

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
APPOINTMENTS COMMITTEE MEETING – 6:45 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: October 1, 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.]

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 September 17, 2014, Town Council meeting.]

Order No. 14-76. Act to authorize the Town Manager to sign a Memorandum of Understanding with Friends of Scarborough Hockey. [Tabled from the August 20, 2014, Town Council meeting.]

NEW BUSINESS:

Order No. 14-89. First reading and refer to the Planning Board, the proposed amendment to Chapter 405 – Scarborough Zoning Ordinance to amend Section VI (Definitions).

Order No. 14-90. Act on the request from the Coastal Waters and Harbor Commission to utilize funds from the Pine Point Waterfront Reserve Capital Improvement Account to purchase a crane system to be installed at the Pine Point Pier in an amount not to exceed \$9,000.00 and authorize the Town Manager to sign any and all documents related to this purchase.

Order No. 14-91. Act on the request to accept the following streets, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Old Colony Land and Winding Way, located in the Old Colony Park Subdivision.

Order No. 14-92. Act on the proposal from the Scarborough Land Trust and Friends of the Scarborough Marsh to pay back taxes [with interest] and cost for cleanup of property located at 11 Bradford Lane, Map U25, Lot 16A, in an amount of \$38,846.74 and authorize the Town Manager to sign any and all documents relating to the transfer of ownership of this parcel to the Scarborough Land Trust.

- 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 – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-53. Move approval 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 September 17, 2014, Town Council meeting.]



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:

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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

~~1.~~ 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~~

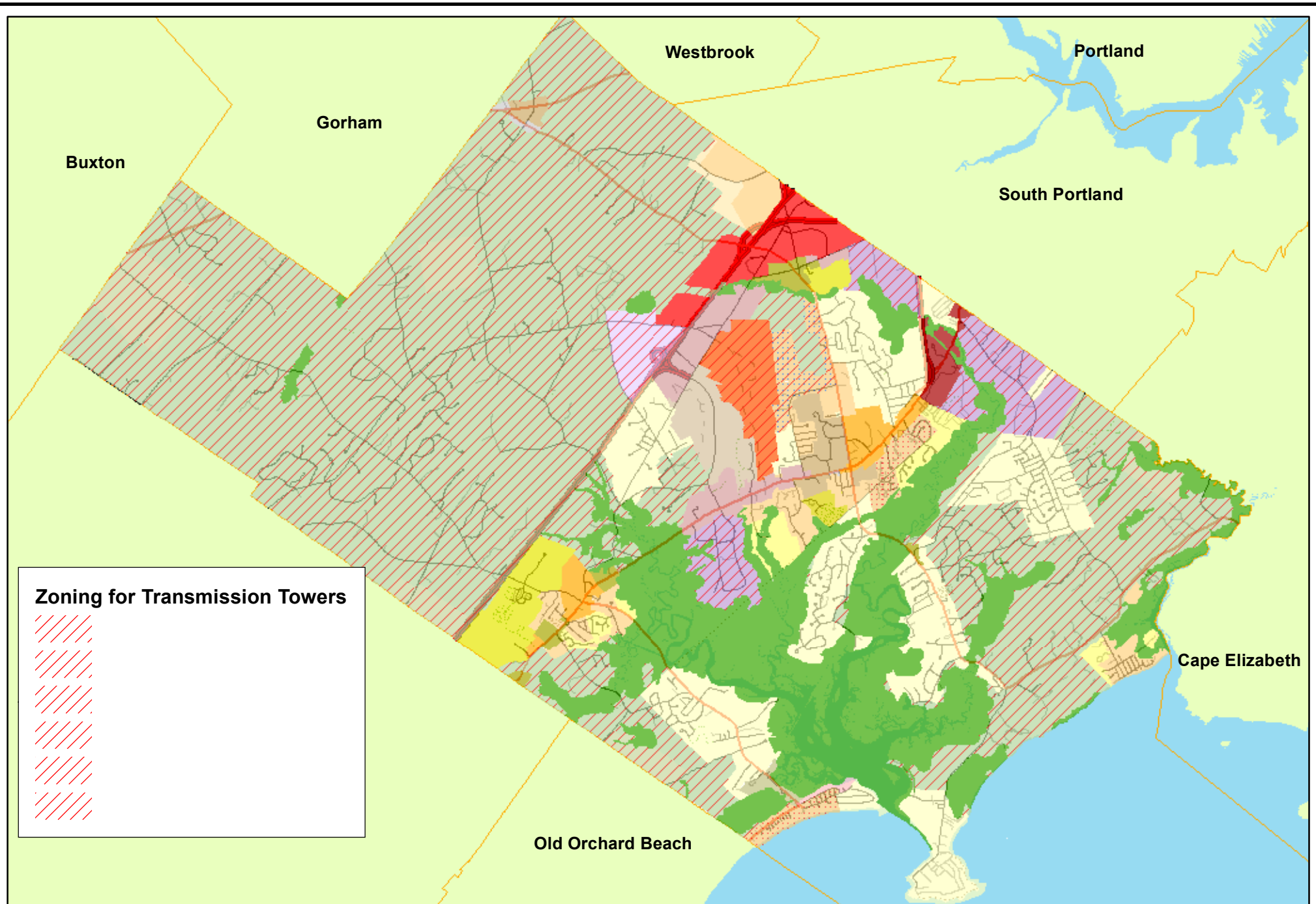
11. Amend the definition of Transmission Tower and Telecommunication Facility under Section VI. DEFINITIONS as follows (additions are underlined; deletions are struck through):

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

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

**Zones Proposed to Permit
Transmission Towers**



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
Date: October 10, 2014

Subject: Further Updates to the Zoning Amendments for Transmission Towers and Telecommunication Facilities (Wireless towers and facilities)

Based on the discussion and direction provided by the Town Council at the October 9th workshop on the wireless proposal, staff has made some additional revisions for consideration by the Council in an attempt to further strengthen the Board's review authority and discretion.

