TownLine
- Beachs

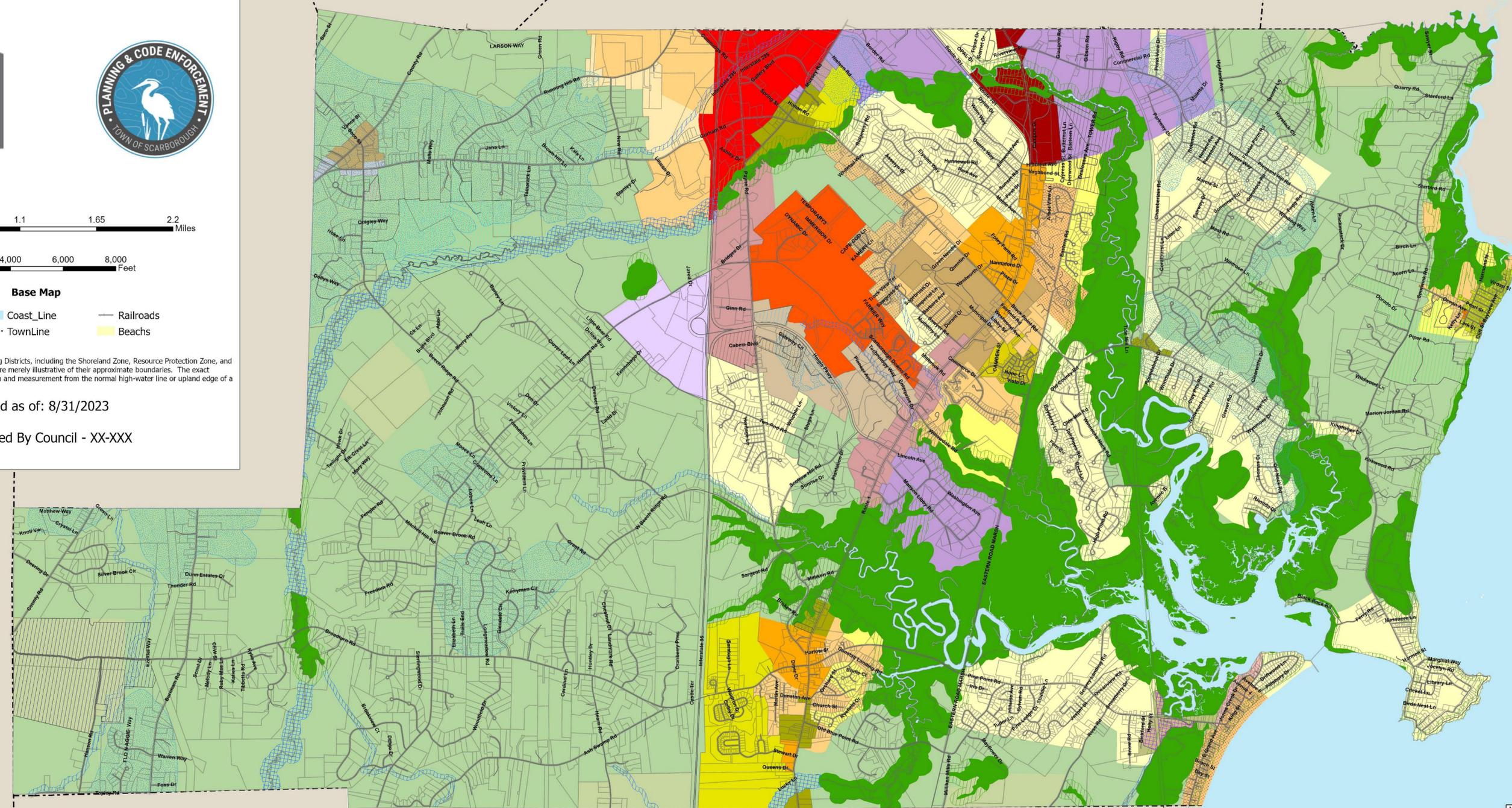
Note: The depictions of the boundaries of the Zoning Districts, including the Shoreland Zone, Resource Protection Zone, and Stream Protection District on this GIS Zoning Map, are merely illustrative of their approximate boundaries. The exact boundaries shall be determined by on-site inspection and measurement from the normal high-water line or upland edge of a wetland.

Revised as of: 8/31/2023

As Approved By Council - XX-XXX

Previous Zoning Amendments:

- Resolution 23-001 - Approved 4/19/2023
- Resolution 23-065 - Approved 7/19/2023



Map Prepared By:
 Micah Warnock, GISP
 GIS Administrator

Attested to by:

 TOWN CLERK

 DATE

See "Town of Scarborough Maine Official Shoreland Zoning Map" for Shoreland zoning districts.

