

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

TO VIEW TOWN COUNCIL MEETING & OFFER PUBLIC COMMENT:

<https://scarboroughmaine.zoom.us/j/86144419344>

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. Swearing-in of newly elected officials.

Order No. 23-126. Act on the request for nominations and election of a new Town Council Chair.
[Town Clerk]

Order No. 23-127. Act on the request for nominations and election of a new Town Council Vice-Chair.
[Council Chair]

Item 4. Roll Call.

Item 5. General Public Comments.

Item 6. Minutes: November 8, 2023 - Town Council Meeting.

Item 7. Adjustment to the agenda.

Item 8. Items to be signed: a. Treasurer's Warrants.

Item 9. Town Manager Report.

- Cannabis Moratorium Update

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

Resolution 23-005. Act on the request to approve Resolution 23-005, entitled "Land Option Agreement Path Forward." *[Councilor Anderson]*

Order No. 23-104, 7:00 p.m. Public hearing and second reading the proposed amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments relating to buffers. *[Planning Director]* [Tabled from the November 8th Town Council meeting].

Order No. 23-114, 7:00 p.m. Public Hearing and second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. *[Planning Director]*

Order No. 23-115, 7:00 p.m. Public Hearing and second reading on the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii relating to coffee house use. *[Planning Director]*

Order No. 23-119, 7:00 p.m. 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]* [Tabled from the November 8th Town Council meeting.]

Order No. 23-120, 7:00 p.m. 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]* [Tabled from the November 8th Town Council meeting.]

OLD BUSINESS:

Order No. 23-105. First reading and schedule a public hearing and second reading on the request from 3iHoMe/POAH to enter into a Credit Enhancement Agreement with the Town of Scarborough, to develop a state of the art accessible apartment community in the Town Center at The Downs. *[Housing Alliance]* [Tabled from the September 20th Town Council meeting.]

Order No. 23-116. Second reading on the proposed Chapter 602B - the Town of Scarborough Temporary Event Overflow Parking Ordinance. *[Planning Director]*

Order No. 23-122. Second reading on the request to use School Impact Fees to make the FY2023 required payments to Crossroads Holdings, LLC beginning on December 1, 2023 through November 2024, or until the Town closes on the purchase of the property with a total maximum exposure of \$175,000. *[Town Manager]*

NEW BUSINESS:

Order No. 23-128. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 311 – the Schedule of Fees. *[Planning Director]*

Order No. 23-129. First reading on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Pine Point Medical, LLC, located at 137 Pleasant Hill Road for a Medical Cannabis Products Manufacturing Facility and schedule a public hearing and second reading. *[Assistant Town Manager]*

Item 10. Non-Action Item.

Item 11. Standing and Special Committee Reports and Liaison Reports.

Item 12. Council Member Comments.

Item 13. Adjournment.

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-126. Move approval on the request for nominations and election of a new Town Council Chair. *[Town Clerk]*

Town Clerk

Ought to Pass

Sponsor

Recommendation

N/A

First Reading/Vote

N/A

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-126.
SUBJECT: Act on the request for nominations and election of a new Town Council Chair. <i>[Town Clerk]</i>
PURPOSE: The Chairperson is responsible for making sure that each meeting is planned effectively, conducted according to the Charter and Council Rules and that matters are dealt with in an orderly, efficient manner.
BACKGROUND: Pursuant to Chapter 302 – the Council Rules & Policies Manual, Section 119: Chair to be Presiding Officer. The Chair shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called, and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business. As well as all other duties as assigned pursuant to Chapter 302.
FISCAL IMPACT: N/A
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">• Election of new Chair at Town Council: November 15, 2023
PROPOSED ACTION: Recommend approval on the nomination for the Chair.
ATTACHMENTS: N/A

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-127. Move approval on the request for nominations and election of a new Town Council Vice-Chair. [*Council Chair*]

Council Chair

Ought to Pass

Sponsor

Recommendation

N/A

First Reading/Vote

N/A

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-127.
SUBJECT: Act on the request for nominations and election of a new Town Council Vice-Chair. [<i>Town Clerk</i>]
PURPOSE: To preside over the meetings in the absence of the Chair.
BACKGROUND: Pursuant to Chapter 302 – the Council Rules & Policies Manual, Section 120: Role of Vice Chair. The Town Council shall elect a Councilor to serve as Vice Chair by a majority vote. The Vice Chair will serve in the absence or disability of the Chair and perform any duties as designated by the Chair. The term of Vice Chair will be concurrent with the Chair. [amended 04/04/01]. As well as all other duties as assigned pursuant to Chapter 302.
FISCAL IMPACT: N/A
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">• Election of new Vice Chair at Town Council: November 15, 2023
PROPOSED ACTION: Recommend approval on the nomination for the Vice Chair.
ATTACHMENTS: N/A

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Resolution 23-005. Act on the request to approve Resolution 23-005, entitled “Land Option Agreement Path Forward.” [*Councilor Anderson*]

Councilor Anderson

Ought to Pass

Sponsor

Recommendation

N/A

First Reading/Vote

N/A

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Resolution 23-005

LAND OPTION AGREEMENT PATH FORWARD

BE IT RESOLVED by the Council of the Town of Scarborough, Maine, in Town Council assembled that, **WHEREAS**, the Crossroads Holding LLC is the owner of certain parcels of land located between Payne Road, Haigis Parkway and Route One in the Town of Scarborough that consist of approximately 274.02 acres; and,

WHEREAS, the Crossroads Holding LLC and the Town of Scarborough are parties to a Credit Enhancement Agreement dated December 12, 2018 related to the development of the Property (the “CEA”), which requires the Seller to reserve land within the Property for the Buyer’s option to purchase for the development of a school or a community center; and,

WHEREAS, the School Building Committee was established by the Board of Education to study the needs of the Scarborough Public Schools facilities, conducted a year-long site selection search, evaluating 46 sites and recommended that the Town construct a unified K-3 school on a site located within the Property; and

WHEREAS, the Board of Education approved and recommended a site located within the Property to the Town of Scarborough to pursue a land Option Agreement to support the construction of a school solution; and

WHEREAS, Crossroads Holding LC and the Town of Scarborough executed Purchase Option Agreement dated September 6, 2023 to purchase 21.87 acres of land for a school, community center or municipal playground or fields at the cost of \$7.21M recommended by a third party appraiser hired by the Town of Scarborough and contemplated an additional \$3M in off-site roadway construction within the property; and,

WHEREAS, the Purchase Option Agreement states the Town of Scarborough shall undertake reasonable efforts by October 31st 2023 to make Zoning, CPD buffer, Tax Increment Financing and Credit Enhancement Agreement adjustments as outlined in the agreement; and

WHEREAS, the Town demonstrated reasonable efforts, completing first reading on all the items prior to October 31, 2023; and,

WHEREAS, on November 7th the K-8 Strategic School Solution requesting up to \$160MM failed at referendum with 5,813 voting NO and 3,364 voting YES, which included the \$10.21M of costs contemplated within the Purchase Option Agreement; and,

WHEREAS, the School Building Committee needs time to understand from the public the reasoning behind the failed referendum, determine a plan forward and propose a modified solution, which may still require the purchase of land where the proposed site may still be the best location for a school solution; and,

WHEREAS, the Town of Scarborough has an active Ad Hoc Community Center Committee that will need to undergo a site selection process to develop a design and cost estimates to come to voters with a future referendum request for a Community Center; and,

WHEREAS, the Town of Scarborough completed a Parks and Facilities Master Plan that indicates the need for additional recreational fields to meet community needs; and.

WHEREAS, the Purchase Option Agreement contemplated multiple attempts at referendum for a school solution and stated “In the event the voters of the Town do not approve the Project by referendum before December 31, 2024, Crossroads Holding LLC agrees to identify a parcel within the Property of approximately 5-10 acres to be determined by , which if acceptable in design and configuration to the Parties, is to be conveyed to the Buyer at a purchase price to be reasonably determined by the Parties through the joint appraisal process set forth in Section 1.2 of the LOI (the terms of which are incorporated herein by reference) or via such other means as the Parties may agree. Any Option Fee paid under this Agreement shall be applied to the purchase price of the Reserve Parcel;” and,

WHEREAS, as agreed to in the Purchase Option Agreement “ In the event that: 1) this Agreement automatically terminates due to Buyer’s failure to obtain approval of the Project by the voters of the Town at a referendum on or before December 31, 2024, or 2) this Agreement automatically terminates due to Buyer’s failure to satisfy the conditions to close as set forth in Section 8 below by March 29, 2024, or 3) if the Buyer elects not to purchase the Reserve Parcel, then in any such case the Buyer agrees to release the Seller from all existing obligations under Section 8.16 of the CEA thereafter.”

NOW, THEREFORE, BE IT RESOLVED, by the Scarborough Town Council, in Town Council assembled, the Town Council will execute the following plan to honor the commitments in the Option Agreement and make a decision on whether to proceed with the Purchase Option Agreement to purchase land for school, community center, municipal playgrounds or field use by January 17th, 2024:

November 2023:

- Table all actions related to the Purchase Option Agreement until January 17th, 2024 when a survey is completed
- Consult with the School and School Building Committee to deploy a survey as soon as possible to obtain public feedback to understand why the referendum failed; including the role the site and Purchase Option Agreement played; and
- Request Crossroads Holding LLC provide a non-binding sketch plan that indicates potential land use plans for the currently zoned VR4 parcel to allow the Town to more accurately estimate financial impact to be validated by a third party hired by the Town of Scarborough and to further inform CPD buffer requirements in the event the Council proceeds with the Option Agreement; and

December 2023:

- Table the CEA Action at the December 6th meeting until January 17, 2024.
- Act on Tax Increment Financing to expand the Scarborough Downtown Omnibus TIF Development Program to include parcels as outlined in the Purchase Option Agreement, plus additional parcels contiguous to the existing boundaries (Cottages at Sawyer and aspects of Enterprise Business Park) that may be in the Town’s best interest based on adherence to analysis required in 103.1 Credit Enhancement Policy; and

January 2024:

- With the survey feedback, the Council will make a “Go/No-Go” decision to proceed with the Option Agreement
- The Town Council will act on the Option Fee Payments, Zoning, CPD Buffers and the CEA changes on January 17, 2024; understanding that canceling the Purchase Option Agreement will result in 8.16 in the CEA being met.

Signed and sealed this 15th day of November 2023, on behalf of the Scarborough Town Council and the Town Manager of Scarborough, Maine.

Signed by: Councilor Chair

Attested by: Yolande P. Justice
Town Clerk

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-104. Move approval of the second reading the proposed amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments relating to buffers. [*Planning Director*] [Tabled from the November 8th Town Council meeting].

Planning Director

Ought to Pass

Sponsor

Recommendation

09/20/2023 – Vote: 6 Yeas, 1 Nay [Councilor Hamill]

First Reading/Vote

11/08/2023

11/15/2023

Public Hearing

11/08/2023 – Vote: 7 Yeas to table this order to the November 15, 2023 TC meeting.

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-104

SUBJECT:

7:00 p.m. Public Hearing and second reading for the proposed amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments relating to buffers. [*Planning Director*]

PURPOSE:

To review ordinance amendments required to update the CPD standards relating to buffer distance between municipal uses, schools and residential uses.

The CPD District currently requires a 100' setback to be treated as a buffer for all adjacent residential districts or natural resource districts regardless of use in the CPD. The eastern boundary of the CPD abuts three residential zoning districts (VR4, R2, RF). The CPD does not currently abut any natural resource districts.

The existing 100' setback and buffer is consistent with other commercial/non-residential zoning districts in Town requiring a specified buffer and separation between zones with different uses and characters (commercial or light industrial to residential) to mitigate any impacts or incompatibilities. These larger buffers are not required in Town between like uses, namely residential uses and zones or municipal and school uses and residential for which they serve. The CPD District is unique, as it permits both non-residential and residential uses.

The CPD currently permits heights up to 75', however, it also includes a Maximum Building Height of 35' for any portion of a building located within 150' of a residential district for Planned Developments in the CPD. While, this additional height setback does not address potential use differences, it does provide relief in regards to potential height differences for neighboring zoning districts. The VR4, R2 and RF districts all limit heights to 35' or three stories.

To address uses potential use issues, this amendment would maintain the required 100' setback and buffer to abutting residential districts for all non-residential uses in the CPD. The proposed revision is only for the setback and buffer between residential, municipal and school uses and abutting residential and natural resource districts to be reduced to 15'.

Further, this amendment would enable a school facility or other municipal use to be appropriately sited within the CPD District and integrated with abutting residential zones.

On October 10, 2023, the Planning Board held a public hearing and discussed the proposed amendments. The Board was generally supportive (3-2 straw poll) on the 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. 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) and they were

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.

On November 8, 2023, Town Council held a workshop to discuss the various options and recommendations that have been discussed thus far. General consensus at the workshop centered around changes to the original proposal to maintain the existing 100' buffers and add a 100' buffer adjacent to the RF district. The discussion also contemplated permitting the 15' buffer reduction for municipal and school uses adjacent to the VR-4 district, but increasing to 25' for residential uses.

POTENTIAL AMENDMENT

25' SETBACK WITH PLANNING BOARD AMENDMENTS		
Adjacent Zoning District	Land Use in CPD	Minimum Setback
Rural Farming District or Natural Resource District	All Land Uses	100'
Residential 2 District	All Land Uses	100'
Village Residential 4 District	All Land Uses Developed prior to October 31, 2023	100'
	Municipal Buildings or Uses; Elementary and secondary schools	15'
	Residential Uses Developed after October 31, 2023	25'
	All Other Land Uses Developed after October 31, 2023	100'

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- First Reading before the Town Council: September 20, 2023
- Planning Board Public Hearing: October 10, 2023
- Town Council Workshop: November 8, 2023
- Public hearing and second reading before the Town Council: November 15, 2023

PROPOSED ACTION:

Recommend move approval of the second reading on the proposed amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments.

ATTACHMENTS:

- Planning Board Recommendations
- Planning Board Staff Report
- Proposed Amendments Chapter 405 Zoning. Section XX.C. Crossroads Planned Development (CPD), Subsection D.2. Planned Developments.
- Proposed Amendments per Workshop Discussion

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

**Text Amendment Staff Report
Planning Board Public Hearing October 10, 2023**

Submittal Type: Proposed text amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments.
Applicant: Town Initiated

ACTION REQUIRED:

Hold a public hearing and make a recommendation to Town Council for the proposed amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection D.2. Planned Developments.