These revisions and changes are shown in blue in the attached document with underlines and strikethroughs and address the following items:

- Page 3 – Give the Planning Board more discretion on transmission tower height and enable the Board to limit tower heights to less than 130' (down to 110') if it will be the most effective means to minimize the visibility and visual impact in a given location. This will need to be balanced with the goal for colocation.
- Page 3 – Given the Planning Board more discretion by enabling the Board to require in the Overlay Districts a setback of up to 300% of the tower height in order to move towers away from abutters and further minimize visibility of towers and scenic impacts. For a 130' tall tower, that would be 390' setback.
- Pages 4 and 5 – Enhance the buffering standards by enabling the Planning Board to require landscaping/vegetative easements to maintain trees that provide screening anywhere on the parcel that provides effective screening from abutters etc.
- Page 5 – Bolster the standards and process for reviewing Visual Impacts and make it clear that the Planning Board conducts a visual impact analysis and uses this analysis to inform and instruct the applicant to site a tower the best location or with additional buffering or tower camouflaging to minimize visual impacts. This section now more clearly refers to the setback, buffering, tower height, and style sections.
- Pages 7 and 8 – We've added public notification requirements so abutters with 500' are notified on applications and the meeting dates.
- Page 8 – The Council expressed interest in having the Planning Board review all telecommunication facilities even if they are also special exceptions (which is a more rigorous review than permitted uses), so we've added a step that has the Planning Board review and provide a recommendation on a telecommunication facility special exception application before it is considered by the Board of Appeals.

Proposed Amendments to the Zoning Ordinance to Update the Performance Standards and Allowances for Transmission Towers and Telecommunication Facilities:

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 by deleting Section IX(F) in its entirety and replacing it with the following:

F. PERFORMANCE STANDARDS - TRANSMISSION TOWERS AND TELECOMMUNICATION FACILITIES

The purpose of these standards are to allow for the appropriate siting of transmission towers and telecommunications facilities for wireless transmission and reception for the use and benefit of the general public, while minimizing adverse visual effects of transmission towers and telecommunication facilities through careful design, siting, and vegetative screening; avoiding potential damage to adjacent properties from tower failure and falling ice through proper engineering; and promoting cooperation of service providers and the collocation of antennas. All new transmission towers and telecommunications facilities, or the increase in height of an existing transmission tower, as applicable, shall conform to the following standards and be reviewed and permitted under the Site Plan Review Ordinance by the Planning Board or as a Special Exception by the Board of Appeals, unless the changes to a tower comply with subsection 2(k). below.

1. Priority of Locations.

Applicants shall use the following procedure when proposing the siting and installation of any transmission tower or telecommunications facility. The siting of transmission towers, wireless transmission or reception antennas, and wireless telecommunications facilities must be located according to the priorities below: (a) new wireless transmission or reception antennas on existing transmission towers; (b) new transmission towers in the Industrial (I) and Light Industrial (LI) Districts; (c) new telecommunication facilities mounted on, or within, buildings and structures in the districts where they are permitted or special exception uses; and (d) new transmission tower in the Transmission Tower Overlay District (TTOD). The application shall demonstrate that a location of higher priority cannot reasonably fulfill the applicant's requirements for coverage improvements in the intended geographic area.

- a. Existing Transmission Towers – When available, new wireless transmission or reception antennas shall be installed on existing transmission towers, provided that such installation will comply with the performance standards of this subsection.

- b. New Transmission Towers within the I or LI Districts – New transmission towers are permitted in the I and LI Districts, but the Planning Board may not approve an application for a new transmission tower in the I or LI Districts unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a) above cannot reasonably accommodate the applicant's proposed facility.
- c. New Telecommunication Facilities – New telecommunication facilities are permitted, but the Planning Board may not approve an application for a new telecommunications facility unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-b) above cannot reasonably accommodate the applicant's proposed facility. The application and design of a new telecommunication facility shall comply with the performance standards of this subsection.
- d. New Transmission Towers within the Transmission Tower Overlay District - New transmission towers are permitted in the TTOD, but the Planning Board may not approve an application for a new transmission tower within the TTOD unless the Board first finds that the applicant has submitted substantial evidence and justification and has demonstrated that a location of higher priority under subsection 1(a-c) above cannot reasonably accommodate the applicant's proposed facility.

As stated above, an applicant must submit substantial evidence and justification to demonstrate that a location of higher priority cannot reasonably accommodate the applicant's proposed facility. Justification may include evidence that: existing towers are not of sufficient height to meet the applicants engineering requirements; existing towers do not have sufficient strength, capacity or expansion capabilities for additional antennas as determined by a Maine P.E.; a facility in a different location would not be suitable to adequately serve the intended geographic area necessary to meet the applicants requirements; a new transmission tower would cause electromagnetic interference with antennas on existing towers or structures in proximity to a proper location in the I or LI District; no buildings or structures were identified that could accommodate or would be suitable for installing a telecommunications facility, or where the owner of the building or structure rejected the installation of such a facility; and/or other reasons that a new transmission tower or telecommunications facility cannot meet the applicant's engineering requirements for the geographic area. This evidence shall be submitted to the Planning Board for review as part of any application for a new installation.

2. Standards for Transmission Towers.

In addition to the priority of location requirements in Section IX(F)(1) above, transmission towers must comply with the following performance standards:

- a. Height.

The standard height limit for a new transmission tower shall be 130 feet as measured from the base of the tower to the highest point of the tower, including any attached receiving or transmitting antennas and devices. The Planning Board may allow the standard height limit to be exceeded by up to an additional 20 feet, to a maximum of 150 feet, if the increase in height enables the collocation of additional antennas that otherwise could not be accommodated on the tower and results in no material increase in the visual impacts of the tower as determined by the Planning Board. The Planning Board may also require the height of a tower be reduced down by as much as 20 feet, to a maximum of 110 feet if the Board finds through review that reducing the tower height most effectively screen and mitigate the visual impacts of the tower from surrounding properties, abutters, roadways and public spaces. When considering a reduction in the maximum tower height, the Planning Board shall ensure that such a reduction still accommodates the colocation requirements of subsection g.

b. Minimum Lot Size and Setbacks.

