MINUTES

SCARBOROUGH TOWN COUNCIL
WEDNESDAY – MARCH 20, 2019
REGULAR MEETING – 6:15 P.M.

Item 1. Call to Order. Chairman Hayes called the regular meeting of the Scarborough Town Council to order at 6:15 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Thomas Hall, Town Manager. The following Councilors were present:

Councilor Shawn A. Babine	Councilor Jean-Marie Caterina
Councilor Paul M. Johnson	Councilor William J. Donovan
Councilor Kathleen M. Foley	Councilor Donald R. Hamill

Chairman Peter F. Hayes

Order No. 19-018. Act on the request for an executive session pursuant to Title 1, M.R.S.A §405(6)(c) regarding a personnel matter relating to the Town Manager's evaluation and compensation, to come back to public session. ***[Council Chair]*** Motion by Councilor Foley, seconded by Councilor Caterina, to move approval of the request for an executive session pursuant to Title 1, M.R.S.A §405(6)(c) regarding a personnel matter relating to the Town Manager's evaluation and compensation, to come back to public session.

Vote: 7 Yeas.

The Town Council recessed to executive session at 6:16 p.m. Chairman Hayes reconvened the regular meeting at 7:04 p.m.

Item 4. General Public Comments. None at this time.

Item 5. Minutes: March 6, 2019 - Town Council Meeting. Motion by Councilor Donovan, seconded by Councilor Foley, to move approval of the minutes of the March 6, 2019, regular Town Council meeting.

Vote: 7 Yeas.

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

Item 7. Items to be signed: a. Treasurer's Warrants. Treasurer's Warrants were signed during the meeting.

Item 8. Non Action Items.

a. Presentation by the Scarborough Historical Society on the one room school house located Holmes Road. Becky Delaware, President of the Scarborough Historical Society, gave further details on the project for the one room school house located on the Holmes Road. She went on to give a chronology on the building. Without a strong foundation, the building will not last. There is a need for the foundation and the roof. She went on to mention

the funding process that the Historical Society would be doing. We have raised $4,000 out of the $60,000 that is needed. She went through the different phases and what each would entail. She went on to mention the vision for the building. She hoped that the Town sees this as a worthy cause and help boost the funding. She responded to questions from the Town Council.

b. Jessica Holbrook of Beech Ridge Road and a member of the Historic Implementation Preservation Committee would recommend the Town to help with maintaining the integrity of the building.

c. David Green of Beech Ridge Road gave a brief family history on the use of this building and how many of his family members attended this building. He has seen it change over time and everyone involved along the way has been trying to preserve this building. This is more than a worthwhile project. It would be a nice thing for the town to help preserve this school.

Order No. 19-014, 7:00 p.m. Public hearing on the proposed amendments to Chapter 304, Town of Scarborough Purchasing Policy. ***[Ordinance Committee]*** Councilor Caterina gave a brief overview on the proposed changes. Chairman Hayes opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:23 p.m. The second reading on this Order would be scheduled for Wednesday, April 3, 2019.

Order No. 19-019, 7:00 p.m. Public hearing and action on the following new request for a Food Handlers License from Jason Perkins d/b/a Perk's Beer and Beverage, LLC, located at 400 Expedition Drive. ***[Town Clerk]*** The Town Clerk gave a brief overview on this Order. Chairman Hayes opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:24 p.m.

Motion by Councilor Foley, seconded by Councilor Caterina, to move approval of the new request for a Food Handlers License from Jason Perkins d/b/a Perk's Beer and Beverage, LLC, located at 400 Expedition Drive.

Vote: 7 Yeas.

OLD BUSINESS:

Order No. 18-018. Second reading on the proposed Contract Zone Request from Patriot Acura Dealership located at the corner of Payne Road and Haigis Parkway. ***[Town Planner/Town Manager]*** Thomas J. Hall, Town Hall, gave a brief over on this Order. He then reviewed the proposed amendments that would need to be made to include to address Councilor comments that had been made at a previous meeting.

Motion by Councilor Caterina, seconded by Councilor Babine, to move approval of the second reading on the proposed Contract Zone Request from Patriot Acura Dealership located at the corner of Payne Road and Haigis Parkway.

