

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – SEPTEMBER 17, 2014
COUNCIL/PLANNING BOARD WORKSHOP
WITH PIPER SHORES GROUP – 6:00 P.M.
REGULAR MEETING – 7:00 P.M.

NO NEW BUSINESS SHALL BE TAKEN UP AFTER 10:00 P.M.

- Item 1.** Call to Order.
- Item 2.** Pledge of Allegiance.
- Item 3.** Roll Call.
- Item 4.** General Public Comments.*
- Item 5.** Minutes: September 3, 2014 – Regular Meeting.
- Item 6.** Adjustment to the Agenda.
- Item 7.** Items to be signed: a. Treasurer's Warrants.

***Procedure for Addressing Council** [Posted in Chambers.]

Order No. 14-82, 7:00 p.m. Public Hearing of the Scarborough Town Council and Planning Board for preliminary review of a contact zone application submitted by University of New England and the Maine National Guard, with action by the Scarborough Town Council.

Order No. 14-83, 7:00 p.m. Public hearing and action on the renewal requests for Junkyard Permits, pursuant to Title 30-A – M.R.S.A. Chapter 183: Goldstein Steel Company Inc., located at 36 Running Hill Road; A. Gagnon or E. Perry Iron & Metal, located at Rigby Road; Scarborough Auto Parts, located at 40 Holmes Road and Speedway Auto, located at 343 Payne Road.

OLD BUSINESS:

Order No. 14-53. Second reading on the proposed changes to Chapter 405 – the Town of Scarborough Zoning Ordinance to create a Transmission Tower Overlay District and to update the Performance Standards thereto. [Tabled from the August 20, 2014, Town Council meeting.]

NEW BUSINESS:

Order No. 14-84. Act on the request for a Mass Gathering Permit from Stuart Kaul to hold the *Insane Inflatable 5K* on Saturday, September 20, 2014, at Scarborough Downs, located at 90 Payne Road.

- Item 8.** Non Action Items.
- Item 9.** Standing and Special Committee Reports and Liaison Reports.
- Item 10.** Town Manager Report.
- Item 11.** Council Member Comments.
- Item 12.** Adjournment.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – SEPTEMBER 17, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-82. Move to _____ [(1) to withdraw the request for contract zoning; (2) to continue to process the request for contract zoning, with or without modifications suggested by the Council; or (3) to revise and resubmit the application for contract zoning, under Section II(I)(4)(a)(i)], submitted by University of New England and the Maine National Guard.



Town of Scarborough, Maine

To: Town Council and Planning Board
From: Jay Chace, Senior Planner
Date: September 8, 2014
Cc: Tom Hall, Dan Bacon

RE: September 17 Joint Council and Board meetings

The intent of this memorandum is to layout the September 17th meeting processes for two separate contract zone related development proposals that will be jointly considered by the Council and Planning Board. The first meeting, beginning at 6 pm, is an informal workshop to hear from Piper Shores regarding potential amendments to their existing contract zone. The second item, to be considered at 7pm, is a formal public hearing to consider a proposal by the University of New England (UNE) and the ME Army National Guard (MEARNG) to establish a contract zone to enable the development of a MEARNG readiness center in the Rural Farming District (RF).

In advance of September 17, Council and Board members may wish to review the Contract Zone requirements as establish in Section II.(I) of the Zoning Ordinance. This section of the Ordinance details with both the procedures and review criteria for contract zones.

Beginning at 6 pm the Council and Planning Board will conduct an informal workshop with representatives from the Piper Shores Retirement Community. Piper Shores is considering proposing amendments to their existing contract zone to enable further expansion of their facilities. The intent of this workshop is to enable an open conversation between the parties related to the merits of the proposal prior to a formal submission coming forward for a contract zone amendment. Additional information related to the proposal is anticipated to be provided by the Piper Shores representatives in advance of the meeting. At this time no formal action is required by either the Board or Council on this matter, but feedback and direction is desired.

Following this workshop, as part of the regular council agenda, beginning at 7pm the Board and Council will conduct a joint public hearing for preliminary review of a contract zone application submitted by UNE and MEARNG. The application seeks to establish a MEARNG readiness center on property located near the Saco town line along RT 1 which is in the RF District. Because the proposed use is neither a permitted nor special exemption use allowed within the RF District, and because the proposed location for the center straddles the town line with Saco, the applicant is seeking a contract zone to specifically allow this use and activity at this location without more broadly amending the RF District or Zoning Ordinance Town wide. Attached to this memo is the "Summary of Procedural Steps for Contract Zoning" as established in Zoning Ordinance.

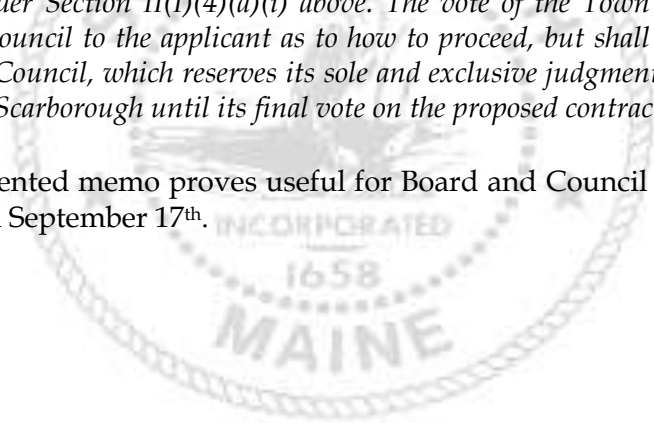
As highlighted in the attached "Summary of Procedural Steps" [Appendix B of the Zoning Ord.], the application is in Phase I, Step Three of the review process which, as stated above, is a preliminary review by the Council and Board.

In accordance with the Zoning Ordinance, section II(1)4(a).iii, the joint Planning Board/Town Council meeting shall be conducted as follows:

- *Presentation by the applicant.*
- *Comments from Town staff.*
- *Comments from members of the public. (This shall constitute the public hearing by the municipal reviewing authority required by 30-A M.R.S.A. § 4352(8).)*
- *Response or rebuttal from applicant.*
- *Discussion among members of the Planning Board and the Town Council, which may include questions posed to the applicant, staff and the public.*
- *Comments from members of the Planning Board concerning the land use implications of the proposed contract zoning amendment.*
- *Preliminary Town Council discussion of contract zoning amendment.*

The Joint Planning Board/Town Council meeting may be continued from time-to-time by vote of the Town Council until the Council has concluded its discussion and is prepared to give the applicant preliminary direction concerning the further processing of the contract zoning request. At the conclusion of the discussion, the Council shall, by vote, advise the applicant: (1) to withdraw the request for contract zoning; (2) to continue to process the request for contract zoning, with or without modifications suggested by the Council; or (3) to revise and resubmit the application for contract zoning, under Section II(1)4(a)(i) above. The vote of the Town Council shall constitute direction from the Council to the applicant as to how to proceed, but shall not be binding on either the applicant or the Council, which reserves its sole and exclusive judgment as the elected legislative body of the Town of Scarborough until its final vote on the proposed contract zoning amendment.

I hope this process oriented memo proves useful for Board and Council members as you move toward the meeting on September 17th.



Attachment

SCARBOROUGH ZONING ORDINANCE APPENDIX – B

Summary of Procedural Steps for Contract Zoning

This summary is intended to provide a shorthand guide to the contract zoning process for applicants, Town officials and the public. This summary does not substitute for the text of Section II(I) of the Zoning Ordinance, which governs the process for contract zoning.

Phase 1 – Preliminary Joint Review by Planning Board and Town Council

Step One: The applicant files an application for contract zoning with the Town Planner.

Step Two: The Town Planner evaluates the application for completeness.

Step Three: The Planning Board and Town Council conduct a joint meeting for preliminary review of the contract zoning application. The joint meeting includes:

- a. Public hearing under 30-A M.R.S.A. § 4352(8).
- b. Planning Board comments on the land use implications of the proposed contract zoning.
- c. Council discussion of the proposed contract zoning.
- d. Council's preliminary direction to the applicant concerning further proceedings on the contract zoning request.

Phase 2 – Planning Board Plan Review

Step Four: The applicant files the application for site plan approval (and subdivision approval, if required).

Step Five: After public hearing, the Planning Board grants preliminary, provisional approval to the site plan (and subdivision plan, if required).

Phase 3 – Town Council Action

Step Six: The Town Council holds the first reading of the contract zoning amendment.

Step Seven: The Town Council holds a public hearing.

Step Eight: The Town Council holds the second reading and votes on the contract zoning amendment.

Step Nine: The applicant records the contract zoning agreement in the registry of deeds.

Phase 4 – Final Planning Board Action

STEP TEN: THE PLANNING BOARD GRANTS FINAL SITE PLAN APPROVAL (AND SUBDIVISION APPROVAL, IF REQUIRED).



UNIVERSITY OF
NEW ENGLAND

Campus Services

Biddeford Campus
11 Hills Beach Road
Biddeford, ME 04005
(207) 283-0171 T
(207) 602-5911 F

Portland Campus
716 Stevens Avenue
Portland, ME 04103
(207) 797-7261 T
(207) 221-4892 F

September 3, 2014

Daniel Bacon, Town Planner
Town of Scarborough
259 U.S. Route 1
P.O. Box 360
Scarborough, ME 04074-0360

**Re: Application for Contract Zoning by University of New England
and Maine Army National Guard
0 U.S. Route 1, Tax Map R066, Lot 011**

Dear Mr. Bacon:

Please accept this letter as the Application by the University of New England ("UNE") and Maine Army National Guard ("MEARNG") for contract zoning of a parcel located at 0 U.S. Route 1, Town of Scarborough Assessor's Tax Map R066, Lot 011 (the "Property"). UNE has entered into a purchase and sale agreement with the current owner of the Property, Cleve A. Worster, with the intent to exchange the Property with MEARNG for a parcel located elsewhere in Cumberland County.

MEARNG proposes to construct facilities upon the 24.6 acre Property, and on the adjacent 12 acre parcel of land located in the City of Saco, Maine. These facilities would consist of an approximately 50,000 SF National Guard Readiness Center and a 29,000 SF National Guard Field Maintenance Shop (FMS) that supports the administrative, training, and logistical requirements for MEARNG surface equipment.

Although the proposed Readiness Center and Surface Equipment Maintenance Facility use is consistent with the Town of Scarborough's Comprehensive Plan and with existing uses and permitted uses in the Rural Farming Zoning District in which the Property is located, the Readiness Center and the vehicular equipment maintenance use are not listed as permitted or special exception uses in the RF Zoning District. Therefore, we are applying for a contract zone agreement for the property.

As required by Section II.(I) of the Scarborough Zoning Ordinance, we address the following elements:

- A map showing the existing and proposed zoning district lines.

Please see attached as **Exhibit A**, a copy of said map.

- The address or exact location of the request, including the Scarborough Assessor's map references to the property to be rezoned.

0 U.S. Route 1, Tax Map R066, Lot 011.

The name, address and telephone number of the property owner and of the Applicant if the Applicant is not the owner.

Property Owner: Cleve A. Worster
P.O. Box 1716, Saco, Maine 04072
1.207.329.0923

Applicants: University of New England
11 Hills Beach Road, Biddeford, ME 04005
Alan Thibeault, AVP for Planning
1.207.602.2253

Maine Army National Guard
33 SHS, Camp Keyes, Building 8, Augusta, ME 04330
John Blais, Senior Planner
1.207.3142416

- Evidence of the Applicant's right, title and interest in the property.

Please see attached as **Exhibit B**, a copy of the Purchase & Sale Agreement dated August 21, 2014 between Cleve A. Worster and UNE

- A site analysis describing the major features of the property prepared in accordance with the guidelines in **Appendix C** to the Zoning Ordinance.

Please see the site analysis attached as **Exhibit C**, hereto.

- Conceptual development plan showing the approximate layout of all buildings, structures, streets, driveways, parking areas and other significant improvements to be constructed on or above the surface of the ground, and any proposed open spaces, conservation areas, buffer areas or other features of the development.

Please see conceptual development plan attached as **Exhibit D** hereto.

- Statement describing the existing use of the property and the proposed new use and development and describing how the proposed contract zone will be consistent with the Town of Scarborough Comprehensive Plan, with existing and permitted uses within the existing zoning district classification of the property, would be 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.

Please see the narrative attached as **Exhibit E** hereto.

- Proposed Contract Zoning Agreement complying with the requirements of Section II.(I)(5).

Please see the proposed Contract Zoning Agreement attached as **Exhibit F** hereto.

- Nonrefundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council.

Enclosed please find a check in the amount of \$500.00 in payment of the application fee.

We understand that the Town Council and the Planning Board will schedule a joint meeting on this Application for September 17, 2014, which will begin the process for review of this Application as set forth in Section II.(I)(4) of the Ordinance.

Thank you for your assistance and cooperation in scheduling this Application for prompt review by the Town Council and the Planning Board. We look forward to working with you and with the Town of Scarborough in review of this Application. Please feel free to call me if there is any additional information needed to process this Application.