(i). Within the I and LI Districts there is no minimum lot size for transmission towers, but the standard setback from the base of the tower to all property lines shall be a distance equivalent to 100% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board may decrease the standard 100% setback if the applicant secures an restrictive easement(s) from the abutting property(s) that allows for a lesser setback, but the combined distance of the restrictive easement from the property boundary and the lot setback must be equivalent to 100% of the tower height. 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. An 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 and the combined distance of the easement from the property boundary and the setback must be equivalent to 100% of the tower height.

(ii) Within the Transmission Tower Overlay District, the minimum lot size for a new transmission tower shall be twenty-five (25) acres. The standard setback from the base of the tower to all property lines shall be a distance equivalent to 150% of the total tower height, including any attached transmitting or receiving antennas and devices. Accessory structures shall meet the minimum setbacks for the zoning district. The Planning Board shall have the discretion to either increase the standard setback up to 200300% or decrease the standard setback down to 100% of the total tower height if it finds through review that siting the tower in a different location will better screen and buffer the tower from view of the surrounding properties, abutters, roadways and public spaces. The Planning Board may also decrease the standard 150% setback if the applicant secures a restrictive easement(s) from the abutting property(s) that allows for a lesser setback. The restrictive easement shall prohibit dwellings within the easement area so as to allow

the tower to be located closer to the property line than the 150% 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., but the combined distance of the restrictive easement from the property boundary and the lot setback must be equivalent to 150% of the tower height.

After a transmission tower is approved and installed, the Planning Board may allow a reduction in the minimum lot size from 25 acres to a minimum of 5 acres and a setback distance equivalent to 150% of the total tower height including any attached transmitting or receiving antennas and devices. This lot size reduction is allowed only through Planning Board review to enable additional uses and/or subdivision of the parcel. The allowed reduction in original lot size shall not however reduce or lessen the buffering requirements under subsection (c) below and shall not increase the visual impact of the tower on surrounding properties, roadways and/or public spaces.

c. Buffering.

(i) Within the I and LI Districts, transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes the visual impact from all directions. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If the site is already developed for a commercial or industrial use, the Planning Board shall have the authority to allow a reduced buffer based on site conditions and the current use of the property so long as the visual impacts of the tower are minimized to the extent practical.

(ii) Within the Transmission Tower Overlay District, all transmission towers shall be surrounded by a buffer of dense tree growth and vegetation that screens the facility and minimizes its visual impact from abutting properties, roadways and public spaces. If the majority of the site is heavily vegetated with mature tree growth and effectively screens the facility, the Planning Board may require the existing vegetation to be preserved, and supplemented with new plantings where necessary, except for the minimum amount of clearing necessary to install the facility and provide access and utilities. If heavy vegetation and mature tree growth are not present to effectively screen the facility on one or more property lines or from surrounding roadways or public spaces, the Planning Board shall have the authority to require the tower to be sited in an alternative location on the property that exhibits an adequate buffer or screening as provided for under subsection (b)(ii) above. The Planning Board shall have the authority to require the landscape buffer be protected by a landscape easement specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying. This landscape easement may include ~~up to~~ a distance equivalent to 150% of the

total tower height, ~~to be protected by a landscape easement and/or~~ be within the carrier's lease, ~~and/or apply to buffering and vegetation on other areas of the site that provide effective screening. specifying that the trees within the buffer not be removed or topped, unless the trees are dead or dying.~~

d. Visual Impact Analysis.

In order to review and assess the suitability of the ~~existing and/or~~ proposed buffering of a tower (under subsection c.), the optimal tower setback from adjacent property lines (under subsection b), the proposed color, style and height of the tower (under subsections a. and e.), and the towers overall visual impacts and effects, the Planning Board may require photo simulations of the tower within the landscape from a variety of perspectives, including surrounding roadways, abutting properties, and public spaces. In addition, the Planning Board may also require other simulations of the tower height and location within the landscape using a balloon test or similar method typical in the industry. Using this visual impact analysis the Planning Board shall have the authority and discretion to mitigate and minimize the visual impact of a tower by: specifying the required tower setback and location as provided for under subsection b., requiring changes and/or enhancements to the buffering as provided for under subsection c.; and regulating the tower height and style as provided for under subsections a. and e.

e. Tower Style.

Tower types shall be limited to monopole-style towers painted in a sky tone above the top of surrounding trees and in an earth tone below tree-top level or stealth towers exhibiting concealed antennas or camouflaging treatment, such as monopine towers, as determined by the Planning Board.

f. Lighting.

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.

g. Colocation.

All new transmission towers shall be designed and constructed to accommodate the 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 and shall have the structural integrity to accommodate these additional antennas and/or an expansion in height of the tower. The Planning Board may waive the requirement for colocation or the number of additional providers to be collocated, but only after the Planning Board reviews and determines with satisfactory evidence that technical constraints prohibit colocation.

h. Advertising.

No advertising or signage is permitted on transmission towers or any attached transmitting and receiving antennas or devices.

i. Coverage.

As part of any proposal the applicant shall submit 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 existing/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. Structural Standards.

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.

k. Existing Towers.

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. Abandonment.

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. Further, a surety shall be provided to the Town to guarantee the removal of an abandoned tower, prior to the installation of the tower. The applicant must submit a sample form of surety along with its application to pay for the costs of removing the facility if it is abandoned. The surety must be obtained and delivered to the Planning Department after approval of the application by the Planning Board and prior to construction.

m. Shoreland Zoning.

Transmission towers shall not be allowed within any Shoreland Zoning District, including the Shoreland Overlay District and the Resource Protection District. Land within a Shoreland Zoning District however can be counted toward the minimum lot size and/or setback requirements provided the siting of the transmission tower is outside any Shoreland Zoning District.

[n. Public Notification.](#)

[When an application for a modification to an existing transmission tower or for a new transmission tower is received and accepted by the Town Planner, the Planner shall give a dated receipt to the applicant and shall notify by mail all property owners within 500 feet of the tower site or lot once the application has been scheduled for a Planning Board agenda.](#)

2. Standards for Telecommunications Facilities.

In addition to the priority of location requirements in Section IX(F)(1) above, telecommunications facilities must comply with the following performance standards. Where allowed as a special exception use, the Board of Appeals may issue a special exception for the

installation of a telecommunication facility only if the facility also meets the standards for special exceptions in Section IV(I)(4). Before making a decision on any telecommunication facility special exception application, the Board of Appeals shall refer the application to the Planning Board for an advisory opinion. The Planning Board shall consider the standards of this subsection and the standards for special exceptions in Section IV(I)(4) in formulating its recommendation.

a. Design. 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.

b. Ground mounted equipment.