Motion by Councilor Donovan, seconded by Councilor Babine, to move approval to amend the main motion to include the proposed changes made by the Town Planner as follows:

1. Insert the following language under the *Therefore* clauses as #6 (remaining items are re-numbered accordingly):

"6. The Property shall be landscaped to enhance the general appearance of the project from Haigis Parkway and Payne Road and surrounding properties as

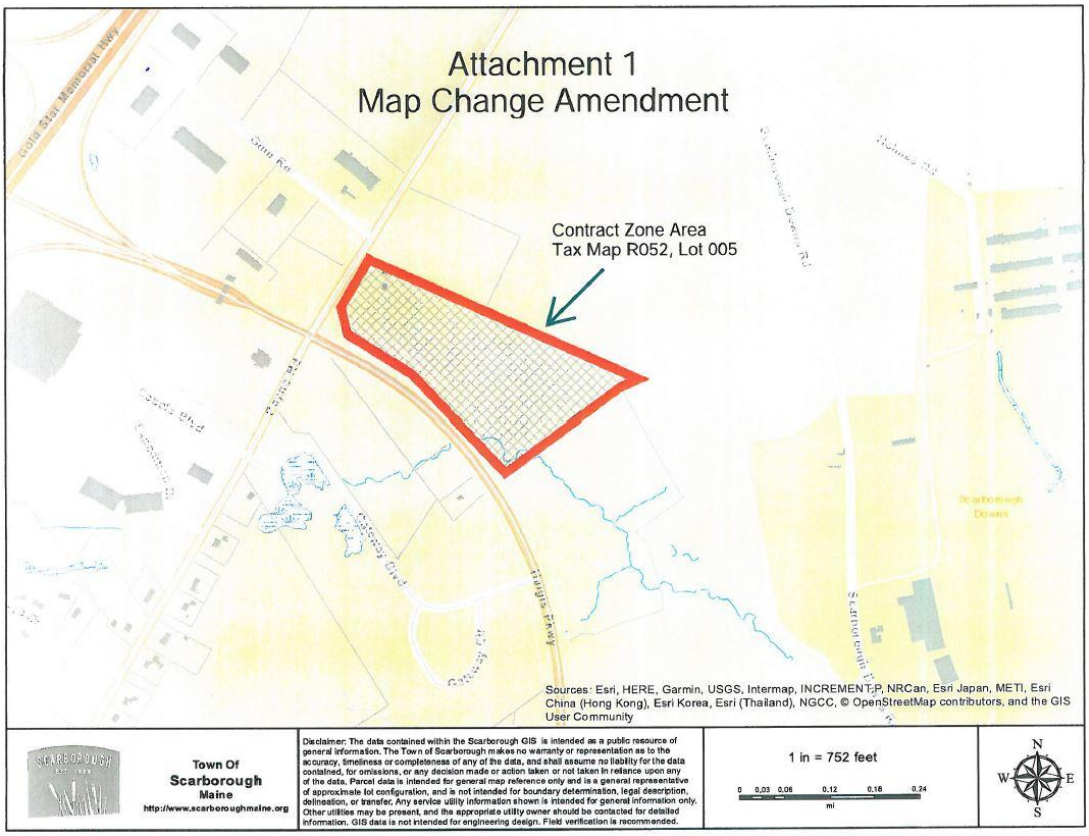
determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan provided, however, that the removal of diseased or damaged trees or trees that are otherwise in danger of falling; pruning and selective thinning or cutting of trees in accordance with good forestry practices; and thinning, cutting back, or removal of vegetation in connection with normal and customary landscaping maintenance shall be permitted. The landscaping shall be maintained by Patriot Realty or its successors in interest."

2. Modify Schedule B.2, strike the words ~~public works assessment~~ and replace with sewer assessment fee:

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

3. Add to Schedule B. 16 the following underlined language:

"Development of the Facility site will preserve sensitive areas by preservation of the land or by the use of buffers to protect areas such as the stream crossing along the southerly end of the site and throughout the site utilizing buffers to protect existing wetland areas. Protected wetland areas are further shown on the plan titled, "Overall Site Plan of Acura Dealership" prepared by Sebago Technic and dated 1/18/19. See Exhibit 1."



4. For consistency with the Town Zoning Ordinance, amend the timeframe for the document to be recorded from the stated 30 days to 90 days. The timeframe is stated in section 10. and all references to 30 days will be struck and replaced with 90 days.

Vote on amendment: 7 Yeas.

