

AMENDED

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 6, 2018
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: May 16, 2018 - Regular Town Council 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. 18-030, 7:00 p.m. Public Hearing on the proposed amendments to Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions and Section XVII.B. Haigis Parkway District, HP – B Permitted Uses, Conventional and Planned Developments. *[Planning Department]*

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 18-041. First reading and schedule a public hearing on the proposed amendments to Chapter 601 – the Traffic Ordinance, Section 25.A.1 to eliminate year round parking along Black Point Road.

Order No. 18-042. Act on the request from the Appointments/Negotiations Committee, to approve the recommendations to the various committees/boards.

- 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 – JUNE 6, 2018
REGULAR MEETING – 7:00 P.M.

Order No. 18-030. The second reading on the proposed amendments to Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions and Section XVII.B. Haigis Parkway District, HP – B Permitted Uses, Conventional and Planned Developments will be scheduled for Wednesday, June 20, 2018.
[Planning Department]

Planning Department

Ought to Pass

Sponsor

Recommendation

04/18/18 - Vote: 6 Yeas.
[Councilor Hayes Absent]

First Reading/Vote

06/06/18

Public Hearing

06/20/18

Second Reading/Final Approval/Vote

To: Town Council
Cc: Tom Hall, Town Manager
From: Jay Chace, Planning Director & Karen Martin, SEDCO Director
Date: April 12, 2018

RE: Amendments to Chapter 405, Zoning Ordinance: Definitions & Haigis Parkway District sections

At the April 6th meeting of the Long Range Planning Committee (LRPC), Planning and SEDCO staff presented the following proposed amendments to Chapter 405, Zoning Ordinance, for consideration. After deliberation the Committee favorably recommended the modification be presented to Town Council for further consideration and adoption.

SEDCO and Planning staff have been experiencing increased interest in the development of so called “flex-space” in town (uses which typically are classified as “Research, Development and Light Industrial”, “High Technology Facilities”, “Small Batch Processing Facilities”, and “Food Processing Facilities” in our Zoning Ordinance.) The projects are designed with a mix of areas including office, showroom or retail area, production or assembly area, and areas for the storage of materials and goods produced on-site. The space is often designed to be interchangeable between the activities (“flexible”) on an as needed basis. As point of reference the types of activities and commercial uses are similar to projects built along Mussey Rd. such as Creative Imaging and the “Siemens” buildings (64-68 Mussey Rd.).

In the Haigis Parkway (HP) District developers have asked questions about the ability of the users to store their materials and/or finished products on their site. The question pertains to existing ordinance language in the “Permitted Uses” provisions of the Haigis Parkway District. The provision in question is, *“10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use”* (underline added for emphasis).

The issue that staff has noted in discussion with potential developers in the Haigis Parkway District is what is meant by “warehousing” and the town’s established policy for considering the language. The interpretation results in limitations on storage of goods for users in the HP zone which is not otherwise required in any other districts. Basically if a company needed more than 50% of its space for storage of product or components associated with their business, then the use has not been allowed in the HP District. This is not the case for the other commercial districts such as B3.

Whereas warehousing and distribution are uses permitted in the Industrial District it would seem the principal rationale for permitting these uses only on a limited basis in the HP district would be to moderate the amount of truck traffic that is typically associated with the activities. However, as noted the language has had the impact of limiting users which might otherwise be considered consistent with the intended uses within the HP district.

As staff has explored the issue and relationship within the context of the Zoning Ordinance at large it has been noted that the town does not currently have a definition for “warehousing” or “distribution” which are permitted uses in the Industrial and Light Industrial districts. In considering the issue, staff and the LRPC determined that ancillary storage of goods and products related to permitted uses should be

treated equally in the HP. To address this issue it was identified that creating definitions of “warehousing” and “distribution” would provide greater clarity in terms of the use types that are already permitted in the town and to eliminate any potential conflicts or confusion between the differences of accessory storage and warehousing.

To address the issues identified above, Staff and LRPC offers the following amendments to the ordinance:

- 1) Delete from the Haigis Parkway District: ~~“10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use”.~~
- 2) Add definitions for “Warehouse” and “Distribution” that distinguishes accessory storage from warehousing.

Distribution:

A structure or building used primarily for the shipping, receiving and storing of finished goods and articles where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Warehousing and Storage:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

Chapter 405 – ZONING ORDINANCE

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions, is amended as follows:

Distribution:

A structure or building used primarily for the shipping, receiving and storing of finished goods and articles where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Warehousing and Storage:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XVIII.B. HAIGIS PARKWAY DISTRICT, HP, is amended as follows:

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS NON-RESIDENTIAL USES

~~10. — Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use~~

To: Town Council
Cc: Tom Hall, Town Manager
From: Jay Chace, Planning Director & Karen Martin, SEDCO Director
Date: April 12, 2018

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SEDCO and Planning staff have been experiencing increased interest in the development of so called “flex-space” in town (uses which typically are classified as “Research, Development and Light Industrial”, “High Technology Facilities”, “Small Batch Processing Facilities”, and “Food Processing Facilities” in our Zoning Ordinance.) The projects are designed with a mix of areas including office, showroom or retail area, production or assembly area, and areas for the storage of materials and goods produced on-site. The space is often designed to be interchangeable between the activities (“flexible”) on an as needed basis. As point of reference the types of activities and commercial uses are similar to projects built along Mussey Rd. such as Creative Imaging and the “Siemens” buildings (64-68 Mussey Rd.).