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 fully enclosed within an existing building and will not alter 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.

d. Public Notification.

When an application for a telecommunication facility is received and accepted by the Town Planner or Code Enforcement Officer, the Planner/CEO shall give a dated receipt to the applicant and shall notify by mail all property owners within 500 feet of the tower site or lot once the application has been scheduled for a Planning Board or Board of Appeals agenda.

2. 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

3. 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

4. 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

5. 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

6. 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

7. Amend Section XVIII.F. PINE POINT INDUSTRIAL OVERLAY DISTRICT to delete Transmission Towers as a permitted use (additions are underlined; deletions are struck through):

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

8. 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 building, structure or use, no part of which shall be more than ten (10) feet above the height of the existing structure to which it is attached.

9. Add a new Transmission Tower Overlay District as follows

SECTION XXI.D. TRANSMISSION TOWER OVERLAY DISTRICT – TTOD.

A. PURPOSE AND APPLICABILITY

B. PERMITTED USES

C. SPECIAL EXCEPTIONS

D. SPACE AND BULK REGULATIONS

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-76. Move approval to authorize the Town Manager to sign a Memorandum of Understanding with Friends of Scarborough Hockey. [Tabled from the August 20, 2014, Town Council meeting.]

-

Memorandum of Understanding Regarding Land Use ~~at~~ on the Scarborough Municipal Campus ~~High School~~

This Memorandum of Understanding (MOU) is made as of this ____ day of ~~August~~October, 2014, between the Town of Scarborough, municipal corporation organized under the laws of the State of Maine (the “Town”) and the Friends of Scarborough Hockey (“FOSH”), a 501c3 charitable organization (herein collectively “the Parties”), outlines a working arrangement between the two in an effort to construct and operate an ice arena in the Town of Scarborough.

WHEREAS, the object of this MOU is to set forth the preliminary understandings of the Town and FOSH regarding the construction and operation of a not for profit ice rink to be completed and begin operation in October 2015. The rink is to be constructed with 100% donor funding and is structured to be a self-sustaining non-profit entity run by the FOSH Board of Directors; and,

WHEREAS, the Parties acknowledge and agree that (i) the MOU accurately describes the initial roles and responsibilities of the Parties; (ii) this MOU is not binding; (iii) should the parties desire to be formally bound by any of the commitments or intentions contained herein, there will be a separate written legal agreement containing the binding commitment of the parties as to any subject matter addressed in that further document; and (iv) this agreement furthermore does not create any joint venture, partnership or fiduciary obligations between parties; and,

WHEREAS, The Parties recognize numerous benefits of this project for the community:

- 1) A privately funded extension of the Town campus and community facilities.
- 2) A positive economic impact on local businesses in the Oak Hill area.
- 3) Available community ice for school (Physical Education class) based activities.
- 4) Available community ice for town (learn to skate, WinterFest) based activities.
- 5) Reduced transportation costs for Scarborough High School boys and girls practices and home games.
- 6) A Town--centric facility that increases the value of the Town.

WHEREAS, the Town is in general support of the ice arena proposal~~concept of as proposed~~ by FOSH and recognizes the importance of this agreement as FOSH initiates a private capital fundraising campaign.

NOW THEREFORE, the Parties are prepared to and do enter into this non-binding MOU for the purposes of outlining the terms and conditions of the proposed ice arena facility and each party’s responsibility and obligation concerning same, and providing ~~an~~ understanding that will permit the Parties to enter, if mutually agreed to, a definitive agreement or agreements concerning these understandings and the proposed project. As such, the following are the terms and conditions concerning the proposed project, as they are understood as of the date of this Memorandum:

1. **Project.** The “Project” is a proposed indoor ice arena, an approximately 35,500+/- square feet building, comprising one full-size ice rink and related amenities, including 630+/- seats.
 - a. FOSH understands and agrees that the building should be well built and with an aesthetic design that is consistent with other structures on the ~~town~~-municipal campus. FOSH understands that the exterior design will be reviewed by the Town prior to

construction, such review of building design to be performed by the Planning Board. The rink will also be designed with energy efficiency in mind for lighting and HVAC based on consultations with experts in the field of rink construction and operation. FOSH will be soliciting private and business funding for the rink and as such, will be selling advertising inside and potentially outside the building. FOSH understands the signage outside the arena will be reviewed and approved by the Town Council prior to implementation, and subject to all applicable performance standards and regulations FOSH will consider the off-season use in the design of the facility, and consider reasonable accommodations to enable this, including, but not limited to, the floor surface and HVAC systems..

b. The Parties recognizes that project will require Town Council and Planning Board Approval. The project will be subjected to full Site Plan Review by the Planning Board. ~~FOSH requests that application fees for Town Council and Planning Board be waived for this project. Additionally, FOSH requests that Traffic Impact Fees be waived for the project.~~ The arena will be served by municipal water and sewer. All service connections are anticipated to be made from the water and sewer mains in Gorham Road (Rte 114). FOSH understands that it will need Scarborough Sanitary District Approval and that the connection fees cannot be waived. ~~All traffic will be directed to the Route 1/ Municipal Campus Drive.~~ FOSH will be responsible for obtaining the Maine Department of Transportation Traffic Movement Permit.

c. The Parties recognize the planned approach and the value of a rink on the town property municipal campus, the specific location of the proposed arena to be determined through an evaluation of the alternatives available as identified by the Town; Such determination of the allowable site shall be made no later than December 53, 2014. T ~~he~~ The Town will provide a long term low cost lease to FOSH, the terms and conditions of which to be determined at a later date. -for the land between the high school and Mobil station to construct the ice arena (see Exhibit A). The Town will also establish fee simple ownership of the water tower plot in exchange for a sanitary sewer easement benefitting Portland Water District during 2014 so that a planned parking lot can be constructed on this site paid for by FOSH. During on-going operations, the Town will provide access to shared parking with the high school on the municipal campus where feasible.