Main motion as amended:

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

This Contract Zoning Agreement (hereinafter, this "Agreement") is made as of the 21st day of March, 2019 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), and PATRIOT REALTY – SACO, LLC, a Maine limited liability company with a mailing address of c/o Adam S. Arens, 702 S. Lakeside Drive, Lake Worth, Florida 33460 (hereinafter, "Patriot Realty"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

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

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

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

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

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

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

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

WHEREAS, the Scarborough Town Council and the Scarborough Planning Board, pursuant to the Contract Zoning provisions of the Zoning Ordinance, held a joint meeting on March 7, 2018 at which meeting the Planning Board conducted a public hearing on the proposed contract zoning request, and at which meeting the Council voted unanimously to advise Patriot Realty to continue to process the contract zoning request; and

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

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

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

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said use is pursuant to and consistent with the Town of Scarborough Comprehensive Plan, the existing and permitted uses within the HP District as well as in the adjacent General Business District B-3 that was formerly within the HP District, is in the public interest, and will have beneficial effects on the Town as a whole which would not result if the property were developed under the existing zoning district classification, authorized the execution of this Agreement on March 20, 2019.

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

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

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

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

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

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

6. The Property shall be landscaped to enhance the general appearance of the project from Haigis Parkway and Payne Road and surrounding properties as determined by the Planning Board at the time of site plan approval. After the date of approval of this Contract Zoning Agreement by the Scarborough Town Council, no trees or other vegetation existing on that date shall be removed except as indicated in an approved site plan provided, however, that the removal of diseased or damaged trees or trees that are otherwise in danger of falling; pruning and selective thinning or cutting of trees in accordance with good forestry practices; and thinning, cutting back, or removal of vegetation in connection with normal and customary landscaping maintenance shall be permitted. The landscaping shall be maintained by Patriot Realty or its successors in interest.

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

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

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

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

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

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

13. Patriot Realty shall record this Agreement in the Cumberland County Registry of Deeds within ninety (90) days after its approval by the Scarborough Town Council.

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

[End of page. Execution pages follow.]

WITNESS:

TOWN OF SCARBOROUGH

_____

By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on March 20, 2019)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. March ____, 2019

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

Before me,

_____
Notary Public/Maine Attorney at Law

_____
Print name

My Commission expires _____

WITNESS:

PATRIOT REALTY – SACO, LLC

_____

By: _____
Adam S. Arens
Its Manager

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF _____, ss. March ____, 2019

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

Before me,

_____
Notary Public

_____

Print name

My Commission expires _____

Schedule A

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

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

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

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

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

Schedule B

In the Public Interest/Beneficial Effects on the Town.

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

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

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

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

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

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

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

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

High School Musicians/ Support for Youth Arts/ In-store performance
Support for Winterkids program

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

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

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

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

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

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

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

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

16. Development of the Facility site will preserve sensitive areas by preservation of the land or by the use of buffers to protect areas such as the stream crossing along the southerly end of the site and throughout the site utilizing buffers to protect existing wetland areas. Protected wetland areas are further shown on the plan titled "Overall Site Plan of Acura Dealership" prepared by Sebago Technics and most recently revised January 18, 2019 attached hereto as Attachment 2.