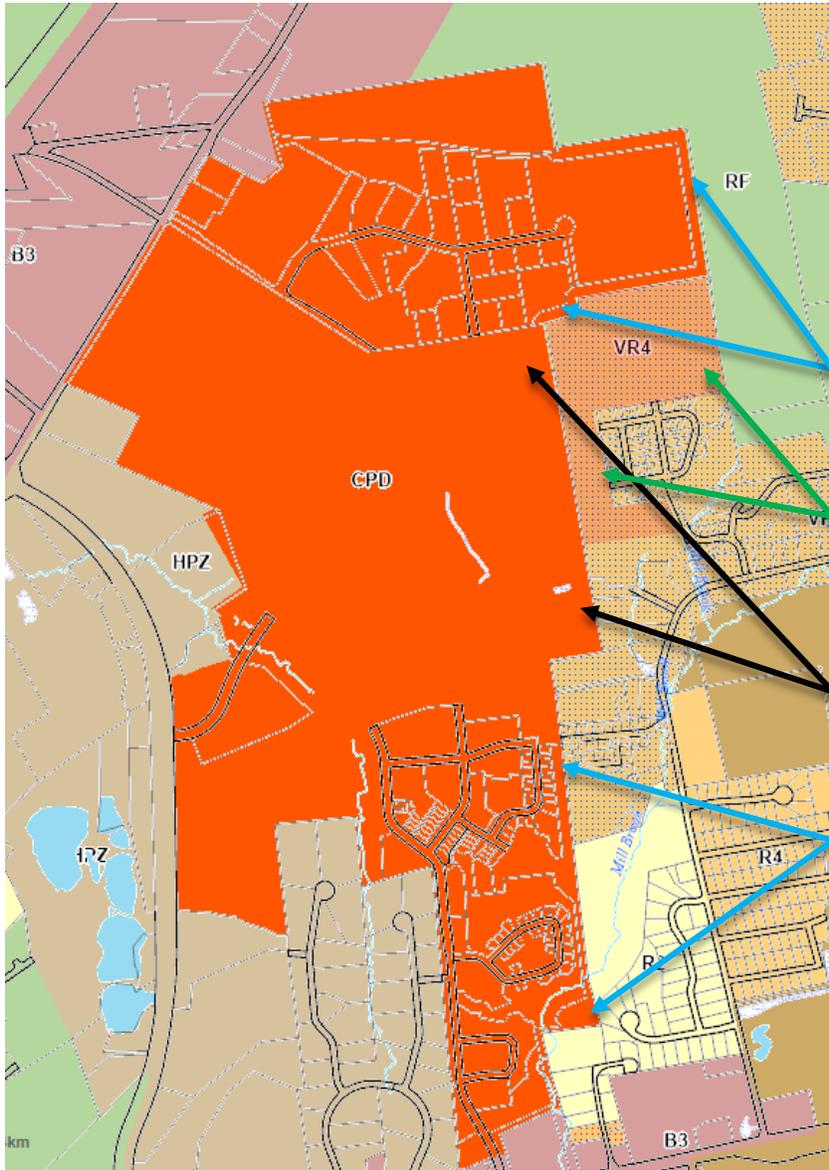
BACKGROUND:

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.

The eastern boundary of the Crossroads Planned Development District abuts residential zoning districts (VR4, R2, RF). The existing 100' setback and buffer are consistent with other commercial/non-residential zoning districts in Town requiring a specified buffer and separation between zones with different uses and characters (commercial or light industrial to residential) to mitigate any impacts or incompatibilities. These larger buffers are not required in Town between like uses, namely residential uses and zones or municipal and school uses and residential for which they serve. The CPD District is unique, as it permits both non-residential and residential uses.

This amendment proposes to maintain the required 100' development setback and buffer to abutting residential districts for all non-residential uses in the CPD, but revise the setback and buffer between residential, municipal and school uses and abutting residential and natural resource districts to 15' given the compatibility between them and to be more consistent with other zoning in Town. Further, this amendment will enable a school facility or other municipal use to be appropriately sited within the CPD District and integrated with abutting residential zones.

The eastern property boundary includes the Innovation District which has been developed with the 100' buffer in place on the Northern portion of the site. The development in the Southern portion along Pacer Way and Gristmill Lane also includes the 100' buffer, including a trail system and wetlands.



Built Out Location - 100' Buffer Included

Affected Area - With Rezoning

Affected Area - Future Development

Built Out Location - 100' Buffer Included

Staff recommends the Planning Board consider adding a caveat for lots developed prior to the adoption of this change to maintain the 100' buffer as follows:

Adjacent Zoning District	Land Use in CPD	Minimum Setback
"Residential District" or "Natural Resource District"	<u>All Land Uses Developed prior to October 31, 2023</u>	100 feet
"Residential District" or "Natural Resource District"	<u>Municipal Buildings or Uses; Elementary and secondary schools; Residential Uses Developed after October 31, 2023</u>	<u>15 feet</u>
"Residential District" or "Natural Resource District"	<u>All other Land Uses Developed after October 31, 2023</u>	100 feet

PRIOR ACTION AND NEXT STEPS:

- Town Council First Reading: September 20, 2023
- Town Council Public Hearing and Second Reading: October 18, 2023

PUBLIC NOTIFICATION:

Publication of this text amendment was included in the newspaper on September 27, 2023 and October 3, 2023.

ATTACHMENTS:

- Town Manager Memo Initiating Change
- Chapter 405 Zoning Ordinance, Section XX.C. Crossroads Planned Development Subsection D.2. Planned Developments Draft Markup

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; Amended 05/16/18; Amended 05/20/2020; Amended 04/21/2021; amended 05/17/2023]

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

~~AH-B~~ 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 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)

Adjacent Zoning District	<u>Land Use in CPD</u>	Minimum Setback
“Residential District” or “Natural Resource District”	<u>Municipal Buildings or Uses; Elementary and secondary schools; Residential Uses</u>	<u>15 feet</u>
A “Residential District” or “Natural Resource District”	<u>All other Land Uses</u>	100 feet

PROPOSED CONSENSUS AMENDMENT

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; Amended 05/16/18; Amended 05/20/2020; Amended 04/21/2021; amended 05/17/2023]

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 B~~ 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 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)

<u>Adjacent Zoning District</u>	<u>Land Use in CPD</u>	<u>Minimum Setback</u>
<u>Rural Farming District or Natural Resource District</u>	<u>All Land Uses</u>	<u>100'</u>
<u>Residential 2 District</u>	<u>All Land Uses</u>	<u>100'</u>
<u>Village Residential 4 District</u>	<u>All Land Uses Developed prior to October 31, 2023</u>	<u>100'</u>
	<u>Municipal Buildings or Uses; Elementary and secondary schools</u>	<u>15'</u>
	<u>Residential Uses Developed after October 31, 2023</u>	<u>25'</u>
	<u>All Other Land Uses Developed after October 31, 2023</u>	<u>100'</u>

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-114, 7:00 p.m. Public Hearing and second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/04/2023 – Vote: 6 Yeas, 1 Nays (Councilor Shupe)

First Reading/Vote

11/15/2023

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-114
<p>SUBJECT:</p> <p>7:00 p.m. Public hearing and second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs. <i>[Planning Director]</i></p>
<p>PURPOSE:</p> <p>To review ordinance amendments that would allow greater flexibility for electronic message signs.</p>
<p>BACKGROUND:</p> <p>The Ordinance Committee received a request from a local business to review the existing electronic message sign regulations as they relate to colors and size of images permitted. The existing ordinance limits the size and colors of permitted lettering on electronic message signs from 8-12” in height and only white or gold lettering on a black background. The technology has advanced quite a bit since the ordinance was last amended in 2011. The Ordinance Committee reviewed the request on September 14, and referred the attached amendment to the full Council for review.</p>
<p>FISCAL IMPACT: N/A</p>
<p>STATUS / PROCESS TO DATE:</p> <ul style="list-style-type: none"> • Ordinance Committee: September 14, 2023 • Planning Board Public Hearing: October 30, 2023 • First reading before the Town Council: October 4, 2023 • Public hearing and second reading before the Town Council: November 15, 2023
<p>PROPOSED ACTION:</p> <p>Recommend approval of the second reading on the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs.</p>
<p>ATTACHMENTS:</p> <ul style="list-style-type: none"> • Planning Board Recommendations 10.30.23 • Planning Board Staff Report 10.30.23 • Proposed Amendments to Chapter 405, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs

Planning Board Recommendation

Hearing Date: October 30, 2023

RE: Proposed Text Amendments to Chapter 405 Zoning Ordinance Section XII Sign Regulations G. Electronic Message and Time/Temperatures Signs

Chairman Anderson and members of the Town Council,

On October 30, 2023, in accordance with the Town of Scarborough Zoning Ordinance, the Planning Board reviewed the proposed text amendments to Section XII Sign Regulations, Section G. Electronic Message and Time/Temperatures Signs. 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 requests minimum and maximum nit levels be added similar to the examples provided from Saco and South Portland Ordinances.

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

**Text Amendment Staff Report
Planning Board Public Hearing October 30, 2023**

Submittal Type: Proposed Text Amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs

Applicant: Town Initiated Upon Request

ACTION REQUIRED:

Hold a public hearing and make a recommendation to Town Council for the proposed amendments to Chapter 405 – the Zoning Ordinance, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs.

BACKGROUND:

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

d. Electronic message sign lettering or numbering height shall be a minimum of 8" and a maximum of 12" and where any industry standard for colors does not exist, may consist only of white or gold lettering or numbering on a black background.

At the Town Council meeting on October 4, 2023, concern was expressed about the proliferation of these signs and the potential for distraction with certain colors.

These signs are currently permitted in the B1, B2, B3, BO-R, RH, RH2, I, I-O, L-I, CPD and TVC, TVC-2, TVC-3, TVC-4 Districts as a readerboard in conjunction with a freestanding sign.

The maximum size for readerboards on a freestanding sign in these districts is:

- 25 sq ft maximum
- maximum of one per lot

In addition to condition d. proposed for removal, the following conditions would remain:

- a. An electronic message sign may only be used as a readerboard on a free-standing sign. Electronic message signs may not be used as stand-alone signs.
- b. An electronic message sign must not give the appearance of motion, flashing, blinking, or shimmering. When the display changes, it must change as rapidly

- as is technologically practicable with no phasing, rolling, scrolling, flashing, or blending.
- c. The message may be changed no more frequently than twice in each 60 minute period.

The sign ordinance also includes the following general provision that would continue to apply:

General Safety Standards for Signs. No sign, whether new or existing shall be permitted in a location that causes a sight, traffic, health or welfare hazard, or results in a nuisance due to illumination, placement, display, or manner of construction.

Internally-lit signs shall have an opaque or dark background to minimize glare and lighting impacts.

The Commercial Design Standards include the following

Readerboards. *Readerboards, with stationary or electronic text, are strongly discouraged within Scarborough's commercial districts, and prohibited within the HPZ district. Where readerboards are part of a permanent sign, they shall contain no more than three lines of text. Lettering height shall be a maximum of 6". The readerboard shall be fully integrated into the overall sign design by virtue of its form, scale, color, and detailing. Readerboards will be considered part of the total signage area.*

Internally-lit signs shall consist of light lettering and/or symbols on a dark background, and shall not act as light fixtures in their own right.

Design. *Internally-lit signs shall consist of light lettering and/or symbols set against a dark background to minimize the amount of light emanating from the sign. Internally-lit letters and symbols are preferred over whole panels that are internally lit. Letters and/or symbols on panels shall constitute no more than 40% of the sign's surface area.*

Intensity. *Internally-lit signs shall not act as light fixtures or cause glare on nearby pathways or roadways. Lighting levels shall not exceed 1 fc of illumination measured 10 feet from the base.*

If this amendment is approved, the Commercial Design Standards will be required to be revised as well to address the lettering height.

ADDITIONAL CONSIDERATIONS:

The Planning Board may consider recommending including maximum illumination levels similar to neighboring communities such as:

South Portland - Changeable signs may not exceed a maximum illumination of 5,000 nits during daylight hours, nor a maximum of 500 nits between dusk to dawn, as measured from the brightest portion of the sign face. Prior to the issuance of a permit for a changeable sign, the applicant shall provide written

certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Code Enforcement Officer.

Saco - Maximum luminance shall not exceed 5,000 nits (candela per square meter) during daylight hours, and 300 nits after sunset.

PRIOR ACTION AND NEXT STEPS:

- Ordinance Committee: September 14, 2023
- Town Council First Reading: October 4, 2023
- Town Council Public Hearing and Second Reading: November 8, 2023

PUBLIC NOTIFICATION:

Publication of this text amendment was included in the newspaper on October 18, 2023 and October 24, 2023.

ATTACHMENTS:

- Proposed Amendments Chapter 405, Section XII. Sign Regulations G. Electronic Message and Time/Temperatures Signs
- Town Council Motion Page

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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

G. ELECTRONIC MESSAGE AND TIME/TEMPERATURE SIGNS

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

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

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

PLANNING BOARD RECOMMENDATIONS

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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

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

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

- a. An electronic message sign may only be used as a readerboard on a free-standing sign. Electronic message signs may not be used as stand-alone signs.
- b. An electronic message sign must not give the appearance of motion, flashing, blinking, or shimmering. When the display changes, it must change as rapidly as is technologically practicable with no phasing, rolling, scrolling, flashing, or blending.
- c. The message may be changed no more frequently than twice in each 60 minute period. [Amended 08/19/09]
- ~~d. Electronic message sign lettering or numbering height shall be a minimum of 8" and a maximum of 12" and where any industry standard for colors does not exist, may consist only of white or gold lettering or numbering on a black background. [Adopted 08/19/09][09/21/2011]~~
- d. Maximum luminance shall not exceed 5,000 nits (candela per square meter) during daylight hours, and 300 nits after sunset.

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-115. Move approval of the second reading on the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii relating to coffee house use. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/04/2023 – Vote: 7 Yeas.

First Reading/Vote

11/15/2023

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-115

SUBJECT:

7:00 p.m. public hearing and second reading on the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii relating to coffee house use. [*Planning Director*]

PURPOSE:

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

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

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

The proposed definition for Coffee House is as follows:

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

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

19. *Restaurants with no drive-through service; excluding coffee houses.*
20. *Coffee house, drive through service permitted*

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

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

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

FISCAL IMPACT: N/A

STATUS / PROCESS TO DATE:

- First Reading before the Town Council: October 4, 2023
- Planning Board Public Hearing: October 23, 2023
- Public hearing and second reading before the Town Council: November 15, 2023

PROPOSED ACTION:

Recommend move approval of the second reading on the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii.

ATTACHMENTS:

- Planning Board Recommendation 10.30.23
- Planning Board Staff Report 10.30.23
- Applicant Request Letter
- Proposed Amendments Chapter 405 Zoning Ordinance Section VI Definitions.
- Proposed Amendments to Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii.

Planning Board Recommendation

Hearing Date: October 30, 2023

RE: Proposed Text Amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C. Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii.

Chairman Anderson and members of the Town Council,

On October 30, 2023, in accordance with the Town of Scarborough Zoning Ordinance, the Planning Board reviewed the proposed text amendments to the Crossroads Planned Development (CPD) zoning district. 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. There are areas of The Downs that the Board feels are inappropriate for a coffee house with a drive through. These areas include the Town Center and any future mixed use locations, which are meant to be the most walkable and pedestrian friendly of the development. One option would be to add an Additional Development Standard that coffee houses with drive-through service must be compatible with the character of the district subject to Planning Board review.
2. Addition of language to the definition of “coffee house” to specify that the drive through service must be ancillary to the coffee house to maintain smaller and more localized operations that discourage pass through traffic.

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

**Text Amendment Staff Report
Planning Board Public Hearing October 30, 2023**

Submittal Type: Proposed Text Amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii.

Applicant: M&R Holdings LLC.

ACTION REQUIRED:

Hold a public hearing and make a recommendation to Town Council for the proposed amendments to Chapter 405 Zoning Ordinance Section VI Definitions and Chapter 405 Zoning Ordinance Section XX.C Crossroads Planned Development (CPD), Subsection B. Permitted Uses ii.

BACKGROUND:

M&R Holdings LLC. has submitted a request to permit coffee house uses with an accessory drive-through service in the Crossroads Planned Development District (CPD). They have met with staff and worked to request a two-part approach to permit coffee house uses with accessory drive-throughs. The CPD currently permits restaurant uses without drive-throughs in Planned Developments. Coffee shops are currently included under the restaurant use category.

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

The proposed definition for Coffee House is as follows:

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

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

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

20. Coffee house, drive through service permitted

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

1. Drive-through lanes shall minimize conflicts with pedestrian circulation routes. Motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving or other devices. The site plan shall be designed to minimize queuing in parking lots or other areas which would cause congestion or unsafe conditions.

2. Walkways shall be located where motorists can anticipate pedestrians. Likewise, walkways shall be designed to give pedestrians a view of oncoming vehicles and shall avoid bisecting drive-through lanes, access and service drives, and other high-traffic routes.

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

PRIOR ACTION AND NEXT STEPS:

- Town Council First Reading: October 4, 2023
- Town Council Public Hearing and Second Reading: November 8, 2023

PUBLIC NOTIFICATION:

Publication of this text amendment was included in the newspaper on October 18, 2023 and October 24, 2023.