2. Community Use. In exchange for cooperation and favorable lease terms, the Town insists on maximum use opportunities for the community. During the time that ice is maintained, all efforts shall be made to allow Town and School sponsored recreational and educational uses. In addition, there shall be consistent, conveniently-scheduled "open skate" time available to the public. During the off-season, the Town shall have the unencumbered right to schedule the use of the facility based on maintenance requirements and fee structures as negotiated with FOSH without restriction. FOSH will consider the off-season use in the design of the facility, and consider reasonable accommodations to enable this, including, but not limited to, the floor surface and HVAC systems.

3. Governance and Operation. FOSH is defining a non-profit board of directors who will establish operational control of the rink after construction is complete. The intent is that this board will also consist of a representative from the Town, a representative from each of the planned three high schools who will use the rink and three other at large members from the

local skating or hockey community. Due to the non-profit status of FOSH, the board will be responsible to hire a rink manager who can address the budgetary and operational needs of the rink. The board will hold the rink manager responsible for long term maintenance and budgeting items in addition to the day to day operational budget. Based on its location and integral nature with student athletes, it is proposed that all rink employees meet the same standards as employees that are hired by the town or school. Parties agree to be open to the idea of FOSH entering into a Management Agreement with the Town for operation of the facility.

2. -No financial support from the Town or the School Department is contemplated in the proposal; however in the event that the FOSH Board determines that financial support is required to sustain operations at a standard consistent with other Town programs and operations, the Town reserves the unrestricted right, but not the obligation, to assume control of all operations,

3.4. **Maintenance.** FOSH will be responsible for external building maintenance –but will contract this work out to the Town, if they desire, to ensure a consistent campus appearance.

5. **TimingPerformance Requirements.** The project schedule is aggressive, contemplating an October 2015 open date. As such, FOSH must either demonstrate financial ability to complete the project or have made formal application to the Scarborough Planning Board by January 31, 2015. If neither of these events has not occurred by January 31, 2015, the Parties agree to meet and discuss the Project and continuation of the relationship contemplated herein. In the interim, FOSH shall provide the Town with monthly progress updates on the Project and fundraising activities.

4. —As many of the details of the project will not be identified until complete engineering is performed and Planning Board approval is accomplished, the Town reserves the right to review the final project and shall render a final decision on locating the facility on the campus at that time.

5.6. **Coordination and Concurrence with School Department.** Depending on the preferred site, Parties recognize that the Project will likely require the use of existing parking spaces and may require the displacement of existing parking at the High School. FOSH must meet with and obtain consent from the School Department on the final site and parking configuration. ~~With the exception of the Town acquiring fee simple interest in the “Water Tower Site”, a~~ All costs and efforts associated with accommodating the parking needs of the High School of Town and School operations and this Project will be the sole responsibility of FOSH.

6.7. **Approvals and Permits.** Notwithstanding the waiver of the application fees, FOSH must obtain all necessary approvals and adhere to all applicable standards. The project must comply with a local, state and federal laws and regulations.

8. **No Contract.** The Town and FOSH expressly acknowledge and agree that even if this MOU is fully executed, neither party hereto has any obligation to the other to consummate the transactions and arrangements contemplated unless and until binding agreement(s) are entered into by the Parties. This document constitutes only a non-binding Memorandum of Understanding setting out the framework for a potential agreement, but neither party is

obliged to enter into any agreement whatsoever by virtue of the preparation, execution or delivery of this MOU.

7.9.Final Approval Required. This Agreement constitutes preliminary approval of the Project in concept and prescribes a process forward. Importantly, it contemplates additional approvals at critical milestones along the way. Following full Site Plan approval from the Planning Board, the Town reserves the right for final approval of the Project once financial ability is demonstrated and all the details and impacts of the Project (at a particular site) are known. Such final decision will take the form of a ~~land~~ lease, the terms and conditions of which are to be identified at that time.

Seen and Acknowledged By The Undersigned:

TOWN OF SCARBOROUGH

By: _____
Date

FRIENDS OF SCARBOROUGH HOCKEY, INC.

By: _____
Date

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-89. Move approval of the first reading and refer to the Planning Board, the proposed amendment to Chapter 405 – Scarborough Zoning Ordinance to amend Section VI (Definitions) and schedule a public hearing following the filing of the recommendations of the Planning Board.

**AMENDMENT TO CHAPTER 405 - ZONING ORDINANCE
REGARDING DEFINITION OF AFFORDABLE HOUSING**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section VI (Definitions) of the Zoning Ordinance of the Town of Scarborough, Maine is amended as follows:

Amend the definition of Affordable Housing, by adding the underlined text and deleting the text shown in strikeover type, as shown below.

Affordable Housing: [Adopted 11/03/2004] [Amended 05/03/2006] Affordable Housing means decent, safe and sanitary living accommodations that are affordable to households, in accordance with following provisions:

- A. An Owner-Occupied Affordable Housing Unit is a unit which has an expected sales price that is reasonably anticipated to result in monthly housing costs (including mortgage principal, interest, and insurance; homeowners' insurance costs, real estate taxes and basic utility and energy costs) that do not exceed 30% of a household's gross monthly income. The qualified household gross income for an Affordable Housing Unit is ~~42%~~ 80% or less than the most recently published Portland, Maine, MSA Median Family income adjusted for family size and consistent with the income thresholds published by the U.S. Department of Housing and Urban Development for the region.
- B. A Renter-Occupied Affordable Housing Unit is a unit which is leased to a household ~~(including rent and basic utility and energy costs)~~ for an amount (including rent and basic utility and energy costs) that does not exceed 30% of the household's gross monthly income. The qualified household gross income for a Renter-Occupied Housing Unit is 80% or less than the most recently published Portland, Maine, MSA Median Family Income adjusted for family size and consistent with the income thresholds published by the U.S. Department of Housing and Urban Development for the region.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

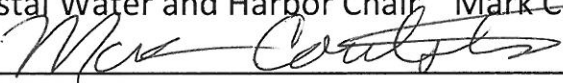
Order No. 14-90. Move approval on the request from the Coastal Waters and Harbor Commission to utilize funds from the Pine Point Waterfront Reserve Capital Improvement Account to purchase a crane system to be installed at the Pine Point Pier in an amount not to exceed \$9,000.00 and authorize the Town Manager to sign any and all documents related to this purchase.