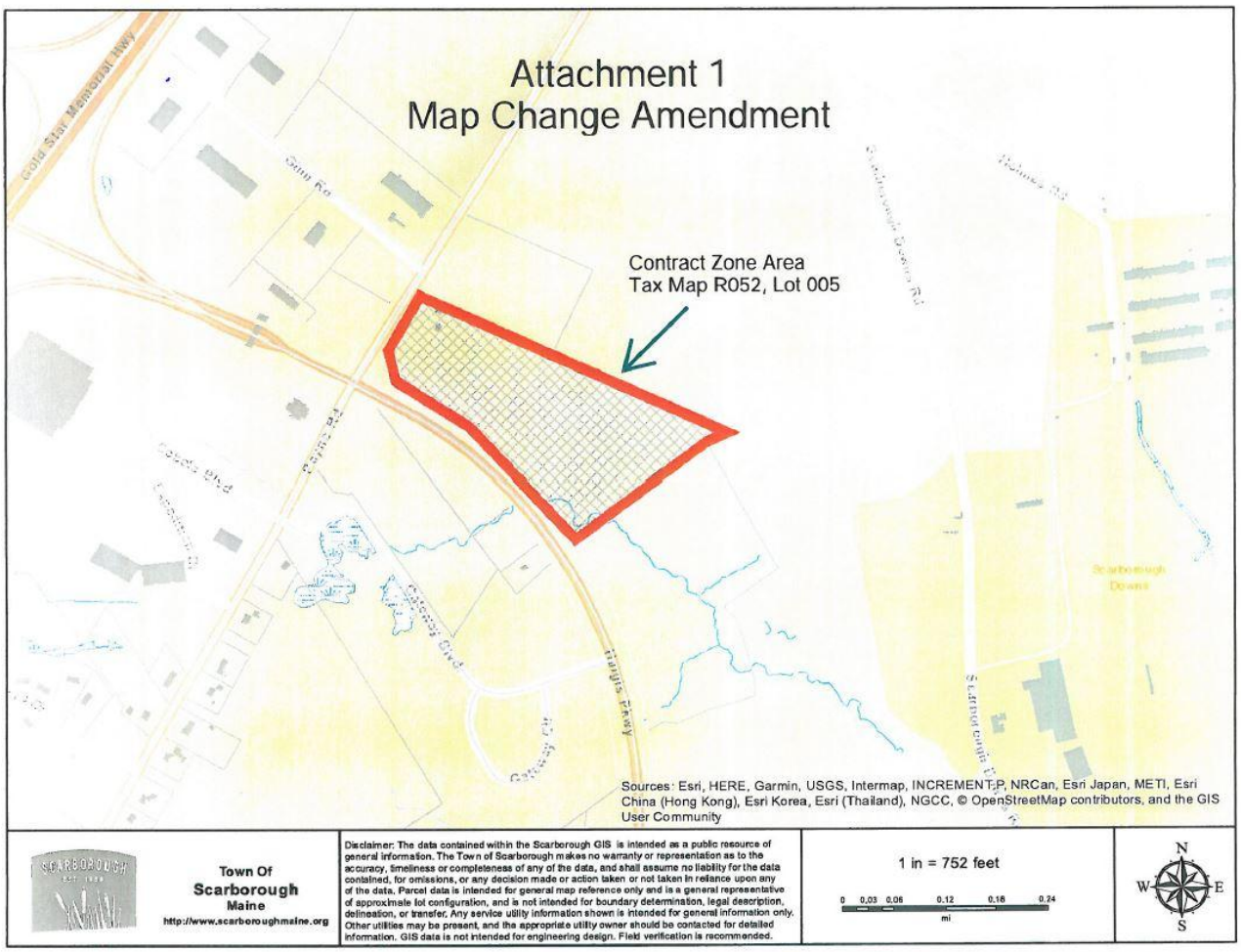
17. As noted above, Facility site is a highly visible corner at the intersection of Haigis Parkway and Payne Road and will be developed in manner to maximize the building's prominence and enhance the blending of architecture and landscaping to present a business and a facility that will be a cornerstone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

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

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

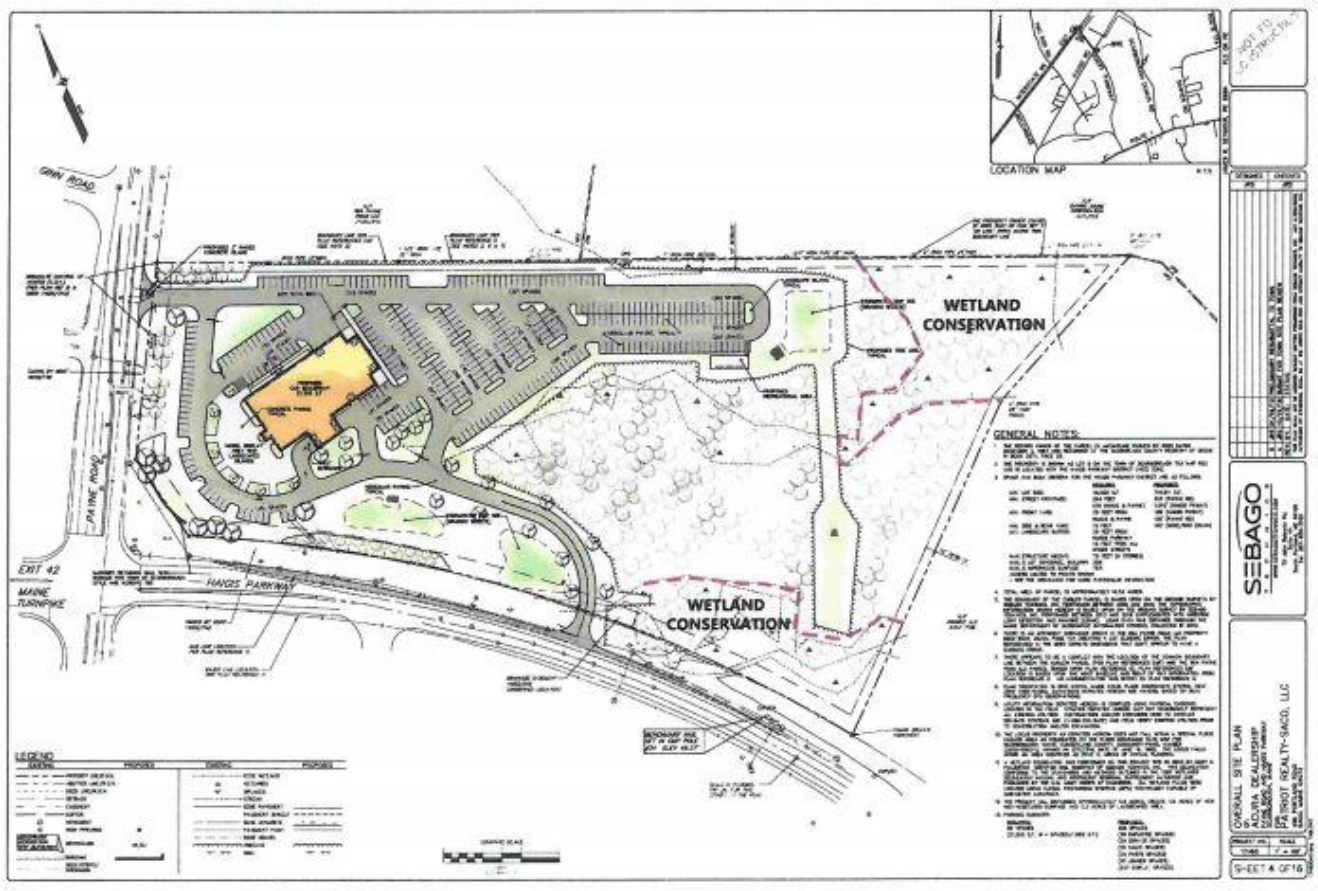
Attachment 1

Map Change Amendment consisting of one (1) page.



Attachment 2

Sebago Technics Wetlands Map consisting of one (1) page.



Vote: 7 Yeas.

NEW BUSINESS:

Order No. 19-020. Act on the request to authorize the Town Manager to execute the Amended and Restated Parking Lease Agreement, Right of First Refusal, and Consent to Transfer and Indebtedness, in the form included in the Council packet as of this date, related to the proposed sale of the Pine Point Fisherman's Co-Operative to 96 King, LLC. ***[Town Manager]*** Thomas J. Hall, Town Manager, gave a brief overview and then introduced Peter Van Hamel, Town Attorney, who spoke on this Order and responded to questions that had been brought up during a workshop and via email. He then responded to questions from the Town Council. There was further discussion around the use of the prier.

The following individuals spoke on this item:

- Julie Ray, legal Counsel for the Cloughs read a letter to the Council from the Clough.
- Mo Erickson of Pine Point Road voice her concerns around the sale of this property and felt that it was not fair. She also commented on the use of the town pier.

- Will Hamill of Bay Street also spoke on the agreement and felt that Section 6 needed to be removed or revisited. This area is a very important area. Anyone should be able to use the pier to sell their product. No one should have exclusive control.
- Nathan Orff of Chamberlain Road also spoke on Section 6 and asked how a private entity can control this area. The prier is used for commercial use and the town is responsible for the dock. He felt that no one would be able to use the dock and that the Cloughs would have exclusive access to. He went on to voice further concerns around Section 6.
- Robert Odlin of Jasper Street and 30 year career fisherman commented on the proposed sale and note that the Dock is one entity and the co-op is another entity. He did not agree with Section 6 as well and asked that if there are more documents that were available then they need to be shared with the public.
- Mark Coulston of E. Grand Avenue and business owner stated that he was here representing those individuals who were afraid to come forward. Please give this matter the attention that is needed.
- David Green of Beech Ridge Road also commented this Order and asked that the Council take a look at the working water front covenant, before taking any action.
- Tim Staples, Treasurer of the Co-Op, clarified the number of boats that utilized the facility and the amount of shellfish that the Co-Op purchased last season.
- Liam Erickson of Pine Point Road also commented on Section 6. The good thing about being your own person, is being able to sell to who you want.

Motion by Councilor Donovan, seconded by Councilor Babine, to move approval on the request to authorize the Town Manager to execute the Assignment, Assumption and Amendment of Parking Lease Agreement, Right of First Refusal, and Consent to Transfer and Indebtedness, in the form included in the Council packet as of this date, related to the proposed sale of the Pine Point Fisherman's Co-Operative to 96 King, LLC.

Motion by Councilor Donovan, seconded by Councilor Foley, to move to amend the order to correct the two typographical errors that Attorney Van Hamel noted in his testimony earlier in the evening:

1) In Assignment, Assumption & Amendment of Parking lease Agreement - In Section 6, add the word "of" after …..*the regular and/or customary site* <u>of</u>
2) In the Right of First Refusal Agreement – Part 1) line 8 change 30 to 45 calendar day to be consistent with the prior 45 calendar day in line 4.

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

Motion by Councilor Donovan, seconded by Councilor Babine, to move approval to amend the main motion as amended to Section 6 as follows:

6. <u>Additional Landlord Obligations</u>. The following shall be added to the existing Section 4 of the Lease:

So long as Tenant is in compliance with Sections 3-A and 3-B above, Landlord shall not permit the use of the Landlord-owned parking lots adjacent to the Leased Premises as competing bait coolers (mobile or otherwise) and/or competing buying stations (mobile or otherwise). In the event that Tenant shall not substantially and materially comply with Sections 3-A and 3-B above, then Landlord may permit the use of the Landlord-owned parking lots adjacent to the Leased Premises as <u>the regular and/or customary site of</u> competing bait coolers (mobile or otherwise) and competing buying stations. <u>Where mobile buying occurs in extraordinary circumstances (e.g. where fisherman face a loss of catch due to heat or cold), or where bait is made available for sale at times when Tenant has no bit sale operation on Tenant's property or</u>

where Tenant has exhausted its supply of bait, such uses shall be deemed non-competing and shall be allowed.

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

Vote on main motion as amended: 5 Yeas. 2 Nays [Councilors Hamill and Johnson].

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

- Councilor Babine gave an update on the Finance Committee.
- Councilor Johnson noted that there would be a Quarterly Round Table on Tuesday, March 26th at 6:30 p.m. here at Chambers.
- Councilor Foley gave an update on the Eastern Trail Taste of the Town Gala on Saturday, April 6th.
- Councilor Caterina gave an update on the Ordinance Committee as well as her testimony on Maine Revenue Sharing. She noted that there would be a MMA legislative Policy Committee and went on to give an update on Metro Coalition
- Councilor Donovan update on the Rules and Policies on Friday, April 5th
- Councilor Hamill gave an update on the Planning Board meeting. He wished the Cloughs the best of luck.

Item 10. Town Manager Report. Thomas J. Hall, Town Manager, gave the following updates:

- The Superintendent and he would be doing a joint presentation on the proposed FY2020 Budget on Wednesday, April 3rd and a Special Town Council meeting on April 10th for the first reading on the proposed budget.
- The Piper Shores mediation continues tomorrow and hopefully there will be some resolve.
- Project Grace Fuel Rally raised over $17,100.
- The Annual Elected Officials Dinner would be on May 8th at Atria a formal invitation would be forth coming.
- Mr. Don Begin has been hired as the new IT Director. Mr. Begin would be starting later this month. He comes from Colorado, has a wealth of knowledge, retired military and also a prior kindergarten teacher.
- Operation HOPE would be on the Today Show at 7:40 a.m. tomorrow morning.

Item 11. Council Member Comments.

- Councilor Donovan also commented on the Planning Board issue relating to the tower application.
- Councilor Caterina she would like to see the Council put something in the budget for the one-room school building. She commented on participating in Meals on Wheels Program, she along with Councilors Foley and Donovan participated this past week.
- Councilor Foley also thanked Southern Maine Agency of Aging for asking her to participate on Meals on Wheels. Plovers are coming and there is a link for beach monitors. She too would like to see money set aside for the one-room school house.
- Councilor Johnson also felt that money to the one-room school would be beneficial.
- Councilor Babine noted that World Down Syndrome Day would be tomorrow, March 21st which is Rock Your Socks, you wear mismatched socks in recognition of World Down Syndrome Day. He thanked Councilor Caterina for testifying before the Appropriations Committee on Maine Revenue Sharing. He invited Council members to come to Augusta any time they would like. He reminded the public that the Legislative Delegation would be holding

hours on April 6th here in chambers. He then went on to read his resignation from the Town Council effective June 10th at precisely 10:00 p.m.

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

Vote: 7 Yeas.

Meeting adjourned at 9:52 p.m.

Respectfully submitted,

Yolande P. Justice
Town Clerk