

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

**Item 1. Call to Order.** Chairman Anderson called the regular meeting of the Scarborough Town Council to order at 7:00 p.m.

**Item 2. Pledge of Allegiance.**

**Item 3. Roll Call.** Roll was called by Yolande P. Justice, Town Clerk. Thomas Hall, Town Manager and Liam Gallagher, Assistant Town Manager, were also present. Those Councilors present:

Councilor April V. Sither	Councilor Jean-Marie Caterina
Councilor John R. Cloutier	Councilor Donald R. Hamill
Councilor Karin B. Shupe	Councilor Nicholas S. McGee
Chairman Jonathan E. Anderson	

**Item 4. General Public Comments.**

- Jim Pritchard of Maple Avenue, spoke on the traffic issues in the Greenacres Area and urged the Council to take action in this area. There is no need for further studies to be conducted, just action
- Julia Plunkett of Maple Avenue, also spoke on the traffic issues in the Greenacres Area. She does not feel safe to go walking after dark in her neighborhood.
- Rory Benjamin of Maple Avenue, echoed the comments that were made by the prior speakers. He urged the Council to look at ways to slow traffic down, e.g. environmental designs.
- Tim Lambert of Iris Drive, commend the two individuals who are running for Council. He was surprised that there were not many people running. He thanked the candidates who were running and wished them luck.

**Item 5. Minutes: October 4, 2023 - Town Council Meeting.** Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the October 4, 2023, meeting minutes, as written.

Vote: 7 Yeas.

**Item 6. Adjustment to the Agenda.** None at this time.

**Item 7. Items to be signed: a. Treasurer’s Warrants.** Treasurer’s Warrants were signed prior to the meeting.

**Item 8. Town Manager Report.** Thomas J. Hall, Town Manager, gave the following updates:

- School Building Project Update
- Easterly Access Evaluation
- Buyers Obligations under the Purchase Option Agreement
- November 8th - culmination of obligations
- Option Fee Authorization
- Election Update - Early voting activity
- Eastern Trail - Close the Gap
- Impact Fee Update - Workshop Request for December 6th
- “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 5th
- Grand Openings
  - Hannaford - October 6th
  - Downs Town Center Groundbreaking - October 25th at noon
  - Costco - November 17th

The Town Manager responded to questions from the Town Council.

**a. Update on the Cannabis [Marijuana] Moratorium.** Not at this time.

**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]* Autumn Speer, Planning Director, gave a brief overview of the order and answered Council questions. Chairman Anderson opened the public hearing. As there were no comments made the hearing was closed at 7:40 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to 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, as follows:

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 405B, the Town of Scarborough Site Plan Review, IV Performance and Design Standards, H. Lighting; and Chapter 405B-1 Design Standards for Commercial Districts, of the Town of Scarborough, Maine, be and hereby is amended, as follows (additions are underlined; deletions are struck through):

**CHAPTER 405B  
TOWN OF SCARBOROUGH  
SITE PLAN REVIEW - IV PERFORMANCE AND DESIGN STANDARDS, H. LIGHTING**

**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 facade 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. ~~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.
- b. ~~Facade 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 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 facade 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.

**CHAPTER 405B-1  
TOWN OF SCARBOROUGH  
DESIGN STANDARDS FOR COMMERCIAL DISTRICTS**



## 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*

**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] Autumn Speer, Planning Director, gave a brief overview of the order and answered Council questions. Chairman Anderson opened the public hearing. There being no comments either for or against the hearing was closed at 7:41 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval on the 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 and schedule the public upon receipt of the review from the Planning Department, as follows:

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

*1. Amendment to Chapter 405 - Section IV. 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, ~~or Commercial Animal Husbandry,~~ or Commercial Fishing and Harvesting Use or Accessory Agricultural Activities as well as other agricultural and related food products not produced by the Commercial Agricultural or Commercial Animal Husbandry, ~~or Commercial Animal~~

Husbandry, or 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]

2. *Amendment to Chapter 405 - Section IX. Performance Standards:*

## **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.

7 5. 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, and/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 d) 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 d e) 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 agricultural products store is subject to minor site plan review.

Vote: 7 Yeas.

**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]* Autumn Speer, Planning Director, gave a brief overview of the Order and answered Council questions. Chairman Anderson opened the public hearing. The following individuals spoke:

- Matthew Manahan, attorney representing the Prouts Neck Improvement Association, spoke in support of adding an additional step to the public notice process.
- Claudia Richards, President of the Sprague Corporation, she did not see it necessary to change the public notice process.

The being no further comments, the hearing was closed at 7:46 p.m. The second reading on this Order will be scheduled for Wednesday, November 8, 2023.

**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]* Liam Gallagher, Assistant Town Manager, requested the Town Council table this action to Wednesday, November 8, 2023, as the applicant does not have a complete application packet.

At this point Mr. Gallagher gave an update on the Cannabis Moratorium.

Motion by Chairman Anderson, seconded by Councilor Sither, to move approval to table Order No. 23-117 to the November 8<sup>th</sup> Town Council meeting.

Vote: 7 Yeas.

**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]* Yolande P. Justice, Town Clerk, gave a brief overview on the Order. Chairman Anderson opened the public hearing. As there were no comments either for or against the hearing was closed at 7:53 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to 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.

Vote: 7 Yeas.

Prior to moving on to the next four items, Chairman Anderson presented at power point presentation on the closing process relating to the option agreement, the rezoning, the TIF, the CEA and the buffers.

**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]** The following individuals spoke on this Order:

- Kin Ly of Sawgrass Drive, had questions on the buffer and if it would affect the Sawgrass Neighborhood. Chairman Anderson noted that the area has already developed.
- Nina McKee of Black Point Road, she has read everything she could on line, but what happens if the school doesn't pass? Chairman Anderson responded to her concerns.
- Jim Pritchard of Maple Avenue felt this all should be tabled until after the vote on the school.
- Jack Thayer of Mulberry Lane spoke on this Order.
- Alyson Bristol of Bayview Avenue commented on density slides that had been presented. She went on to voice her concerns on the overall process.
- Liam Somers of Holmes Road, spoke his dislike on the proposals that are before the Council. He went on to voice his concerns of not knowing what will be going next to a school if passed.
- Jack Fay of Mulberry Lane, spoke on the proposed recommendations that are before the town Council.
- Tim Lambert of Iris Drive commented regarding no master plan in place could be a benefit. He went on to comment on affordable housing. Focus more on the affordability.
- Julia Plunkett of Maple Avenue voiced her concerns with the rezoning proposals and the traffic issues that the changes could bring.
- Mark O'Leary owner of Cottages at Sawyer, spoke on this Order.

Councilor Sither noted a point of Order to Councilor Hamill's comments that the executed documents were not in the packet. The Town Clerk stated that they are on line under Order No. 23-109-110.

Motion by Councilor Caterina, seconded by Councilor Sither, to 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, as follows:

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

**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.

Vote: 6 Yeas. 1 Nay [Councilor Hamill]

**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]** The following individuals spoke on this Order:

- Liam Somers of Holmes Road, asked for a point of clarity – on the numbers that were presented – what is the benefits to the town? Chairman Anderson responded to this comment.
- Jim Pritchard of Maple Avenue, asked for clarification, if it is over \$600,000 doesn't the residents have a say? He didn't agree with the process and felt that there needed to be an investigation on the whole process.
- Rory Benjamin of Maple Avenue, I am not opposed to a new school and went on to voice his concerns regarding the zoning adjustments. He felt that the upcoming vote is more about the Downs then it is the school.
- Tim Lambert of Iris Drive made further comments regarding the slides that had been presented.

Motion by Councilor Caterina, seconded by Councilor Sither, to 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, as follows:

**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 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.

Vote: 5 Yeas. 2 Nays [Councilors Cloutier & Hamill]

**NEW BUSINESS:**

**Order No. 23-119. First reading and schedule public hearing and second reading on the proposed Zoning Map change 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] Autumn Speer, Planning Director, gave a brief overview of the Order and responded to questions from the Town Council.**

The following individuals spoke on this Order:

- Liam Somers of Holmes Road voiced his displeasure of the process and the lack of transparency. The perception of the public is that the Council is doing the business of the Downs.
- Julia Plunkett of Maple Avenue stated that this is so complicated and it impacts the residents and neighborhoods. Maybe pausing in the process should be considered.

As a Point of Order, Councilor Caterina noted that it was 10:00 p.m. and the Council will need to vote to suspend the rules to continue past 10:00 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval to suspend the rules to go past 10:00 p.m.

Vote to suspend the rules: 6 Yeas. 1 Nay [Councilor Hamill]

Motion by Councilor Hamill, seconded by Councilor McGee, to move approval to suspend the 3 minutes rule for public comments.

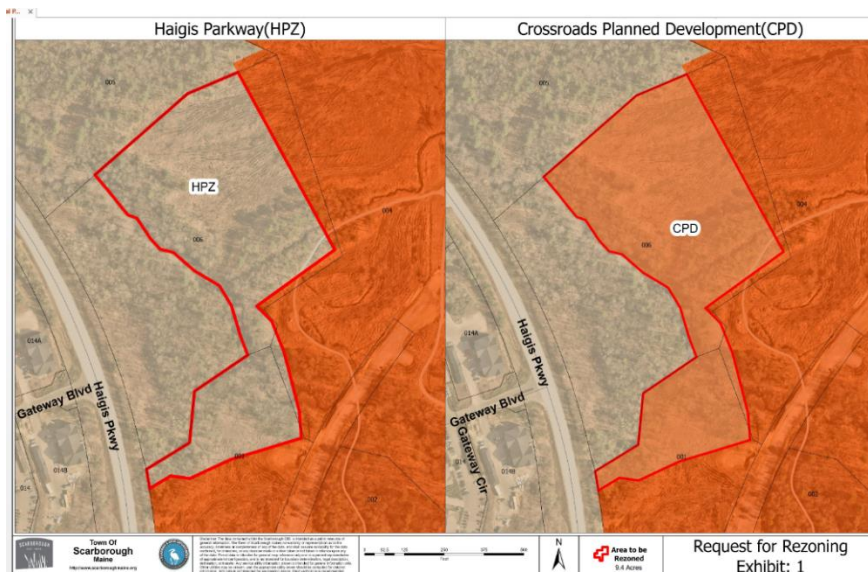
After a brief discussion, Councilor Hamill and Councilor McGee withdrew their first and second.

Prior to the break the following individual spoke on this Order:

- Heather Christy Sawyer Road, just bought a home on Sawyer Road, but would not have bought know that the Downs would be developed they way it is.

The Council took a break at 10:07 p.m. The meeting reconved at 10:16 p.m.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the first reading on the proposed Zoning Map change 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) and schedule public hearing and second reading for Wednesday, November 8, 2023, as follows:



Vote: 6 Yeas. 1 Nay [Councilor Hamill].

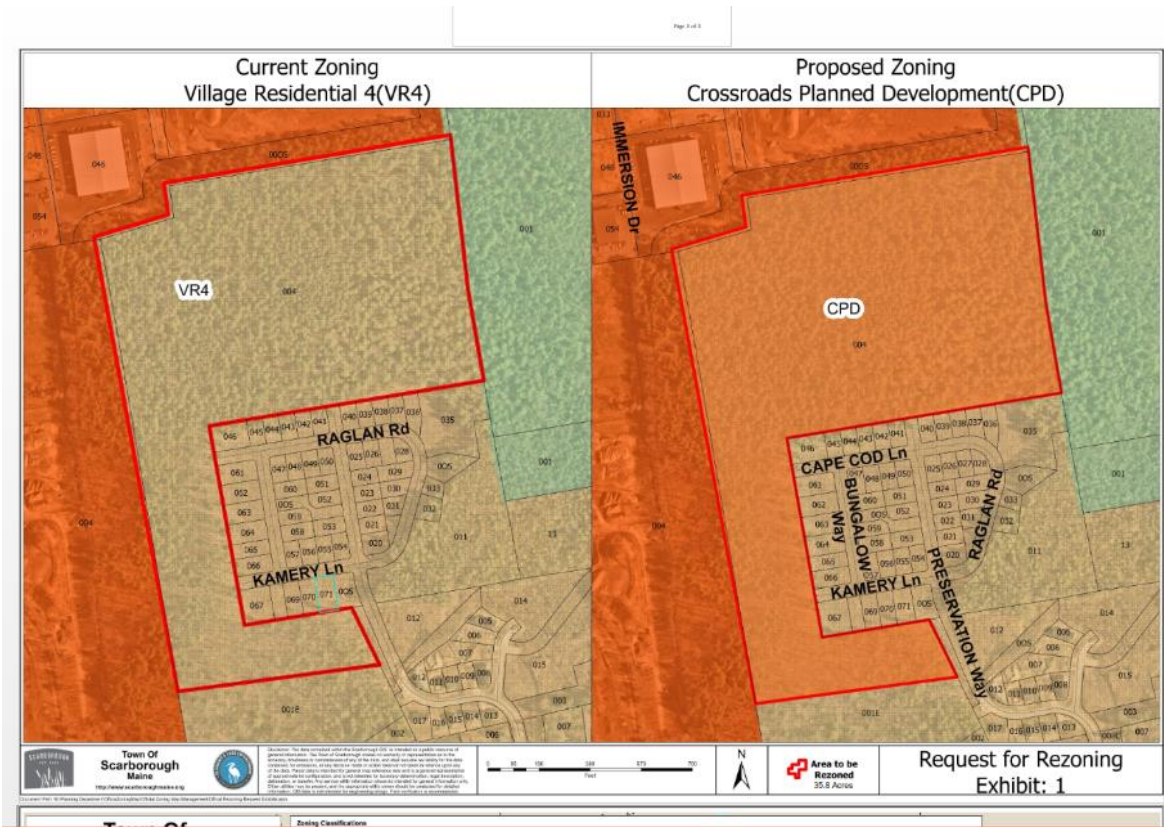


**Order No. 23-120. First reading and schedule a public hearing and second reading to the proposed changes to the official zoning map for R053004, being an approximately 35.8-acre parcel located off of Preservation Way, currently zoned Village Residential 4 (VR-4) to Crossroads Planned Development (CPD). [Planning Director] Autumn Speer, Planning Director, gave a brief overview of the Order and responded to questions from the Town Council.**

The following individuals spoke on this Order:

- Alyson Bristol of Bayview Avenue, spoke on the LD2003 changes.
- Nina McKee of Black Point Road, complimented the Council for all their work and urged the public to attend meetings
- Marvin Gates of Black Point Road, commented on the Planning Board meeting and embarrassed as he felt that it left the Council carry the water of a developer. It should have been the developer presenting to the Planning Board not the town.
- Liam Somers of Holmes Road, voiced his concerns on the location of the school and we do not know what will go there and felt that the Downs will do what is most beneficial to them and not the school.

Motion by Councilor Caterina, seconded by Councilor Sither, to move approval of the first reading on the proposed changes 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, as follows:



Vote: 6 Yeas. 2 Nays [Councilors Cloutier and Hamill].



**Item 9. Non-Action Item.** None at this time.

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

- Councilor Sither gave an update on the Communications Committee. She recognized the one year passing of Collette Mathieson, a former employee.
- Councilor Cloutier gave an update on the Finance Committee. He noted that this would be his last in-person meeting.
- Councilor Shupe gave an update on the Ad-Hoc Community Center. There will be a new charge for the Ad-Hoc Open Space Committee for the Council to consider.
- Councilor Hamill gave an update on the Coastal Waters Committee.
- Councilor Caterina noted that a Firing Range Committee meeting tomorrow.
- Councilor McGee noted that Ordinance would not be meeting until after the elections.
- Chairman Anderson noted that there would be a workshop on November 8<sup>th</sup>. Thanked Councilor Cloutier for his service and what he has learned from him. He hoped that Councilor Cloutier would consider to run again – thank you for all you have done.

**Item 11. Council Member Comments.**

**Item 12. Adjournment.** Motion by Councilor Caterina, seconded by Councilor Sither, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 7 Yeas.

Meeting adjourned at 11:17 p.m.

Respectfully submitted,

Yolande P. Justice  
Town Clerk