To: Scarborough Town Council.

The Coastal Waters and Harbor Committee are recommending that the cranes at the Pine Point Pier be replaced with a New Cranes that is designed to be used outside on the Pier. Over the past year the cranes that were installed on our new pier have been nothing but a maintenance nightmare the existing cranes were not designed to be used for this type of work. We are in hopes that the new cranes will not only save us money and down time but last for years. The entire Committee is in agreement that this needs to be done as soon as possible.

Our recommendation is to replace one of the cranes with a new Coffing Electric Chain Hoist one ton crane that will replace one of the cranes that would cost too much to repair. This design is the same as what Saco has been using for the past three years. Down the road we will need to replace the other one ton hoist.

Coastal Water and Harbor Chair Mark Coulston



Coastal Waters and Harbor Members

Tim Downs, Dave Green, Robert Willette and Chris Rule

Attached : Coast Proposal and Specs.

October 10, 2014

Quote # 02465-1

City of Scarborough
Pine Point Pier
King Street
Scarborough, ME

Attn: **David Corbeau**
Re: Replacement Hoist

Dear Dave,

Regarding the above, New England Crane is pleased to offer the following for your consideration.

Coffing Electric Chain Hoist w/Motor Driven Trolley
Model #: ECMT2016-30'
Capacity: 1-TON
Available Lift: 30'
Hoist Speed: Single-Speed @ 16 FPM
Control Pendant: 4-Button (NEMA-4X)
Pendant Drop: 26'
Suspension: Lug Mounted to Motor Driven Trolley for 4.625" Flange
Trolley Speed: Single-Speed @ 35 FPM

Weatherproof Features:

- Zinc Plated Load Chain
- Zinc Plated Bottom Hook
- Zinc Plated Load Sheave & Chain Guides
- Zinc Plated Hoist Brake Parts
- (3) Space Heaters w/Thermostats
- Weather Protective Hoist Cover
- White Epoxy Paint

Fused & Grounded Transformer
All Controls Mounted in NEMA 4 Enclosure
Voltage: 120V-1-60
Unit Meets NEMA 3R Standards
Includes Excess Chain Container
List Price: \$10,497.00

Your cost:

- | | |
|----------------|---|
| - Hoist | \$7,946.00 |
| - Freight | \$ 125.00 (estimated) |
| - Installation | \$ 750.00 (includes removal of existing hoist) |
| - Total | \$8,821.00 |

Terms: Net due 30 days
Delivery: 4 – 5 weeks ARO

Thank you for allowing us the opportunity to provide you with a proposal for this hoist. If you should have any questions or comments, please feel free to contact us at any time.

Sincerely,
New England Crane

Tim Look
General Manager

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-91. Move approval on the request to accept the following streets, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Old Colony Land and Winding Way, located in the Old Colony Park Subdivision.



Town of Scarborough, Maine

P.O. BOX 360 • SCARBOROUGH, MAINE 04070-0360

MEMORANDUM

TO: Thomas Hall, Town Manager
Town Council

FROM: Jim Wendel, PE, Town Engineer *JW*

DATE: October 2, 2014

RE: Street Acceptance-Old Colony Park Subdivision
Old Colony Lane
Winding Way

Pursuant to 23 MRSA 3025 and the requirements of Section 4 of the Scarborough Street Acceptance Ordinance, the Colony Park Homeowners Association hereby petitions the Town Council to accept certain road infrastructure of the Colony Park II and Colony Park III subdivisions as shown on a plan dated March 31, 2014, prepared by Nadeau Land Surveys, Portland Maine. Colony Park II was approved by the Planning Board circa, 1970 and Colony Park III was approved by the Planning Board circa 1990.

As you may recall, in 2013 the Colony Park Homeowners Association approached the Town Manager and Council to request the Council consider accepting their private roads; that initiated a detailed discussion and led to a Memorandum of Understanding that was executed in September, 2013, under which certain requirements needed to be met before presenting the request to the Council for consideration.

Since September 2013, the association has worked with Public Works and Staff to satisfactorily meet the conditions of the MOU. The MOU required completion of certain road improvements, provide an executed quitclaim deed, an as-built plan, to be recorded, depicting the roads to be accepted, and a check for the sum of \$54,952.00 for completion of certain paving improvements. Should the Council accept the streets as town ways, Public Works will have the roads paved next construction season to complete the required improvements; it was recognized that the Town can complete the required paving for a lower price, through our paving program, than an individual private effort would get for a price.

Attached for your review is a GIS aerial locus map showing the location of the development and a copy of the plan to be recorded.

Staff recommends the Council accept the right of way and the infrastructure as a town way as detailed in the executed quitclaim deed.

Thank you,

C: Mike Shaw, Director of Public Works
Susan Partridge, Colony Park Homeowners Assoc.
Bruce McGlaufflin, ESQ, PM&H
Phil Saucier, BSSN

H:\My Documents\Street Acceptance-General\Colony Park\Recording Docs\COUNCIL REQUEST-10-1-14.doc



Colony Park Development



Legend

- Streams_
- Parcels with Owner Info
- Parcels with Owner Information
- Roads
 - MTA
 - MTA
 - MDOT
 - PUBLIC
 - PENDING PUBLIC; PRIVATE; PF
 - CEMETERY; NOT YET BUILT; P.
- Railroad
- Building Footprints
- Driveways
 - Paved Driveway
 - Unpaved Driveway
- Road Surfaces
 - Paved Road
 - Unpaved Road
- Parking Lots
 - Paved Parking
 - Unpaved Parking
- Treeline
- Coastline
- Town_Townline_Polygons_cc
 - Surrounding Towns
 - Scarborough

Notes

10/2/2014

303 0 151 303 Feet

NAD_1983_UTM_Zone_19N
Town of Scarborough, Maine

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.