Sincerely,



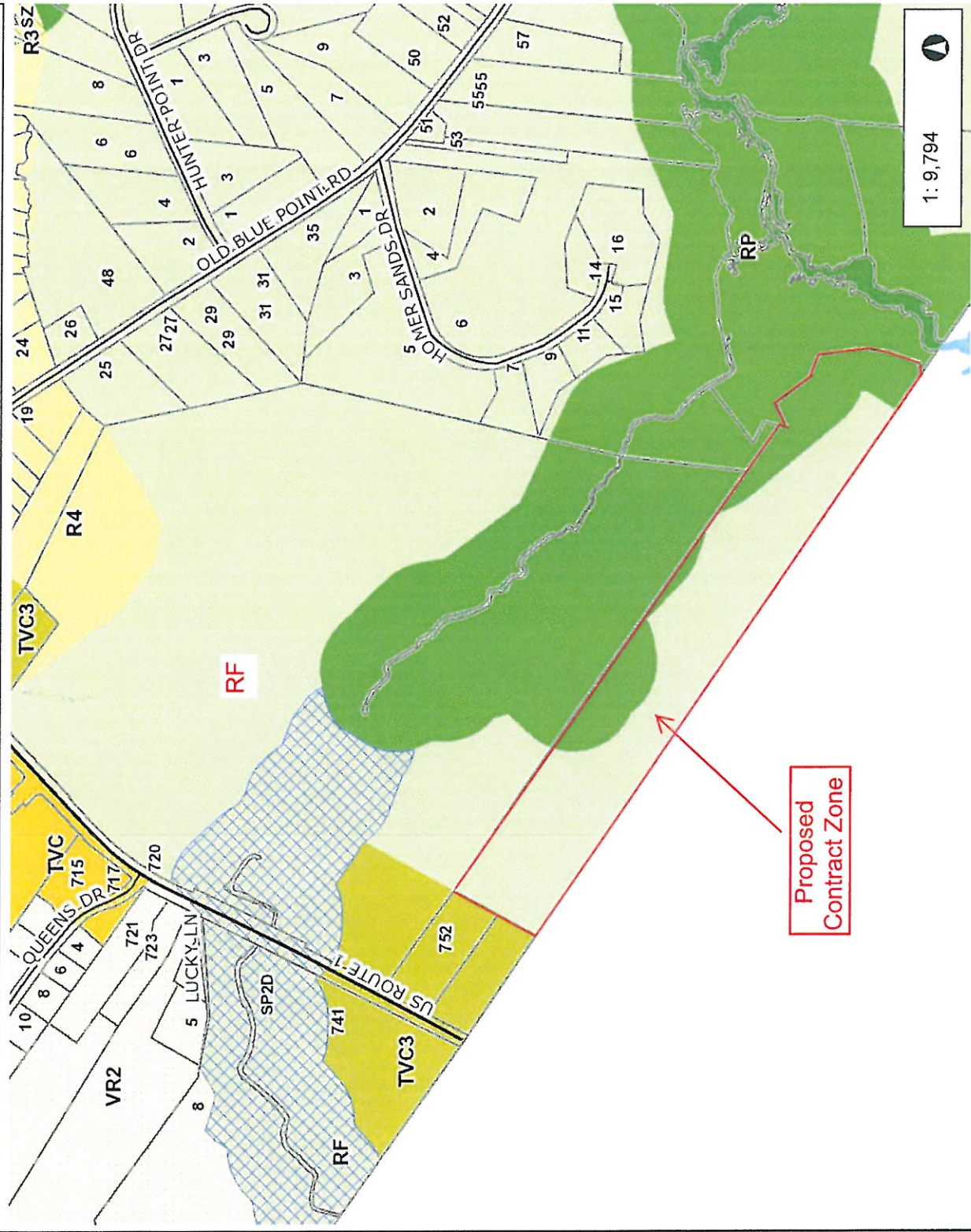
William J. Bola
Vice-President for Operations
University of New England

Enclosures

cc: Thomas Hall, Town Manager, Town of Scarborough
Alan Thibeault, Assistant Vice-President for Planning, University of New England
Col Dwaine E. Drummond, Maine Army Reserve National Guard
John Blais, Senior Planner, Maine Army Reserve National Guard
James N. Katsiaficas, Esq., Perkins Thompson



Exhibit A



1: 9,794

- Legend**
- Parcels
 - Roads
 - MTA
 - MTA
 - MDOT
 - PUBLIC
 - PENDING PUBLIC, PRIVATE, PF
 - CEMETERY, NOT YET BUILT, P.
 - Industrial Overlay
 - Contract Zones
 - Contract Zone 1
 - Contract Zone 2
 - Contract Zone 3
 - Contract Zone 4
 - Contract Zone 5
 - Contract Zone 7
 - Contract Zone 8
 - Contract Zone 9
 - Contract Zone 10
 - Shoreland Zoning
 - Stream Protection Zoning
 - Stream Protection Overlay
 - Stream Protection 2 Overlay
 - Aquifer Protection Overlay
 - Zoning
 - B1 - Local Business

Notes

Disclaimer

This map is a user generated static output from the Town of Scarborough internet mapping site (WebGIS) and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

0.3 0.15 0.3 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
Town of Scarborough, Maine

9/2/2014

Effective Date is defined in Paragraph 20 of this Agreement.

August 21, 2014

1. PARTIES: This Agreement is made between University of New England ("Buyer") and Cleve A. Worster ("Seller").
2. DESCRIPTION: Subject to the terms and conditions hereinafter set forth, Seller agrees to sell and Buyer agrees to buy (all , ☐ part of; If "part of" see paragraph 26 for explanation) the property situated in municipality of Scarborough County of Cumberland , State of Maine, located at 0 US Route One and described in deed(s) recorded at said County's Registry of Deeds Book(s) 31450 Page(s) 46-50, and further described as Parcel B - 24.6+/- acres at 0 US Route 1, known as Scarborough Assessor's Tax Map R066. Lot 11, as generally shown on Exhibit A.

3. PURCHASE PRICE: For such Deed and conveyance Buyer agrees to pay the total purchase price of [REDACTED]. Buyer has delivered; or will deliver to the Agency within 5 days of the date of this offer, a deposit of earnest money in the amount [REDACTED] to be non-refundable except for in the event of a Sellers default. If said deposit is to be delivered after the submission of this offer and is not delivered by the above deadline, this offer shall be void and any attempted acceptance of this offer in reliance on the deposit being delivered will not result in a binding contract. Buyer agrees that an additional deposit of earnest money in the amount of [REDACTED] will be delivered if Buyer exercises its right to extend its Due Diligence period to pursue permitting ninety (90) days per Addendum, paragraph 2, of this Agreement. This deposit shall be non-refundable except for in the event of a Sellers default, but applicable to the purchase price. Failure by Buyer to deliver this additional deposit in compliance with the above terms shall constitute a default under this Agreement. The remainder of the purchase price shall be paid by a certified or cashier's check upon delivery of the Deed.

This Purchase and Sale Agreement is subject to the following conditions:

4. EARNEST MONEY/ACCEPTANCE: Malone Commercial Brokers ("Agency") shall hold said earnest money and act as escrow agent until closing; this offer shall be valid until August 22, 2014 (date) 12:00 ☐AM ☒PM; and, in the event of non-acceptance, this earnest money shall be returned promptly to Buyer. In the event that the Agency is made a party to any lawsuit by virtue of acting as escrow agent, Agency shall be entitled to recover reasonable attorney's fees and costs which shall be assessed as court costs in favor of the prevailing party.

5. TITLE AND CLOSING: A deed, conveying good and merchantable title in accordance with the Standards of Title adopted by the Maine Bar Association shall be delivered to Buyer and this transaction shall be closed and Buyer shall pay the balance due and execute all necessary papers on November 30, 2014 (closing date) or before, provided the Buyer provides a 14 day advance written notice to Seller. If the Buyer exercises its right to extend the purchase and sale agreement, for the purpose of permitting as specified in the Addendum paragraph 2, the closing shall occur within seven (7) days of the expiration of the Buyer's permitting period or within seven (7) days of the Buyer satisfactorily completing and waiving its permitting condition to the agreement.

If Seller is unable to convey in accordance with the provisions of this paragraph, then Seller shall have a reasonable time period, not to exceed 30 calendar days, from the time Seller is notified of the defect, unless otherwise agreed to in writing by both Buyer and Seller, to remedy the title. Seller hereby agrees to make a good-faith effort to cure any title defect during such period. If, at the later of the closing date set forth above or the expiration of such reasonable time period, Seller is unable to remedy the title, Buyer may close and accept the deed with the title defect or this Agreement shall become null and void in which case the parties shall be relieved of any further obligations hereunder and any earnest money shall be returned to the Buyer.

6. DEED: The property shall be conveyed by a Quitclaim with Covenants deed, and shall be free and clear of all encumbrances except covenants, conditions, easements and restrictions of record which do not materially and adversely affect the continued current use of the property. The Deed shall be conveyed to Buyer extinguishing the 50' right of way to US Route 1 as described in a deed recorded in the Cumberland County Registry of Deeds in Book 31450, Page 53 and in Book 31450, Page 49. (Exhibit B)

7. POSSESSION: Possession of premises shall be given to Buyer immediately at closing unless otherwise agreed in writing.

8. RISK OF LOSS: Until the closing, the risk of loss or damage to said premises by fire or otherwise, is assumed by Seller. Buyer shall have the right to view the property within 24 hours prior to closing for the purpose of determining that the premises are in substantially the same condition as on the date of this Agreement.

9. PRORATIONS: The following items, where applicable, shall be prorated as of the date of closing: rent, association fees, (other) n/a. Real estate taxes shall be prorated as of the date of closing (based on municipality's fiscal year). Seller is responsible for any unpaid taxes for prior years. If the amount of said taxes is not known at the time of closing, they shall be apportioned on the basis of the taxes assessed for the preceding year with a reapportionment as soon as the new tax rate and valuation can be ascertained, which latter provision shall survive closing. Buyer and Seller will each pay their transfer tax as required by State of Maine.

10. DUE DILIGENCE: Buyer is encouraged to seek information from professionals regarding any specific issue or concern. Neither Seller nor Licensee makes any warranties regarding the condition, permitted use or value of Sellers' real property. This Agreement is subject to the following contingencies, with results being satisfactory to Buyer:

CONTINGENCY	YES	NO	DAYS FOR COMPETITION
1. SURVEY	☒	☐	<u>90</u>
Purpose:			
2. SOILS TEST	☒	☐	<u>90</u>
Purpose:			
3. LOCAL PERMITS	☒	☐	<u>90</u>
Purpose:			
4. HAZARDOUS WASTE REPORTS	☒	☐	<u>90</u>
Purpose:			
5. UTILITIES	☒	☐	<u>90</u>
Purpose:			
6. WATER	☒	☐	<u>90</u>
Purpose:			
7. APPROVALS FOR READINESS CENTER AND FIELD MAINTENANT SHOP	☒	☐	<u>90</u>
Purpose:			
8. ENVIRONMENTAL REVIEW	☒	☐	<u>90</u>
Purpose:			
9. ZONING	☒	☐	<u>90</u>
Purpose:			
10. WETLAND SURVEY/VERNAL POOL	☒	☐	<u>90</u>
Purpose:			
11. MDOT PERMIT	☒	☐	<u>90</u>
Purpose:			

Unless otherwise specified, all of the above will be obtained and paid for by Buyer. If the result of any investigation or other condition specified herein is unsatisfactory to Buyer, Buyer will declare the Agreement null and void by notifying Seller in writing within the specified number of days. If the result of any investigation or other condition specified herein is unsatisfactory to Buyer, and Buyer wishes to pursue remedies other than voiding the Agreement, Buyer must do so to full resolution within the time period set forth above; otherwise this contingency is waived. If Buyer does not notify Seller that an investigation is unsatisfactory within the time period set forth above, this contingency is waived by Buyer. In the absence of inspection(s) mentioned above, Buyer is relying completely upon Buyer's own opinion as to the condition of the property.

11. FINANCING: This Agreement ☐ is ☐ is not subject to Financing. If subject to Financing:

- a. This Agreement is subject to Buyer obtaining a _____ loan of _____ % of the purchase price, at an interest rate not to exceed _____ % and amortized over a period of _____ years.
- b. Buyer to provide Seller with letter from lender showing that Buyer has made application and, subject to verification of information, is qualified for the loan requested within _____ days from the Effective Date of the Agreement. If Buyer fails to provide Seller with such letter within said time period, Seller may terminate this Agreement and the earnest money shall be returned to Buyer.
- c. Buyer to provide Seller with loan commitment letter from lender within _____ days of the Effective Date of the Agreement. If Buyer fails to provide Seller with this loan commitment letter within said time period, Seller may deliver notice to Buyer that this Agreement is terminated three days after delivery of such notice unless Buyer delivers the loan commitment letter before the end of the three-day period. If the Agreement is terminated under the provision of this sub-paragraph, the earnest money shall be returned to Buyer.
- d. Buyer hereby authorizes, instructs and directs its lender to communicate the status of the Buyer's loan application to Seller or Seller's licensee.
- e. After (b) or (c) are met, Buyer is obligated to notify Seller in writing if the lender notifies Buyer that it is unable or unwilling to proceed under the terms of the financing. Any failure by Buyer to notify Seller within two days of receipt by Buyer of notice from the lender shall be a default under this Agreement.
- f. Buyer agrees to pay no more than _____ points. Seller agrees to pay up to \$_____ toward Buyer's actual pre-pays, points and/or closing costs, but no more than allowable by Buyer's lender.
- g. Buyer's ability to obtain financing ☐ is ☐ is not subject to the sale of another property. See addendum ☐ Yes ☐ No.
- h. Buyer may choose to pay cash instead of obtaining financing. If so, buyer shall notify seller in writing and the Agreement shall no longer be subject to financing, and Seller's right to terminate pursuant to the provisions of this paragraph shall be void.

12. BROKERAGE DISCLOSURE: Buyer and Seller acknowledge they have been advised of the following relationships:

Mark Malone of
Licensee

Malone Commercial Brokers is a
Agency

☐ Seller Agent ☒ Buyer Agent
☐ Disc Dual Agent ☐ Transaction Broker

n/a of
Licensee

n/a is a
Agency

☐ Seller Agent ☐ Buyer Agent
☐ Disc Dual Agent ☐ Transaction Broker

If this transaction involves Disclosed Dual Agency, the Buyer and Seller acknowledge the limited fiduciary duties of the agents and hereby consent to this arrangement. In addition, the Buyer and Seller acknowledge prior receipt and signing of a Disclosed Dual Agency Consent Agreement.

13. PROPERTY DISCLOSURE FORM: Buyer acknowledges receipt of Seller's Property Disclosure Form.

14. MEDIATION: Earnest money disputes subject to the jurisdiction of small claims court will be handled in that forum. For all other disputes or claims arising out of or relating to this Agreement or the property addressed in this Agreement shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules. Buyer and Seller are bound to mediate in good faith and pay their respective mediation fees. If a party does not agree first to go to mediation, then that party will be liable for the other party's legal fees in any subsequent litigation regarding that same matter in which the party who refused to go to mediation loses in that subsequent litigation. This clause shall survive the closing of the transaction.

15. DEFAULT: In the event of default by the Buyer, Seller may employ all legal and equitable remedies, including without limitation, termination of this Agreement and forfeiture by Buyer of the earnest money. In the event of a default by Seller, Buyer may employ all legal and equitable remedies, including without limitation, termination of this Agreement and return to Buyer of the earnest money. Agency acting as escrow agent has the option to require written releases from both parties prior to disbursing the earnest money to either Buyer or Seller.

16. PRIOR STATEMENTS: Any representations, statements and agreements are not valid unless contained herein. This Agreement completely expresses the obligations of the parties.