ATTACHMENTS:

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



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

September 11, 2023

Ms. Autumn Speer

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

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

Dear Autumn:

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

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

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

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

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

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

Ms. Autumn Speer
September 11, 2023
Page 2



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

Sincerely,

A handwritten signature in black ink that reads "Dan Bacon". The signature is written in a cursive style with a long horizontal line extending to the right.

Dan Bacon
Development Director
M&R Holdings, LLC

Attachments

Amendment Language

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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

SECTION VI. DEFINITIONS

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

Coffee House:

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

Restaurant:

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

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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

SECTION XX.C. CROSSROADS PLANNED DEVELOPMENT (CPD)

[Adopted 08/21/13; Amended 10/07/15; Amended 05/16/18; Amended 05/20/2020; Amended 04/21/2021; amended 05/17/2023]

I. BASIC STANDARDS

A. PURPOSE (CPD)

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

B. PERMITTED USES (CPD)

- i. The following uses are permitted in both conventional and planned developments:
 1. Harness racing facilities.
 2. Commercial outdoor recreation uses.
 3. Fully enclosed places of assembly, amusement, culture and government, exclusive of video gambling, casino gambling and slot machine facilities.
 4. Municipal buildings and uses.
 5. Public utility facilities.
 6. Accessory uses.
- ii. The following uses are permitted only in planned developments:
 7. Single-family dwellings but only as part of a planned development that includes a variety of housing types.
 8. Two-family dwellings but only as part of a planned development that includes a variety of housing types.
 9. Multifamily dwellings.
 10. Multiplex dwellings.
 11. Townhouses, limited to no more than eight (8) dwelling units per building.

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

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

398. Home occupations.
4039. High technology facilities.
410. Family day care homes.
421. Group day care homes and day care facilities.
432. Nursery schools.
443. Passenger transportation facilities.
454. Small-scale energy facilities.
465. Telecommunication facilities.

476. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance with the exception of size limitation. Small batch processing facilities shall be limited to no more than 10,000 square feet of floor area included any accessory uses, such as retail area, a tap room, sampling area, storage or warehousing. [Adopted 10/07/15; amended 05/17/2023]

487. Research, development and light industrial. [Adopted 05/16/18]

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

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

5049. Manufacturing and assembly.

510. Food processing facilities.

521. Mini-warehouse/storage facilities.

532. Contractors offices, shops and storage yards.

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

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

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

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

PLANNING BOARD RECOMMENDATIONS

CHAPTER 405 – TOWN OF SCARBOROUGH ZONING ORDINANCE

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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; amended 05/17/2023]

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.

PLANNING BOARD RECOMMENDATIONS

12. Senior housing.
 13. Residential and long-term care facilities for the ill, aged, or disabled. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply.
 14. Dwelling units in a mixed use building.
 15. Live/work units.
 16. Accessory units.
 17. Retail business and service establishments.
 18. Personal service establishments.
 19. Restaurants with no drive-through service, excluding coffee houses.
 20. Coffee Houses, drive-through service permitted. Coffee houses with drive-through service must be compatible with the character of the specific district subject to Planning Board review.
 210. Hotels and motels.
 221. Business and professional offices.
 232. Financial, insurance and real estate offices.
 243. Business services.
 254. Medical/diagnostic facilities.
 265. Health clubs.
 267. Non-municipal government buildings and uses.
 287. Elementary and secondary schools.
 298. Instructional and educational services.
 3029. Libraries.
 310. Museums.
 321. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions.
 332. Funeral homes.
 343. Places of worship.
 354. Adjunct uses, Place of worship.
 365. Golf courses.
 376. Casinos or slot machine facilities, as defined in Chapter 31 of Title 8 of the Maine Revised Statutes, that are located within the same planned development as a harness racing facility and are licenses by the State of Maine in accordance with the requirements of Chapter 31 of Title 8 of the Maine Revised Statues, including the requirements that the casino or slot machine facility must be approved by the voters of the Town in a municipal referendum and that the Town Council has entered into a revenue-sharing agreement with the owner and/or operator of the casino or slot machine facility.
 387. Pet care facilities. [Adopted 05/16/18]
- iii. The following uses are permitted only in planned developments and are subject to specific performance standards set forth in Section IX.
398. Home occupations.
 4039. High technology facilities.
 410. Family day care homes.
 421. Group day care homes and day care facilities.
 432. Nursery schools.
 443. Passenger transportation facilities.
 454. Small-scale energy facilities.

PLANNING BOARD RECOMMENDATIONS

465. Telecommunication facilities.

476. Small Batch Processing Facilities, subject to the performance standards of Section IX.(M.3.) of this Ordinance with the exception of size limitation. Small batch processing facilities shall be limited to no more than 10,000 square feet of floor area included any accessory uses, such as retail area, a tap room, sampling area, storage or warehousing. [Adopted 10/07/15; amended 05/17/2023]

487. Research, development and light industrial. [Adopted 05/16/18]

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

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

5049. Manufacturing and assembly.

510. Food processing facilities.

521. Mini-warehouse/storage facilities.

532. Contractors offices, shops and storage yards.

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

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

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

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

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-119. Move approval of the 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*] [Tabled from the November 8th Town Council meeting.]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/18/2023 – Vote: 6 Yeas, 1 Nay [Councilor Hamill]

First Reading/Vote

11/08/2023

11/15/2023

Public Hearing

11/08/2023 – Vote: 7 Yeas to table this order to the November 15, 2023 TC meeting.

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-119.

SUBJECT:

7:00 p.m. 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]

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
- Public Hearing and second Reading before the Town Council: November 8, 2023 – Tabled to the November 15th Town Council meeting.
- Public hearing and second Reading before the Town Council: November 15, 2023

PROPOSED ACTION:

Recommend move approval of the 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).

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:

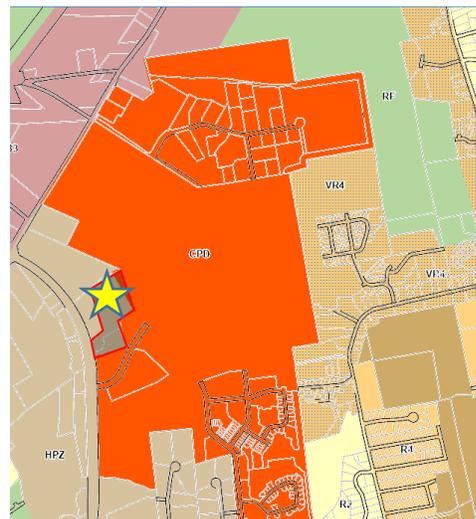
The HP district was established to be one of the gateways into Scarborough, and anticipates high quality uses such as office parks, hotels, small scale retail, convention centers, places of cultural and civic assembly, high technology and research, and multi-family housing as part of mixed-use development. 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:

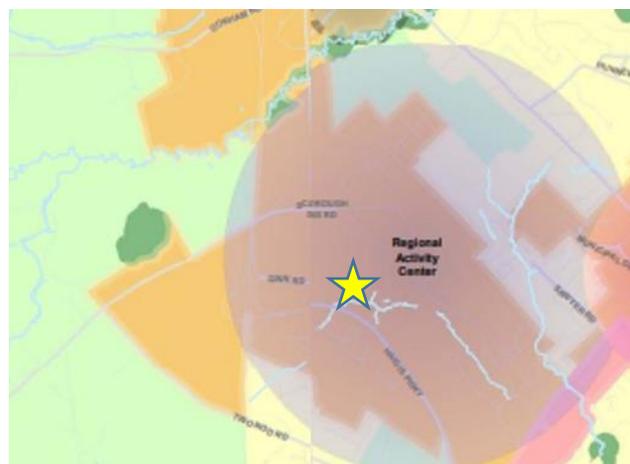
North: HP Future Acura Dealership and CPD
South: CPD - Haigis District and Market Street
East: CPD – Mix of Uses
West: HP – Beacon at Gateway Apartments



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.

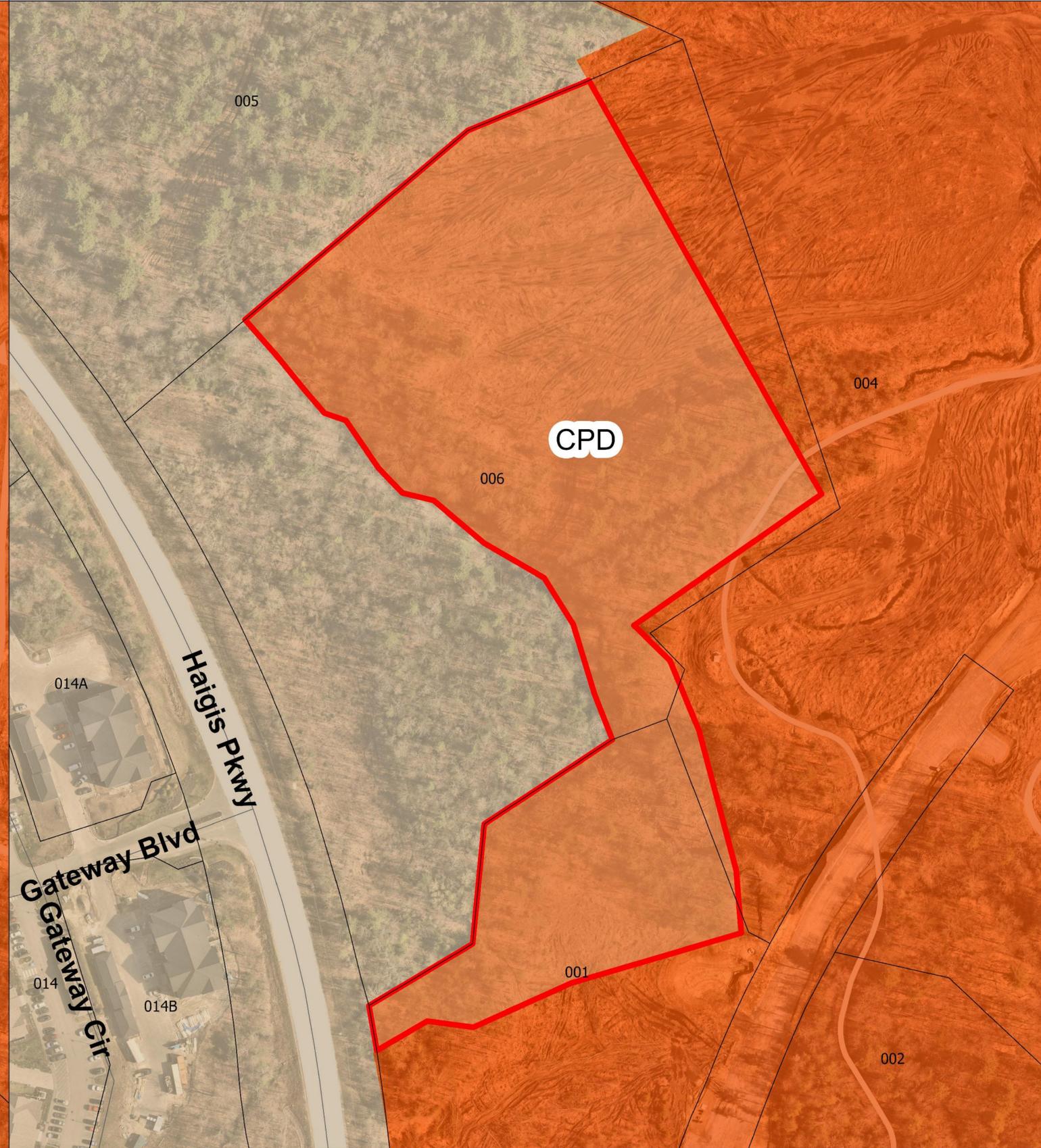
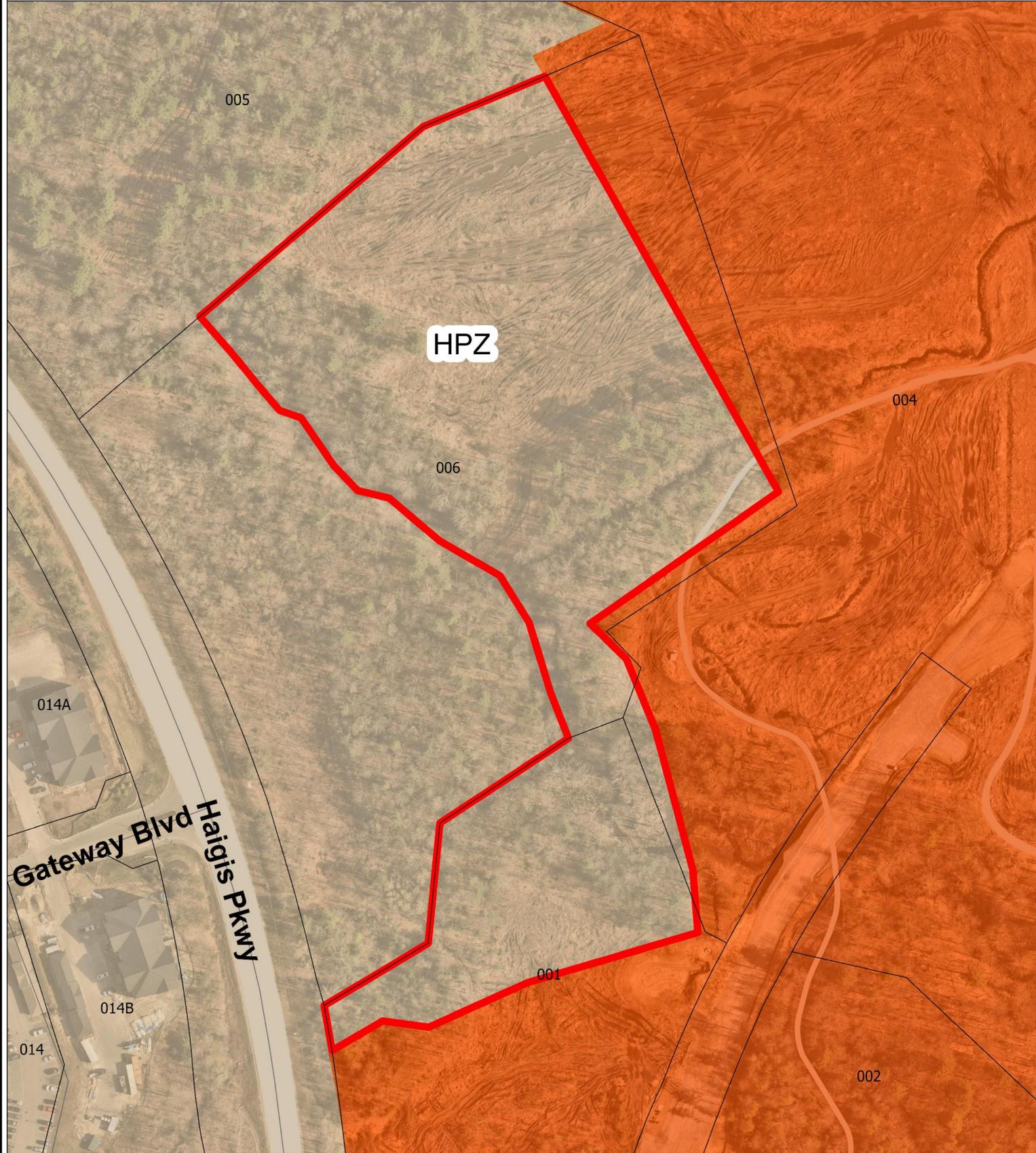
Sincerely,



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

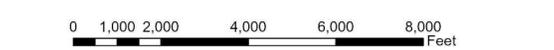
Beach/Mixed Use	Coastal Residential 1	Residential 4	Resource Protection	Town & Village Centers 4
Regional Business	Haigis Parkway Busines	Residential 4A	Residential & Professional	Village Residential 2
General Business	Industrial	Rural Residence & Farming	Traditional Neighborhood	Village Residential 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 Devolpment	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