In the Haigis Parkway (HP) District developers have asked questions about the ability of the users to store their materials and/or finished products on their site. The question pertains to existing ordinance language in the “Permitted Uses” provisions of the Haigis Parkway District. The provision in question is, *“10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use”* (underline added for emphasis).

The issue that staff has noted in discussion with potential developers in the Haigis Parkway District is what is meant by “warehousing” and the town’s established policy for considering the language. The interpretation results in limitations on storage of goods for users in the HP zone which is not otherwise required in any other districts. Basically if a company needed more than 50% of its space for storage of product or components associated with their business, then the use has not been allowed in the HP District. This is not the case for the other commercial districts such as B3.

Whereas warehousing and distribution are uses permitted in the Industrial District it would seem the principal rationale for permitting these uses only on a limited basis in the HP district would be to moderate the amount of truck traffic that is typically associated with the activities. However, as noted the language has had the impact of limiting users which might otherwise be considered consistent with the intended uses within the HP district.

As staff has explored the issue and relationship within the context of the Zoning Ordinance at large it has been noted that the town does not currently have a definition for “warehousing” or “distribution” which are permitted uses in the Industrial and Light Industrial districts. In considering the issue, staff and the LRPC determined that ancillary storage of goods and products related to permitted uses should be

treated equally in the HP. To address this issue it was identified that creating definitions of “warehousing” and “distribution” would provide greater clarity in terms of the use types that are already permitted in the town and to eliminate any potential conflicts or confusion between the differences of accessory storage and warehousing.

To address the issues identified above, Staff and LRPC offers the following amendments to the ordinance:

- 1) Delete from the Haigis Parkway District: ~~“10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use”.~~
- 2) Add definitions for “Warehouse” and “Distribution” that distinguishes accessory storage from warehousing.

Distribution:

A structure or building used primarily for the shipping, receiving and storing of finished goods and articles where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Warehousing and Storage:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

Chapter 405 – ZONING ORDINANCE

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Distribution:

A structure or building used primarily for the shipping, receiving and storing of finished goods and articles where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Warehousing and Storage:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XVIII.B. HAIGIS PARKWAY DISTRICT, HP, is amended as follows:

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS NON-RESIDENTIAL USES

~~10. — Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use~~

To: Town Council
Cc: Tom Hall, Town Manager
From: Jay Chace, Planning Director & Karen Martin, SEDCO Director
Date: June 1, 2018

**RE: Amendments to Chapter 405, Zoning Ordinance: Definitions & Haigis Parkway District sections
Supplemental Memo to the April 12, 2018 Memo**

This memorandum is to serve as supplemental information to the staff memo date April 12 which the Council received and consider at your April 18th meeting for the first reading of the proposed changes to the Zoning Ordinance for amendments to the Haigis Parkway District and Definitions sections.

Background of the proposed amendments:

In the Haigis Parkway (HP) District the current provisions are very prescriptive in terms of the ability of business to store their materials and/or finished products on their site. The issue pertains to existing ordinance language under the "Permitted Uses" provisions of the Haigis Parkway District. The provision in question is, *"10. Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use" (underline added for emphasis).*

The application of this provision results in limitations on storage of goods for businesses in the HP zone which is not otherwise required in other districts. Basically if a company needed more than 50% of its space for storage of product or components associated with their business, then the use has not been allowed in the HP District. This is not the case for the other commercial districts, such as B3, where such activity is considered an "accessory use" (a term defined in our ordinance).

To address the issues identified above, Staff and LRPC offered amendments to the Zoning Ordinance which would: a) eliminate the "Warehousing" provision from the Permitted Uses in the HP District, thereby treating accessory storage of materials in the HP similarly to other districts in town and; b) add definitions for "Warehouse" and "Distribution" to clear differentiate accessory storage from these principal, permitted uses types which are only allowed in the Industrial and Light Industrial districts.

Changes subsequent to first reading:

At both the Planning Board public hearing and Council first reading Staff was asked to refine the proposed language to clarify the definitions of Distribution and Warehousing. Working with LRPC staff is pleased to offer the following modifications to the proposed amendments.

Items highlighted below denoted changes recommended by LRPC from materials presented at first reading.

*****Proposed changes from 1st reading materials are highlighted*****

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section VI. Definitions, is amended as follows:

Distribution Facility:

A structure or building used primarily for the receiving and shipping ~~receiving and storing~~ of finished goods and articles where goods are received and/or stored for and redirected for delivery to the ultimate customer at remote locations.