Grid North
MSPC NAD83, 1802 (West Zone)



Fogg Road

L=65'±
R=40.00'±
Δ=92°45'±
(See Note 7)

L=61'±
R=40.00'±
Δ=87°15'±
(See Note 7)

Lot # Per Plan Ref. 3
(typical)

SECTION I
SECTION II

19

L=19°30'30"
R=847.96'±
Δ=19°30'34"
(688.89')

L=288.73'
R=897.96'
Δ=19°30'34"
(688.89')

17

(f.k.a. Alden Road)

Lot # Per Plan Ref. 1
(typical)

L=52.04'
R=30.00'
Δ=99°23'48"
(51.05')

Old Colony Lane

26

Old Colony Lane

Drainage Easement
Per Plan Ref. 1

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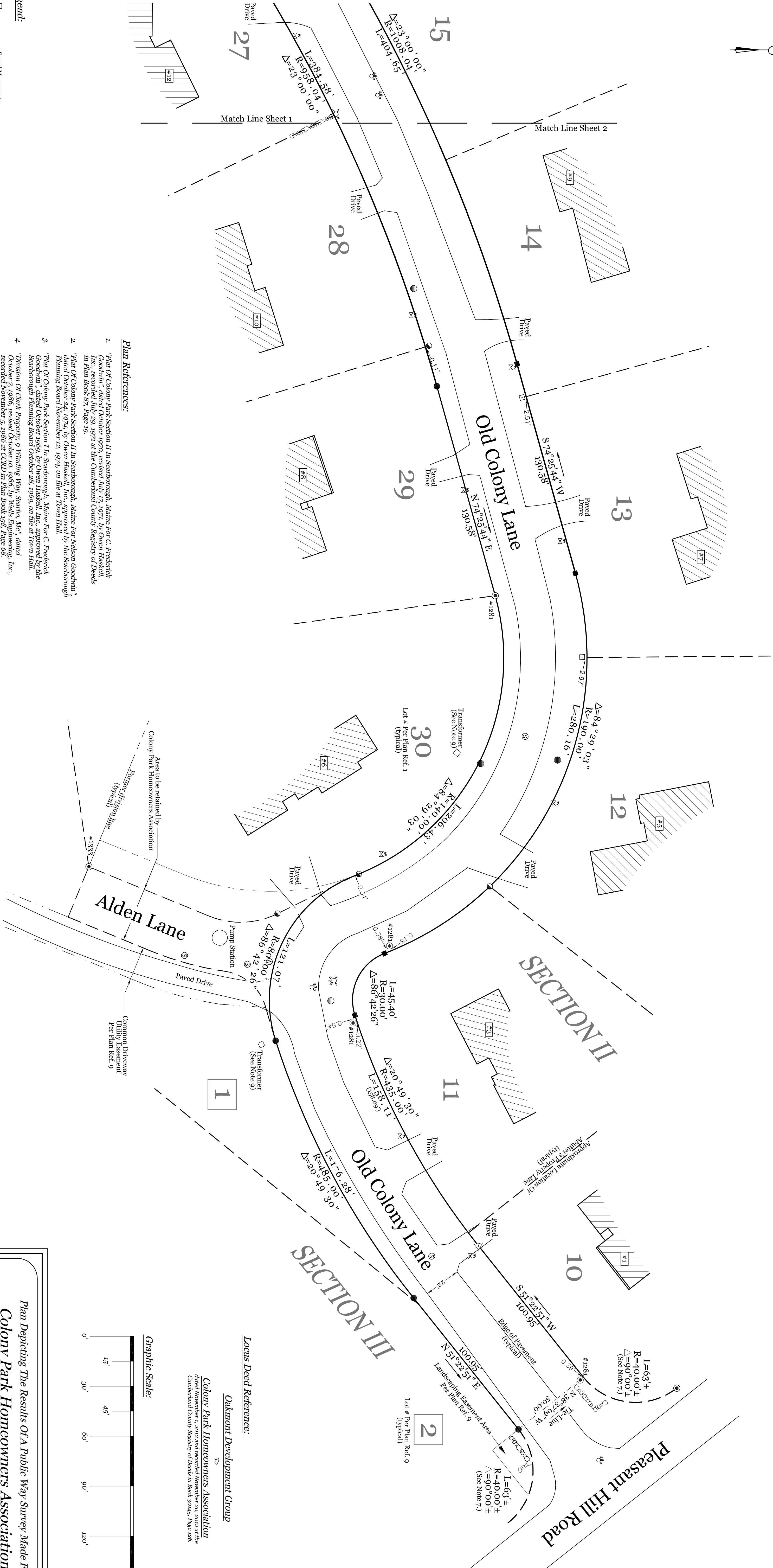
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Plan References:

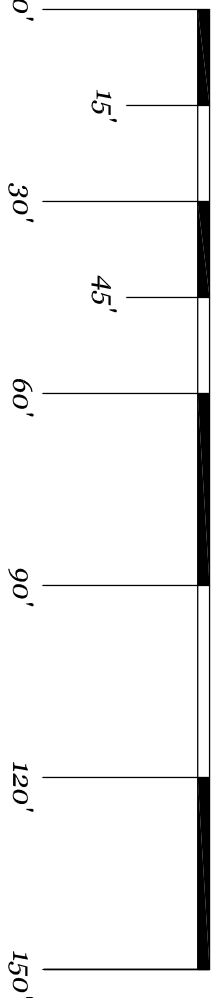
- "Plan Of Colony Park section II In Scarborough, Maine For C. Frederick Goodwin", dated October 1976, revised July 17, 1977, by Owen Haskell, Inc., recorded July 29, 1977 at the Cumberland County Registry of Deeds in Plan Book 67, Page 19.
- "Plan Of Colony Park Section II In Scarborough, Maine For Nelson Goodwin", dated July 29, 1977, by Owen Haskell, Inc., recorded July 29, 1977 at the Cumberland County Registry of Deeds in Plan Book 67, Page 19.
- "Plan Of Colony Park Section II In Scarborough, Maine For C. Frederick Goodwin", dated October 1976, revised July 17, 1977, by Owen Haskell, Inc., recorded July 29, 1977 at the Cumberland County Registry of Deeds in Plan Book 67, Page 19.
- "Division Of Clark Property, 9 Winding Way, Scarbo, Me.", dated October 1976, recorded November 3, 1986 at CCRD in Plan Book 68, Page 68.
- "Standard Boundary Survey Of Colony Park III Scarborough, Maine by Sebago Technics, Inc., recorded October 8, 1991 at CCRD in Plan Book 191, Page 135.
- "Subdivision Plan Of Colony Park III Scarborough, Maine Record Owner", dated December 10, 1992, revised March 30, 1992, by Sebago Technics, recorded Oct. 8, 1992 at CCRD in Plan Book 192, Page 277.
- "Division Plan Of Property On Old Colony Lane Scarborough, Maine For Oakmont Development Group", dated October 21, 1991, last revised March 31, 1992, by Sebago Technics, recorded April 3, 1992 at CCRD in Plan Book 192, Page 61.
- "Plan Of Land For Russell I. Birdlight Winding Way, Scarboro, Maine", dated December 10, 1992, revised March 30, 1992, by Wells Engineering, Inc., recorded November 4, 1995 at CCRD in Plan Book 199, Page 58.
- "First Amended Subdivision Plan Of Colony Park III Scarborough, Maine", dated March 11, 2002, by Sebago Technics, recorded April 25, 2002 at CCRD in Plan Book 202, Page 165.