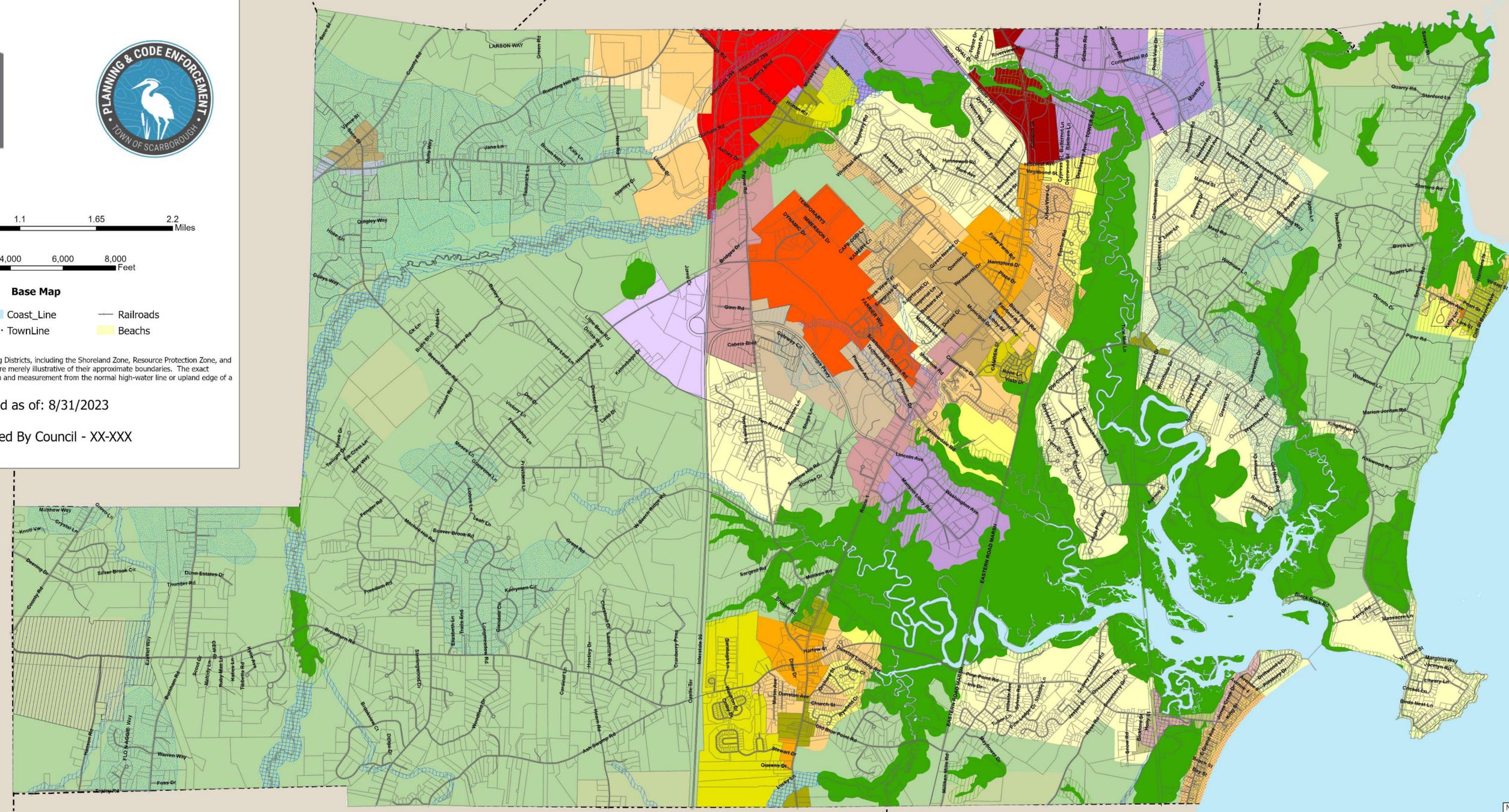
Note: The depictions of the boundaries of the Zoning Districts, including the Shoreland Zone, Resource Protection Zone, and Stream Protection District on this GIS Zoning Map, are merely illustrative of their approximate boundaries. The exact boundaries shall be determined by on-site inspection and measurement 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.

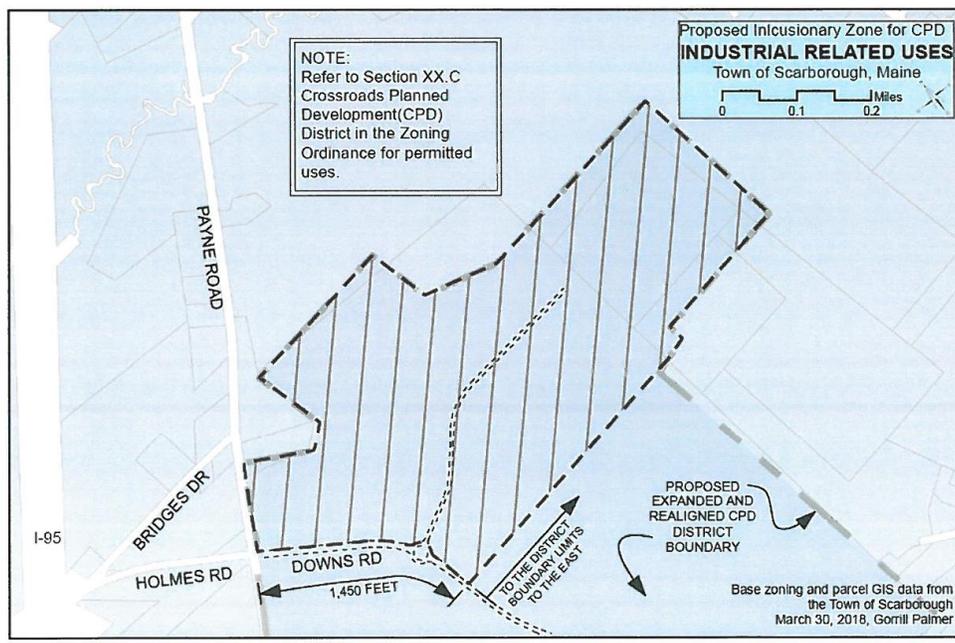
13. Provision of Affordable Housing – A key objective of the Crossroads Planned Development District is the provision of a mix of uses and a mix of housing types. Therefore at least ten percent of the dwelling units in a planned development must qualify as affordable housing in accordance

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.

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-120. Move approval of the 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*] [Tabled from the November 8th Town Council meeting.]

Planning Director

Ought to Pass

Sponsor

Recommendation

*10/18/2023 – Vote: 5 Yeas,
2 Nays [Councilors Cloutier and Hamill]*

First Reading/Vote

11/08/2023

11/15/2023

Public Hearing

*11/08/2023 – Vote: 7 Yeas to table this order
to the November 15, 2023 TC meeting.*

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-120.

SUBJECT:

7:00 p.m. 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]

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
- Public hearing and second reading: November 8, 2023

PROPOSED ACTION:

Recommend move approval on the second 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).

ATTACHMENTS:

- Planning Board Recommendation
- Planning Board Staff Report
- Zoning Exhibits and Draft Official Zoning Map S
- 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:

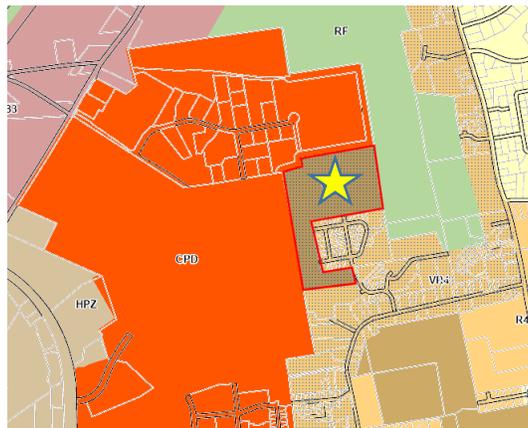
The VR-4 district was established to provide residential neighborhoods of a higher density and accept a significant share of the Town's residential growth. Residential development shall not exceed 4 dwelling units per net residential acre, plus additional density through development transfer or affordable 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:

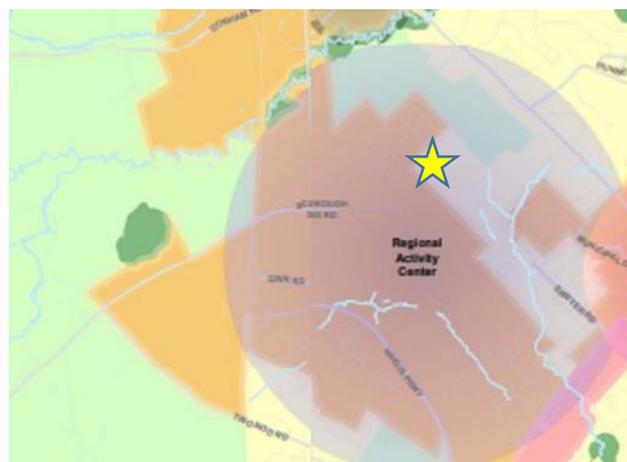
North: CPD – Innovation District
South: VR-2 - Single Family Homes, Cottages at Sawyer
East: RF – SLT Warren Woods
West: CPD – Mix of Uses



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:

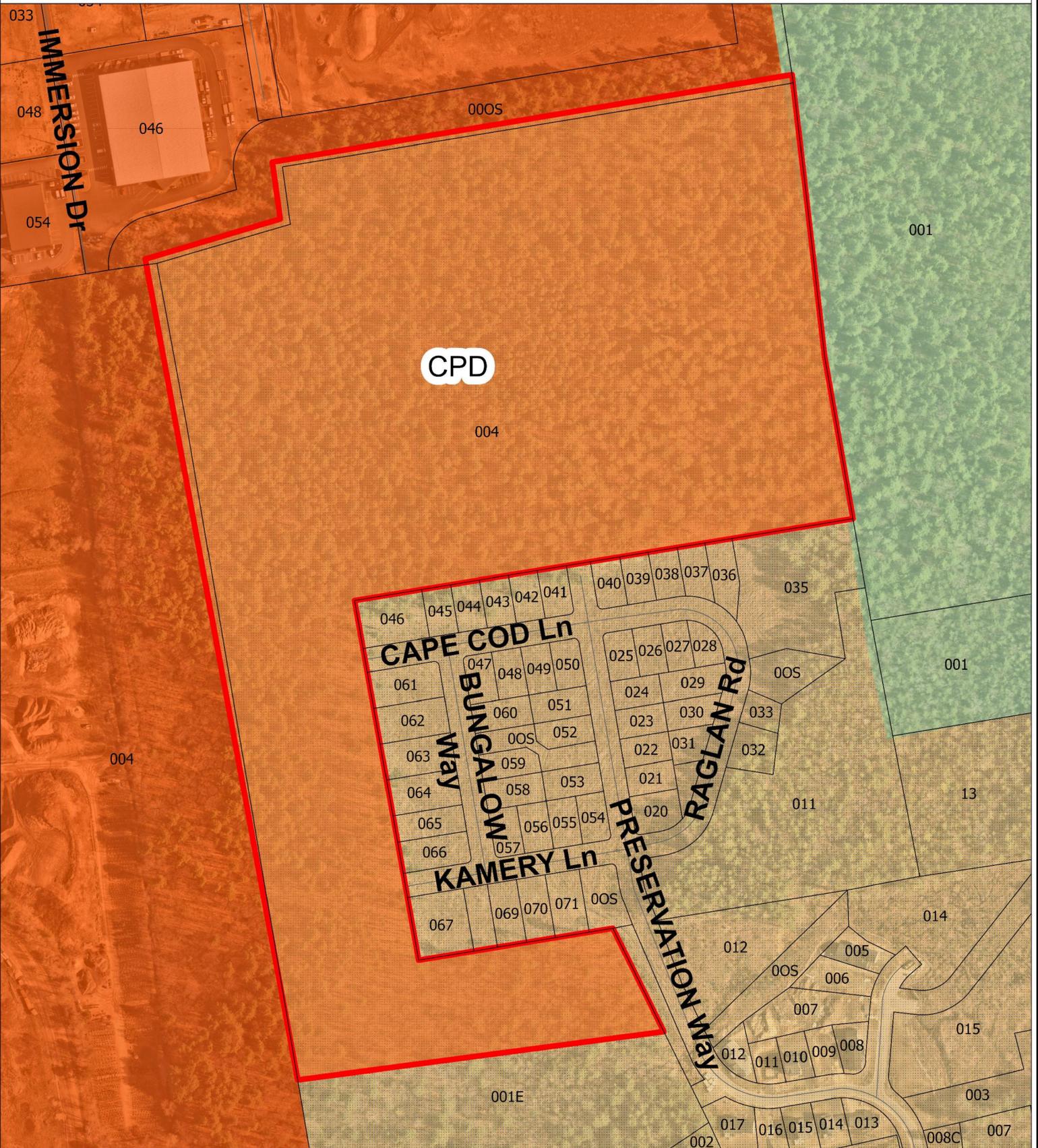
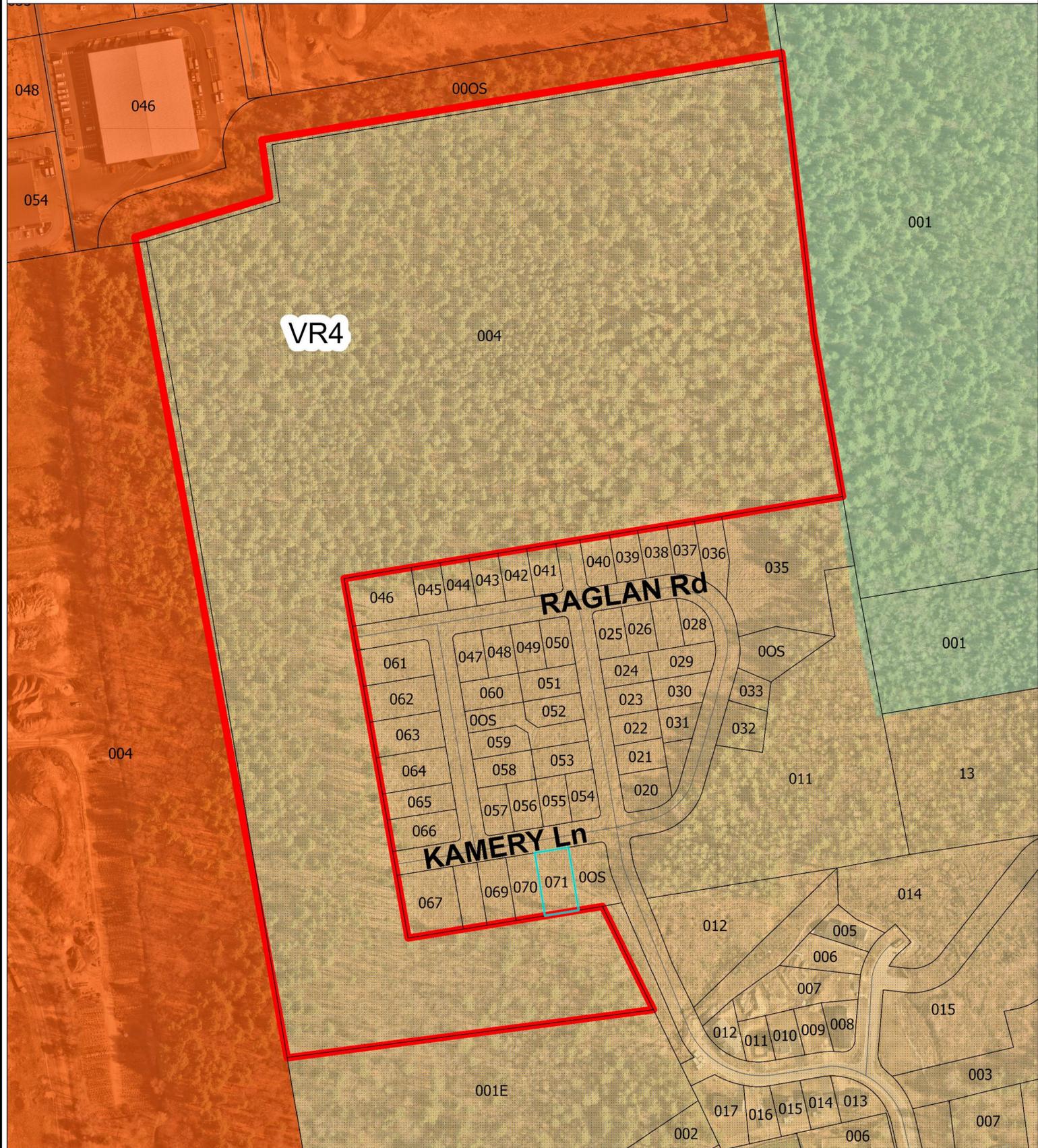
Town Manager Memo Initiating Change
Chapter 405 Section XIV Village Residential Districts
Chapter 405 Section XXC CPD District
Official Zoning Map Exhibit
Newspaper Notification Proof
Abutter List