17. HEIRS/ASSIGNS: This Agreement shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns of the Seller and the assigns of the Buyer.

18. COUNTERPARTS: This Agreement may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

19. ADDENDA: ☒ Yes Explain: Other Conditions to Purchase ☐ No

Cleve Worster

20. **EFFECTIVE DATE/NOTICE:** Any notice, communication or document delivery requirements hereunder may be satisfied by providing the required notice, communication or documentation to the party or their licensee. Withdrawals of offers and counteroffers will be effective upon communication, verbally or in writing. This Agreement is a binding contract when signed by both Buyer and Seller and when that fact has been communicated which shall be the Effective Date. Licensee is authorized to fill in the Effective Date on Page 1 hereof. Except as expressly set forth to the contrary, the use of the term "days" in this Agreement, including all addenda made a part hereof, shall mean business days defined as excluding Saturdays, Sundays and any State/Federal holidays (including but not limited to Patriots Day, Columbus Day, Martin Luther King Holiday, etc.) Deadlines in this Agreement, including all addenda, expressed as "within x days" shall be counted from the Effective Date, unless another starting date is expressly set forth, beginning with the first day after the Effective Date, or such other established starting date, and ending at 5:00 p.m. Eastern Time on the last day counted. Unless expressly stated to the contrary, deadlines in this Agreement, including all addenda, expressed as a specific date shall end at 5:00 p.m. Eastern Time on

21. **CONFIDENTIALITY:** Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators and others involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the entire closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing.

22. **BROKERAGE:** Each party represents to the other that it has not dealt with any broker, finder or other intermediary in connection with this sale other than Mark Malone of Malone Commercial Brokers, Inc. Seller agrees to be solely responsible for any and all commissions due to Malone Commercial Brokers, Inc. Each party agrees to protect, indemnify and hold harmless the other from and against any and all liabilities, claims, demands, costs, expenses (including reasonable attorneys' fees and disbursements) and judgments relating to any fee, commission or other compensation asserted by any other broker, finder or other intermediary in connection with this Agreement or the transactions contemplated hereby arising out of its acts. Seller accepts and agrees pay the Broker the commission for services rendered, in the sum of _____

23. **OTHER CONDITIONS:**

A copy of this Agreement is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, contact an attorney. This is a Maine contract and shall be construed according to the laws of Maine.

Seller acknowledges that State of Maine law requires buyers of property owned by non-resident sellers to withhold a prepayment of capital gains tax unless a waiver has been obtained by Seller from the State of Maine Revenue Services.

Buyer acknowledges that Maine law requires continuing interest in the property and any back up offers to be communicated by the listing agent to the Seller.

Buyer's Mailing address is 11 Hills Beach Road, Biddeford, Maine 04005.

BUYER: University of New England

DATE 8/22/14

BUYER

DATE

Seller accepts the offer and agrees to deliver the above-described property at the price and upon the terms and conditions set forth and agrees to pay agency a commission for services as specified in the listing agreement.

Seller's Mailing address is P.O. Box 1716, Saco, ME 04072.

SELLER: Cleve A. Worster

DATE 8/21/14

SELLER

DATE

Cleve Worster

Addendum To
Purchase and Sale Agreement
Other Conditions to Purchase

This addendum is made an integral part to the Purchase and Sale Agreement for property located at 0 US Rt 1, Scarborough, Maine between Cleve A. Worster, (Known as Seller) and University of New England, (known as Buyer), for the contract dated August 20, 2014.

The following terms and conditions are noted:

1) Buyer Conditions to Close

a. Buyer shall have forty-five (45) days from the effective date of the purchase and sale agreement to reach a satisfactory agreement with Maine Army National Guard (MEARNG) for the swapping of this property with the MEARNG's property located at 772 Stevens Ave. Portland, Maine. If Buyer fails to notify Seller that agreement has not been made within the time period set forth above, this contingency is waived by Buyer.

b. Closing is conditioned upon Buyer purchasing Parcel A as shown on Exhibit A from park North Development, LLC, upon terms and conditions agreeable to Buyer .

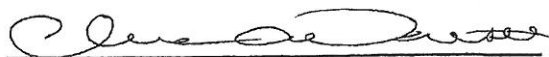
2) Permitting

If the results of the Buyer's Due Diligence, item 10-7 of the Agreement, warrants sufficient concern, in the sole opinion of the Buyer, of the ability of the MEARNG to receive any of its needed permits or approvals, the Buyer shall have the right to extend the Due Diligence, item 10-7, for a period of ninety (90) days, following the original Due Diligence period. Some or all of this extended Due Diligence maybe used by the Buyer to pursue or receive all Federal, State and local unconditional land use approvals and permits to develop the property with related improvements. The closing shall also extend and shall occur within 7 days of Buyer's waiver, or expiration, of 10-7, as a condition to the Agreement.

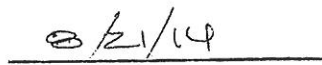
To qualify for said extension the Buyer must notify the Seller, in writing, on or before the expiration of its initial 90 day Due Diligence period, of its intent to extend the Due Diligence and Closing. In exercising said right, the Buyer shall agree to allow its earnest money deposit to become non-refundable except in the event of a Sellers default. If following the expiration of the Permitting Extension the Buyer is either unable to obtain the requisite permits or believes them to be unattainable, the Buyer has the right to terminate the Agreement, and the Seller shall retain the deposit and all obligations by and between the parties shall cease. During the permitting periods, the Buyer agrees to use good faith efforts.

Cleve Worster

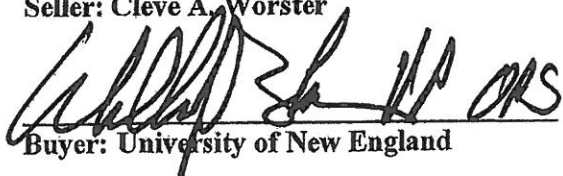
Seen and Agreed to by;



Seller: Cleve A. Worster



Date



Buyer: University of New England



Date

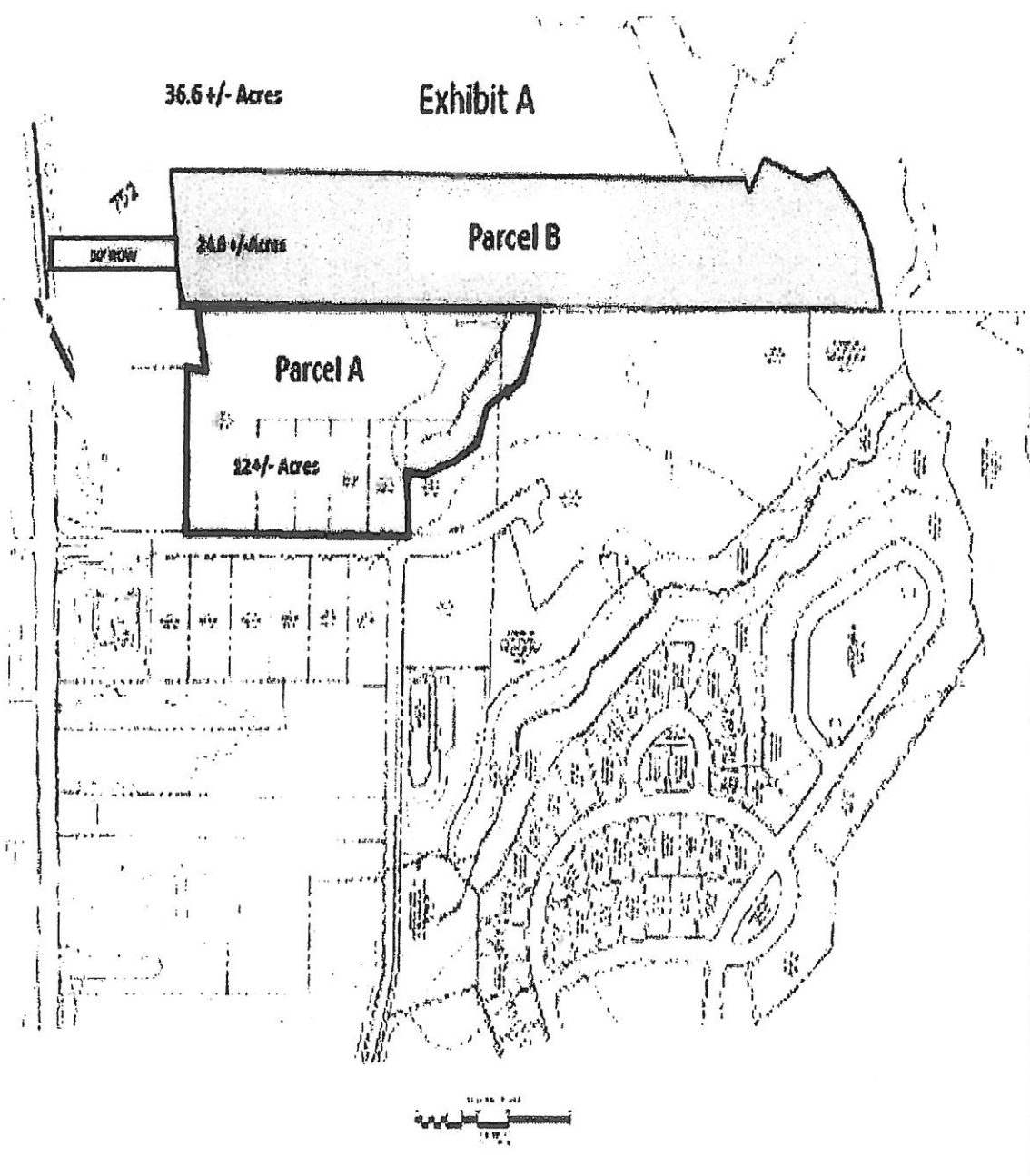


EXHIBIT B

Doc# 15731 Bk131450 Pg 51

QUITCLAIM DEED WITH COVENANT

KNOW ALL PERSONS BY THESE PRESENTS, THAT, we, CLEVE A. WORSTER and SUSAN J. WORSTER of Saco, County of York and State of Maine, in consideration of One Dollar (\$1.00) and other valuable considerations, paid by SUSAN J. WORSTER of Saco, County of York and State of Maine whose mailing address is 214 North Street, #7, Saco, Maine 04072, the receipt whereof we do hereby acknowledge, do hereby remise, release, bargain sell and convey and forever quitclaim unto the said SUSAN J. WORSTER, her heirs and assigns forever,

A certain lot or parcel of land situated on the southeasterly sideline of US Route #1, in the Town of Scarborough, County of Cumberland, and State of Maine, being more particularly bounded and described as follows:

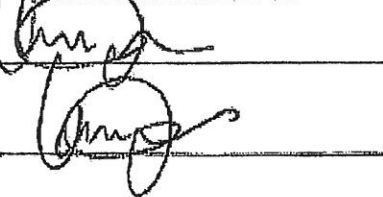
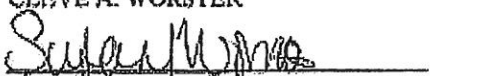
SEE EXHIBIT A ATTACHED

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said SUSAN J. WORSTER, her heirs and assigns forever.

AND we do covenant with the said SUSAN J. WORSTER, her heirs and assigns, that we will warrant and defend the premises to the said Grantee, her heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under her.

IN WITNESS WHEREOF, the said CLEVE A. WORSTER and SUSAN J. WORSTER have hereunto set their hands and seals this 15th day of the month of April, 2014.

SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF


CLEVE A. WORSTER

SUSAN J. WORSTER

STATE OF MAINE
COUNTY OF YORK

April 15, 2014

Then personally appeared the above named CLEVE A. WORSTER and SUSAN J. WORSTER and acknowledged the foregoing instrument to be their own free act and deed.

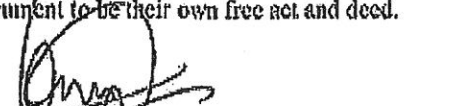

Notary Public/Attorney-at-Law

EXHIBIT A
(Cleve and Susan Worster to Susan Worster)

Beginning on the apparent southeasterly sideline of US Route #1 and at a #5 steel rebar w/survey cap #2124 marking the northerly corner of the herein described parcel and the westerly corner of land conveyed to the herein grantors per deed dated June 23, 1995 and recorded at the Cumberland County Registry of Deeds in Book 11980, Page 227. Said steel rebar being S46°51'00"W - distance of two hundred five and no hundredths (205.00') feet from a #5 steel rebar w/survey cap #2124 marking the northerly corner of said parcel conveyed to the herein grantors as depicted on a plan entitled "Plan Showing A Standard Boundary Survey of Land to Be Conveyed to Cleve A. & Susan J. Worster, located on the southeasterly sideline of US Route #1 in Scarborough, Maine", dated April 26, 1995 by Nadeau & Lodge Professional Land Surveyors, Portland and Alfred, Maine.

Thence S36°26'40"E along said land now or formerly of the herein grantors, a distance of four hundred ninety-five and no hundredths (495.00) feet to the other land now or formerly of Frances L. Sylvester per York County Probate Docket #78076 and also being land described in a deed to Donald B. & Doris O. Boothby dated May 8, 1961 and recorded at the Cumberland County Registry of Deeds in Book 2609, Page 262;

Thence S46°51'00"W along said other land now or formerly of Sylvester and land of Boothby, a distance of two hundred five (205') feet, more or less, to a point and remaining land now or formerly of Sylvester and being on the Saco-Scarborough Town Line. Said land also being on the York-Cumberland County Line;

Thence, northwesterly along said remaining land now or formerly of Sylvester and said town/county line, a distance of four hundred ninety-five (495') feet, more or less, to a point on said southeasterly sideline of US Route #1;

Thence, N46°51'00"E along said southeasterly sideline of US Route #1, a distance of two hundred five (205') feet, more or less, to the point of beginning.

Said parcel contains 2.3 acres, more or less. The bearings used in this description are based on the 1995 magnetic meridian.

The above description having been written by James D. Nadeau, PLS #2124, Nadeau & Lodge, Professional Land Surveyors, Portland and Alfred, Maine.

Being the same premises conveyed to the within Grantors by deed of Frances L. Sylvester dated May 18, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15479, Page 183.