See Sheet 1 of 2 for General Notes

Locus Deed Reference:

Colony Park Homeowners Association
To
Oakmont Development Group

Graphic Scale:



Plan Depicting The Results Of A Public Way Survey Made For
Colony Park Homeowners Association
Colony Park Subdivision
Old Colony Lane & Winding Way
Scarborough, Maine

PREPARED BY:

Nadeau Land Surveys



908 BRIGHTON AVENUE
PORTLAND, ME 04102
Professional Land Surveyors
Certified Professional Managers

RECORD OWNER:	DRAWN BY:	PLAN DATE:
Colony Park Homeowners Association	MJC	3/31/2014
CHECKED BY:	SURVEY DATE:	SCALE:
JUN 17/19 Topcon GPT-3003H & Topcon Hyper II GPS	Dec 2013 - Jan 2014	1" = 30'
FIELD BOOK:	JOB NO:	SHEET NO:
FB 490 & Topcon Ranger	213142PV	2 of 2

Legend:

- Found Monument
- Found Steel Rebar w/ Survey Cap
- Found Iron Rod
- Found Iron Pipe
- Gravite Monument To Be Set
- #5 Steel Rebar w/ Survey Cap #124 to be set
- Angle Point Nothing Found On Set
- Catch Basin
- Sewer Manhole
- Drain Manhole
- Water Manhole
- Water Shut-off
- Water Valve
- Record Measurement
- Stonewall

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AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – OCTOBER 15, 2014
REGULAR MEETING – 7:00 P.M.

Order No. 14-92. Move approval on the proposal from the Scarborough Land Trust and Friends of the Scarborough Marsh to pay back taxes [with interest] and cost for cleanup of property located at 11 Bradford Lane, Map U25, Lot 16A, in an amount of \$38,846.74 and authorize the Town Manager to sign any and all documents relating to the transfer of ownership of this parcel to the Scarborough Land Trust.

Whitten Property Overview

Description:

The 6.4 acre Whitten property on Bradford Lane, off Pine Point Road, abuts the Scarborough Marsh and is a key upland parcel that provides views of, and access to, the marsh and is adjacent to other parcels that might be available for preservation. There is a poorly maintained home on the property and access is by an unimproved gravel drive down a moderate slope.

History:

In 2004 the Scarborough Land Trust (SLT), with support from the Town Land Bond fund and the Friends of Scarborough Marsh (FOSM), purchased the property, allowing a life estate to Mr. Whitten. The existing house was to be demolished after Mr. Whitten relinquished the life estate. The intent at the time of the purchase was to ultimately deed the parcel the Maine Dept. of Inland Fisheries and Wildlife to add to the Scarborough Marsh Wildlife Management Area. As Mr. Whitten did not pay overdue property taxes, the Town filed a tax lien against the property in 2006 and 18 months later the ownership of the property automatically transferred to the Town. Mr. Whitten died in Dec. 2013.

Resolution:

SLT and FOSM would like to resolve the tax issue and retain the parcel for conservation as originally intended. We now believe that the parcel would be best held and managed locally by SLT and open to the public, providing an exceptional recreation and marsh viewing site, and provide valuable shrub habitat for wildlife.

Proposal:

SLT and FOSM propose to pay the back taxes and interest from 2005 through 2008, and the taxes from 2008 when the Town acquired the property through 2012 when Mr. Whitten died. We will also reimburse the Town for direct costs of \$544.08 incurred in cleanup of the property for a total of \$38,846.74.

We request that the Town Council consider and approve this proposal to return the Whitten property to public use.

See attached:

Map

Tax sheet

10/3/14pa

YEAR	BILL NAME	CUSTOMER NAME	PRINCIPAL DUE NOW	INTEREST DUE NOW	TOTAL DUE NOW
2014	TOWN OF SCARBOROUGH	PO BOX 360	EXEMPT		EXEMPT
2013	TOWN OF SCARBOROUGH	PO BOX 360	ABATED \$4,591.99		\$0.00
2012	WHITTEN, DONALD	11 BRADFORD LN	\$4,476.65		\$4,476.65
2011	WHITTEN, DONALD	11 BRADFORD LN	\$4,238.52		\$4,238.52
2010	WHITTEN, DONALD	11 BRADFORD LN	\$4,110.51		\$4,110.51
2009	WHITTEN, DONALD	11 BRADFORD LN	\$3,948.63		\$3,948.63
2008	WHITTEN, DONALD	11 BRADFORD LN	\$3,984.61	\$2,154.50	\$6,139.11
2007	WHITTEN, DONALD	11 BRADFORD LN	\$3,859.42	\$2,705.42	\$6,564.84
2006	WHITTEN, DONALD	11 BRADFORD LN	\$3,756.88	\$2,801.74	\$6,558.62
2005	WHITTEN, DONALD	11 BRADFORD LN	\$1,603.06	\$602.72	\$2,265.78
			\$29,978.28	\$8,264.38	\$38,302.66