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

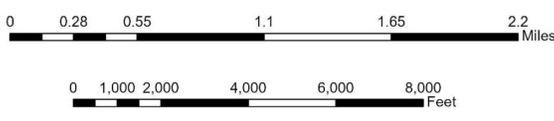
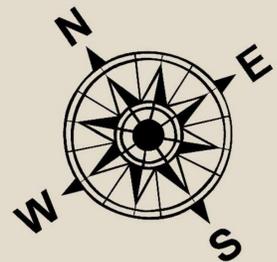
Beach/Mixed Use	Coastal Residential 1	Residential 4	Resource Protection	Town & Village Centers 4
Regional Business	Haigis Parkway Busines	Residential 4A	Residential & Professional	Village Residential 2
General Business	Industrial	Rural Residence & Farming	Traditional Neighborhood	Village Residential 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 Devolpment	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	



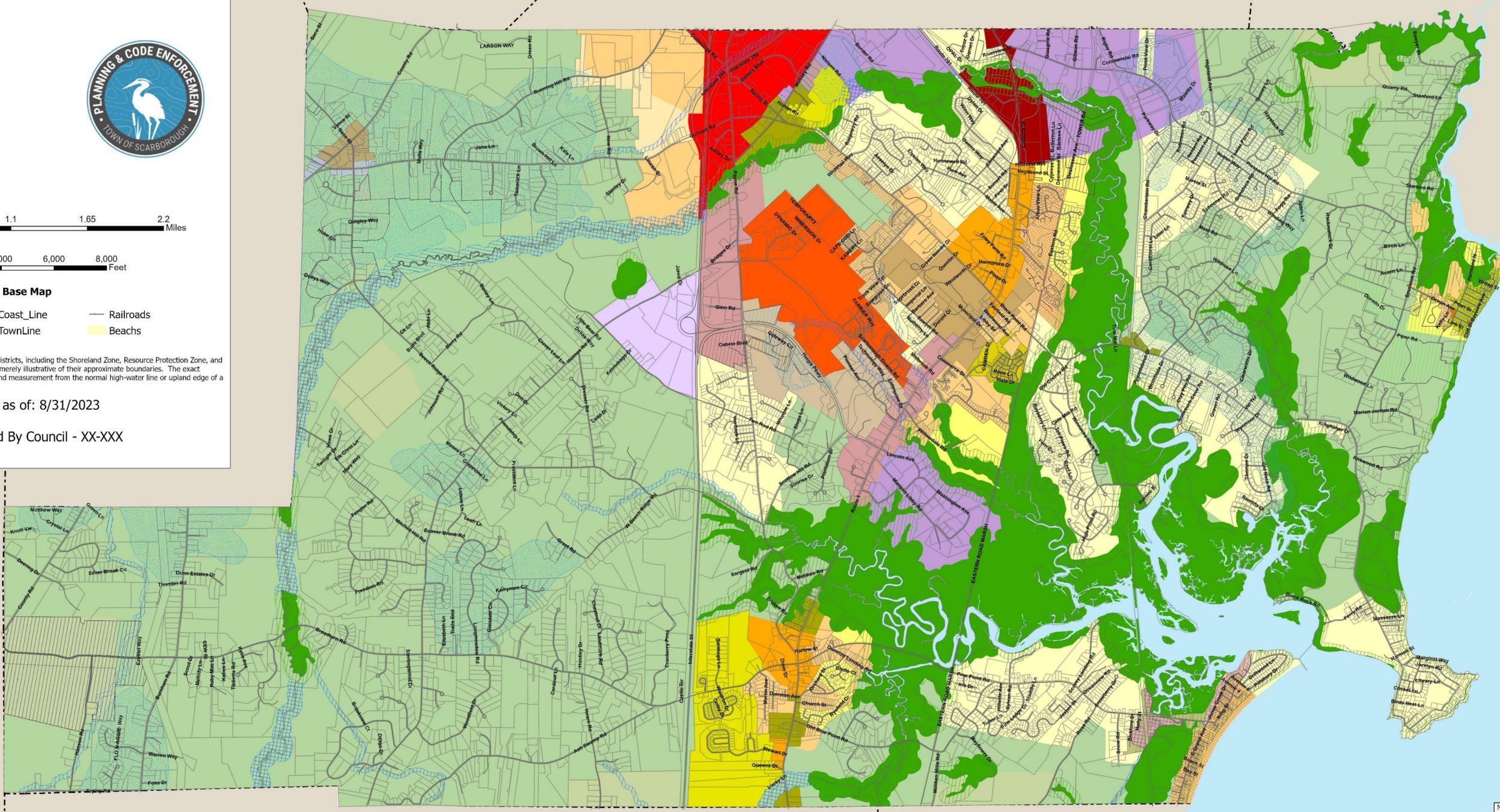
Base Map

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 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

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

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.

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.

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

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.

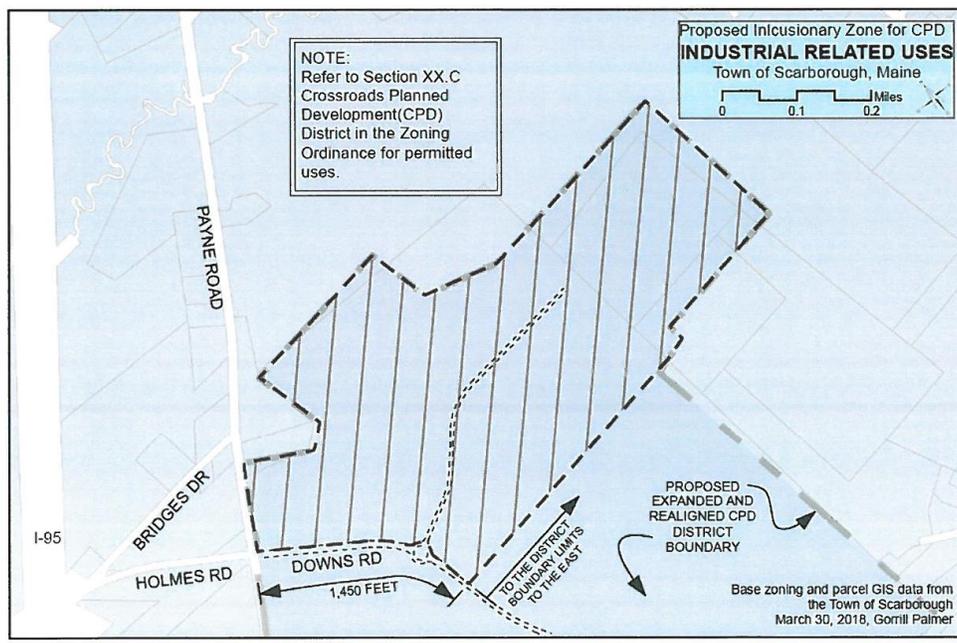
13. Provision of Affordable Housing – A key objective of the Crossroads Planned Development District is the provision of a mix of uses and a mix of housing types. Therefore at least ten percent of the dwelling units in a planned development must qualify as affordable housing in accordance

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.



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

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.

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-105. Move approval of the first reading and schedule a public hearing and second reading on the request from 3iHoMe/POAH to enter into a Credit Enhancement Agreement with the Town of Scarborough, to develop a state of the art accessible apartment community in the Town Center at The Downs. [*Housing Alliance*] [Tabled from the September 20th Town Council meeting.]

Housing Alliance

Ought to Pass

Sponsor

Recommendation

09/20/2023 – Vote: 6 Yeas.

1 Nay [Councilor Sither]

To table this Order to the November 15th meeting.

First Reading/Vote

11/15/2023

Public Hearing

11/15/2023

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-105.

SUBJECT:

First reading and schedule a public hearing on the request from 3iHoMe/POAH to enter into a Credit Enhancement Agreement with the Town of Scarborough, to develop a state of the art accessible apartment community in the Town Center at The Downs. [*Housing Alliance*]

PURPOSE:

Demonstrate local support for the project and improve the financial viability of the project.

BACKGROUND:

The project is within the Omnibus Downtown Tax Increment Financing District which allows for local approval of Credit Enhancement Agreement to incentives development within the District.

Applicant originally requested 60% reimbursement for the remainder of the TIF term (26 years). Based on feedback from the Town Council at the workshop of September 6, 2023, staff and the applicant reconsidered the request and now propose 50% reimbursement for 15 years. The modified request is incorporated into the proposed Credit Enhancement Agreement.

This project exists within the Downs Project for which there is an existing CEA to the Developer for 40% reimbursement. POAH's request of a 50% reimbursement would bring the total reimbursement to 90% for fifteen years, thereafter falling back to a 40% reimbursement. The 10% remaining is available to offset any "costs to serve", which, given the resident population of this facility is expected to be sufficient.

One of the stated purposes of the request is to obtain additional points to make the application for project funding more competitive. The application for funding through MaineHousing is due on September 21, 2023; however, due to the fact that public notice was not provided by the Town, the Town Council was unable to take final action as a public hearing must be held. The consequence of this is that the project was not eligible for an additional point in the ranking system. Nonetheless, the Applicant wishes to continue with the request as the reimbursement of property taxes paid will strengthen the underwriting for the project. With the revelation that time was not of the essence, the matter was tabled to the November 15, 2023 meeting in hopes that more clarity would be provided regarding the funding through MaineHousing.

FISCAL IMPACT:

Based on the revised pro-forma, it is estimated that the value of the 50% reimbursement over the 15-year term is \$774,312.

STATUS / PROCESS TO DATE:

- CEA Request followed TIF/CEA Policy

- Project reviewed by the Housing Alliance – recommended approval on 7/26/23
- Town Council Workshop on September 6, 2023
- First Reading scheduled for September 20, 2023, Tabled to November 15, 2023
- First Reading before the Town Council: November 15, 2023

PROPOSED ACTION:

Recommend approval in first reading.

ATTACHMENTS:

- Letter from POAH dated November 9, 2023
- CEA Application by POAH as the Developer for the 3iHoMe project.
- Letter of Support from the Scarborough Housing Alliance
- Revised Pro-Forma- using updated information
- Order approving the CEA
- Proposed Credit Enhancement Agreement reflecting final requested terms

IN TOWN COUNCIL ORDER #23-105

WHEREAS, the Town of Scarborough (the "Town"), pursuant to Chapter 206 of Title 30- A of the Maine Revised Statutes, as amended (the "Act"), designated a specified area within the Town as the **Scarborough Downtown Omnibus Municipal Development and Tax Increment Financing District** and adopted a development program for the District pursuant to the Act on November 28, 2018 and the State of Maine Department of Economic and Community Development (the "Department") approved the District and Development Program on March 29, 2019; and

WHEREAS, on June 30, 2021 and March 22, 2022, the Town adopted amendments to the Development Program, approved by DECD on July 20, 2021 and April 12, 2022, respectively (collectively the "District" and the "Development Program"); and

WHEREAS, the Development Program authorizes the Town Council to enter into future credit enhancement agreements with any party owning or developing property in the District so long as such credit enhancement agreement is the subject of a public hearing held by the Town Council and the Town Council votes to approve such agreement(s); and

WHEREAS, the District is a so-called "omnibus" district which means that the Town Council is permitted to enter into credit enhancement agreements with any party owning or developing property so long as the Town Council holds a public hearing prior to the approval of any such credit enhancement agreement; 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, Preservation of Affordable Housing, LLC (the "Developer") has proposed to construct a senior affordable housing development project for residents with disabilities and mobility impairments known as 3i HoME within the District and has proposed a credit enhancement agreement be approved by the Town and entered into by the Town and the Developer to provide the Developer's project with the best chances for success; and

WHEREAS, the Town desires to enter into a credit enhancement agreement with the Developer; and

ORDERED AS FOLLOWS:

Section 1. The Town Manager is hereby authorized and directed to enter into the specific credit enhancement agreement with Preservation for Affordable Housing, 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:



November 9, 2023

Scarborough Town Council
259 US Route 1
Scarborough, ME 04074

Subject: Credit Enhancement Agreement Request & Project Update - 3iHoME

Dear Councilors,

Preservation of Affordable Housing, Inc. (POAH) and 3i Housing of Maine (3iHoME) are co-developers of the 51-unit affordable rental housing community for the mobility-disabled which is planned for the Scarborough Downs Town Center. Following is a brief recap of where the project stands:

- The Scarborough Planning Board granted site plan approval earlier this year.
- The Scarborough Housing Alliance has committed \$200,000 to support affordability.
- In September our team submitted an application to the Maine State Housing Finance Authority (MSHA) for “9%” Low Income Housing Tax Credits and mortgage financing. This is a highly competitive process, and we anticipate that awards will be announced sometime between late November and mid-December.
- If awarded funding through current MSHA round, we will target a late 2024 construction start and would anticipate a spring or summer 2026 opening.

While the timing of MSHA’s funding round means that the CEA will not earn points for our pending application, the CEA is critical to project economics. Without it, the project’s Net Operating Income (property rental revenues minus operating expenses, including local taxes) would be reduced – resulting in a substantial erosion of supportable long-term mortgage financing. It is my understanding that the version of the CEA currently in front of the Council, as tabled from the September 20, 2023 meeting, is for 50% over 15 years. The 3i team respectfully requests that the Council reconsider our original request of 60% for the duration of the underlying Downs CEA (which runs to 2048), as this would optimize the amount of lender financing which can be secured. Every dollar that we can leverage is important, especially in a challenging development environment of rising interest rates and high construction costs.

I will be in attendance at the November 15, 2023 Town Council meeting, and would be happy to answer any questions as appropriate. Thank you for your continued consideration.

Sincerely,

Cory Fellows
Vice President, Real Estate Development

cc: Thomas Hall, Town Manager
Paul Linet, 3i Housing of Maine

CREDIT ENHANCEMENT AGREEMENT

between

THE TOWN OF SCARBOROUGH, MAINE

and

PRESERVATION OF AFFORDABLE HOUSING, LLC

DATE: _____, 2023

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Exhibits

Exhibit A: Map of District

Exhibit B: Map of Developer Property

DRAFT

THIS CREDIT ENHANCEMENT AGREEMENT dated as of _____, 2023, between the Town of Scarborough, a municipal corporation located in Scarborough, County of Cumberland and State of Maine, with offices at 259 U.S. Route 1, Scarborough, Maine 04070 (hereinafter the “Town”), and Preservation of Affordable Housing, LLC, a _____ limited liability company registered to do business under the laws of Maine, (hereinafter the “Developer”) with principal place of business of 2 Oliver Street, Suite 500, Boston, Massachusetts 02109.