Cleve Worster

Doc# 15731 Bk:31450 Pg: 53

Also hereby meaning and intending to convey a 140' long, more or less, by 10' wide utility easement along the apparent southeasterly sideline of US Route #1 between the southwesterly line of the above described parcel and other land now or formerly of Sylvester per York County Probate Docket #78076 and also being described in a deed to Donald E. & Doris O. Boothby dated May 8, 1961 and recorded at the Cumberland County Registry of Deeds in Book 2609, Page 262. Said utility easement being entirely in the Town of Saco.

Reserving and excepting to Grantor Cleve A. Worster a perpetual fifty (50') foot right of way described in a deed of even date from the within Grantors to Cleve A. Worster, his heirs and assigns, for ingress and egress, including the installation and maintenance of all utilities, from said US Route #1 to land of Cleve A. Worster to benefit up to six (6) developed lots on said land of Cleve A. Worster. Provided, however, that the said right of way also shall benefit the land of Grantee described herein.

Received
Recorded Register of Deeds
Apr 17, 2014 01:56:16P
Cumberland County
Pamela E. Loyler

QUITCLAIM DEED WITH COVENANT

KNOW ALL PERSONS BY THESE PRESENTS, THAT, we, CLEVE A. WORSTER and SUSAN J. WORSTER of Saco, County of York and State of Maine, in consideration of One Dollar (\$1.00) and other valuable considerations, paid by CLEVE A. WORSTER of Saco, County of York and State of Maine whose mailing address is P.O. Box 1716, Saco, Maine 04072, the receipt whereof we do hereby acknowledge, do hereby remise, release, bargain sell and convey and forever quitclaim unto the said CLEVE A. WORSTER, his heirs and assigns forever,

A certain lot or parcel of land in Scarborough, County of Cumberland and State of Maine, bounded and described as follows:

SEE EXHIBIT A ATTACHED

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said CLEVE A. WORSTER, his heirs and assigns forever.

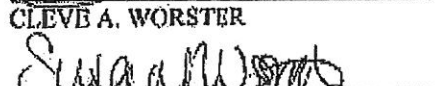
AND we do covenant with the said CLEVE A. WORSTER, his heirs and assigns, that we will warrant and defend the premises to the said Grantee, his heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under him.

IN WITNESS WHEREOF, the said CLEVE A. WORSTER and SUSAN J. WORSTER have hereunto set their hands and seals this 15th day of the month of April, 2014.

**SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF**





CLEVE A. WORSTER

SUSAN J. WORSTER

STATE OF MAINE
COUNTY OF YORK

April 15, 2014

Then personally appeared the above named CLEVE A. WORSTER and SUSAN J. WORSTER and acknowledged the foregoing instrument to be their own free act and deed.

KEITH R. JACQUES, ESQ.
WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.
234 MAIN ST., P.O. BOX 468
BIDDEFORD, ME 04005
(207) 284-4581

← 498


Notary Public/Attorney-at-Law
KEITH R. JACQUES, ESQ.
WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.
234 MAIN ST., P.O. BOX 468
BIDDEFORD, ME 04005
(207) 284-4581

EXHIBIT A
(Cleve and Susan Worster to Cleve Worster)

Beginning at a point at the Southeasterly corner of other land of the said Grantors shown as Lot 2 on the Town of Scarborough Tax Assessor's Map U-29, revised to April 1, 1996, on file at the Scarborough Tax Assessor's Office at Town Hall, which point is 440 feet, more or less, from the easterly sideline of U.S. Route One (a/k/a as Portland Road, and which point is also the dividing line between the Towns of Scarborough in Cumberland County and Saco in the County of York;

Thence easterly along the same dividing line between the Towns of Saco and Scarborough a distance of 2,780 feet, more or less, to a point, thence northeasterly a distance of 50 feet, to a point;

Thence northerly a distance of 147 feet, more or less;

Thence northerly a distance of 109 feet, more or less;

Thence northerly a distance of 101 feet, more or less;

Thence northerly 76 feet, more or less;

Thence westerly a distance of 92 feet, more or less;

Thence northwesterly a distance of 108 feet, more or less;

Thence northwesterly a distance of 69 feet, more or less;

Thence southwestly a distance of 105 feet, more or less;

Thence northerly a distance of 25 feet, more or less;

Thence westerly a distance of 230 feet, more or less;

Thence continuing westerly a distance of 2310 feet, more or less to a point on the easterly and rear property line of the said Grantors shown as Lot 2 on Town of Scarborough Tax Assessor's Map U-29;

Thence southerly along the easterly and rear property lines of Lot 2 of the said Grantors and Lot 2A now or formerly owned by John Fairweather, II and Christina Fairweather, a distance of 410 feet, more or less, to the point of beginning.

Intending hereby to convey all our right, title and interest in Lot 11, as shown on Town of Scarborough Tax Assessor's Map R-66, revised to April 1, 1996, on file at the Scarborough Tax Assessor's Office at Town Hall.

Being the same premises conveyed to Grantors by Quitclaim Deed from Frances L. Sylvester dated November 3, 1999 and recorded in the Cumberland County Registry of Deeds in Book 15161, Page 242. Reference also is made to a Quitclaim Deed from Donald E. Boothby and Doris O. Boothby to Frances L. Sylvester dated January 22, 1999, and recorded in the Cumberland County Registry of Deeds in Book 14496, Page 285.

Together with a perpetual fifty (50') foot wide right of way in common with Grantors, over a portion of said other land of Grantors shown as Lot 2 of Town of Scarborough Tax Assessor's Map U-29, to benefit up to six (6) developed lots situated on the southeasterly sideline of US Route #1, in the Town of Scarborough, County of Cumberland and State of Maine, being more particularly bounded and described as follows:

Beginning on the apparent southeasterly sideline of US Route #1 and at a #5 steel rebar with survey cap #2124 marking the northeasterly corner of land of the herein grantors described in a deed from Frances L. Sylvester to Cleve A. Worster and Susan J. Worster, dated May 18, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15479, Page 183 at the northwesterly corner of land described in a deed from Cleve A. Worster and Susan J. Worster to John Fairweather, II and Christina Fairweather, recorded on December 17, 2001 in the Cumberland County Registry of Deeds in Book 17089, Page 56.

Thence S36°26'40"E along said land of Fairweather, a distance of four hundred ninety-five and no hundredths (495.00') feet to a #5 steel rebar with survey cap #2124 marking the southwesterly corner of said land of Fairweather, the southeasterly corner of land of the herein grantors and on the northwesterly sideline of other land of the herein grantors described in a deed from Frances L. Sylvester to Cleve A. Worster and Susan J. Worster, dated November 3, 1999 and recorded in the Cumberland County Registry of Deeds in Book 15161, Page 242.

Thence S46°51'00"W along said other land of the herein grantors, a distance of fifty and thirty four hundreds (50.34') feet;

Thence N36°26'00"W through land of the herein grantors, a distance of four hundred ninety-five and no hundredths (495.00) feet to the southeasterly sideline of US Route #1;

Thence N46°51'00"E along said southeasterly sideline of US Route #1, a distance of fifty and thirty-four hundreds (50.34') feet, to the point of beginning.

Cleve Worster

Doc#: 15730 Bk:31450 Pg: 50

Total area of the herein described right of way equals 24,750 square feet (0.57) acre).
The bearings in this description are based on magnetic meridian north 1995.

Meaning and intended to describe a perpetual fifty (50') foot wide right of way in common with Grantors, for ingress and egress, including the installation and maintenance of all utilities from said US Route #1 to the land described herein to benefit up to six (6) developed lots on said property being the same premises described in a deed from Frances L. Sylvester to Cleve A. Worster and Susan J. Worster, dated November 3, 1999 and recorded in the Cumberland County Registry of Deeds in Book 15161, Page 242, said right of way being over a portion of the premises described in a deed from Frances L. Sylvester to Cleve A. Worster and Susan J. Worster, dated May 18, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15479, Page 183.

Received
Recorded Register of Deeds
Apr 17 2014 01:55:22P
Cumberland County
Pamela E. Lovler

NARRATIVE IN SUPPORT OF CONTRACT REZONING APPLICATION

Section II (4)(a)(i) of the Scarborough Zoning Ordinance (“Ordinance”) requires the applicant to submit as part of its contract zone application:

A site analysis that describes the major features of the property, allowing the Planning Board and Town Council to make informed judgments about how it will be used. Guidelines for preparation of the site analysis are contained in Appendix C to this Ordinance.

Section 405 - Appendix C – Site Analysis

Natural Areas

One stream channel bisects the site from south to north, as shown on Drawing C-100. This stream appears to be spring fed, or fed from a tile underdrainage system draining the fields to the west. Any soil disturbance within 75 ft of the stream will require a permit from the Maine Department of Environmental Protection (MDEP) under the Natural Resources Protection Act. (NRPA)

There are no isolated freshwater wetlands located on the parcel.

Stormwater runoff from the site generally flows from west to east, to the stream which bisects the site. All runoff ultimately outlets to either Stuart or Cascade Brooks.

Surficial soils of the site are Elmwood fine sandy loams. Elmwood is a moderately well drained soil, and presents no significant limitations to development.

Slopes across the majority of the site range from 0-8%, with steeper slopes adjacent to the drainage channels and stream. The site drainage channels are represented by the two foot contours shown on the drawings.

Vegetative cover of the site is idled farmland westerly of the exist treeline shown on Drawing C-100, with the remainder being primarily forested with a hardwood overstory.

Maine Department of Inland Fisheries and Wildlife (MDIFW) mapping was reviewed to determine whether significant wildlife habitat exists on the site. An inland wading waterfowl habitat was identified on the abutting property to the north, and MDIFW mapping showed the boundary of the habitat continuing on the far northeasterly portion of the subject parcel. (See Drawing C-100) However, based upon a further review of the topography and National Wetland Inventory (NWI) mapping, it appears that the actual habitat boundary may be further to the north and east.

State of Maine Beginning with Habitat mapping also reflects a “candidate deer wintering area” in the central portion of the site, as shown on Drawing C-100. A candidate deer

wintering area is a forested area possibly used by deer for shelter during periods of deep snow and cold temperatures, and should not be confused with a mapped deer wintering area.

Cultural Features

Based upon a review of aerial topography and a site reconnaissance, no scenic or rural roads, hiking trails, snowmobile trails, stone walls, historic structures, monuments, or markers, cemeteries were apparent. Historic uses of the site appear to be as farmland and timber harvesting.

The following photos reflect some of the views into and from the site.



View from the southwesterly property corner westerly to Route 1.



View from southwesterly property corner looking northwester.



View from southwesterly corner looking northeast.



View from west side of site looking southwest.

Community Relationships

In developing of the site, MEARNG will work with the Town of Scarborough to place approximately 3-5 acres of the Property into a conservation easement with Scarborough Land Trust. The area to be placed in the conservation easement is located at the easternmost portion of the Property and abuts the land owned by the State of Maine's Wildlife Management Area and the Town of Scarborough. See Exhibit E for additional information.

The proposed access to the site will be via an approved roadway system to be constructed in the city of Saco as shown on Drawing C-101, as Eastview Parkway. No new access onto Route 1 will be required.

Institutional Factors

As noted on the drawings and in the narratives, the site is located in the Rural Farming Zoning district. Existing and proposed dimensional standards are provided on Drawing C-101. The site is also encumbered by a Resource Protection Overlay Zone in a number of locations as shown on the drawings. No work is proposed in this zone at this time. Additional fieldwork is being undertaken to refine the location of this overlay zone.

Utilities will be extended to the site from Saco, along Eastview Parkway.

Composite Analysis

Drawing SK-100, Composite Analysis, is included in the plan set.

NARRATIVE IN SUPPORT OF CONTRACT REZONING APPLICATION

Section II (I) (4)(a)(i) of the Scarborough Zoning Ordinance ("Ordinance") requires the Applicant to submit as part of its contract zoning application:

Statement describing the existing use of the property and the proposed new use and development and describing how the proposed contract zone will be consistent with the Town of Scarborough Comprehensive Plan, with existing and permitted uses within the existing zoning district classification of the property, would be 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.

This narrative outlines the existing and proposed uses and addresses each of the aforementioned review requirements in order to assist the Town Council and Planning Board in their preliminary review of this Application under Section II (I) (4)(a)(i) of the Ordinance, and to assist the Town Council in its determination under Section II (I) (4)(c) of the Ordinance that the proposed contract zoning amendment is:

- (1) consistent with the Town of Scarborough Comprehensive Plan;
- (2) consistent with the existing and permitted uses within the existing zoning district classification of the property;
- (3) is in the public interest; and
- (4) 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.

Each of these items is addressed as follows:

Existing Use:

The existing use of the Property is an undeveloped parcel, with open field and forest land. There is no active farming taking place on the Property. See Figure 1. One residential dwelling is located on the parcel to the west of the Property that borders US Route 1. The Property is currently zoned Rural Farming District ("R-F Zoning District"), and there are portions of the Property in the Resource Protection zoning classification. Currently, access to the Property is from the Scarborough section of US Route 1, via a paper 50 foot Right of Way.



Figure 1; 08/27/2014

Proposed Uses and Development:

The Maine Army National Guard, MEARNG, proposes to construct facilities upon the 24.6 acre Property, and on the adjacent 12 acre parcel of land located in the City of Saco, Maine, which hereinafter are referred to collectively as the “Project Site”. See Figure 2. These facilities would consist of an approximately 50,000 SF National Guard Readiness Center and a 29,000 SF National Guard Field Maintenance Shop (FMS) that supports the administrative, training, and logistical requirements for MEARNG surface equipment. These facilities will be designed to meet all local, state, and federal building codes, including the Americans with Disabilities Act.

Construction will include all utility services, roads, walks, curbs, storm water management systems, parking areas, and site improvements. These building will be designed and constructed to operate as energy-efficient and cost-effective as possible. Facilities will be designed to a minimum life of 50 years and with energy efficiencies consistent with the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) 189.1 standards through improved building envelope and integrated building systems performance. Conceptual plans call for the use of photovoltaic and solar thermal systems, thus minimizing the impacts to the environment. Antiterrorism measures are to be included in accordance with the minimum Department of Defense, DOD, Antiterrorism Building Standards.

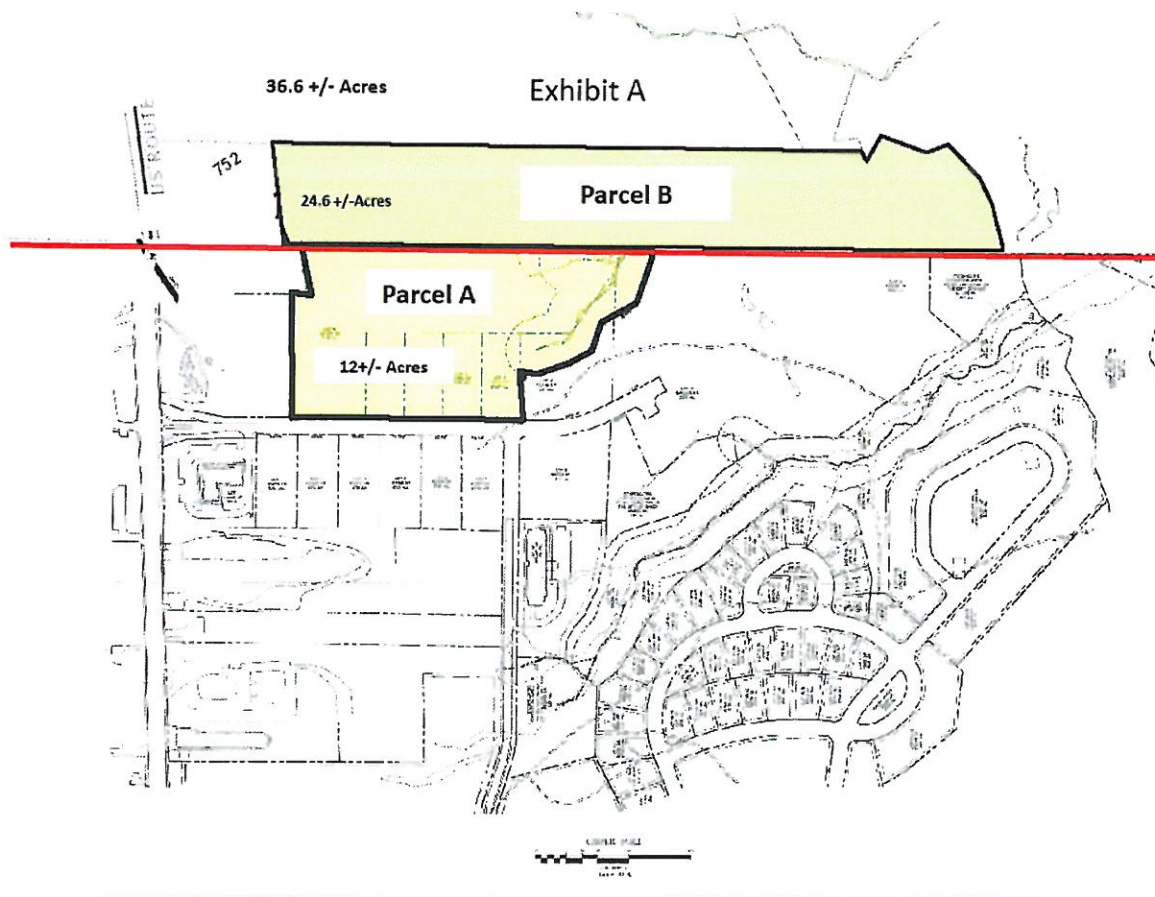


Figure 2.

The Readiness Center will provide offices and administrative support space for the 5 administrative staff during the normal work week, and will provide training/drill space for approximately 100 National Guard members during one weekend training assembly per month. The adjacent FMS will provide administrative and maintenance space for 19 fulltime people, who would typically work Monday through Friday 7am to 3:30pm. It is expected that there would be fewer vehicular trips per hour than that of a municipal building, other than the one weekend a month during the 2-day training assembly.

Consistency with the Town's Comprehensive Plan:

1. The proposed contract zoning amendment is consistent with the Town of Scarborough Comprehensive Plan.

The Application proposes a combined Maine Army National Guard ("MEARNG") facility that crosses municipal borders – the Readiness Center and the FMS. Together,

these component facilities create a use and building scale that is consistent with the Town of Scarborough "2006 update of the Comprehensive Plan" ("Comprehensive Plan").

The uses proposed by MEARNG include: non-municipal governmental uses, military and other training; mechanical and surface equipment repair, maintenance and storage; assembly, instruction; institutional; storage and administrative uses. The Readiness Center would house training, assembly, storage, instructional and institutional uses that are similar to municipal uses. The FMS that would be located on the Project Site essentially would include mechanical and surface equipment repair, maintenance and storage uses that are similar to a light industrial use and administrative uses. Rezoning to permit such a light industrial use is consistent with satisfying the need for areas for light industrial uses that is noted in the Comprehensive Plan. The Comprehensive Plan at pages 2-2 and 4-1 recognizes the current lack of areas zoned for light industrial uses in the Town as a limitation on growth of these uses:

Light Industrial Uses - Development has absorbed most of the available land in industrially zoned areas so there is limited possibility for continued growth of these types of businesses in Scarborough under current conditions.

The Future Land Use Plan at page 6-4 of the Comprehensive Plan encourages the growth of light industrial uses, and rezoning the property for the proposed MEARNG uses would be consistent with this direction.

The proposed MEARNG uses are consistent with the economic goals contained in the Comprehensive Plan. The proposed MEARNG uses will require employment of skilled technicians and office staff that will pay wages above that of the other potential uses of the site under the current RF District zoning. The wages paid to MEARNG employees are federally dictated and are the same wage scales used at Portsmouth Naval Shipyard. They average \$47,500 per year. Bureau of Labor Standards data from 2013 indicate that wages for these skilled technicians would be approximately 1.9x that of agricultural positions in Cumberland County. This is consistent with Objective B.4 ("Scarborough will grow and attract businesses that offer high quality, well-paying jobs.") The proposed MEARNG uses are also consistent with the Comprehensive Plan's vision for Scarborough's economy at page 5-2. The proposed uses and the skilled, high-paying jobs at the Project Site contribute to "a robust and diverse local economy" and will "provide high quality well-paying jobs" that the comprehensive plan envisions.

Development of the Project Site as proposed would further the conservation values that the Comprehensive plan seeks to promote. In developing of the site, MEARNG will work with the State of Maine and the Town of Scarborough to place approximately 3.5 acres of the Property into a conservation easement. The area to be placed in the conservation easement is located at the easternmost portion of the Property and abuts the land owned by the State of Maine's Wildlife Management Area and the Town of Scarborough. Placing this land into the conservation easement will continue to enhance the corridor of land holdings that protect the Scarborough Marsh estuary system. This is consistent with the Comprehensive Plan Chapter 5, section C,

Natural Resources. Specifically, Objective C.1 (“Protect and improve upon the quality of the Town’s surface water resources, including great ponds, estuaries, rivers, and coastal areas.”), Objective C.3 (“Protect and preserve tidal and freshwater wetlands in order to improve water quality, provide wildlife habitat, moderate flooding, recharge groundwater systems, and provide recreational opportunities.”), Objective C.4 (“Protect critical wildlife habitats, including deer wintering areas, waterfowl and wading bird habitat, and shore areas for piping plovers and least terns, and unique and rare plant communities.”), as well as Objective C.5. Protect large undeveloped locks of land that are of significant value to water resources and/or wildlife, and that may also be of secondary value to the community for recreational purposes.”).

Additionally, by placing this land into a conservation easement this Contract Zone would be consistent with the Comprehensive Plan, Chapter 5, Section E, Historic, Recreation, and Cultural Resources Objective E.3 (“Continue to support the Scarborough Land Trust in the acquisition of easements and purchase of rural land for open space recreation.”) by increasing the total aggregated acreage of land in conservation abutting the Scarborough Marsh estuary system and further enhancing the quality of the recreational opportunities in this area. This action also is consistent with the Comprehensive Plan’s land use goals that support low density development and resource conservation in this area of the Town.

MEARNG is proposing to construct facilities that will be designed to a minimum life of 50 years and with energy efficiencies consistent with the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) 189.1 standards through improved building envelope and integrated building systems performance. Conceptual plans call for the use of photovoltaic and solar thermal systems, thus minimizing the impacts to the environment. This is consistent with the Comprehensive Plan Chapter 5, Section F, Land Use, Objective F.6. (“Reduce the impact of development on the environment through the use of “green building” technology.”).

The MEARNG facilities can be available as an emergency evacuation center. This provides the fast growing Town of Scarborough with additional evacuation capacity, without additional financial burden on the Town. This enhancement of public service is consistent with Comprehensive Plan Section K, Fiscal Resources Objective K.4. (“Explore alternative methods to finance operations and fund facility and infrastructure needs that more closely correlate to increased capacity needs caused by growth or that relates costs to services required by location or type of facilities.”).

While there will be economic, conservation and public infrastructure benefits to the Town of Scarborough, the access to the Property would be from the Saco section of US Route 1, via East View Parkway, to the Saco portion of the Project Site. Therefore, there will be no direct connection to the Scarborough section of US Route 1, from the Property. With the access to the Property being from Saco, it will be perceived that this entire project is in Saco. This is reinforced with the location of the “Welcome to Scarborough” sign, which is located approximately a quarter of a mile north of East View Parkway.

The eastern and northern sides of the Property are touching or approaching Resource Protection and Shoreland Protection Zones, which protect the Stuart Brook watershed, and would limit development in these areas. See Figure 3. This natural “edge” effectively segregates the Property from any other potential development in Scarborough, again confirming the perspective that the Property is more consistent with the Saco side than the Scarborough side.

Moreover, the low density uses and conservation easement on the Property in Scarborough would provide a buffer and a transition for the surrounding R-F Zoning District uses from the Saco portion, which may be developed much more intensively. The Saco portion of the Project Site is currently zoned under a Contract Zone that allows for that portion of the Project Site to be developed as Hotels and Motels, Eating and Drinking Establishments, Research and testing laboratories, Commercial Schools, Retail Uses, Indoor Recreation/Amusement Centers, Business and Professional Offices, Municipal Uses, Quasi-Public Uses, and Essential Services, just to name a few. The potential development on this adjacent site could be extensive and diverse, and generally inconsistent with the current R-F Zoning District designation of the Property. Thus, the proposed MEARNG uses in both Scarborough and Saco would create a low density buffer that would protect the proposed low density residential uses contemplated for the adjoining area by the Comprehensive Plan (at page 6-8) from the intensive commercial uses permitted on the adjoining Park North Development contract zone parcels in Saco. This is consistent with Objective B.2 (“Commercial and economic development that will be positive additions to the community that will respect residential neighborhoods and the natural environment.”) and with Action B.2.b., which directs that there be substantial buffers where there is a transition from non-residential to residential uses.

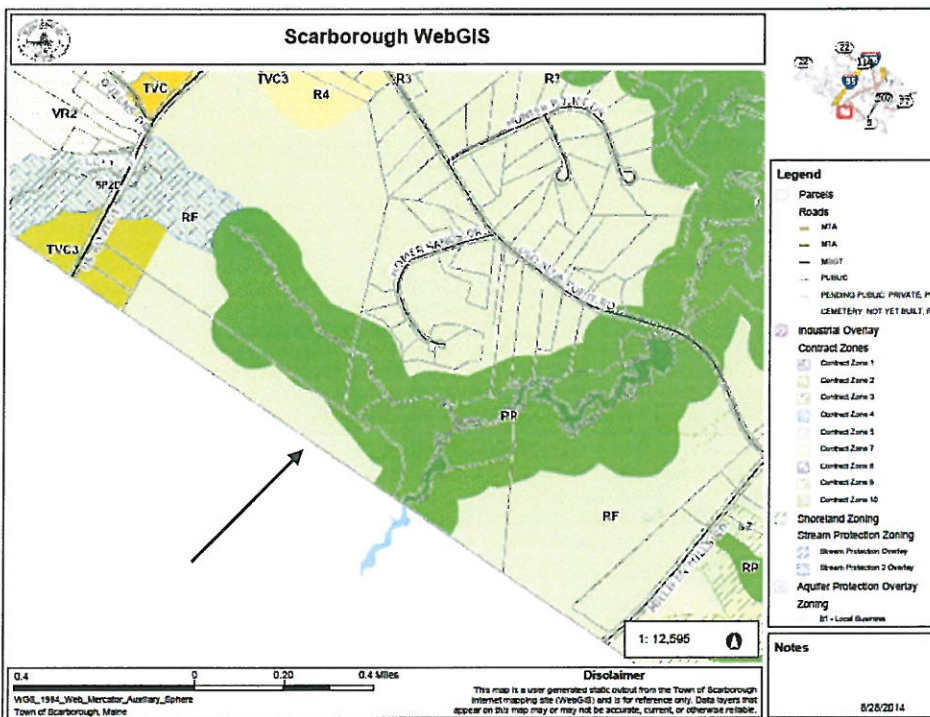


Figure 3.

2. The proposed contract zoning amendment is consistent with the existing and permitted uses within the existing zoning district classification of the property.

The Application proposes a combined MEARNG facility that crosses municipal borders – this includes a Readiness Center and FMS. Together, these component facilities create a use and building scale that is consistent with the existing and permitted uses within the Property's R-F Zoning District

Existing uses in the adjacent R-F Zoning District include two residential dwellings along U.S. Route 1 and undeveloped forested land and fields, both inactive and active, located behind them. The low density of the proposed combined Readiness Center and FMS facilities (a 50,000 SF National Guard Readiness Center and a 29,000 SF FMS on over 36 acres) will be consistent with the low density residential development (two residential facilities and undeveloped backland) currently found in the R-F Zoning District.

Permitted uses in the R-F Zoning District include, among others: commercial agriculture, commercial animal husbandry, farm stands, agricultural products stores, agricultural processing facilities, bed and breakfasts, single-family detached dwellings, two-family dwellings, multi-family dwellings, residential recreational facilities, nursing homes and boarding care facilities for the elderly, family day care homes, golf courses, municipal buildings and uses, places of worship, day camps, forestry and commercial stables. The density of buildings and structures, the level of employee staffing and traffic and the occasional presence of individuals for training and other meetings is consistent with the permitted regular agricultural activities – use, maintenance and storage of agricultural equipment for growing and harvesting crops and in processing the same, and occasional increased levels of customer activity at farm stands and products stores and at processing facilities.

The appearance and operation of these facilities are very much like a municipal building and adjacent public works garage. Municipal buildings and uses are permitted in the current RF zoning; thus, the proposed MEARNG uses are seen as being consistent with the intent of the inclusion of the Municipal buildings and uses within the RF Zone. Moreover, the proposed MEARNG uses are no more intensive than the currently permitted commercial agriculture, agricultural products stores, agricultural processing and farm store uses.

Finally, as noted in the previous section, the contract rezoning of this property from the R-F Zoning District to allow the proposed MEARNG uses would create a transition from existing residential uses and permitted R-F Zoning District uses to the more intensive commercial and mixed uses that are permitted on the adjoining parcels, located in Saco, under the Park North Development contract zone.

3. The proposed contract zoning amendment is in the public interest.

The proposed contract zoning amendment has the following benefits that are in the public interest;

- Permits a military maintenance and training center that benefits the overall public defense;
- Allows construction and operation of a Readiness Center facility that could be available for use by public in emergencies (as evacuation center during storms and emergency situations);
- Allows Readiness Center facility that will be available for use by municipal, school, nonprofit and civic groups and organizations;
- Enhances the protection of the natural resources by placing approximately 3.5 acres of land, bordering the Scarborough Marsh estuary system, into a conservation easement;
- By permitting the proposed MEARNG uses, creates economic benefits of employment of skilled labor at good wages; and through the multiplier effect of this employment – by new and/or transferred employees – creates economic benefits to all area businesses through increased needs for goods and services from local businesses.

The construction of the proposed Readiness Center project is anticipated to begin in 2018, and is projected to generate \$17,500,000 in construction expenses, which will have a direct benefit on the local and regional economy. Once the Readiness Center is completed, it is anticipated that a second construction project, the FMS, will be funded in the subsequent years that will generate another \$15,000,000 in construction expenses.

Once the total project is complete, as many as 24 fulltime employees will be working at this location. In addition to this, the influx of hundreds of National Guardsmen coming to the site for monthly training exercises will have a significant ongoing impact on the local economy.

Based on a report published by the MEARNG-United States Property & Fiscal Office, the MEARNG activities statewide generated more than \$195,000,000 in economic impact in fiscal year 2012. That sum included almost \$44,000,000 in personnel salaries, another nearly \$39,000,000 in military construction and just over \$112,500,000 in operations and maintenance.

4. The proposed contract zoning amendment 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.

As was noted, the permitted uses in the R-F Zoning District include primarily agricultural and residential uses. Development of parcels within the current R-F Zoning

District in line with the uses currently permitted most likely would result in low density residential development. With the Property being so close to the busy US Route 1, it is unlikely that any development of the parcel would include any significant agricultural uses.

Moreover, reclassification of the current R-F Zoning District to a Rural Residential and Conservation District as suggested in the Comprehensive Plan ensures low density residential development on this Property, despite the fact that it is located near a busy section of US Route 1 and is adjacent to an approved high intensity commercial and mixed use contract zone in Saco (Park North).

The contract zone requested by the Applicants creates a property:

- Where light industrial uses can be conducted;
- Where high skill, high wage jobs will be created;
- Where an institutional use – State military and emergency preparedness – will be conducted;
- Where an emergency evacuation center could be available for residents of Scarborough and Saco;
- Where governmental and non-profit groups can have meeting space;
- Where additional protection of the Scarborough Marsh estuary system can be enhanced by creation of a conservation easement; and
- That will serve as a buffer between existing residential uses and an adjoining high intensity commercial and mixed use contract zone in Saco.

None of the permitted uses listed in the current R-F Zoning District would produce these beneficial effects on the Town of Scarborough as a whole.

CONTRACT ZONING AGREEMENT
BETWEEN AND AMONG
THE TOWN OF SCARBOROUGH,
THE UNIVERSITY OF NEW ENGLAND, AND
THE MAINE ARMY NATIONAL GUARD

This is a Contract Zoning Agreement (hereinafter the "Contract Zoning Agreement") made as of the _____ day of _____, 2014, by, between and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town"), the UNIVERSITY OF NEW ENGLAND, a Maine non-profit corporation with its locus of activity in Biddeford, Maine (hereinafter "UNE"), and the MAINE ARMY NATIONAL GUARD, an agency of the State of Maine (hereinafter "MEARNG"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Scarborough Zoning Ordinance (hereinafter the "Ordinance"). The Town, UNE and MEARNG hereinafter are referred to collectively as the "Parties."

WHEREAS, UNE has entered into a Purchase and Sale Agreement with Cleve A. Worster to purchase a parcel of real estate located at 0 U.S. Route 1, shown on the Town of Scarborough's Assessor's Tax Map R066, Lot 011, and as described in deed(s) recorded at the Cumberland County Registry of Deeds Book(s) 31450 Page(s) 46-50, consisting of twenty-four and six tenths (24.6) acres, more or less (hereinafter the "Property"); and

WHEREAS, the Property is currently in a Rural Farming Zoning District (R-F Zoning District) under the Scarborough Zoning Ordinance; and

WHEREAS, the R-F Zoning District presently allows, as permitted uses, among others: commercial agriculture, commercial animal husbandry, farm stands, agricultural products stores, agricultural processing facilities, bed and breakfasts, single-family detached dwellings, two-family dwellings, multi-family dwellings, residential recreational facilities, nursing homes and boarding care facilities for the elderly, family day care homes, golf courses, municipal buildings and uses, places of worship, day camps, forestry and commercial stables; and

WHEREAS, UNE wishes to exchange the Property with MEARNG, which wishes to place certain structures on the Property and to use and operate the Property for certain purposes, including but not limited to the operation of a Readiness Center and a Field Maintenance Facility (hereinafter "FMS"), or Non-Municipal Governmental Uses, which are not expressly provided for in the R-F Zoning District; and

WHEREAS, UNE and MEARNG have requested a rezoning of the Property to permit such structures, uses and operations; and

WHEREAS, the overall usage, operation, size, location, configuration and topography of the Property and the potential benefits to the public of the structures, uses and operations permitted by this Contract Zoning Agreement will all serve to mitigate what might otherwise be any potential adverse impacts of such structures, uses and operations; and WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G, Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. § 4352(8), and after notice and hearing and due deliberation thereon, recommended on _____, 2014 the rezoning of the Property as aforesaid; and

WHEREAS, the rezoning would be consistent with the Policies and Future Land Use Plan of Part III of the Scarborough Comprehensive Plan; and

WHEREAS, the Town of Scarborough, by and through its Town Council, had determined that the said rezoning would be pursuant to and consistent with the Town's Comprehensive Plan and consistent with the existing and permitted uses within the original zoning district classification and has authorized the execution of this Contract Zoning Agreement on _____, 2014;

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

1. The Town hereby amends the Zoning Map of the Town of Scarborough, by adopting the map change amendment shown on **Attachment 1**.

2. In addition to those uses, activities, buildings and structures allowed in the R-F Zone, the following uses, activities, buildings and structures are allowed on the Property:

The Maine Army National Guard, MEARNG, proposes to construct facilities an approximately National Guard Readiness Center and a National Guard Field Maintenance Shop (FMS) that supports the administrative, training, and logistical requirements for MEARNG. These facilities will include the miscellaneous support spaces required to conduct these activities. The spaces include offices, locker rooms, kitchen, drill hall, classrooms, vault, vehicle/equipment maintenance/storage bays, indoor and outdoor storage areas, parking, as well as mechanical and utility spaces.

3. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the Property except as this Contract Zoning Agreement may be amended by future written agreement of the Town of Scarborough, UNE, MEARNG and/or their successors in interest.

This is the sole zoning for the Property and except as otherwise set forth in the aforesaid conditions all other requirements for the underlying R-F Zoning District shall apply. The above restrictions provisions and conditions are an essential part of the rezoning, shall run with the Property, shall inure to the benefit of and bind UNE, MEARNG, their successors in interest and

assigns of said Property or any part thereof, and shall inure to the benefit of and be binding upon and enforceable by the Town of Scarborough.

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 of the Town of Scarborough and any applicable amendments thereto or replacement thereof.

The Parties hereto understand that UNE intends to convey the Property and all of its interests in it, and to assign its interest in this Contract Zoning Agreement, to MEARNG, and by executing this Contract Zoning Agreement, the Parties hereby agree to said assignment.

In the event that UNE or MEARNG or their successors or assigns fail to use and operate the Property in accordance with this Contract Zoning Agreement, or in the event of any other breach hereof, this Contract Zoning Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses as are otherwise allowed by law.

TOWN OF SCARBOROUGH

Witness

By: _____
Thomas J. Hall
Its: Town Manager (duly authorized by vote
of the Scarborough Town Council on
_____, 2014

UNIVERSITY OF NEW ENGLAND

Witness

By: _____
William Bola
Its: Vice President for Operations

MAINE ARMY
NATIONAL GUARD

Witness

By: _____
Col. Dwaine E. Drummond
Its:

STATE OF MAINE _____, 2014
COUNTY OF _____

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

Notary Public/Attorney at Law

Typed or printed name: _____

STATE OF MAINE _____, 2014
COUNTY OF _____

Personally appeared before me the above-named William Bola, Vice President for Operations of the University of New England, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said University of New England.

Notary Public/Attorney at Law

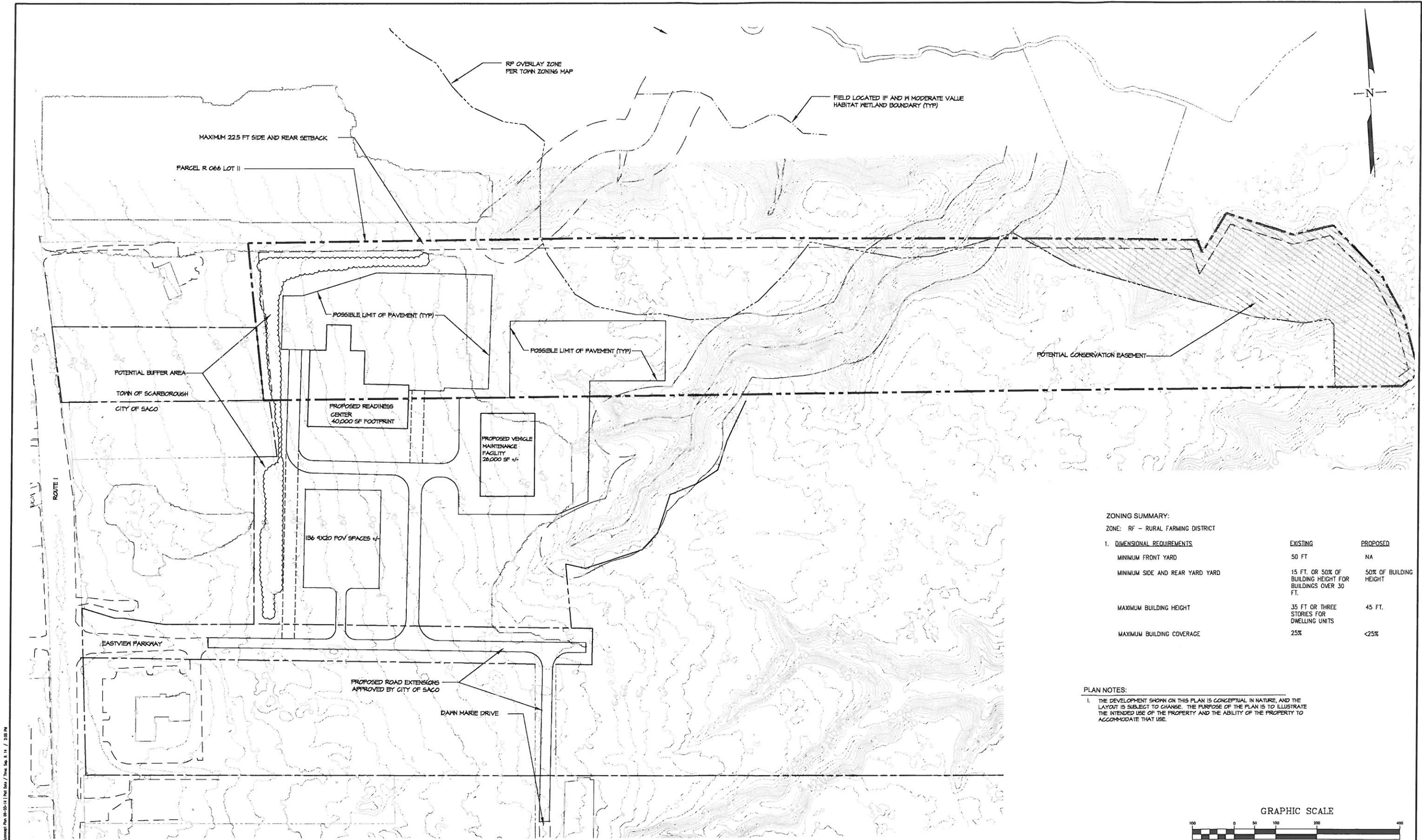
Typed or printed name: _____

STATE OF MAINE _____, 2014
COUNTY OF _____

Personally appeared before me the above-named Col. Dwaine E. Drummond, of the Maine Army National Guard, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said Maine Army National Guard.

Notary Public/Attorney at Law

Typed or printed name: _____



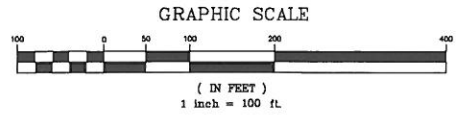
ZONING SUMMARY:

ZONE: RF - RURAL FARMING DISTRICT

1. DIMENSIONAL REQUIREMENTS	EXISTING	PROPOSED
MINIMUM FRONT YARD	50 FT	NA
MINIMUM SIDE AND REAR YARD	15 FT. OR 50% OF BUILDING HEIGHT FOR BUILDINGS OVER 30 FT.	50% OF BUILDING HEIGHT
MAXIMUM BUILDING HEIGHT	35 FT OR THREE STORIES FOR DWELLING UNITS	45 FT.
MAXIMUM BUILDING COVERAGE	25%	<25%

PLAN NOTES:

1. THE DEVELOPMENT SHOWN ON THIS PLAN IS CONCEPTUAL IN NATURE, AND THE LAYOUT IS SUBJECT TO CHANGE. THE PURPOSE OF THE PLAN IS TO ILLUSTRATE THE INTENDED USE OF THE PROPERTY AND THE ABILITY OF THE PROPERTY TO ACCOMMODATE THAT USE.



THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SITE DESIGN ASSOCIATES, ANY ALTERATIONS, OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SITE DESIGN ASSOCIATES.

										Site Design Associates Consulting Engineering & Land Planning 23 Whitney Way Topsham, Maine 04086 Tel: (207) 449-4275		DESIGN: TWS DRAWN: DEPT. CHKD: TWS		PROJECT: PROPOSED READINESS CENTER SCARBOROUGH/SACO, MAINE CONCEPTUAL SITE PLAN		REV. A
												DATE: AUG 2014		PROJ. NO.	A	
										CLIENT: UNIVERSITY OF NEW ENGLAND		SCALE: 1"=100'		DWG. NO.		C-101

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – SEPTEMBER 17, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-83. Move approval on the renewal requests for Junkyard Permits, pursuant to Title 30-A – M.R.S.A. Chapter 183: Goldstein Steel Company Inc., located at 36 Running Hill Road; A. Gagnon or E. Perry Iron & Metal, located at Rigby Road; Scarborough Auto Parts, located at 40 Holmes Road and Speedway Auto, located at 343 Payne Road.

Town of Scarborough, Maine

U S R O U T E O N E , P O B O X 3 6 0
S C A R B O R O U G H , M A I N E • 0 4 0 7 0 - 0 3 6 0

TO: Members of the Town Council

FROM: Yolande P. Justice, Town Clerk

DATE: September 12, 2014

**RE: Renewal Requests for Automobile Graveyard and/or
Junkyard Permit**

The following applicants are up for renewal for an Automobile Graveyard and/or Junkyard Permit:

<u>Business</u>	<u>Address</u>
A. Gagnon or E. Perry Iron & Metal	Rigby Road
Goldstein Steel Company Inc.	36 Running Hill Road
Scarborough Auto Parts	40 Holmes Road
Speedway Auto	343 Payne Road

Applications are filed in the Town Clerk's Office and all are in compliance with the Code Office. It is recommended that these applications be renewed.

Town of Scarborough, Maine

Planning and Code Enforcement

To: Office of the Town Clerk, Yolande P. Justice

From: Brian Longstaff, Zoning Administrator

Date: September 12, 2014

Re: Annual License Renewal and Inspection of Junkyards

On September 11, 2014, Staff from the Code Enforcement Department conducted site inspections at the following business locations seeking renewals:

<u>Businesses</u>	<u>Address</u>
1. Speedway Auto	343 Payne Road
2. Goldstein Steel Company, Inc.	36 Running Hill Road
3. A. Gagnon/E. Perry Iron & Metal	Rigby Road
4. Scarborough Auto Parts	40 Holmes Road

To the best of our knowledge, these locations appear to be in compliance with all state and local ordinances applicable to the use activities for which they are seeking license renewal.

If you have any further questions, please feel free to contact me.

Cc: Dan Bacon

Jay Chase

Jim Butler

Tom Hall

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – SEPTEMBER 17, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-53. Move approval of the second reading on the proposed changes to Chapter 405 – the Town of Scarborough Zoning Ordinance to create a Transmission Tower Overlay District and to update the Performance Standards thereto. [Tabled from the August 20, 2014, Town Council meeting.]



Town of Scarborough, Maine

259 US ROUTE ONE, PO BOX 360
SCARBOROUGH, MAINE • 04070-0360

To: Town Councilors & Planning Board Members
From: Dan Bacon, Planning Director
CC: Thomas Hall, Town Manager
Date: August 28, 2014

Subject: Outline of Additional Considerations for Transmission Towers and Telecommunication Facilities (Wireless towers and facilities)

On Wednesday September 3rd at 6PM the Town Council and Planning Board will be having a workshop to further consider the wireless facility initiative. As you are likely aware, the Ordinance Committee has been working on this initiative for a number of months, in addition to the recent Council and Planning Board meetings and public hearings. The matter was last considered at the Ordinance Committee meeting on August 13th at which some additional updates were presented.

This memo is being provided to the full Council and Planning Board to outline what was presented at the last Ordinance Committee meeting as well as offer a few additional ideas to provide a starting point for your discussion on Wednesday. The following bullets highlight these concepts:

Review Process

- **Consider establishing a hierarchy and stepped review process that could dictate the siting of new wireless facilities in preferred areas before considering the least preferred –**

This review process could be as follows and would need Planning Board review and agreement before an applicant for a new antenna or tower moves from one step to the other:

- Step 1 – Consider collocating on existing towers
- Step 2 – Consider locating a new tower in an Industrial District or the Crossroads Zone
- Step 3 – Consider siting stealth wireless facilities on buildings, utility poles or other structures
- Step 4 – Consider locating a new tower in the RF, RFM or VR4 Districts

Additional Performance Standards

- **Consider limiting tower height to 130 feet, but allow up to 150 feet only in special circumstances**

Given concerns about view impacts, the generally allowed tower height could be reduced to 130 feet, rather than 150 feet as currently proposed. One hundred and thirty (130) feet should allow the colocation of five carriers in most cases. That said, the

provisions could allow the Planning Board to permit up to 150 feet, but only if it is determined that the view impacts are not substantially different or greater and it enables more colocation that improves coverage and avoids an additional tower in the same area.

- **Consider allowing lesser setbacks and require no minimum lot size in industrial zones**

To encourage and more easily allow for towers in our industrial districts, and to be consistent with the siting hierarchy, the standards could be structured to maintain a setback of 100% of the tower height in these areas and allow easements to reduce that setback further, and to not require a minimum lot size. This would enable towers to more easily locate in industrial zones than in residential areas, given the character of these areas and the fact that towers may be more compatible in the industrial districts.

- **Consider requiring a much larger minimum lot size in residential / rural zones**

Given concerns about locating towers in residential neighborhoods and close to homes, and to be consistent with the hierarchy of considering residential or rural districts as a least preferred location, the standards could be updated to require a minimum of 25 acres for a new tower in the RF, RFM or VR4 Districts. Twenty-five (25) acres is a significant minimum lot/parcel size requirement and can be very effective in preventing a tower from being installed in a residential neighborhood; can provide a lot of land area to ensure a tower can be sited deep on a property that is screened and out of view of surrounding roads and any neighbors; and can more generally limit the overall number of towers in these zones.

- **Consider requiring towers to be mono-pole style**

To minimize the visual impact of new towers, in addition to adjustments to the space and bulk, requirements can be added that new towers be mono-poles and sky tone in color. Mono-poles are considered by many to be the least obtrusive and industrial looking towers and can help minimize their visibility.

- **Buffering and Vegetative Screening**

Again to help with limiting the visibility and scenic impact of new towers, additional language can be added to give the Planning Board more authority to require buffering and preservation of existing mature trees, particularly in residential / rural zones. Such provisions can give the Board the ability to require a landscape easement to ensure the buffer remains in place. The buffering requirements in the industrial district can be much less, and recognize that a tower may be sited on developed site where extensive buffering isn't as practical.

- **Consider a Guarantee to Remove Abandoned Towers**

The original proposal includes a requirement for towers that become abandoned sometime in the future to be removed. To help guarantee that a removal occurs, consideration can be given to adding a requirement for performance guarantee to cover the removal costs at the time the tower is installed.

Staff looks forward to discussing these concepts and others the Council and Planning Board have at the joint workshop next week. Thanks.



Town of Scarborough, Maine

259 US ROUTE ONE, PO BOX 360
SCARBOROUGH, MAINE • 04070-0360

To: Town Councilors
From: Dan Bacon, Planning Director
CC: Thomas Hall, Town Manager
Brian Longstaff, Zoning Administrator

Date: May 28, 2014

**Subject: Proposed Amendments to the Zoning Ordinance for Wireless Facilities
(Transmission Towers and Telecommunication Facilities)**

Over the course of the past eight to twelve months the Ordinance Committee has been exploring approaches to help enable improved wireless communication and data coverage in Town where service is currently poor. This effort has involved exploring possible town owned lands that may be well positioned to provide wireless towers to improve service; having a consultant study the coverage gaps in Town and generate a comprehensive wireless antenna site assessment report; as well as crafting amendments to our zoning ordinance to more widely allow for new wireless antenna towers and building mounted antennas to improve wireless coverage.

As a result of this process, and what is proposed for Council consideration, is a fairly comprehensive update to the Town's standards and review process for the installation of wireless transmission towers and antenna facilities that is more contemporary to today's technology and needs, while also maintaining and bolstering a local board review process help ensure towers are installed in areas and ways that aren't overly impactful to abutters and the surrounding landscape.

This memo is intended to highlight the key amendments that are proposed. They are as follows:

- **Allowing for new transmission towers (wireless towers) in areas that exhibit poor coverage – permit this use in the Rural and Farming (RF) District; Rural, Farming and Manufactured Housing District (RFM); Village Residential 4 District (VR4); and Crossroads Planned Development District (CPD)**

Using the coverage mapping done by IDK, it became clear that the area of west of the Maine Turnpike and the more rural areas along Spurwink Rd, Pleasant Hill Rd, Black Point Rd, Sawyer Rd area, and Pine Point Rd all have poor coverage. Based on review of our zoning map, these areas match up well with where the RF, RFM, VR4 and CPD all exist. So the broader zoning district change proposed is to allow transmission towers within the RF and RFM Districts, subject to Planning Board review and performance standards. This change will enable 8 out of the 11 sites recommended in the assessment report. In addition, the low density and lot sizes of 2 acres or greater in the RF Districts work well for siting a tower in a way that is less likely to crowd or

shadow neighboring properties. Further, the VR4 and CPD Districts are zones that are not heavily developed at this time and exhibit some larger lots that will enable tower installations that don't crowd existing homes and neighbors, while enabling a key coverage gap to be filled.

- **Allow taller transmission towers – permit towers up to 150 feet**

Currently towers are limited to 100 feet in height, which can limit the ability to collocate service providers and can lead to more towers to meet coverage needs. The amendments propose a maximum tower height of 150 feet to enable collocation (which we are proposing to require) and help reduce the overall number of towers necessary.

- **Require collocation of providers**

In order to reduce the overall number of towers needed to provide service from different providers, a performance standard is proposed to require new towers to provide space for the collocation of multiple providers.

- **Removal requirement for abandoned towers**

This is a longer range standard, but transmission towers may end up being obsolete in the future, so a requirement has been added that abandoned towers need to be removed after a period of time and the site restored. This is typical in most modern ordinances.

- **Allow for stealth or building mounted wireless facilities**

As another way to expand wireless service, the definition and allowance for antennas to be attached to buildings, or enclosed within them, (defined as telecommunication facilities) has been broadened and is proposed to be a special exception use to be reviewed and approved by the Board of Appeals in residential or mixed use zones and as a permitted use in commercial and industrial zones.

With these changes wireless providers should be in a position to pursue a variety of different sites in Scarborough to improve coverage and service for users, while also providing contemporary standards that promote collocation, minimize the overall number of installations, and provide thorough board review and permitting.

Proposed Amendments to the Zoning Ordinance to Create a Transmission Tower Overlay District and Update the Performance Standards:

Style Definition: Heading 2: Left

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

1. Amend the PERFORMANCE STANDARDS for TRANSMISSION TOWERS as follows (additions are underlined; deletions are struck through):

F. PERFORMANCE FOR STANDARDS--TRANSMISSION TOWERS AND TELECOMMUNICATION FACILITIES

~~11.~~ 1. -Transmission Towers - All new transmission towers or the increase in height of an existing transmission tower shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board, unless the changes to the tower comply with subsection 11. below. The purpose of these standards are order to minimize adverse visual effects of transmission towers through careful design, siting, and vegetative screening; ~~and~~ to avoid potential damage to adjacent properties from tower failure and falling ice through proper engineering; to promote the collocation of service providers and the careful siting of tower structures; and to protect the public against any adverse impacts on the Town's public health, safety and welfare. ~~transmission towers are subject to the following standards:~~

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- ~~1a.~~ No transmission tower shall exceed ~~400-150~~ feet in height as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices.
- ~~2b.~~ The base of the tower shall be set back from all property lines by a distance equivalent to 100% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures and guy wire anchors shall meet the minimum setbacks for the zoning district. The Planning Board may relax the 100% of the total tower height setback standard if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall restrict the uses and structures within the easement area so as to allow the tower to be located closer to the property line than the 100% requirement above. A restrictive easement from an abutting property shall not however enable a tower to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district.
- ~~3c.~~ Towers which are not subject to specific painting or color or lighting standards imposed by any federal or state agency shall ~~have a galvanized finish or~~ be painted in a sky tone above the top of surrounding trees and in an earth tone

below tree-top level or exhibit a similar camouflaging architectural treatment as determined by the Planning Board.

- 4d. Towers and attached antennas and devices shall not be artificially lighted, unless required by the FAA or other federal or state agency. If lighting is required, the Planning Board may review the available lighting alternatives and require the design that would cause the least impact to surrounding properties and views.
- e. All new transmission towers shall be designed and constructed to accommodate colocation of additional antennas, equipment and facilities on the tower and site. To meet this standard the applicant, owner and all other tower users shall allow other commercial wireless telecommunication service providers using functionally compatible technology to collocate; shall provide a mechanism for the construction and maintenance of collocated antennas and infrastructure; and shall provide for reasonable sharing of costs in accordance with industry standards. To ensure colocation and prevent the need for additional new towers within the same coverage area, the Planning Board may require an existing or new tower to be increased in height up to the maximum height allowed and/or make other accommodations in order to provide for colocation. When designing a tower and site for colocation the facility should be designed to accommodate the inclusion of at least three additional telecommunication service providers. The Planning Board may waive the requirement for colocation or the number of additional providers to be colocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.
- f. No advertising or signage is permitted on transmission towers or any attached transmitting and receiving antennas or devices.
- g. Unless existing vegetation provides a buffer strip at least the width of the minimum yard requirements for the zoning district, all property lines along roadways or visible to existing abutting or nearby buildings (within a one-quarter mile radius) shall be landscaped as follows or greater:
- Ai. Six to eight foot evergreen shrubs shall be planted in an alternating pattern, 5 feet on center, within 15 feet of the property boundary.
- Bii. At least one row of deciduous trees, not less than 2 ½ inches to 3-inch caliper measured 3 feet above grade and spaced not more than 20 feet apart shall be planted within 25 feet of the site boundary.
- Ciii. In lieu of the foregoing planting requirements, the Planning Board, during the site plan review process, may determine that existing vegetation may be supplemented to achieve an equivalent means of minimizing visual impact.

- 5h. In order to review the suitability of the existing or proposed buffer strip, vegetative screening, the proposed color or camouflaging treatment for the tower, and the overall visual effects of the tower, the Planning Board may require photo simulations of the tower within the landscape from a variety of perspectives.
- i. As part of an application there must be a radio frequency coverage analysis showing existing or planned wireless facilities within 10 miles of the proposed location. Maps shall be supplied that indicate on street and in building coverage for both exiting/planned sites and the proposed location. The coverage analysis for the proposed location must show all available optional antenna heights if it is a co-location or all possible antenna heights starting at a minimum of 90 feet if it is a new facility. The coverage analysis must use each current licensed frequency band by the applicant.
- j. Transmission towers erected after May 17, 1995 shall meet all applicable requirements of federal and state regulations and shall be designed and installed in accordance with the standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna supporting Structures.
- 6k. Transmission towers existing before May 17, 1995 which do not comply with these performance standards or with the use or dimensional requirements of the zoning district in which they are located may continue to be used subject to the provisions of Section III of this Ordinance. The addition, removal or relocation of transmitting or receiving devices on such towers does not constitute the expansion or enlargement of the nonconforming use and does not require review under the Scarborough Site Plan Review Ordinance, provided the total height of the transmission tower, including attached devices, is not increased.
- l. A transmission tower and associated facilities that is not operating for a continuous twelve month period shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to Code Enforcement that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. The removal of the facility shall include removing the tower and associated facility and returning the site to its pre-construction condition including removing of roads and replanting vegetation.
- If the facility is not removed within this period, the Town may remove the facility at the owner's expense. A copy of the relevant portions of a signed lease or other comparable signed legal instrument which requires the applicant to remove the tower and associated facilities and reclaim the site upon abandonment shall be submitted as part of the application.

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- m. Transmission towers shall not be allowed within any Shoreland Zoning District, including the Shoreland Overlay District.

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2. Telecommunication Facilities – The purpose of these standards are to minimize any adverse visual effects of telecommunication facilities through careful design in attaching these facilities to buildings and structures so that these facilities are compatible and consistent with the building's design and architecture; to ensure proper engineering in the installation of these facilities; and to protect the public against any adverse impacts on the Town's public health, safety and welfare. In those zoning districts where telecommunication facilities are allowed as a special exception use, the Board of Appeals may issue a special exception for the installation of a telecommunication facility. In addition to meeting the standards for special exceptions in Section IV.(I)4, the follow standards below also apply. In those zoning districts where telecommunication facilities are permitted uses they shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board.

- a. If a telecommunication facility is proposed to be mounted or attached to the exterior of a building or structure the facility shall be designed and located in a manner that is consistent and compatible with the architecture of that building or structure. If applicable, the addition of a facility to the exterior of a building shall also comply with the Design Standards for Scarborough's Commercial Districts, including- the standards for rooflines and roof mounted equipment.

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- b. Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed through Board review and approval provided the Board finds there is adequate screening of this equipment and that is compatible with the site.

- c. Exemption - Telecommunication facilities that are proposed to be full enclosed within an existing building and will not be altering the exterior dimensions of the building or the exterior appearance of the building to accommodate the facility, shall be exempt from special exception review by the Board of Appeals or site plan review by the Planning Board. These installations may be permitted through review and approval by the Code Enforcement Officer. Ground mounted equipment associated with, and accessory to, the telecommunication facility may be allowed by the Code Enforcement Officer provided there is adequate screening of this equipment and that is compatible with the site.

2. Amend Section XIII. RURAL, FARMING AND MANUFACTURED HOUSING DISTRICT – R-F-M. to add Transmission Towers to the list of permitted uses (additions are underlined; deletions are struck through):

23. Transmission towers subject to the performance standards of Section IX(F) of this Ordinance.

PROPOSAL DATED 5-28-14

3. Amend Section XIV. RURAL AND FARMING DISTRICT – RF to add Transmission Towers to the list of permitted uses (additions are underlined; deletions are struck through):

22. Transmission towers subject to the performance standards of Section IX(F) of this Ordinance.

4. Amend Section XV.C. VILLAGE RESIDENTIAL 4 DISTRICT – VR4 to add Transmission Towers to the list of permitted uses (additions are underlined; deletions are struck through):

13. Transmission towers subject to the performance standards of Section IX(F) of this Ordinance.

5. Amend Section XX.C. CROSSROADS PLANNED DEVELOPMENT DISTRICT - CPD to add Transmission Towers to the list of permitted uses (additions are underlined; deletions are struck through):

45. Transmission towers.

6. Amend Section XVIII.B. HAIGIS PARKWAY DISTRICT HP to add Telecommunication Facility to the list of permitted uses (additions are underlined; deletions are struck through):

24. Telecommunication Facilities

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7. Amend Section XIX. REGIONAL BUSINESS DISTRICT B2 to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

24. Telecommunication Facilities

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~~5. Telecommunication Facility.~~

8. Amend Section XIXA. GENERAL BUSINESS DISTRICT B3 to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

19. Telecommunication Facilities

~~3. Telecommunication facilities~~

PROPOSAL DATED 5-28-14

9. Amend Section XX. BUSINESS OFFICE RESEARCH DISTRICT BOR to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

22. Telecommunication Facilities

~~4. Telecommunication facilities~~

10. Amend Section XXA. RUNNING HILL MIXED USE DISTRICT RH to add Telecommunication Facility to the list of permitted uses and delete it as a special exception use (additions are underlined; deletions are struck through):

28. Telecommunication Facilities

~~4. Telecommunication facilities~~

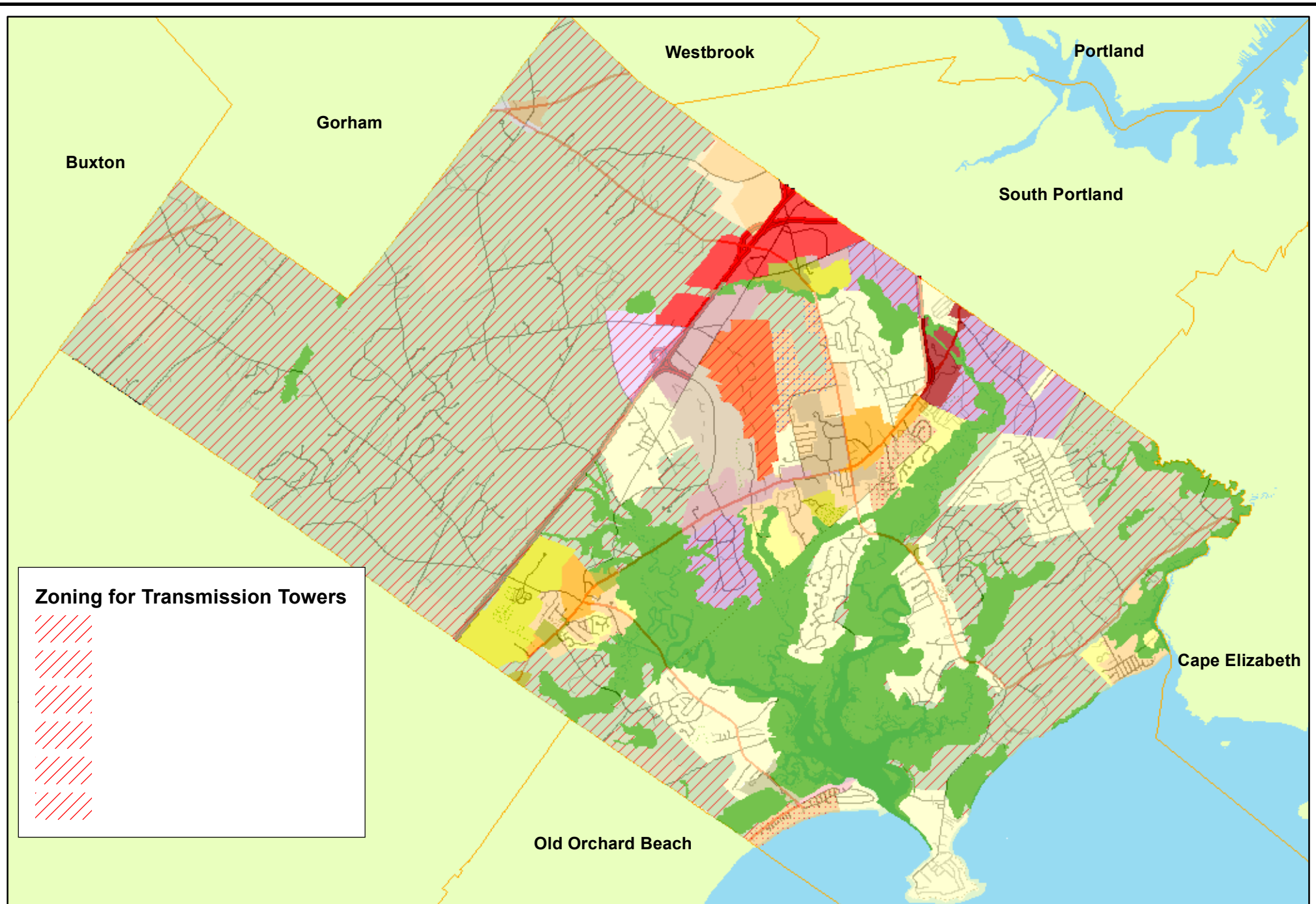
11. Amend the definition of Transmission Tower and Telecommunication Facility under Section VI. DEFINITIONS as follows (additions are underlined; deletions are struck through):

Transmission Tower:

Any structure which extends more than 35 feet above grade or more than 10 feet above the highest point of the building or structure to which it is attached, whichever is higher, and which is used for the wireless transmission or reception of electric impulses or signals by means of electromagnetic waves. The term transmission tower does not include structures utilized by the Town of Scarborough for public safety or public works communications or utilized in the operation of federally licensed amateur radio stations, which are permitted in all zoning districts where municipal uses are allowed.

Telecommunication Facility:

Transmission and reception antennas, cables, electronic equipment and associated facilities used for wireless transmission and reception of voice or data, mounted on, or enclosed within, a ~~municipal~~ building, structure or use ~~or a place of worship~~, no part of which shall be more than ten (10) feet above the height of the existing structure to which it is attached.



Scarborough Public Works
20 Washinton Ave
Scarborough, ME 04074

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



Prepared By: Aimee Dubois
Date Prepared: July 1, 2011

**Zones Proposed to Permit
Transmission Towers**

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – SEPTEMBER 17, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-84. Move approval on the request for a Mass Gathering Permit from Stuart Kaul to hold the *Insane Inflatable 5K* on Saturday, September 20, 2014, at Scarborough Downs, located at 90 Payne Road.



Scarborough Fire Department

B. Michael Thurlow, Fire Chief

INTEROFFICE MEMORANDUM

TO: TOM HALL, TOWN MANAGER
FROM: B. MICHAEL THURLOW, FIRE CHIEF
SUBJECT: INSANE INFLATABLE 5K MASS GATHERING EVENT
DATE: 9/11/2014
CC: TOWN COUNCILORS, MASS GATHERING REVIEW COMMITTEE MEMBERS, APPLICANT

Tom,

Last spring Chief Moulton and I were approached by the organizers of the above noted mass gathering to see if there would be any objection to the closing of Scarborough Downs Road for this event. We explained that it was a private road and that if they reached an agreement with the Downs and went through the Mass Gathering Ordinance requirements we would be happy to work with them through this process. We heard nothing further until the receipt of a Mass Gathering application on 8/21/14 well short of the required 60 days required before the 9/20/14 event date.

Over the past three weeks town staff has worked diligently with the applicant to address all the required safety and logistical issues outlined in the ordinance. The event is one of many similar events that are being held around the country and we have conducted research with our peers in those communities, and the experience has been generally quite positive. It is a 5k run with 9 large inflatable obstacles. They expected to draw roughly 2,600 participants who are scheduled to start the course in waves throughout the day to eliminate big crowds at one time plus staff, vendors, and spectators. There is a midway area near the start/finish lines where food vendors and beer sales will be conducted. Some of the proceeds from those sales will be donated to Camp Sunshine.

There is insufficient parking available at the Downs due to the course layout so they have arranged for off-site parking at Cabela's and they will be running shuttles to the Downs. Set up for the event will start a few days prior to the 9/20/14 event date and Scarborough Downs Road will be closed to thru traffic from approximately 7:00 AM – 3:00 PM on event day. The applicant has paid the application fee as well as the escrow amounts required for police, fire and EMS services. They are in the process of obtaining the other required local and state permits.

After a thorough review staffs from the various departments believe the applicant will meet all the requirements in the ordinance and we recommend Town Council approval of the applicant's mass gathering permit for this event. I will plan to attend the 9/17/14 Town Council meeting in case there are any detail questions from the council or members of the public.

Tody Justice

**MASS GATHERING PERMIT REQUEST FORM
TOWN OF SCARBOROUGH, MAINE**

Non-refundable Fee: \$175.00
Make check payable to "Town of Scarborough"

Before submitting your request you will need to meet with the Chief of Police, the Fire Chief and the Chief Code Enforcement Officer. They will assist you in reviewing the ordinance to determine what is required, i.e. number of police officer, number of sanitation facilities, etc. When this has been done, you will need to submit a detailed letter addressing each section of the ordinance, along with this form and the non-refundable permit fee. Please note that your request must be submitted sixty (60) days prior to the Gathering for Town Council approval.

The Town Council meets the first and third Wednesdays of each month, with exception of the July and August when they meet on the third Wednesday. Agenda items must be received in the Clerk's Office by 2:00 p.m. the Wednesday prior to the meeting. If you have any questions, please contact the Town Clerk's Office at 730-4020.

Name of Contact Person: Stuart Kaul

Name of Event: Insane Inflatable 5K

Date of the Event: Sept. 20, 2014

Physical Address of Event: Scarborough Downs, 90 Payne Rd., Scarborough, ME 04074

Address of Contact Person: 13925 Ballantyne Corporate Place, Suite 300, Charlotte, NC 28277

Telephon Number: (980) 253-0911

Signature: Stuart Kaul * Date: 8/13/14

Date received in Office: 8/20/14

Local Contact: Amanda Cahoon (207) 321-4246

Maine Midway Map

Adult Course

Event Fence

Trailers/Bone Yard

Vendor/Volunteer Parking





Portland, ME Course/Midway Map

Public · 22 views
Created on Jun 23 · By [Stuart](#) · Updated Jul 31
[8+1](#) 0

-  Start Line
-  Finish Line
-  Event Midway
-  Parking for Patrons
-  Volunteer/Vendor/Staff Parking
-  Course Map