Warehousing Facility and storage:

A structure or building where goods or materials are stored specifically for distribution to other sites or locations.

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XVIII.B. HAIGIS PARKWAY DISTRICT, HP, is amended as follows:

B. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS NON-RESIDENTIAL USES

10. ~~Warehousing or wholesale distribution accessory to and located in the same building with a permitted principal use, provided that the floor area of the warehousing and/or wholesale distribution does not exceed 50% of the floor area of the principal use~~

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XXI. INDUSTRIAL DISTRICT-I, is amended as follows:

B. PERMITTED USES

5. Warehousing Facility and storage

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 405 - the Zoning Ordinance of the Town of Scarborough, Maine Section XXI.B LIGHT INDUSTRIAL DISTRICT-I, is amended as follows:

B. PERMITTED USES

13. Warehousing Facility and storage

*****Proposed changes from 1st reading materials are highlighted*****

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 6, 2018
REGULAR MEETING – 7:00 P.M.

Order No. 18-041. Move approval of the first reading on the proposed amendments to Chapter 601 – the Traffic Ordinance, Section 25.A.1 to eliminate year round parking along Black Point Road and schedule a public hearing for Wednesday, June 20, 2018.

Ordinance Committee

Ought to Pass

Sponsor

Recommendation

06/06/18 Vote:

First Reading/Vote

06/20/18

Public Hearing

Second Reading/Final Approval/Vote

Chapter 601- the Traffic Ordinance

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendment to Chapter 601 – the Traffic Ordinance, of the Town of Scarborough, Maine, be and hereby amended as follows:

Section 25. Parking Restrictions.

A. PARKING RESTRICTIONS

I. NO PARKING AT ANY TIME.

No person shall park a vehicle in any of the following places except when necessary to avoid conflict with other traffic or in compliance with direction of a police officer or authorized person or traffic control device. [Amended 07/16/14]

- (1) No all-night parking upon any street (year round) between the hours of 2 A.M. and 6 A.M.
- (2) Upon the Pleasant Hill Road from U.S. Route One to the Rigby Road.
- (3) Upon the westerly side of the Willowdale Road from U.S. Route One to the end of the Town right-of-way. (Parking permitted on the easterly side).
- (4) Upon the Black Point Road from the Old Neck Road to Kirkwood Road. No parking on the Black Point Road from Ferry Road to the end of the Public Way at Prouts Neck. [Amended 11/16/94]
- (5) Upon the Broadturn Road within 50' of U.S. Route One to end.
- (6) Upon the Pine Point Road (Route #9) within 50' of U.S. Route One.
- (7) Upon U.S. Route One from the South Portland line to the Saco line (both sides).
- (8) No parking on the northerly side of Southgate Road for a distance of not less than 200 feet from the intersection of U.S. Route One. No parking on the southerly side of Southgate Road for a distance of not less than 60 feet from the intersection of U.S. Route One.
- (9) Upon Pillsbury Drive (entire length).
- (10) East Grand Avenue (east side) one parking space in front of 19 East Grand Avenue formerly; Colony Motel, no parking. [Adopted 10/6/76]
- (11) Avenue One Extension (entire length – from King Street to the ocean). [Amended 6/7/89] [Amended 07/16/14]
- (12) Upon Douglas Circle (from Pine Point Road to a point fifty feet beyond the start of the circle) both sides of the road. [Amended 08/01/90]
- (13) On Elmwood Avenue from Greenacres Lane to the Dead End by Sewer Pumping Station. [Amended 08/01/90]
- (14) Eastern Road (on the southerly side only, from Route 207 to the east, entire length. [Amended August 1, 1990]
- (15) Orchard Street (upon the southerly side only) from U.S. Route 1 to Carriage Way. [Amended 08/18/04]
- (16) Upon the southerly side (ocean side) the entire length of Eagles Nest Drive. [Amended 09/07/04]
- (17) No parking along Bayview Avenue from Houghton Street to Pearl Street. (Adopted J01/20/10)
- (18) No parking on north side of Gorham Road from 183 Gorham Road to the intersection of Gorham Road and Spring Street at number 209 and on the south side of Gorham Road from the westerly end of the stockade fence fronting on 200 Gorham Road, easterly for a distance of 50 yards. [amended 12/21/17]
- (19) Within 50 feet of the southwest most corner of the entrance to or within 50 feet of the northeast most corner of the exit to the Scarborough Beach State Park located at 418 Black Point Road.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JUNE 6, 2018
REGULAR MEETING – 7:00 P.M.

Order No. 18-042. Move approval on the request from the Appointments/Negotiations Committee, to approve the recommendations to the various committees/boards.

Appointments/Negotiations Committee

Ought to Pass

Sponsor

Recommendation

06/06/18 Vote:

First Reading/Vote

N/A

Public Hearing

N/A

Second Reading/Final Approval/Vote