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”), and received the approval of the District and the Development Program by the Maine Department of Economic and Community Development (“DECD”) on March 29, 2019; and

WHEREAS, on June 30, 2021 and March 22, 2022, the Town adopted amendments to the Development Program, approved by DECD on July 20, 2021 and April 12, 2022, respectively (collectively the “Development Program”), which increased the acreage of the District by adding a parcel and adjusted the Town’s capture within the District to one hundred percent (100%) of the assessed value above the original assessed value on District property; and

WHEREAS, the District is a so-called “omnibus” district which means that the Town Council is permitted to enter into credit enhancement agreements with individual property owners in the District as it sees fit for up to the full term of the District for up to 100% of the captured assessed value so long as the Town Council holds a public hearing prior to the approval of any such credit enhancement agreement; and

WHEREAS, at a meeting of the Town Council held on September 20, 2023, the Town Council authorized a credit enhancement agreement with the Developer in the name of and on behalf of the Town; 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:

**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.

“Captured Assessed Value” means the amount, stated as a percentage, of the Increased Assessed Value of the Developer Property that is retained in the District in each Tax Year during the term of the District, as discussed in Section 2.2 hereof.

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

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

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

“Developer Property” means the 1.32-acre portion of Map/Lot R052, Lot 004 within the District owned by the Developer and subject to this Agreement as depicted as Lot 6 on the Subdivision Plan/Town Center Subdivision prepared by Owen Haskell, Inc. dated June 7, 2023, signed by the Planning Board, and attached as Exhibit B hereto.

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

“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 at least two subaccounts: the 3i HoME Project Cost Subaccount and the Town Project Cost Subaccount.

“District” shall have the meaning given such term in the first recital hereto, which is more specifically comprised of approximately 948.13 acres of real property and identified on Exhibit A hereto.

“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.

“3i HoME 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.

“Original Assessed Value” means \$19,600, the taxable assessed value of the Developer Property as of March 31, 2018 (April 1, 2017).

“Project” means the approximately 51-unit senior affordable housing development for residents with disabilities and mobility impairments known as 3i HoME to be developed by the Developer on the Developer Property.

“Property Taxes” 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 owners of property located within the Town, or are actually paid to the Town with respect to taxable property located within the District.

“Tax Year” shall have the meaning given such term in 30-A M.R.S.A. § 5246, as amended, to wit: April 1 to March 31.

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 mean 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.

The Town hereby confirms the creation and establishment of a segregated fund in the name of the Town designated as 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. § 5250-A. The Development Program Fund shall be used in part to fund payments as described in this Agreement. 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 and as set forth in Section 3.1(b) below. The Development Program Fund shall include a project cost account (the “Project Cost Account”) which shall consist of a Town cost subaccount (the “Town Project Cost Subaccount”) pledged to and charged with payment of costs of the Town’s project costs, and a developer cost subaccount (the “3i HoME Project Cost Subaccount”) pledged to and charged with payment of the costs of reimbursement consistent with this Agreement.

Section 2.2. Captured Assessed Value; Deposits into Development Program Fund.

(a) Beginning with the 2026-2027 Fiscal Year on July 1, 2026 and ending with the 2040-2041 Fiscal Year on June 30, 2041 (hereinafter “CEA Years”), the Town shall retain in the Developer Property one hundred percent (100%) of the Increased Assessed Value as Captured Assessed Value.

(b) For each of the CEA Years, the Town shall deposit into the Development Program Fund contemporaneously with each payment of Property Taxes during the term of this Agreement an amount equal to one hundred percent (100%) of that portion of the property tax payment on the Increased Assessed Value in the Developer Property. Contemporaneously therewith, in each CEA Year, the Town shall deposit the Tax Increment Revenues relating to fifty percent (50%) of the Increased Assessed Value into the 3i HoME Project Cost Subaccount of the Project Cost Account, with the remaining Tax Increment Revenues relating to fifty percent (50%) of Increased Assessed Value into the Town Project Cost Subaccount for use by the Town to fund the cost of

Town projects and/or other project cost subaccounts related to other credit enhancement commitments as described in the Development Program.

Section 2.3. Use of Monies in Development Program Fund.

All monies in the Development Program Fund that are allocable to and/or deposited in the 3i HoME Project Cost Subaccount shall in all cases be used and applied to fund fully the Town's payment obligations to the Developer, as described in Articles II and III hereof, but in all cases the Developer must use such monies for approved project costs under the Act.

Section 2.4. Monies Held in Segregated Account.

All monies required to be deposited with or paid into the 3i HoME 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.

Section 2.5. Liens.

The Town shall not create any liens, encumbrances or other interests of any nature whatsoever, nor shall it hypothecate the 3i HoME 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.

**ARTICLE III
PAYMENT OBLIGATIONS**

Section 3.1. Company Payments.

(a) The Town agrees to pay the Developer up to all amounts then on deposit in the 3i HoME Project Cost Subaccount of the Development Program Fund, on or before thirty (30) days following the Tax Payment Date.

(b) Notwithstanding anything to the contrary contained herein, if, with respect to any Tax Payment Date, any portion of the property taxes assessed against the portion of the District constituting the Developer Property remain unpaid, the property taxes actually paid by Developer 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 taxes with respect to Increased Assessed Value, to be applied first to payment in full of the amount to be deposited in the Development Program Fund for the Town's use or to the general fund for the year concerned in accordance with Section 2.3; 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 3i HoME Project Cost Subaccount. In any case where a portion of the property taxes assessed against the portion of the District constituting the Developer Property remain unpaid for any reason other than a bona fide valuation dispute, no payment of the Developer's share of the Tax Increment

Revenues for the year concerned will be deposited into the 3i HoME Project Cost Subaccount until such property taxes assessed against the portion of the District constituting the Developer Property are paid in full.

(c) Notwithstanding anything to the contrary contained herein, the Town shall have no deposit or payment obligations hereunder for any CEA Year in which the Developer has not maintained Project compliance with the current definition of “Affordable Housing” in the Town of Scarborough Zoning Ordinance, Chapter 405, Section VI attached hereto for reference as Exhibit C. The Developer shall provide to the Town an annual certification of its compliance with this Section 3.1 (c).

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 3i HoME 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 3i HoME Project Cost Subaccount and its obligation to make payment out of the 3i HoME 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. 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 3.4. Limited Obligation.

The Town’s obligations of payment hereunder shall be limited obligations of the Town payable solely from 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 the Developer hereunder, whether or not actually deposited into the 3i HoME 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 therefor 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 the 3i HoME 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 3i HoME 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 this Agreement; provided, however, that no such instruments or actions shall pledge the credit of the Town; and provided further that the cost of executing and delivering such further instruments (including the reasonable and related costs of counsel to the Town with respect thereto) shall be borne exclusively by the Developer.

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 3i HoME 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.

(a) All non-confidential books, records and documents in the possession of the Town relating to the District, the Development Program, this Agreement and the monies, revenues and receipts on deposit or required to be deposited into Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by the Developer, its agents and employees.

(b) All non-confidential books, records, lease agreements and documents in the possession of the Developer relating to the District, the Development Program, this Agreement and the monies, revenues and receipts used from the Development Program Fund shall at all reasonable times and upon reasonable notice be open to inspection by Town, its 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 the Developer when the same shall become due and payable;

(b) Any failure by the Town to make deposits into Development Program Fund 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 the 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

(f) If any secured lender of the Developer other than the Town accelerates the indebtedness owed to it and commences foreclosure proceedings which are not dismissed within ninety (90) days following the commencement of the foreclosure proceedings;

(g) If any written representation or warranty given to the Town by the Developer is knowingly incorrect or incomplete in any material respect, other than statements made about or in agreements with the Town that were later changed by mutual consent; and

(h) If the Developer fails to maintain surety bonding during the initial construction period at the levels and terms as may be required from time to time by the Developer's secured lenders.

Section 5.2. Remedies on Default.

Subject to the provisions contained in Section 8.9, whenever any Event of Default described in Section 5.1 hereof shall have occurred and be 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. Further, the non-defaulting party may elect to terminate this Agreement upon 30 days' written notice to the defaulting party.

Section 5.3. Remedies Cumulative.

Subject to the provisions of Section 8.9 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 8.9 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.

Notwithstanding any other provision of this Agreement, this Agreement is effective upon its execution and delivery by the parties hereto, and shall remain in full force until June 30, 2041 or sooner upon the payment of all amounts due to the Developer hereunder and the performance of all obligations on the part of the Town hereunder, unless even sooner terminated pursuant to any other applicable provision of this Agreement.

The Town may terminate this Agreement by delivering written notice of such termination to the Developer in the event that the Developer does not receive a certificate of occupancy for the project by December 31, 2025.

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 this Agreement.

ARTICLE VII ASSIGNMENT AND PLEDGE OF INTEREST

Section 7.1. 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. Transfer

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, 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. Notwithstanding this Subsection 8.1, unless the Town affirmatively approves of such action, the Town shall have the unilateral right to terminate this Agreement upon the dissolution, merger or consolidation of the Developer, and if it exercises such right shall not be obligated to comply with this Agreement thereafter.

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 or Developer.

(a) 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 Council 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.

(b) No covenant, stipulation, obligation or agreement the Developer contained herein shall be deemed to be a covenant, stipulation or obligation of any present or future officer, agent, servant or employee of the Developer in his or her individual capacity, and no official, officer, employee or agent of the Developer 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. Amendments.

This Agreement may be amended only with the concurring written consent of both of the parties hereto.

Section 8.8. 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 8.9. Dispute Resolution.

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, then either party may refer the dispute for resolution by one arbitrator mutually agreed to by the parties, and judgment on the award rendered by the arbitrator may be entered in any Maine state court having jurisdiction. Any such arbitration will take place in Scarborough, Maine or such other location as mutually agreed by the parties. The parties acknowledge that arbitration shall be the sole mechanism for dispute resolution under this Agreement. Provided however, that in the event the parties are unable to agree, within a reasonable period, on the selection of an arbitrator, either party may file suit to resolve the dispute in any court having jurisdiction within the State of Maine. This arbitration clause shall not bar the Town's assessment or collection of property taxes in accordance with law, including by judicial proceedings, including tax lien thereof.

Section 8.10. Reserved.

Section 8.11. 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

With a copy to:

Philip Saucier, Esq.
Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, Maine 04104-5029

If to the Developer:

Preservation of Affordable Housing, LLC
Vitalia Shklovsky
2 Oliver Street, Suite 500
Boston, Massachusetts 02109

With a copy to:

Drummond Woodsum
Lisa R. (Magnacca) Whitt, Esq.
84 Marginal Way, Suite 600
Portland, ME 04101

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.

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 Duly Authorized by the Town
Council September 20, 2023

DRAFT

WITNESS:

PRESERVATION OF AFFORDABLE HOUSING,
LLC

BY: _____, its _____

By: _____

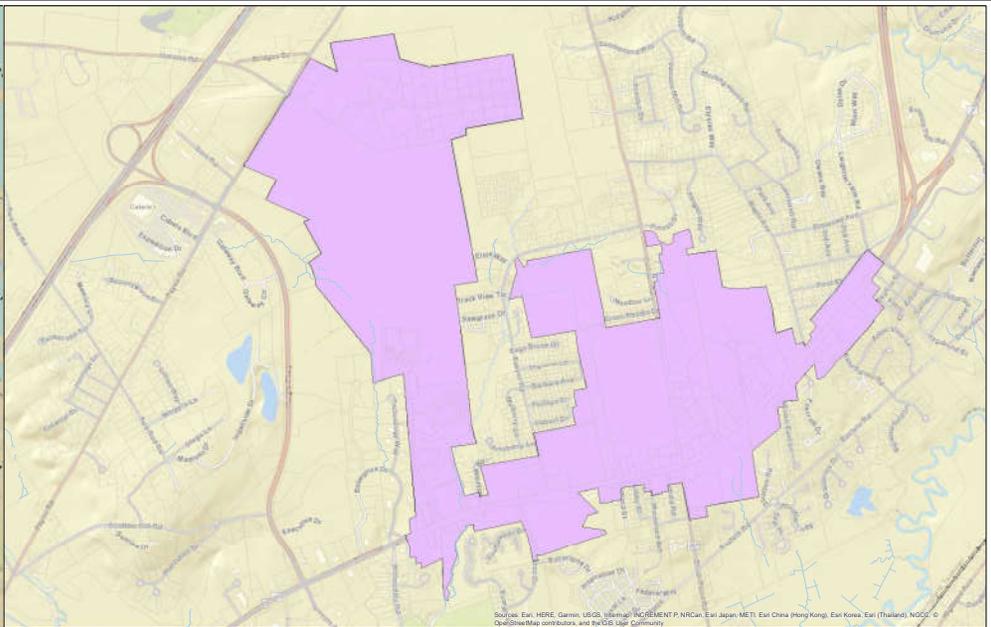
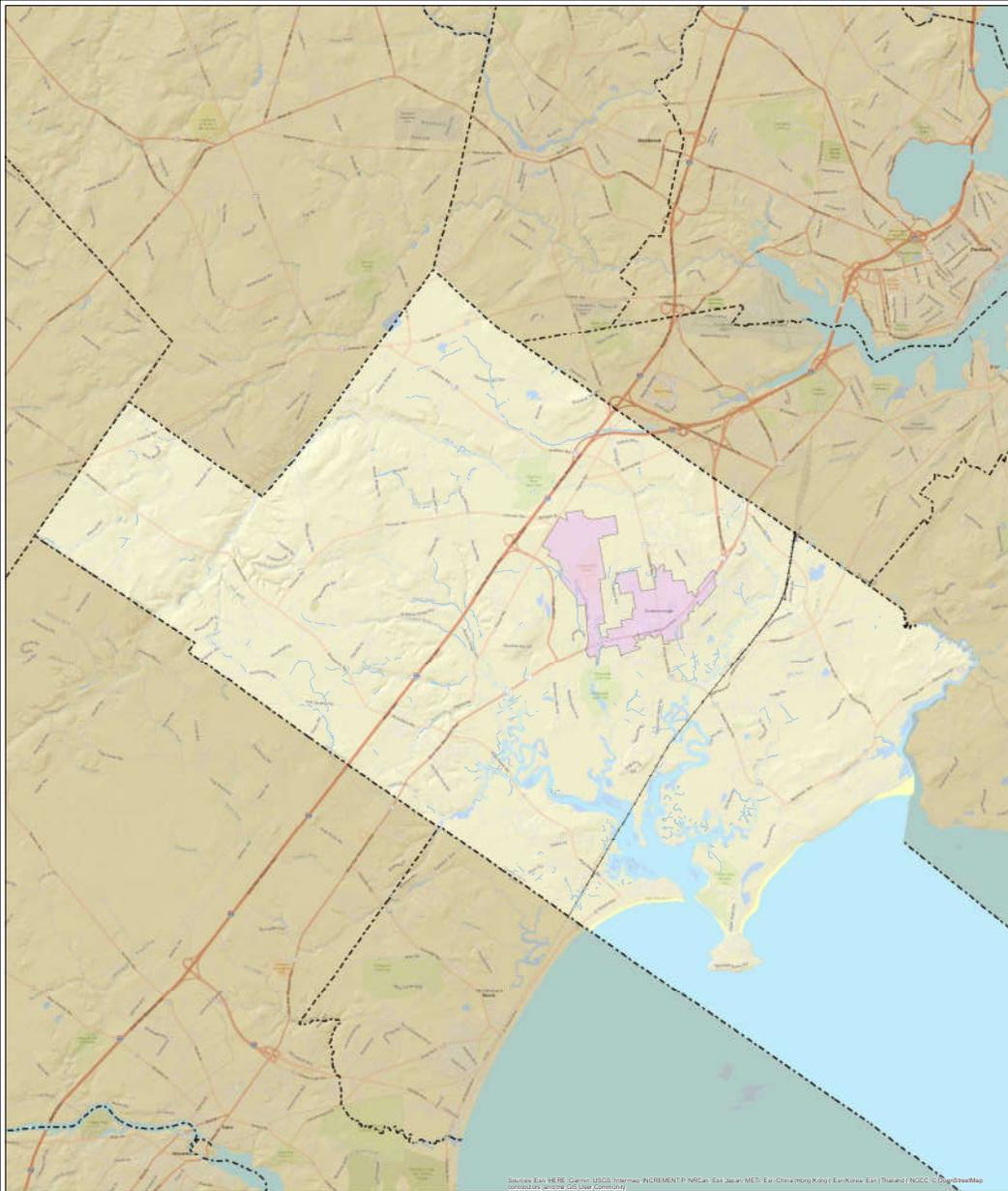
Name:

Its:

DRAFT

Exhibit A: Map of District

DRAFT



Source: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NOAA, Swisstopo, Mapbox, and the GIS User Community

Exhibit B: Map of Developer Property
Exhibit C: Definition of Affordable Housing from
Zoning Ordinance, Town of Scarborough, Chapter 405, Section VI

Affordable Housing: [Adopted 11/03/2004] [Amended 05/03/2006][Amended 12/03/2014][Amended 12/19/18][Amended 07-17-19]

Affordable Housing means decent, safe and sanitary living accommodations that are affordable to households, in accordance with following provisions:

- A. An Owner-Occupied Affordable Housing Unit is a unit which (i) is occupied by its owner; (ii) is owned by Qualifying Household and (iii) has a maximum sales price that is reasonably anticipated to result in Annual Housing Costs that are less than or equal to 30% of the Imputed Income Limitation applicable to the unit.
- (I) A Qualifying Household is one with a total household income that, at the time of purchase, is 80% or less than the most recently published Median Family Income for the Portland, Maine Metropolitan Statistical Area, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the “MFI Standard”).
- (II) Annual Housing Costs shall equal the sum of (i) the total annual payments of principal and mortgage interest, (ii) the total property insurance premium, (iii) the real estate taxes due (iv) any homeowners association or condominium fees that are due; and (v) a reasonable estimate of the annual cost of any additional water, sewer, heat, hot water and electricity in the home.
- (III) The total annual payments of principal and mortgage interest referred to in A(I)(i) may, in the absence of other reasonable estimates, be estimated based on the assumed interest rate and loan term established by the U.S. Department of Housing and Urban Development for housing affordability limits. In the case of a unit which has one or fewer bedrooms, the Imputed Income Limitation referred to in A(iii) shall be 80% of the MFI Standard for a household of two (2) people. In the case of a unit which has more than one bedrooms, the Imputed Income Limitation referred to in A(iii) shall be 80% of the MFI standard for a household of four (4) people.
- B. A Renter-Occupied Affordable Housing Unit is a unit which is leased A Renter-Occupied Affordable Housing Unit is a unit which is leased by a Qualifying Household at an Annual Gross Rent that is less than or equal to 30% of the Imputed Income Limitation applicable to the unit.

- (I) A Qualifying Household is one with a total household income that, at the time of move-in, is 80% or less than the most recently published Median Family Income for the Portland, Maine, MSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development (the “MFI Standard”). To remain a Qualifying Household, the household’s income must remain at or below 140% of the income limitation described in the preceding sentence.
- (II) (Annual Gross Rent shall equal twelve (12) times the sum of (i) monthly rent due to the landlord, (ii) any required monthly payments to the landlord for additional services or facilities and (iii) a reasonable estimate of the monthly utility costs (not including television, internet or telephone) that the household is responsible for paying. In the case of a unit which does not have a separate bedroom, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI Standard for a household of one (1) person. In the case of a unit which has one or more bedrooms, the Imputed Income Limitation used to determine the maximum annual gross rent shall be 80% of the MFI standard for a household with a size equal to one and one half (1.50) people per bedroom.

**Preliminary Application for a Credit Enhancement Agreement
In an Existing Tax Increment Financing District**



I. Contact

a. Name of Company: Preservation of Affordable Housing, LLC

b. Name of Company Representative: Vitalia Shklovsky

c. Contact Information:

i. Address: 2 Oliver Street, Suite 500 | Boston, MA 02109

ii. Phone: 508-308-5097

iii. Email: vshklovsky@poah.org

II. Project Name and Location

The project is named 3i HoME and will be located at the corner of Downs Road and Market Street within The Downs in Scarborough, ME.

III. Brief Description of Project

a. Purpose of Project:

The purpose of 3i HoME is to provide much needed community-based, independent living options for people with mobility disabilities in a well-designed, technology-enabled development.

b. Physical Description:

Land area: 1.3 Acres

Square Footage: The building, as designed by The Architectural Team, Inc., is expected to have an approximately 16,830 SF footprint and overall have a +/- 67,845 SF of space within four stories.

Uses within the Structures: Within the structure of the building, there will be 51 residential units, a community lounge, administrative and support services offices, as well as a mobility demonstration area for individuals to show off and innovate on assistive technologies. The bedroom mix will include 31 one-bedroom, 16 two-bedroom, and 4 three-bedroom apartments.

c. Relevant Infrastructure to be Built:

There will be one four-story wood frame building, as well as a driveway and parking lot, and sidewalk along Downs Road.

d. Phasing of the project, including the year of completion of each phase

3i HoME will be developed in one phase with the project completing in 2025.

e. Estimated Assessed Value of the Improvements to the Property, including all infrastructure, building and lot improvements

\$14,658,139 is the value of the construction work at 3i, including the infrastructure, building, and lot. It does not include any land value or soft costs.

f. Total new jobs and the types of jobs that will occur because of the Scarborough project

The development of 3i HoME will result in hundreds of new permanent and temporary jobs. In the long-term, the building staff will include property managers, custodians, and supportive services staff. The supportive service staff will provide references to local providers of healthcare and other social services, which will augment the local existing economy. In addition to these positions, this \$15M construction project will create between 250 and 300 short-term design and construction related jobs. These positions will include structural, civil, and mechanical engineering positions, contractors, architects, electricians, plumbers, HVAC technicians, construction workers, construction inspectors, carpenters, elevator technicians, and roofers that will all help with the creation of 3i HoME.

g. Timing/Phasing of the new jobs

For any design and construction related jobs, these will be created during the construction of the building which is happening 2024-2025. For custodians, property managers, and supportive services personnel, these jobs will be created post construction and last in perpetuity.

h. Estimated Number of Cars/Vehicles/Equipment to be registered in Scarborough (if any)

N/A

IV. Regional and State Impacts of Company and Role of the Scarborough Facility in the Company’s Mission and Vision

Preservation of Affordable Housing (POAH), a national nonprofit with 25 years of experience in preserving, creating, and managing affordable healthy homes, has partnered with a local nonprofit, 3i Housing of Maine, in this first project of its kind in Maine. The 3i HoME project at the Scarborough Downs is a universally designed apartment building with 51 individual homes to promote independence for people with disabilities and mobility impairments through the application of innovative smart/assistive technologies and integrated home and community-based services. Already, dozens of people with disabilities have expressed interest in this project and the parties anticipate that this unique project will become a model for replication in other municipalities throughout Maine and beyond. The Credit Enhancement Agreement would assist POAH and 3i Housing of Maine to achieve the goal of creating affordable housing consistent with their shared principles of promoting economic security, equity, and access to opportunity for all.

V. Credit Enhancement Proposal

a. Requested percentage reimbursement of net new property taxes for the increased value associated with item III-e above. If the reimbursement changes over time, please include a schedule which identifies the year, the value created, and the reimbursement percentage requested

60%

TIF Year	Year	Value	Tax Rate	Tax Revenue	60%
5	2024				
6	2025				
7	2026	\$14,658,139	15.39	\$225,589	\$135,353.26
8	2027	\$14,658,139	15.39	\$225,589	\$135,353.26
9	2028	\$14,658,139	15.39	\$225,589	\$135,353.26
10	2029	\$14,658,139	15.39	\$225,589	\$135,353.26
11	2030	\$14,658,139	15.39	\$225,589	\$135,353.26
12	2031	\$14,658,139	15.39	\$225,589	\$135,353.26
13	2032	\$14,658,139	15.39	\$225,589	\$135,353.26
14	2033	\$14,658,139	15.39	\$225,589	\$135,353.26
15	2034	\$14,658,139	15.39	\$225,589	\$135,353.26
16	2035	\$14,658,139	15.39	\$225,589	\$135,353.26

17	2036	\$14,658,139	15.39	\$225,589	\$135,353.26
18	2037	\$14,658,139	15.39	\$225,589	\$135,353.26
19	2038	\$14,658,139	15.39	\$225,589	\$135,353.26
20	2039	\$14,658,139	15.39	\$225,589	\$135,353.26
21	2040	\$14,658,139	15.39	\$225,589	\$135,353.26
22	2041	\$14,658,139	15.39	\$225,589	\$135,353.26
23	2042	\$14,658,139	15.39	\$225,589	\$135,353.26
24	2043	\$14,658,139	15.39	\$225,589	\$135,353.26
25	2044	\$14,658,139	15.39	\$225,589	\$135,353.26
26	2045	\$14,658,139	15.39	\$225,589	\$135,353.26
27	2046	\$14,658,139	15.39	\$225,589	\$135,353.26
28	2047	\$14,658,139	15.39	\$225,589	\$135,353.26
29	2048	\$14,658,139	15.39	\$225,589	\$135,353.26
30	2049	\$14,658,139	15.39	\$225,589	\$135,353.26
				SUM	\$3,248,478.13

b. Duration of CEA

25 years

c. Brief Explanation of why the company is requesting a CEA. How will these funds be used to complete the project?

Preservation of Affordable Housing is requesting the CEA to offset operating costs. In the summer of 2023, we will be submitting a funding application to MaineHousing for 9% Low Income Housing Tax Credits and other subsidy. The CEA will not only help secure a competitive score for the 9% funding round, but it will also offset operating costs to support long-term debt.

d. Brief Explanation of any public investments in streetscape, trails, infrastructure, that will benefit others

The development of sidewalks and vegetation along Downs Road in The Downs will help enhance the pedestrian experience in Town Center and aid in the feeling of community.

e. What will be extraordinary about this project? Potential topics to discuss: sustainability, quality of development, architecture, landscaping, quality jobs, role in the community, etc.

3i HoME will be the first of its kind: a 100% Affordable, 100% Accessible, and 100% Independent property. The purpose of this development is to enable people with disabilities and mobility impairments to live independently by incorporating innovative assistive technologies. This first-of-its kind, totally accessible, universally designed affordable housing development will serve as a model for future developments, as households with physical disabilities often turn to assisted living or other institutional facilities. The design of 3i HoME is a focal point of this development. 3i HoME will be designed with very high standards of

accessibility and sustainability, to ANSI 2017 standards, allowing residents to live comfortably and independently. When complete, the property will create a new model for people with disabilities to move through the world on their own terms rather than being relegated to institutional placement.

Of important note is the sense of community that this development's design will build for persons with disabilities within the larger Scarborough landscape. Its user-focused design includes a "Woonerf" edge at the entrance to the parking lot which eliminates mobility barriers (the curb), creates a seamless transition between the site and the building, and supports social space between the parking lot and the building. The location within the Town Center will enable these households to access and enjoy the many amenities and daily services that the Downs will offer, without having to deal with getting into and out of cars for those daily activities. The proximity to the Town Center will promote a sense of community for residents by prioritizing the pedestrian experience and not make them feel like second-class citizens who cannot enjoy the outdoors because of their abilities. The building's Juliet-style balconies on the ground floor will allow residents of those homes to interact with the street rather than feel closed off. Furthermore, the corner plaza at the main entrance to the building will have movable furniture, lighting, and other streetscape elements that will also enhance the pedestrian experience for residents and passers-by alike, further solidifying the sense of community. By inviting both residents and members of the public to enjoy this plaza, 3iHome will encourage the idea of building friendships and bridges among people with and without disabilities. The parking lot will accommodate cars, handicapped vehicles, and plus-size handicapped vans with subtle striping and without any glaring signage that might otherwise feel ostracizing. The sidewalks are designed with understated ramping to encourage the quiet movement of wheelchairs instead of loud bumps. 3iHome will truly create the sense of independent yet integrated living for people with disabilities.



3iHome will also aim to certify as Passive House, with no fossil fuels in its mechanical systems and high-performance, super-insulated building envelopes. The idea behind this energy efficiency is to promote inclusivity among all households, regardless of ability, to live sustainably on this planet, a lifestyle that should not be a privilege to those without means or ability. Passive House design also provides for outstanding acoustical insulation, ensuring quiet

enjoyment within the building even when the Town Center is active with concerts or other events.

VI. Compliance with the Town's Comprehensive Plan

Diversity and Character

One of Scarborough's core vision statements from the Comprehensive Plan is to support the diversity and character of existing and emerging neighborhoods, centers, and open spaces. 3i HoME is a part of the larger development, The Downs, which is an upcoming development that will create a community of residents, retail centers, open spaces and so much more. Targeting families and individuals with disabilities as primary residents, 3i HoME will diversify the neighborhood at The Downs.

Home Affordability and Availability

3i HoME serves to enable disabled persons to live independently in a first-of-its-kind fully accessible, universally designed building where all homes will be affordable below 60% of Area Median Income. The property will feature assistive smart-home technology, community-based services, indoor and outdoor amenities, and direct access to the mixed-use Town Center at Scarborough Downs. Housing that is 100% affordable, accessible, and integrated into the new Town Center will serve an incredible need for households with physical disabilities who might otherwise have to find homes at assisted living facilities, which are costly and often require public subsidy. The affordable homes will involve 31 one-bedrooms, 16 two-bedrooms, and 4 three-bedrooms.

Energy, Resources, and Climate

The Town of Scarborough has committed to long-term energy conservation and promotes the use of renewable energy. POAH has a strong track record of incorporating sustainable development practices and the 3i HoME development is no different. Designed to be Passive House Certified, one of the highest standards of sustainability, 3i HoME will not rely on fossil fuels and will include super-insulated envelopes, airtight construction, high-performance glazing, heat recovery ventilation, and other efficient development practices.

August 30, 2023

Mr. Jonathan Anderson, Chair
Scarborough Town Council
259 U.S. Route 1
Scarborough, ME 04070

Re: Letter of Support
3iHoME/POAH CEA Request

Dear Chairman Anderson:

Over the past several months, the Scarborough Housing Alliance has been tracking the proposal by 3iHoME/POAH to develop a state of the art affordable, inclusive, accessible apartment community in the Town Center at The Downs. This innovative proposal has drawn diverse resources supporters and is implementing best practices in design, technology and sustainability.

To be feasible, the proposal requires an allocation of competitive funds from MaineHousing; in today's funding environment, the support of a local tax agreement is critical to receiving such funding. To this end, 3iHoME/POAH has requested a Credit Enhancement Agreement (CEA) from the Town of Scarborough.

The Scarborough Housing Alliance enthusiastically endorses the approval of the CEA by Town Council.

In endorsing the approval of the CEA, the Alliance is moved by the following:

1. The proposal contributes to Scarborough's Comprehensive Plan goals.
2. The proposal will meet a demonstrated need for affordable housing.
3. The proposal design utilizes modern principles of sustainability.
4. This CEA is critical for the project to receive MaineHousing funding which is the primary source of funding required to make this project viable.
5. The project is uniquely innovative, will serve a vastly underserved population and will be a landmark project in the Town of Scarborough.
6. The development team is capable, nationally recognized and motivated by mission and quality outcomes with a record of success and stewardship.

Thank you for your continued support of efforts like these to deliver high quality affordable housing to the Town of Scarborough. If you have any questions about our recommendation prior to your vote, please do not hesitate to reach out to me directly.

Sincerely yours,



Bryan J. Shumway
Chairman

Members

Eric Boucher
Secretary

Leroy Crockett

William Donovan

Phillip LaRou, Jr.