SECTION XIV. VILLAGE RESIDENTIAL DISTRICTS

VILLAGE RESIDENTIAL 2 DISTRICT - VR2

To provide residential neighborhoods of a moderate density to a manner which will promote a wholesome living environment and accept a significant share of the Town’s residential growth. To this end, residential development shall not exceed 2 dwelling units per net residential acre if served by public sewer and 1 dwelling unit per 2 acres if served by on-site sewage disposal. T. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of household types, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All new subdivisions in the VR2 District shall be serviced by public sewer and public water supply.

VILLAGE RESIDENTIAL 4 DISTRICT - VR4

To provide residential neighborhoods of a higher density to a manner which will promote a wholesome living environment and accept a significant share of the Town’s residential growth. To this end, residential development shall not exceed 4 dwelling units per net residential acre, plus additional density through development transfer or affordable housing. The village residential development standards are intended to promote the establishment of neighborhoods with a mix of dwelling types accommodating a mix of households, age groups and income levels, incorporate communal recreation areas, greens, commons and open spaces, and create a village-style development pattern with an interconnected network of landscaped streets, blocks, and pedestrian ways in a manner that compliments adjacent residential neighborhoods and commercial districts to instill a mix of housing types and land uses in and around our town and village centers. All developments in the VR4 District shall be serviced by public sewer and public water supply.

A. PERMITTED USES – VILLAGE RESIDENTIAL DISTRICTS

Permitted use table abbreviations are as follows:

- P – Permitted by Right
- SE – Special Exception Required
- C# – Condition Applies
- CZ – Contract Zone Required
- Blank – Not a Permitted Use

AGRICULTURAL USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Accessory uses including accessory stables on lots of at least two acres	Section IX.P.		
Accessory uses including accessory agricultural activities	Section IX.P.	P	P
Commercial Agriculture	Section IX.Q.	SE	
Commercial Animal Husbandry	Section IX.Q.		
Agricultural Employee Housing in Conjunction with Commercial Agriculture and/or Commercial Animal Husbandry			
Commercial Stables			
Farm stand	Section IX.R	SE	
Agricultural Products Store	Section IX.S.		
Agricultural processing facility with a total of not more than one thousand (1,000) square feet of gross floor area in conjunction with commercial agriculture	Section IX.Q.	SE	
Agricultural processing facility with a total of not more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or animal husbandry	Section IX.Q.		
Agricultural processing facility with a total of more than two thousand (2,000) square feet of gross floor area in conjunction with commercial agriculture and/or animal husbandry	Section IX.Q.		
Forestry			
Wetlands Creation on Previously Excavated Property			

SECTION XIV – VILLAGE RESIDENTIAL DISTRICTS [Adopted 07-19-2023]

RESIDENTIAL USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Single Family Dwelling Units (exclusive of individual mobile homes) Up to 2 Dwelling Units per Lot	Section IX.Z.	P	P
Single Family Dwelling Units (exclusive of individual mobile homes) Up to 4 Dwelling Units per Lot	Section IX.Z	P	P
Two-family Dwelling Units		P	P
A Single Multi-family Dwelling with Four or Fewer Dwelling Units on a Lot	Section VIIA. Conservation Design		
Manufactured Housing Unit			
Manufactured Housing Community			
Townhouse - No more than 8 units per building (minimum 3)		C1	C1
Multiplex		C1	C1
Multi-family Dwellings (maximum building footprint 7,500 sq ft)		C1	C1
Nursing Home		SE	SE
Boarding Care			
Orphanage		SE	SE
INSTITUTIONAL AND CIVIC USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Cemetery			
Library		P	P
Museum		P	P
School – Public and Private Educational Facility		P	P
Municipal Building and Use		P	P
Post Office Facilities		P	
Public Utility Facility, Including Substation, Pumping Station and Sewage Treatment Facility		SE C2	SE C2
Hospice Facility		SE	SE

SECTION XIV – VILLAGE RESIDENTIAL DISTRICTS [Adopted 07-19-2023]

Place of Worship		P	P
Adjunct Use, Place of Worship		SE	SE
Charitable Institution		SE	SE
RECREATIONAL USES		PERFORMANCE STANDARDS APPLY	
		VR2	VR4
Residential Recreation Facility		P	P
Golf Course			P
Community Building (non-profit)		P	P
Grounds for Games and Sports (non-profit)			
Commercial Outdoor Recreation	Section IX.U		
Day Camp			
Non-commercial Model Aviation Flying Field Located West of the Maine Turnpike	Section IV(I)(8)		
COMMERCIAL AND RETAIL USES		PERFORMANCE STANDARDS APPLY	
		VR2	VR4
Family Day Care Home (3-6 children or adults)	Section IV(I)(6), except that Board Appeals review is not required.	P	P
Group Day Care Home (7-12 children) and Nursery School		SE	SE
Day Care Center Facility (13 + children)			SE
Medical or Professional Office (less than 2,500 sq ft floor area per lot)			
Boarding Care Facility			
Kennel			
Veterinary and Pet Care Facility			
Utility Scale Solar Energy System	Section IX.(O.1.)		

LODGING USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Bed and Breakfast	Section IX.T.		
Camping and Tenting (five acres or more)			
INDUSTRIAL USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Extractive Industry Including Gravel Pit and Quarry			
ACCESSORY USES	PERFORMANCE STANDARDS APPLY	VR2	VR4
Accessory Dwelling Unit	Section IX.J.	P	P
Home Occupation		SE	SE
Telecommunication Facility		SE	SE

C1 - Permitted with a minimum parcel size of five (5) acres.

C2 - Board of Appeals review is not required if the facility is proposed, reviewed and permitted by the Planning Board as part of an original residential development.

B. SPACE AND BULK STANDARDS

The following Space and Bulk Regulations are applicable to subdivisions reviewed by the Planning Board under the Scarborough Subdivision Ordinance.

DIMENSIONAL STANDARDS AND SETBACKS	VILLAGE RESIDENTIAL 2 – VR2					
	Single-family units	Two-family units	Multi-family	Multi-plex	Town-house	Non-residential³
Minimum Lot Area per dwelling unit	5,000 sq ft	NA	NA			
Minimum Lot Area per two dwelling nits	NA	7,500 sq ft	NA			
Minimum Lot Area	NA		15,000 sq ft			
Minimum Street Frontage	40'	50'	75'			
Minimum Lot Width	40'	50'	75'			
Minimum Front yard	5'					
Minimum Rear & Side Yard	15' ¹		15' ²		15'	

¹ May be reduced to 5 feet for single-family dwellings within the same residential development if the dwelling and the abutting dwellings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code.

SECTION XIV – VILLAGE RESIDENTIAL DISTRICTS [Adopted 07-19-2023]

² May be reduced to 10 feet for two-family dwellings if the structures meet the Fire Rating requirements as per the NFPA 101 Life Safety Code. The Planning Board may also allow lesser separation between two-family and multi-family dwellings than the setback requirements dictated above if these dwellings are located on the same lot and the structures meet the Fire Rating requirements for the lesser separation as per the NFPA 101 Life Safety Code.

³ As used in this subsection E., the term “non-residential” does not include home occupations and other uses accessory to a residential use.

1. The lot area requirements above shall be considered minimums. The Planning Board may require additional lot areas in order to meet the Town Plumbing Ordinance & the Maine Subsurface Waste Water Disposal Rules depending on the density of housing and use types.
2. For a resident lot that does not require subdivision review and approval by the Planning Board or a lot in a subdivision that was approved prior to June 1, 2005, the Space and Bulk Regulations of the R2 District shall apply if the lot is served by the public sewer system. If the lot is served by an on-site subsurface sewage disposal system, the space and bulk regulations of the RF District shall apply.

DIMENSIONAL STANDARDS AND SETBACKS	VILLAGE RESIDENTIAL 4 – VR4					
	Single-family units	Two-family units	Multi-family	Multi-plex	Town-house	Non-residential ⁴
Minimum Lot Area per Dwelling Unit	5,000 sq ft	NA	NA			
Minimum Lot Area per two dwelling units	NA	7,500sq ft	NA			
Minimum Lot Area	NA		15,000 sq ft			
Minimum Street Frontage	50'		75'			
Minimum Lot Width	50'		75'			
Minimum Front yard	5'					
Minimum Rear & Side Yard	15' ¹		15' ^{2, 3}			15'
¹ May be reduced to 5 feet for single-family dwellings within the same residential development if the dwelling and the abutting dwellings meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code.						
² May be reduced to 10 feet for multiplex and townhouse dwellings if the dwelling and the abutting dwelling meet the Fire Rating requirements for the lesser setback as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.						
³ When the yard abuts a lot or parcel that is not part of the development the minimum yard shall be 25 feet and the buffering requirements of Section VIII of this Ordinance shall apply.						
⁴ As used in this subsection E., the term “non-residential” does not include home occupations and other uses accessory to a residential use.						

For development that does not require subdivision review and approval by the Planning Board the Space and Bulk Regulations of the R-4 District shall apply.

C. VILLAGE DEVELOPMENT STANDARDS

New Residential subdivisions in the VR2 and VR4 Districts shall conform to the following standards:

1. Residential subdivisions shall be designed in a pattern of substantially rectangular blocks forming a grid layout with interconnected streets and communal space as defined by buildings, landscaping and streetscapes, natural features, and pedestrian ways that establishes a traditional village design. In the VR4 District the Planning Board may waive the standard for a grid layout of interconnected streets if the Board finds that topographical, wetland or other natural constraints inhibit this design or if the scale of a particular residential development is not conducive to an interconnected street layout.
2. Residential developments shall include low-volume streets designed for lower vehicle speeds in order to increase pedestrian safety, discourage non-local through traffic and maintain a village character. In order to achieve these design standards, the Planning Board shall have the authority to reduce the pavement width of local residential streets to 20 feet. Streets approved by the Planning Board under this Section shall be deemed to comply with the Street Acceptance and Subdivision Ordinances.
3. The street network in a residential development, or a private access road or driveway located in the VR4 District, shall not provide or create vehicular access from Sawyer Road to serve non-residential development located outside of the VR4 District.
4. Sidewalks and shade trees shall be provided on both sides of the streets within a subdivision or development shall connect to the pedestrian amenities of abutting neighborhoods to the extent feasible. The Planning Board may allow alternative pedestrian amenities, such as a sidewalk on one side of a street, footpaths and trails, if the Board finds the above standard is not necessary due to special circumstances of a site or the nature or scale of a particular residential development.
4. The Planning Board may allow the establishment of “private alleyways” to provide access to parking facilities for various residential units. These alleyways may be 14 feet in pavement width with an additional 6 feet of non-paved drivable surface (totaling 20 ft.), in accordance with Scarborough Fire Department requirements. These alleyways shall be owned and maintained by a homeowners association and shall be subject to an easement allowing Town use and access. These alleyways shall not be considered streets under this Ordinance, the Street Acceptance Ordinance or the Scarborough Subdivision Ordinance.
5. In the VR2 District between 10 - 20% of the net residential area of a subdivision shall be allocated as designated open space accessible to all residential units. The open space shall consist of both village green space and surrounding open space for conservation. The village green space may consist of neighborhood parks, community greens, commons, linear greenways, courtyards, landscaped boulevards and the like. The surrounding open space shall be connected and contiguous where feasible, and shall be restricted for conservation and recreation in perpetuity. This open

space may contain recreation areas, ball fields, recreation trails, and the like. It shall function as protection for natural resources, buffers to adjacent incompatible uses, forested, natural distinctions between this zoning district and adjacent less dense zoning districts, and linkages to neighboring green spaces or recreational amenities. In addition, this common green space or open space can be used for solar or wind energy systems as allowed for under Section IX. The final open space percentage within the 10 - 20% range shall be determined by the Planning Board.

6. In the VR4 District at least 10% of the net residential acreage of a development shall be allocated as village green space for active and passive recreation. This village green space may consist of neighborhood parks, community greens, commons, linear greenways, courtyards, landscaped boulevards and the like. The village green space shall be integral to the development and shall be sited in a central location available and desirable for use by the residents of the development. In addition, green space or common land can be used for solar or wind energy systems as allowed for under Section IX.

7. In the VR4 District development shall be clustered away from wetlands, watercourses and water bodies and impacts to these resources shall be avoided. Contiguous wetland areas of 15,000 square feet or greater shall be protected as common open space. These open space areas shall include a minimum wetland buffer of twenty-five (25) feet from the upland edge of a wetland to any building lot boundary. The open space lands may include a trail system for walking, hiking, biking or similar activities subject to Planning Board approval. Where no practical alternative exists, the Planning Board may allow the crossing of wetlands for roads, driveways or utilities to provide access to, or use of, an upland area within a development.

D. RESIDENTIAL DENSITY REGULATIONS – VR2

1. For a residential lot that is not subject to Planning Board review and approval or a lot in a subdivision that was approved prior to June 1, 2005, the residential density shall be governed by the R2 Space and Bulk Regulations if the lot is served by an on-site subsurface sewage disposal system, the space and bulk regulations of the RF District shall apply.

2. For a subdivision that is subject to Planning Board review and approval after June 1, 2005, the following residential density regulations shall apply:

a. Residential Density Factors – Within this zoning district the Residential Density Factors in Section VII.C.A. of the Zoning Ordinance shall apply to multiplex and townhouse dwelling units.

b. Maximum Base Residential Density – The maximum base residential density shall be two (2) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

c. Additional Residential Density Thru Development Transfer – A subdivision may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density (subsection F.2.b.) by utilizing the development transfer provisions in accordance with Section VII.D. of this Ordinance.

d. **Additional Residential Density Thru Affordable Housing** - A subdivision may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density (subsection F.2.b.) provided at least forty percent (40%) of those additional units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

e. **Additional Residential Density Thru an Affordable Housing In-Lieu Fee** – In lieu of developing affordable housing to utilize additional residential density under subsection F.2.d., a development may increase the number of dwelling units by up to ten percent (10%) of the total number allowed under the maximum base residential density by utilizing the affordable housing in lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

3. The Planning Board may allow a subdivision to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed twenty percent (20%) beyond the maximum base residential density allowed.

E. RESIDENTIAL DENSITY REGULATIONS – VR4

1. For development that is not subject to Planning Board review and approval the residential density shall be governed by the R-4 Space and Bulk Regulations.

2. For development that is subject to Planning Board review and approval the following residential density regulations shall apply:

a. **Residential Density Factors** - The Residential Density Factors in Section VII C. A. of the Zoning Ordinance shall apply to multiplex and townhouse dwelling units

b. **Maximum Base Residential Density** – The maximum base residential density shall be four (4) dwelling units per net residential acre. This is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions.

c. **Additional Residential Density Thru Development Transfer** – A development may incorporate up to three (3) additional dwelling units per net residential acre, beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

d. **Additional Residential Density Thru Affordable Housing** – A development may incorporate up to one (1) additional dwelling unit per acre of net lot area, or net residential acre if applicable, beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

e. **Additional Residential Density Thru an Affordable Housing In-Lieu Fee** - In lieu of developing affordable housing to utilize additional residential density under subsection F.2.d.,

SECTION XIV – VILLAGE RESIDENTIAL DISTRICTS [Adopted 07-19-2023]

a development may incorporate up to one (1) additional dwelling unit per acre of net lot area beyond the maximum base residential density by utilizing the affordable housing in-lieu fee provisions in accordance with Section VII.C. of this Ordinance. [Adopted 08/20/2014]

3. The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed three (3) dwelling units per net residential acre beyond the maximum base residential density.

F. ADDITIONAL STANDARDS – VILLAGE DISTRICTS

ADDITIONAL STANDARDS	VR2	VR4
Maximum Building Height	35' (3 stories)	35' (3 stories)
Maximum Building Coverage	60%	40%
Signs	Section XII Applies	

G. OFF-STREET PARKING

Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except that the Planning Board shall have the authority to allow residential off-street parking to be located within 300 feet of principal residential uses, measured along lines of public access, where it cannot be reasonably be provided on the same lot. Such 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. This allowance shall not require approval by the Board of Appeals under Section XI(C) in this zoning district.

Given the village-style development pattern of the residential development, residential parking spaces in a new subdivision need not measure more than 9 feet by 18 feet and valid parking spaces shall include spaces located in private driveways leading into garages, notwithstanding the otherwise applicable provisions of Sections VI and XI of this Ordinance.

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

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; Amended 05/16/18; Amended 05/20/2020; Amended 04/21/2021]

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.
20. Hotels and motels.
21. Business and professional offices.
22. Financial, insurance and real estate offices.

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- 23.** Business services.
- 24.** Medical/diagnostic facilities.
- 25.** Health clubs.
- 26.** Non-municipal government buildings and uses.
- 27.** Elementary and secondary schools.
- 28.** Instructional and educational services.
- 29.** Libraries.
- 30.** Museums.
- 31.** Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions.
- 32.** Funeral homes.
- 33.** Places of worship.
- 34.** Adjunct uses, Place of worship.
- 35.** Golf courses.
- 36.** 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.
- 37.** 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.

- 38.** Home occupations.
- 39.** High technology facilities.
- 40.** Family day care homes.
- 41.** Group day care homes and day care facilities.
- 42.** Nursery schools.
- 43.** Passenger transportation facilities.
- 44.** Small-scale energy facilities.
- 45.** Telecommunication facilities.
- 46.** 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]
- 47.** Research, development and light industrial. [Adopted 05/16/18]
- 48.** 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]

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

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]

49. Manufacturing and assembly.

50. Food processing facilities.

51. Mini-warehouse/storage facilities.

52. Contractors offices, shops and storage yards.

53. 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.

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

55. Marijuana Manufacturing Facility. [Adopted 01/08/2020]

56. Marijuana Testing Facility. [Adopted 01/08/2020]

C. SPECIAL EXCEPTIONS (CPD)

There are no special exception uses in the Crossroads Planned Development District.

D. SPACE AND BULK REGULATIONS (CPD)

1. Conventional Developments

The space and bulk regulations of the B2 Regional Business District are applicable to all conventional developments.

2. Planned Developments

The space and bulk standards applicable to planned developments and the individual lots and buildings within an approved planned development shall be the development standards set forth in the approved Master Plan for the planned development subject to the following limits:

Maximum Net Residential Density The Residential Density Factors in Section VIIC. apply to all residential uses in this district. The maximum allowed residential density is 20 units per net residential acre.

Maximum Building Height 75 feet, except that any portion of a building located within 150 feet of a residential district shall be limited to 35 feet in height. [Amended 05/20/2020]

Maximum Impervious Surface Ratio 75 percent

All buildings and related parking and access drives must be setback from the boundary of the CPD District in accordance with the following standards and the minimum required setback area shall be treated as a buffer in accordance with Section VIII, if applicable. This requirement shall not preclude the construction of streets or utilities that cross the buffer strip. (Amended 05/16/18)

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Adjacent Zoning District	Minimum Setback
A “Residential District” or “Natural Resource District”	100 feet

E. OFF-STREET PARKING (CPD)

Off-street parking shall be provided in accordance with the requirements of Section XI. In approving the development standards set forth in the Master Plan for a planned development including the Conceptual Development Master Plan for a Planned Mixed-Use Development, the Planning Board may allow the provision of fewer off-street parking spaces than is required by Section XI., including considerations for reduced or shared parking, if the Planning Board finds that less parking will adequately serve the development taking into account the provision of on-street or other public parking, provisions for long-term support of public transit to serve the development, provisions for pedestrian and bicycle movement within and to/from the development, and/or the type and mix of uses within the development and their demonstrated parking demand.

F. SIGNS (CPD)

Signs in the CPD District shall be regulated in accordance with the requirements of Section VIII.E.

II. ADDITIONAL DEVELOPMENT STANDARDS

A. DEVELOPMENT DESIGN AND REVIEW PROCEDURES (CPD)

Depending on the acreage, type of use, and design of a proposed project, a development/redevelopment project within this district may undergo: **1)** a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards and development standards for Conventional Developments set out in this section; or **2)** may be reviewed as a Planned Development in accordance with the procedures set forth in Section VIII.E. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section; or **3)** if the project involves a Planned Development involving a parcel with more than fifty (50) acres, may be reviewed as a Planned Development under a modified version of the procedures set forth in Section VIII.E. Additional Requirements for Planned Developments applying the quantitative standards and development standards and design criteria for Planned Developments set out in this Section;

1. Conventional Developments. Projects that are proposing to develop or redevelop less than five (5) acres of land may be reviewed as a Conventional Development or as a Planned Development, at the applicant’s option.

2. Planned Developments. Projects that are proposing to develop or redevelop five (5) acres or more of land are required to be reviewed as Planned Developments in accordance with Section VIII.E. and conform to the applicable standards of this section for Planned Developments unless the parcel involved has more than fifty (50) acres and the owner/applicant chooses to use the modified review procedures in B.

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3. Large-Scale Planned Developments. Projects that include a Planned Development on a parcel with more than fifty (50) acres may be reviewed and developed as a Planned Development in accordance with Section VIIE. as modified in B. Review Procedures for Large-Scale Planned Mixed-Use Developments and conform to the applicable standards of this section for Planned Developments.

B. REVIEW PROCEDURES FOR LARGE-SCALE PLANNED DEVELOPMENTS (CPD)

A Large-Scale Planned Development may be reviewed and approved in accordance with the following procedure which modifies the procedures for the review of a Planned Development set forth in Section VIIE. Additional Requirements for Planned Developments:

1. Two Step Process. Any development involving a Large-Scale Planned Development may be reviewed under a two-step process. The first step is the preparation, review, and approval of a Conceptual Infrastructure Plan. This plan must cover all land held in common ownership as of May 1, 2013. The second step is the preparation, review, and approval of a Site Inventory and Analysis and Master Plan for the development of the project. The Master Plan can cover the entire holding or a portion of the holding that includes at least fifty (50) acres. The applicant may choose to submit the Site Inventory and Analysis for review prior to the submission of the Master Plan.

2. Conceptual Infrastructure Plan. The purpose of the Conceptual Infrastructure Plan is to provide a preliminary assessment of the development suitability and potential of the entire holding based on available information and to provide a preliminary layout of the key infrastructure elements to serve the entire parcel. This Plan is intended to guide and coordinate the phased development of the project with the recognition that the Plan may be modified as detailed information and design is undertaken.

The Conceptual Infrastructure Plan shall include the following elements:

a. The Site Inventory and Analysis Phase of the Additional Requirements for Planned Developments set out in Section VIIE. This analysis may be based on information about the site and its natural resources that is available from publically available sources including state and federal databases and information available from the Town of Scarborough and local utilities. The expectation is that the Site Analysis Plan prepared as part of this effort will guide the overall utilization of the site and the conceptual planning of the various infrastructure components.

b. A Preliminary Infrastructure Plan as set out in subsection E. of Section VIIE. Additional Requirements for Planned Developments. In addition to the elements included in E. this Plan shall also:

- 1) Identify the planned primary pedestrian network within the development as well as connections to existing pedestrian facilities adjacent to the site,
- 2) Identify areas of the site that should be preserved as open space including provisions to create an interconnected network of green space within the development and that links to preserved or protected open space in the vicinity of the site.

The Conceptual Infrastructure Plan shall be reviewed in accordance with the procedures set out in Section VIIE. Additional Requirements for Planned Developments for the review of the Site Inventory and Analysis Phase.

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3. Conceptual Master Plan. The Conceptual Master Plan for a Large-Scale Planned Development shall consist of an updated Site Inventory and Analysis based on appropriate field data with respect to the location and extent of natural resources and site features and a Master Plan for the development. These shall be prepared and reviewed in accordance with Section VIII.E. Additional Requirements for Planned Developments.

C. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS (CPD)

1. Commercial Design Standards – All development within the District must be consistent with the Design Standards for Scarborough’s Commercial Districts, with the exception of the uses allowed under subsection D.14.of this district. [amended 05/16/18]

2. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough’s Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

3. Public Sewer Service – All new development or redevelopment within this district shall be served by public sewer.

D. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO PLANNED DEVELOPMENTS

1. Mix of Uses – The intention of the CPD District is that the district will develop with a mix of uses (i.e. retail, office, service, light manufacturing, mixed residential, etc.). The Conceptual Master Plan must address how the proposed development will contribute to this objective either individually or in conjunction with other Planned Developments in the district or development adjacent to the district. While the objective is to encourage Planned Developments that include a mix of uses, the Planning Board may approve a Conceptual Master Plan that does not meet this objective if the applicant demonstrates that the intention of the CDP District as a mixed-use development will be met or will be able to be met on a district-wide basis. After the approval of each Planned Development, the Planning Board will report to the Town Council on the mix of uses in the Planned Development as well as the overall District.

2. Overall Location and Pattern of Development – The overall location and pattern of development within the District must reflect the findings of the Site Analysis Map and Report prepared as part of the Conceptual Infrastructure Plan. Similarly, the overall location and pattern of development within an individual Planned Development must reflect the Site Analysis Map and Report prepared as part of the Conceptual Master Plan.

3. Street Network – The intention of the CPD District is that as development occurs, a coordinated, interconnected street system will be created. This street network must be designed to accomplish the following objectives:

- a) At the overall district level, create a connection through the District from Route One to the Payne Road and to the Haigis Parkway. In addition consideration should be given to

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connecting the street network to the Gorham Road and Enterprise Drive if feasible. These two connections, if provided, should be designed to provide access to development within the district and should avoid creating direct travel routes that result in the establishment of a “short-cut” through the district.

b) At the Planned Development level, create an interconnected network of streets within the development that allows travel within the development without using collector roads. The network should utilize T- intersections where feasible and avoid the use of dead-end streets or cul-de-sacs.

4. Public Water System – The layout of the overall water distribution system must provide for an interconnected, looped network of mains that avoids dead-ends. This requirement must be met at both the district and Planned Development level unless the Fire Chief approves an alternative layout in conjunction with the Portland Water District.

5. Open Space Network – The intention of the CPD District is to preserve the significant natural resources that exist within the District and to develop an interconnected “green network” throughout the District that links the open spaces within the District and to preserved or protected land in the vicinity of the District. At least twenty (20) percent of the total land area within the District and at least ten (10) percent of the land area within an individual Planned Development shall be set aside and preserved as open space. This can include natural areas, parks or other improved green spaces that are open for use by residents/users of the development or the public, or improved recreational facilities with limited structural development (i.e. golf courses, playing fields, etc.). The land set aside as open space shall generally reflect the Site Analysis Map and Report. As part of the Master Plan for each Planned Development, the provisions for ownership and maintenance of the open space shall be established.

6. Relationship of Buildings to the Street – The intention of the CPD District is to encourage a variety of development patterns and forms with the overall objective of establishing a “village center-like” atmosphere within the District. As a general principle, buildings should be located close to streets with parking located to the side and/or rear of the buildings. A Planned Development shall be designed in a manner that reinforces the CPD District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses. In reviewing and approving the Conceptual Master Plans for individual Planned Developments, the Planning Board must find that the proposed development standards will result in a development that has a “village character” rather than a “suburban commercial” character.

7. Access Management and Interconnections – The development standards for each Planned Development must address the issues of access management and interconnections. Direct vehicular access from individual building sites onto Route One, Payne Road, or new collector streets within the District must be restricted. Site access shall be designed in accordance with the Site Plan Review Ordinance.

8. Streetscape Treatment -- The streetscape along internal streets and driveways within a Planned Development shall exhibit a compact layout, form and scale. The streetscape shall be designed with shade trees on both sides; road widths that are of a compact, urban scale; human-scale street lighting; frequent intersections and crosswalks; and sidewalks. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

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The streetscape along Haigis Parkway, Route One and Payne Road that border the district shall incorporate a landscaped or natural vegetated buffer strip. The width of the buffer strip shall be a minimum of twenty-five (25) feet when it abuts the Haigis Parkway and fifteen (15) feet when it abuts Route One and Payne Road.

9. Walkable, Pedestrian-Oriented Design – The objective of the CPD District is to create a walkable, pedestrian-oriented environment. This can be accomplished in a variety of ways. Appropriately designed and oriented sidewalks and other pedestrian amenities, are critical to promote walkability, pedestrian activity, and a sense of place within the District. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a Planned Development as well as connections to abutting uses to establish a greater pedestrian network.

10. Place making – A Planned Development must include a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a Planned Development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but are not counted as a “place” unless they are available for public use.

11. On-street Parking – The use of on-street parking within a Planned Development is encouraged. On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. A Planned Development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the review process the on-street parking design shall require approval from all applicable Town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of subsection I.E.

12. Dimensional Standards – The minimum lot size, net residential density, building height, yard and setback, and other space and bulk requirements for individual lots and buildings that are part of a Planned Development shall be determined in the Conceptual Master Plan except as limited by the provisions of I.D.2. The development standards must provide for the setback from and buffering of residential uses and zones abutting the CPD District and for the buffering of residential uses that are part of the Planned Development from nonresidential uses within or adjacent to the District. In approving the Master Plan and the development standards, the Planning Board shall assure that the proposed requirements will result in a development that reflects the Town’s vision for the Crossroads as a village center for the Town of Scarborough.

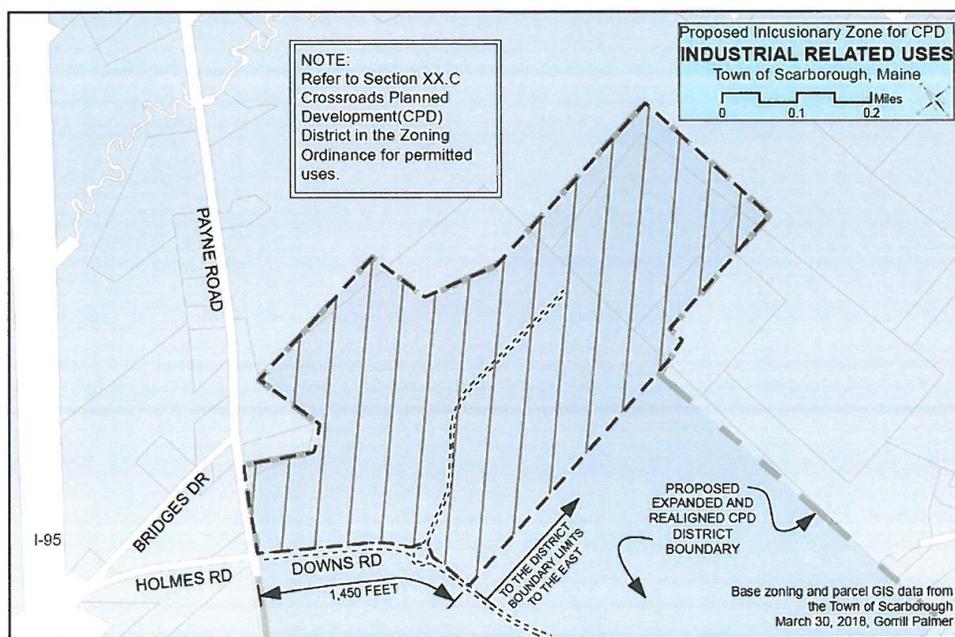
13. Provision of Affordable Housing – A key objective of the Crossroads Planned Development District is the provision of a mix of uses and a mix of housing types. Therefore at least ten percent of the dwelling units in a planned development must qualify as affordable housing in accordance

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

with the definition of affordable housing in this ordinance. This requirement can be met either through affordable housing developments or through providing for affordable units within market-rate housing developments. Since development within a planned development will likely occur incrementally, this requirement must be met cumulatively as development occurs. The initial residential development in a planned development must include affordable housing unless the project has fewer than ten dwelling units. If a housing development provides more than ten percent of its units as affordable or if more than ten percent of the cumulative dwelling units within a planned development are affordable, any balance may be carried forward and applied to future residential development. The Master Plan for the planned development shall address how this requirement will be met and set out any requirements that will be established for assuring the long-term affordability of these units.

14. The land use required to comply with these additional development standards are permitted as part of a planned development with specific standards and limitations on the location within the overall CPD District they are allowed and subject to the buffering requirements below. This inclusionary area within the District is located to the northeast of the Scarborough Downs entrance drive and extending southerly from the Payne Road intersection 1,450 feet and spanning from the Downs Road easterly to the limits of the CPD Zoning District boundary as depicted in the diagram below. The permitted uses specifically allowed within this area are subject to:

- 1) A 250-foot setback from the center line of Payne Road.
- 2) A 250-foot setback from the Downs Road, as depicted on the Approved Conceptual Infrastructure Plan.
- 3) A 100-foot setback and buffer to any adjacent residential district or natural resource district in accordance with subsection D.2. of this District.
- 4) The performance standards of Section IX9(A) of this ordinance.
- 5) The permitted uses specifically allowed within this area shall not be subject to the Design Standards for Scarborough's Commercial District.



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The diagram and description above establish the maximum area allowed for these non-residential uses, but does not bind or require this area to be exclusively developed with these specific uses. The planned development process shall be used to establish the design, buffering details, and extent of these non-residential uses within this inclusionary area and whether this area includes other uses and development allowed district wide.

15. Earthwork, Material Extraction and Construction Activities Incidental to Site Development – Activities that are typical of earthwork, material extraction and construction including, but not limited to the excavation of earthen material and aggregate, material processing, material stockpiling and storage, and similar activities are allowed in accordance with the following performance standards:

- a. Material extraction and processing allowed for under this subsection shall be for the sole purpose of supporting development, site work and the installation of infrastructure located exclusively within the CPD District.
- b. Notwithstanding contrary provisions in the Extractive Industry Ordinance, excavation may occur below the seasonal high-water table for the purpose of creating water features within the development project. Any excavation below 12 inches above the seasonal high-water table shall be in accordance with a plan approved by the Planning Board. This plan shall include the limits, design and final restoration of the excavation area and its functions and values.
- c. The stockpiling and processing of aggregate and earthen materials shall comply with a site plan and operations plan to be reviewed and approved by the Planning Board. This operations plan still include: a description and location of the activity; its proximity to existing development within and outside the District; general hours of operation, methods of operation and safeguards in place to mitigate dust, smoke and other environmental factors, and a restoration plan when applicable.
- d. Any deviation and changes to the Operations Plan must be approved in advance by the Planning Director with consultation with other town staff and departments.