Robert Nadeau

Micaela Sargent

Bryan Shumway
Chairman

Liaisons

Jean Marie Catarina
Town Council Rep.

Liam Gallagher
HR Director

Tom Hall
Town Manager

Projected Value, Revenues and Reimbursements

3iHoMe: 5-Year Revaluations at 10% increase

Original TIF Year	Year of CEA	Actual Year	Original Assessed Value	Projected Increased Assessed Value	Tax Rate	Tax Revenue	50% Reimbursement
5		2024	\$ 19,600		\$ 15.97		
6		2025	\$ 19,600		\$ 14.37		
7	1	2026	\$ 19,600	\$ 4,980,400	\$ 14.80	\$ 73,731	\$ 36,865
8	2	2027	\$ 19,600	\$ 4,980,400	\$ 15.25	\$ 75,943	\$ 45,566
9	3	2028	\$ 19,600	\$ 4,980,400	\$ 15.71	\$ 78,221	\$ 46,933
10	4	2029	\$ 19,600	\$ 4,980,400	\$ 16.18	\$ 80,568	\$ 48,341
11	5	2030	\$ 19,600	\$ 5,478,440	\$ 14.56	\$ 79,762	\$ 47,857
12	6	2031	\$ 19,600	\$ 5,478,440	\$ 15.00	\$ 82,155	\$ 49,293
13	7	2032	\$ 19,600	\$ 5,478,440	\$ 15.45	\$ 84,619	\$ 50,772
14	8	2033	\$ 19,600	\$ 5,478,440	\$ 15.91	\$ 87,158	\$ 52,295
15	9	2034	\$ 19,600	\$ 5,478,440	\$ 16.39	\$ 89,773	\$ 53,864
16	10	2035	\$ 19,600	\$ 6,026,284	\$ 14.75	\$ 88,875	\$ 53,325
17	11	2036	\$ 19,600	\$ 6,026,284	\$ 15.19	\$ 91,541	\$ 54,925
18	12	2037	\$ 19,600	\$ 6,026,284	\$ 15.65	\$ 94,288	\$ 56,573
19	13	2038	\$ 19,600	\$ 6,026,284	\$ 16.12	\$ 97,116	\$ 58,270
20	14	2039	\$ 19,600	\$ 6,026,284	\$ 16.60	\$ 100,030	\$ 60,018
21	15	2040	\$ 19,600	\$ 6,628,912	\$ 14.94	\$ 99,029	\$ 59,418
Total						\$ 1,302,808	\$ 774,312

Assumptions:

1. Projections are much less likely to be accurate farther into the future and are for demonstrative purposes only.
2. Projections show anticipated increased assessed values, captured assessed values, and revenues related to the increased assessed value.
3. Projections assume a tax rate increase of 3% each year, except for revaluation years which are decreased by 10%
4. Revaluations happen every 5 years with of 10% increases in value
5. Projectons assume the project will be complete in year 2026
6. Original Assessed Value is \$19,600 which is removed from year 1 of the CEA Value. All subsequent years are based off the value in Year 1 where the Original Assessed value was removed

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-116. Move approval of the second reading on the proposed Chapter 602B - the Town of Scarborough Temporary Event Overflow Parking Ordinance. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

10/04/2023 – Vote: 7 Yeas.

First Reading/Vote

10/15/2023

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-116.
<p>SUBJECT:</p> <p>Second reading on the proposed Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance. <i>[Planning Director]</i></p>
<p>PURPOSE:</p> <p>To review a new proposed ordinance Chapter 602B Town to create a mechanism to allow for temporary event parking.</p>
<p>BACKGROUND:</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Staff worked with the applicant, interested parties and the Ordinance Committee over the period a several meetings to create a framework the request could be granted under. The proposed new Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance allows such a request with specific parameters to follow, staff review requirements a public hearing process and an annual renewal process.</p>
FISCAL IMPACT: N/A
<p>STATUS / PROCESS TO DATE:</p> <ul style="list-style-type: none"> • Planning Board Sketch Plan Review June 26, 2023 • Ordinance Committee July 13, 2023 • Ordinance Committee August 24, 2023 • Ordinance Committee September 14, 2023 • Public hearing before the Town Council: October 18, 2023
<p>PROPOSED ACTION:</p> <p>Recommend move approval of the second reading on Order No. 23-116, as recommended.</p>
<p>ATTACHMENTS:</p> <ul style="list-style-type: none"> • Proposed Chapter 602B Temporary Event Overflow Parking Ordinance • Sketch Plan Request Letter • Prouts Neck Sketch Plan Letter June 22, 2023 • Prouts Neck Draft Ordinance Letter August 23, 2023

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.

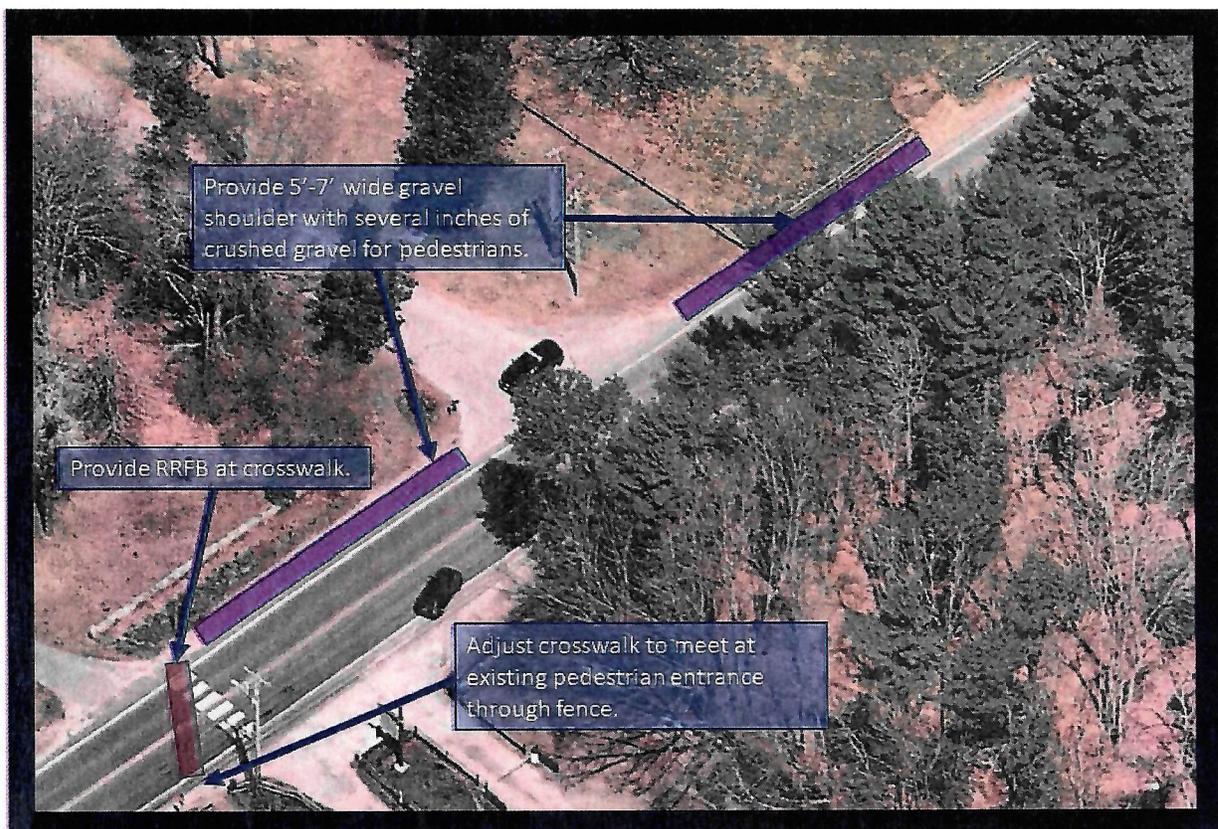
8. Other than at signalized intersections, a new crosswalk shall not be marked within 200 feet of an existing crosswalk.

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

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-122. Move approval of the second reading on the request to use School Impact Fees to make the FY2023 required payments to Crossroads Holdings, LLC beginning on December 1, 2023 through November 2024, or until the Town closes on the purchase of the property with a total maximum exposure of \$175,000. *[Town Manager]*

Town Council

Ought to Pass

Sponsor

Recommendation

*11/08/2023 – Vote: 6 Yeas
1 Nay [Councilor Hamill]*

First Reading/Vote

11/15/2023

Public Hearing

11/15/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-122.
<p>SUBJECT:</p> <p>Second reading on the request to use School Impact Fees to make the FY2023 required payments to Crossroads Holdings, LLC beginning on December 1, 2023 through November 2024, or until the Town closes on the purchase of the property with a total maximum exposure of \$175,000. <i>[Town Manager]</i></p>
<p>PURPOSE:</p> <p>Section 3 of the Purchase Option Agreement requires the payment of an “Option Fee” of \$25,000 per month commencing on December 1, 2023. This order provides necessary authorization and identifies the source of the funds to meet this financial obligation.</p>
<p>BACKGROUND:</p> <p>Verbatim language from the Option Agreement:</p> <p><i>3. OPTION FEE. As consideration for the Option, the Buyer shall pay to Seller the sum of Twenty-Five Thousand (\$25,000) per month beginning December 1, 2023, and continuing on the 1st day of each consecutive month thereafter, until the closing date as set forth in Section 7 below (the “Option Fee”). The Option Fee shall not be refundable to Buyer (except in the event of an uncured seller default and termination of this Agreement in accord with Section 13(c) or in the event of termination pursuant to Section 10 below), provided that if Buyer closes on the acquisition of the Premises (or a portion thereof) in accordance with the terms of this Agreement, the Option Fee shall be credited against the Purchase Price on the closing date as set forth in Section 7 below. Buyer’s failure to pay the Option Fee when due shall be an event of default under this Agreement. All Option Fees paid to the Seller under this Section 3 shall be the property of Seller, and shall not be held in escrow for the benefit of the Buyer.</i></p>
<p>FISCAL IMPACT:</p> <p>Total maximum exposure of this authorization is \$175,000, payments credited to purchase price at closing, otherwise payment are non-refundable.</p>
<p>STATUS / PROCESS TO DATE:</p> <ul style="list-style-type: none"> • Finance Committee – October 11, 2023 and recommended approval • First reading before Town Council: November 8, 2023 • Second reading before Town Council: November 15, 2023
<p>PROPOSED ACTION:</p> <p>Recommend move approval of the second reading on Order No. 23-122.</p>
<p>ATTACHMENTS:</p> <ul style="list-style-type: none"> • Memorandum to Finance Committee – Review of Options and Recommendation

Unified School Project - Purchase Option Fee

For discussion - Town Council Finance Committee, October 11, 2023

Background:

The Purchase Option Agreement between the Town of Scarborough and Crossroads Holdings provides for a monthly option fee payment of \$25,000 per month from the Town to the owner, beginning on December 1, 2023 and continuing through November 2024, or until the Town closes on the purchase of the property. Of the total potential cost of \$300,000 (12 months x \$25,000), \$175,000 will be paid in FY24.

While the option payments will be credited against the purchase price of the land at closing, and can therefore be included in the \$160M proposed bond, a funding source for these payments must be authorized. Below is a range of options to be considered as well as a staff recommendation:

Potential funding source	Current available	Comments
FY24 operating budgets	n/a	Neither the Town nor the School Department included funding for this purpose in their approved budgets.
FY24 capital budgets	n/a	While the School Department has Long-Range Planning funds in their capital budget (approved in FY22 and FY23) those funds are already committed and were not added to in FY24.
Town unassigned fund balance	\$9.9M (pending audit)	Balance is governed by policy and impacts bond ratings.
School unassigned fund balance (reported as Restricted Fund Balance in the ACFR)	\$2.1M (pending audit)	Available for school expenditure purposes by action of the School Board and Town Council. Intended to provide non-tax revenue in FY25 & FY26 budget development.
School Capital Reserve Fund	\$800,000	Approved by the School Board to reduce dependence on bonding for recurring school capital expenses. Board action to fund this account specifically refers to bus replacement and cyclical repairs to the High School track/turf complex.
School Impact Fees	\$668,000	Used to offset school debt service expenses each fiscal year. Also used for: \$300,000 to purchase portable K-2 classrooms in 2019; \$70,000 to outfit 6 additional K-2 classrooms (furnishing & equipment) in 2020; and \$286,250 in FY22 approved in the school CIP budget for Long-Range Planning (building project).

Recommendation: Use School Impact fees to make FY24 required payments, with a total maximum exposure of \$175,000. Assuming the Option Fee continues to apply beyond June 30, 2024, financial arrangements will have to be made in the FY 25 budget. These funds are normally spent on debt service payments, therefore it makes sense to use them for expenditures which will ultimately be part of bonding for the building project.

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-128. Move approval of the first reading on the proposed amendments to Chapter 311 – the Schedule of Fees and schedule a public hearing and second reading for Wednesday, December 6, 2023. [*Planning Director*]

Planning Director

Ought to Pass

Sponsor

Recommendation

11/15/2023 – Vote:

First Reading/Vote

12/06/2023

Public Hearing

12/06/2023 – Vote:

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Order No. 23-128
SUBJECT: First reading and schedule a public hearing and second reading for amendments to Chapter 311, the Town of Scarborough Schedule of Fees Ordinance to address the proposed Town of Scarborough Temporary Event Overflow Parking Ordinance. <i>[Planning Director]</i>
PURPOSE: To review the proposed fees for the new proposed ordinance Chapter 602B Town to create a mechanism to allow for temporary event parking.
<p>The new Chapter 602B Town of Scarborough Temporary Event Overflow Parking Ordinance enables temporary parking for events with specific parameters to follow, staff review requirements a public hearing process and an annual renewal process.</p> <p>Staff proposes an application fee of \$300 per day(s) requested for the permit, with a not to exceed amount of \$5,000.</p>
FISCAL IMPACT: N/A
STATUS / PROCESS TO DATE: <ul style="list-style-type: none">• First reading before the Town Council: November 15, 2023
PROPOSED ACTION: Recommend move approval of the first reading on Order No. 23-128 and schedule the public hearing and second reading for Wednesday, December 6, 2023.
ATTACHMENTS: <ul style="list-style-type: none">• Chapter 311 Proposed Amendments

**Chapter 311 – the Town of Scarborough
Schedule of Fees Ordinance**

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 311 – the Town of Scarborough Schedule of Fees Ordinance, be and hereby is amended, by adding the following new section (additions are underlined; deletions are struck through):

<u>Chapter 602B – Temporary Overflow Parking Ordinance</u>	<u>Fee</u>
<u>Parking Permit Fee</u>	<u>\$500 per day requested</u> <u>Not to Exceed \$5,000</u>

**AMENDED AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – NOVEMBER 15, 2023
HYBRID REGULAR MEETING – 7:00 P.M.**

Order No. 23-129. Move approval of the first reading on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Pine Point Medical, LLC, located at 137 Pleasant Hill Road for a Medical Cannabis Products Manufacturing Facility and schedule a public hearing and second reading for Wednesday, December 6, 2023. [*Assistant Town Manager*]

Assistant Town Manager

Ought to Pass

Sponsor

Recommendation

11/15/2023 – Vote:

First Reading/Vote

12/06/2023

Public Hearing

12/06/2023

Second Reading/Final Approval/Vote

Scarborough Town Council Meeting

Council Meeting Date: November 15, 2023

ACTION ITEM: Ordinance No. 23-129.
SUBJECT: First reading on the new request for a Cannabis Establishment License from Nickolas Levasseur, d/b/a Pine Point Medical, LLC, located at 137 Pleasant Hill Road for a Medical Cannabis Products Manufacturing Facility and schedule a public hearing and second reading. <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: November 15, 2023
PROPOSED ACTION: Recommend to move approval of the first reading Order No. 23-129 and schedule the public hearing and action for Wednesday, December 6, 2023.
ATTACHMENTS: