

MINUTES
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – JULY 16, 2008
REGULAR MEETING – 7:30 P.M.

Item 1. Call to Order. Chairman Messer called the regular meeting of the Scarborough Town Council to order at 7:30 p.m.

Item 2. Pledge of Allegiance.

Item 3. Roll Call. Roll was called by Tracey O’Roak, Deputy Town Clerk. Ronald W. Owens, Town Manager, was also present.

Ronald D. Ahlquist, Vice Chair (Absent)	Michael J. Wood
Carol S. Rancourt	Judith L. Roy
Richard J. Sullivan, Jr.	Sylvia J. Most
Jeffrey A. Messer, Chair	

Item 4. Minutes: June 3, 2008 Special Meeting, June 4, 2008 Regular Meeting, June 18, 2008 Special Meeting and June 18, 2008 Regular Meeting. Motion by Chairman Messer, seconded by Councillor Rancourt to move approval of the minutes of the June 3, 2008, Special Meeting.

Vote: 6 yeas.

Motion by Chairman Messer, seconded by Councillor Wood to move approval of the minutes of the June 4, 2008, Regular Meeting.

Vote: 6 yeas.

Motion by Chairman Messer, seconded by Councillor Roy to move approval of the minutes of the June 18, 2008, Special Meeting.

Vote: 6 yeas.

Motion by Chairman Messer, seconded by Councillor Roy to move approval of the minutes of the June 18, 2008, Regular Meeting.

Vote: 6 yeas.

Item 5. Items to be signed: a. Treasurer’s Warrants. Treasurer’s warrants were signed during the meeting.

Order No. 08-83, 7:30 p.m. Public Hearing on the proposed amendments to Chapter 901, Garbage and Recycling Collection and Disposal Ordinance. Chairman Messer opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:35 p.m. The second reading will be held on Wednesday, August 20, 2008.

Order No. 08-90, 7:30 p.m. Public Hearing on the following renewal request for a Liquor License from UNC, Inc., d/b/a Spurwink Country Kitchen, located at 150 Spurwink Road and D&D Lobster, Inc., d/b/a Ken’s Place, located at 207 Pine Point Road. Chairman Messer opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:36 p.m.

Motion by Chairman Messer, seconded by Councillor Most, to move approval of the following renewal request for a Liquor License: UNC, Inc., d/b/a Spurwink Country Kitchen, located at 150 Spurwink Road and D&D Lobster, Inc., d/b/a Ken's Place, located at 207 Pine Point Road.

Vote: 6 yeas.

Order No. 08-91, 7:30 p.m. Public Hearing on the new request for a Combined Massage Establishment/Massage Therapist License for Darlene M. York-Day doing business at Nirvana Skin Wellness Center, located at 253 U.S. Route One. Chairman Messer opened the public hearing. As there were no comments either for or against, the hearing was closed at 7:37 p.m.

Motion by Councillor Roy, seconded by Councillor Most to move approval on the new request for a Combined Massage Establishment/Massage Therapist License for Darlene M. York-Day doing business at Nirvana Skin Wellness Center, located at 253 U.S. Route One.

Vote: 6 yeas.

Resolution No. 08-12. Recognition of the 350th Anniversary Committee. Motion by Councillor Rancourt, seconded by Chairman Messer, to move approval of Resolution No. 08-12, in recognition of the 350th Anniversary Committee, as follows:

RESOLUTION NO. 08-12

RECOGNITION TO THE 350TH ANNIVERSARY COMMITTEE

BE IT RESOLVED, by the Council of the Town of Scarborough, Maine, in Town Council assembled, that,

WHEREAS, from time to time the extensive contributions to the Town of Scarborough by a group of individuals are so outstanding as to warrant special recognition; and,

WHEREAS, the Scarborough Town Council would like to thank the members of the 350th Anniversary Committee for their time and efforts for bringing forth a celebration that was enjoyed by Scarborough citizens as well as citizens from far and wide; and,

WHEREAS, the Committee developed and presented to the town an anniversary logo and theme of "Linking the past to the present"; and,

WHEREAS, the Committee created Scarborough at 350: Linking the Past to the Present, a book that is the most comprehensive history of the Town ever assembled and an original historical map of the community which now hangs in Town Hall; and,

WHEREAS, the Committee also presented the largest ever parade in town; an All-Class Reunion and a full program of events that contributed to the theme of linking the past to the present; and,

WHEREAS, the Committee raised over \$120,000 through fundraisers and sponsorships to enable all activities and entertainment during the 350th Anniversary weekend to be free for all participants; and,

WHEREAS, the Scarborough Town Council would like to acknowledge the work of all town departments, including Public Safety, Public Works, Community Services, Finance, SEDCO, the Library and the Town Clerk's office, Ron Owens, the Scarborough Town Manager, and the following members of the 350th Anniversary Committee:

Annalee Rosenblatt, Chair
Judi Clancy, Event Planner

Alan Cardinal, Vice Chair
Patricia Dunn, Secretary/Treasurer

David Dedian
Johnna Dionne
Margaret Ellen Dyer
Rebecca Hauk
Hannah Libby
John McDonough
Helene Plourde
Carol Rancourt – Scarborough Town Council
Dale Temm

Brian Dell'Olio
Lisa Downing
Susan Higgins
Yolande [Tody] Justice
Mary Jo Marquis
Sylvia Most, Scarborough Town Council
Indhra Rajashekar
Susan Snow – 350th Historian
Karen Vachon

NOW, THEREFORE, BE IT RESOLVED, by the Scarborough Town Council, in Town Council assembled, that the Town of Scarborough does hereby recognize and honor those involved in the 350th Anniversary Celebration for contributions to the Town of Scarborough

Signed and dated this the 16th day of July, 2008, on behalf of the Scarborough Town Council and the Town Manager of Scarborough, Maine by Jeffrey A. Messer, Council Chair and Attested by Tracey O'Roak, Deputy Town Clerk.

Vote: 6 yeas.

OLD BUSINESS:

Order No. 08-74. Second Reading on the proposed amendment to Chapter 413, the Growth Management Ordinance, as proposed by the CPIC Committee. Motion by Chairman Messer, seconded by Councillor Most to move approval of the second reading on the proposed amendment to Chapter 413, the Growth Management Ordinance, as proposed by the CPIC Committee, effective January 1, 2009.

Motion by Councillor Most, seconded by Chairman Messer to move approval to amend the main motion to add the following language to Section 7 (G) (1) The Code Enforcement Officer may issue up to five (5) growth permits from the reserve pool each calendar year for detached single family dwellings that are located on lots that are not part of a subdivision provided that there are no growth permits available from the annual allocation, as follows:

WHEREAS, the Town's adopted Comprehensive Plan proposes that population growth does not out pace the Town's ability to provide appropriate facilities,

AND WHEREAS, the Town's adopted Comprehensive Plan proposes to allow a larger percentage of residential growth in areas with access to public facilities,

AND WHEREAS, amendments to the Growth Management Ordinance have been created to accomplish this,

AND WHEREAS, the Town desires to make the changes in the Growth Management Ordinance necessary to bring it into conformance with the adopted Comprehensive Plan,

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 413, the Town of Scarborough Growth Management Ordinance, is amended as follows:

**CHAPTER 413
TOWN OF SCARBOROUGH
GROWTH MANAGEMENT ORDINANCE**

1. TITLE

This ordinance shall be known as the “Growth Management Ordinance of the Town of Scarborough, Maine” and shall be referred to herein as the “Ordinance.”

2. LEGAL AUTHORITY

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution and 30-A M.R.S.A. § 3001, ~~and~~ 30-A M.R.S.A. § 4323, and 30-A M.R.S.A. § 4360.

3. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Scarborough through placing reasonable and appropriate limitations on residential development in accordance with the 2006 Update of the Comprehensive Plan, more specifically:

- a. to provide for the immediate housing needs of the existing residents of the Town of Scarborough.
- b. to ensure fairness in the allocation of building permits.
- c. to plan for continued residential population growth in Scarborough which will be not limited to, education, public safety, transportation infrastructure, waste disposal and health services.
- d. to avoid circumstances in which the rapid development of new residences, potentially housing many families with school age children, would outpace the Town’s capability to expand its schools and other necessary services soon enough to avoid serious school overcrowding and a significant reduction in the level and quality of other municipal services.

4. DEFINITIONS

Terms not specifically defined in this Ordinance shall have the same meaning as in the Zoning Ordinance.

- A. Affordable housing:
A dwelling unit that may be purchased or leased by a household with low or moderate income. As used in this ordinance, the term “affordable housing” has the same meaning as in the Zoning Ordinance 30-A M.R.S.A. §5002(2) and the Code of Maine Rules, State Planning Office, Chapter 100: Affordable Housing Definition Rule. (November 17, 2004 Effective January 1, 2005)
- B. Building Inspector:
Code Enforcement Officer.
- C. Building permit:
A permit issued by the Building Inspector pursuant to Section IV(D) of the Zoning Ordinance.
- D. Code Enforcement Officer:
The Town of Scarborough Code Enforcement Officer, an assistant code enforcement officer or an authorized agent of either.

- E. Dwelling unit:
A dwelling unit as defined in Section VI of the Zoning Ordinance.
- ~~F. Elderly household:
A household which includes at least one elderly person and no occupant less than 55 years of age other than a fulltime caregiver to or a spouse or companion of the elderly person(s).~~
- ~~G. Elderly housing:
A development consisting of three or more dwelling units, all of which are restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy by elderly households only. (November 17, 2004 Effective January 1, 2005)~~
- ~~H. Elderly person:
A person aged 55 older.~~
- F.I. Family gift lot:
A lot which is not within a subdivision and which has been created by a gift from a parent to a child (including an adopted child or stepchild) or from a child to a parent (including an adoptive parent or stepparent).
- G.J. Gift:
The conveyance of property for which the grantor receives no money, property or any other value as consideration for the conveyance.
- H.K. Growth permit:
A permit, issued in accordance with the provisions of this Ordinance, which allows the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Scarborough.
- L. Multiplex:
~~Multiplex: a~~ A multiplex dwelling as defined in Section VI of the Zoning Ordinance, except that, for purposes of this Ordinance only, the term multiplex includes two family dwellings in a subdivision which also contains multiplex buildings. (Amended 12/18/02)
- M. Subdivision:
A subdivision as defined in 30-A M.R.S.A. § 4401, as such may be amended from time to time, and approved by the Scarborough Planning Board pursuant to the Town of Scarborough Subdivision Regulations on or after August 18, 1971.
- N. Zoning ordinance:
The Zoning Ordinance of the Town of Scarborough, Maine, as such may be amended from time to time.

5. APPLICABILITY

Except as provided in Section 6 below, this Ordinance shall apply to the construction, creation or placement of any new dwelling unit within the Town of Scarborough.

6. EXEMPTIONS

This Ordinance shall not apply to:

- a. the repair, replacement, reconstruction or alteration of an existing dwelling unit.

- ~~b. a dwelling unit located within a development consisting of three or more dwelling units, all of which are restricted by recorded deed restriction or covenant and/or regulatory restriction to occupancy by elderly households only, and which was authorized by a contract zoning agreement approved prior to January 1, 2005. (amend November 17, 2004 Effective January 1, 2005)~~
- b. a dwelling unit on a family gift lot, provided that no person may obtain more than one building permit pursuant to this exemption during the time this ordinance is in effect.

7. ADMINISTRATION

A. Share of growth permit required per dwelling unit.

- 1) The creation of each new dwelling unit shall require one (1) growth permit except as provided for in 2.
- 2) If the dwelling unit is located in a two-family dwelling, multifamily dwelling, or mixed use building, the creation of a new dwelling unit shall require a fraction of a growth permit in the same proportion as the density requirement for the type and size of unit set forth in Section VII C. A. Residential Density of the Zoning Ordinance regardless of whether the density provision applies to the dwelling unit (For example, a unit that could be counted as half a dwelling unit for density purposes requires half of a growth permit).
- 3) If any dwelling unit that was constructed based upon receiving a fraction of a growth permit in accordance with 2) is subsequently expanded such that the dwelling unit after expansion would require a larger fraction of a growth permit, the owner shall obtain a fractional permit for the difference between the pre-and post expansion requirements.

B. Two sources of growth permits.

Growth permits are available from two sources, from an annual allocation of growth permits, and from a reserve pool of growth permits.

- 1) The number of growth permits allocated annually and the process for the issuance of growth permits from this annual allocation are set forth in subsections C, D, and E.
- 2) The operation of the reserve pool of growth permits is set forth in subsections F and G.

C. ~~Maximum number~~ Annual allocation of growth permits per calendar year.

- 1) Commencing on January 1, 2005, the maximum number of growth permits issued between January 1st and December 31st each year shall be one hundred thirty-five (135). Any growth permits from the annual allocation that are not issued in the calendar year shall expire and shall not be carried forward to the next year. ~~plus any growth permits remaining available at the end of the previous calendar year, except that remaining unissued growth permits for affordable housing shall not carry over from year to year.~~
- 2) During each calendar year, no more than fifty (50) growth permits shall be issued from the annual allocation for dwelling units located in the Rural Residence and Farming District R-F and the Rural Residence, Farming, and Manufactured Housing District R-F-M west of the Maine Turnpike in the area designated as a Limited Growth Area in the 2006 Update of the Comprehensive Plan.

~~Until October 1st each year: (Amended November 17, 2004 Effective January 1, 2005~~

- ~~• no more than 90 growth permits shall be issued for lots within subdivisions, with 5 of those 90 growth permits allocated to multiplex only,~~
- ~~• no more than 20 growth permits shall be issued for lots not within subdivisions,~~
- ~~• no more than 20 growth permits shall be issued for affordable housing, and~~
- ~~• no more than 5 growth permits shall be issued for elderly housing.~~

~~Between October 1st and December 31st of each year, any growth permits not yet issued, up to the maximum number established by subparagraph 1 above, may be issued without regard to whether the lot for which application is made is within a subdivision or not within a subdivision; but those allocated for affordable housing may be issued for affordable housing only, and those allocated for elderly housing may be issued for elderly housing only. (amended 12/18/02)~~

- 3) During each calendar year, no more than twenty percent (20%) of the growth permits available from the annual allocation shall be issued for dwelling units within any one subdivision or other development.

D.B. Application procedure for growth permits.

- 1) A growth permit application must be completed and signed by a record owner of the lot for which the growth permit is sought, on a Growth Permit Application form provided by the Code Enforcement Officer.
- 2) The growth permit application shall be accompanied by: (i) a nonrefundable application fee as specified in the Schedule of License, Permit and Application Fees established by order of the Town Council, which shall be credited toward the building permit fee if the growth permit is replaced by a building permit under Section 7(E)(2) below; (ii) a deed or other instrument establishing the applicant's ownership interest in the property; and (iii) either a copy of the completed subsurface wastewater disposal system application (Form HHE-200) for the lot for which the growth permit application is sought or evidence that the lot will be served by public sewer.
- 3) The growth permit application shall be submitted to the Code Enforcement Officer either by mail or in hand during normal business hours at the Town Office. The Code Enforcement Officer shall endorse each application with the date and time of receipt. In the event two or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.
- 4) The Code Enforcement Officer shall review growth permit applications for completeness and accuracy in the order in which they are received. If an application is incomplete, the Code Enforcement Officer shall notify the applicant of the additional information or material needed to complete the application and shall resume review of the application only when such additional information or materials are provided. Once the Code Enforcement Officer determines that an application is complete, he shall approve the application as complete, endorsing the date and time of such approval on the application.

- 5) A separate growth permit application is required for each dwelling unit ~~(or each eight multiplex dwelling units or each four elderly housing dwelling units).~~
- 6) No growth permit application shall be accepted by the Code Enforcement Officer until the effective date of this Ordinance.

E C. Issuance procedure for growth permits from the annual allocation.

- 1) Growth permits from the annual allocation shall be issued on a first-come, first-served basis according to the dates and times the applications are approved as complete by the Code Enforcement Officer under Section 7(D)(4) above. If a growth permit is available under Section 7(C A) on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue the growth permit by endorsing the date of issuance on the application and mailing a copy to the applicant at the address provided by the applicant on the application. If no growth permit is available from the annual allocation at the time the application is approved as complete, the application shall remain pending, and as growth permits subsequently become available, the Code Enforcement Officer shall issue permits in the order in which the applications were approved as complete, mailing the issued permits to the applicants as provided above.
- 2) Once issued, a growth permit must be replaced by a building permit for construction, placement or creation of the dwelling unit or units authorized by the growth permit on the specific lot for which the growth permit was issued, no later than 180 days after the date of issuance. A growth permit which is not replaced by a building permit within such 180 day period shall expire, except that the Code Enforcement Officer may approve one extension for one additional period of 90 days if a request for the extension is made prior to the expiration of the original 180 day period. If a growth permit expires, a subsequent application for a growth permit on the same lot shall be processed and ranked as a new application pursuant to Section 7(D B) above. Expired growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.
- 3) At the end of each calendar year, ~~-(i) if the number of approved applications for growth permits~~ from the annual allocation exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete; ~~(ii) if the number of available growth permits exceeds the number of growth permits issued, such unissued growth permits shall be added to the maximum number of growth permits for multiplex or elderly housing shall be added to the number of growth permits allocated to multiplex or elderly housing, respectively, under section 7.A.2 above and shall be carried forward from year to year until issued. Unissued growth permits for affordable housing shall not be carried forward from year to year.~~
- 4) ~~At any time prior to the issuance of a building permit or the expiration of a growth permit, the holder of a growth permit may surrender the permit and receive a refund of the growth permit fee. Surrendered growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.~~

F. Establishment of the reserve pool of growth permits.

- 1) Un-issued growth permits as of December 31, 2007 that were carried forward to 2008 shall be placed in a reserve pool and shall be allocated in accordance with the provisions of subsection G below.
- 2) Each growth permit for a single-family dwelling that was carried forward to 2008 shall be counted as one growth permit under the amended system.
- 3) Each growth permit for a multi-plex that was carried forward to 2008 shall be counted as five (5) growth permits under the amended system.
- 4) The growth permits in the reserve pool shall remain available until used and un-issued permits shall carry over from year-to-year.
- 5) Twenty (20) of the growth permits in the reserve pool at the beginning of each calendar year shall be set aside for affordable housing units and may be used during the year as set forth in subsection G. If any of these growth permits are not used during the year they shall not be carried forward but the affordable housing set aside for the following year shall be reset at twenty (20) growth permits.
- 6) The Town Council may add growth permits to the reserve pool by formal vote of the Council following public hearing as part of its periodic review of the Ordinance or if the number of units in the reserve pool drops below fifty (50) or if the available growth permits are not adequate to allow the construction of a project in accordance with subsection G below.
- 7) If the number of growth permits in the reserve pool at the end of a calendar year is less than twenty (20), additional growth permits shall be automatically be added to the pool so that a minimum of twenty (20) growth permits are available and these twenty (20) permits shall be set aside for affordable housing units.

G. Allocation of growth permits from the reserve pool.

- 1) The Code Enforcement Officer may issue up to five (5) growth permits from the reserve pool each calendar year for detached single family dwellings that are located on lots that are not part of a subdivision provided that there are no growth permits available from the annual allocation.
- 2) Except as provided in 1 above, the Planning Board shall be responsible for determining if a subdivision or other development is eligible for the allocation of growth permits from the reserve pool.
- 3) A property owner or his/her representative may request that the project be designated as eligible to receive growth permits from the reserve pool at the time of subdivision or site plan review for new or expanded projects. An approved subdivision or project as of the date of adoption of this provision may also be determined to be eligible to receive growth permits from the reserve pool. This request shall be in writing on forms provided by the Code Enforcement Officer and shall demonstrate how the project conforms to the requirements of this subsection.
- 4) If the Planning Board determines that a subdivision or other development is eligible to receive growth permits from the reserve pool, it shall notify the Code Enforcement Officer in writing of this determination.
- 5) The Planning Board shall determine that a subdivision or other development is eligible to receive growth permits from the reserve pool only if it finds that at least one of the following are met:

- a) The dwelling units to which the growth permits may be allocated are part of a contract zone in which the provisions of the zoning provide for some or all of the growth permits needed for the project to come from the reserve pool.
 - b) The dwelling units to which the growth permits may be allocated are part of an affordable housing project in which at least fifty (50) percent of the dwelling units are affordable housing.
 - c) The dwelling units to which the growth permits may be allocated are part of a housing project or mixed-use development that will use either the affordable housing density bonus provisions or the development transfer provisions of the Zoning Ordinance.
 - d) The dwelling units to which the growth permits may be allocated are part of an approved subdivision or other project as of the date of adoption of this provision and will be located in two-family, multifamily, or mixed-use buildings.
- 6) The growth permits in the reserve pool are intended to allow the construction of housing that is not easily accommodated within the annual allocation or that could unreasonably reduce the availability of growth permits to other property owners because of the scale or type of development. Therefore, in considering requests for the eligibility of projects to receive growth permits from the reserve pool, the Planning Board shall approve such requests only if it finds that the use of growth permits from the annual allocation (see subsection C above) may not permit the dwelling units to be constructed in a timely and efficient manner or that the use of the growth permits from the annual allocation may unreasonably reduce the availability of growth permits to other property owners due to the scale of the project and the number of permits available through the annual allocation.
- 7) If a project is determine to be eligible to receive growth permits from the reserve pool, the record owner of the property shall apply for a growth permit for each dwelling unit in accordance with subsection D above.
- 8) The Code Enforcement Officer shall process the application for a growth permit(s) in accordance with subsection E above except as follows:
- a) If no growth permits from the annual allocation are available at the time of application, the Code Enforcement Officer shall issue the growth permits from the reserve pool.
 - b) If the subdivision or development has not previously received twenty percent (20%) of the available growth permits from the annual allocation during the current calendar year, the Code Enforcement Officer shall issue the growth permits from the annual allocation until the twenty percent (20%) limit is reached and any additional growth permits shall be issued from the reserve pool.
 - c) The issuance of growth permits for a subdivision or other project that is subject to contract zoning shall occur in accordance with these provisions unless the contract zoning contains specific alternative provisions. In this case, the Code Enforcement Officer shall issue the growth permit in accordance with the terms of the contract zone.
 - d) If the subdivision or other project utilizing growth permits from the reserve pool is an affordable housing project or includes affordable

housing units, the growth permits for the affordable units shall first be taken from the twenty (20) permit set aside for affordable housing. If the growth permits available in the affordable housing set aside are not adequate to allow construction of the project, the balance of the growth permits shall be taken from the permits in the reserve pool that are not set aside for affordable housing.

H D. Transferability.

Growth permits are issued only for the specific lot identified in the growth permit application. A growth permit may be transferred to a new owner of the lot, provided notice of the transfer of ownership is given in writing to the Code Enforcement Officer before the growth permit is replaced by a building permit. Transfer of ownership does not change the date of issuance or the ranking of an issued growth permit. An application for a growth permit is not transferable.

8. PERIODIC REVIEW OF ORDINANCE

~~Prior to November 17, 2007, t~~The Town Council shall conduct a periodic review of this Ordinance to evaluate whether the rate of residential growth remains consistent with the Town's ability to absorb the growth, and shall determine whether the number of growth permits available under this Ordinance should be adjusted by amendment to this Ordinance. The Town Council shall conduct a review at least once every three (3) years. The Town Council may seek assistance or advice from the Planning Board in connection with such review. ~~If the Town Council does not conduct such review, this Ordinance shall expire on December 31, 2007.~~ This section does not limit the Council's authority to review and/or amend the Ordinance at any other time.

9. VIOLATION, PENALTIES AND ENFORCEMENT

Any person who constructs, creates or places a dwelling unit within the Town of Scarborough without a growth permit required by this Ordinance or who owns or occupies a dwelling unit constructed, created or placed within the Town of Scarborough without a growth permit required by this Ordinance commits a civil violation and is subject to the fines, penalties and remedies provided in 30-A M.R.S.A. § 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Town of Scarborough Code Enforcement Officer in the manner provided for enforcement of violations of the Zoning Ordinance under Section IV, subsections (A) and (B) of the Zoning Ordinance.

10. APPEALS

An applicant for a growth permit who is adversely affected by a decision or action of the Code Enforcement Officer in the administration of this Ordinance may appeal to the Scarborough Board of Appeals under the provisions governing administrative appeals in Section 5 of the Zoning Ordinance. Decisions of the Code Enforcement Officer to approve a growth permit application as complete or to issue a growth permit are not appealable.

An applicant requesting that a subdivision or other development be determined to be eligible to receive growth permits from the reserve pool who is adversely affected by a decision of the Planning Board may appeal to Superior Court in accordance the Maine Rules of Civil Procedure, Rule 80B. Actions of the Planning Board with respect to this Ordinance are not appealable to the Scarborough Board of Appeals.

Be it further ordained, that these amendments shall take effect on January 1, 2009. Any growth permit applications submitted and any growth permits issued prior to January 1, 2009 shall be governed by the ordinance provisions in effect prior to January 1, 2009.

Vote: 6 yeas.

Order No. 08-92. First reading and refer to the Planning Board the proposed amendments to Chapter 405, the Zoning Ordinance, Section II(I)(4)(c)(iii) regarding the recording of the contract zoning agreements. Motion by Chairman Messer, seconded by Councillor Most to move approval of the first reading and refer to the Planning Board the proposed amendments to Chapter 405, the Zoning Ordinance, Section II(I)(4)(c)(iii) regarding the recording of the contract zoning agreements and schedule a public hearing and second reading for the next regular meeting following the filing of the recommendations of the Planning Board.

**AMENDMENT TO SCARBOROUGH ZONING ORDINANCE
REGARDING RECORDING OF CONTRACT ZONING AGREEMENTS**

Be it hereby ordained by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section II(I)(4)(c)(iii) of the Zoning Ordinance of the Town of Scarborough, Maine is amended by adding the underscored language and deleting the language in strikeover type, as shown below:

- iii. The contract zoning agreement approved by the Town Council shall be executed by the Town Manager or by such other Town officer as the Council may designate and recorded by the applicant in the Cumberland County Registry of Deeds. The agreement shall not take effect until it is recorded. If the agreement is not recorded ~~in the Registry of Deeds~~ within ~~30-90~~ days after the Town Council approves the request for rezoning, ~~then the approval shall become void and the rezoning shall not take effect, but the Town Council may extend the recording period if the request for extension is made prior to the expiration of the original 30 day period or of a subsequently granted extension~~ the Council, after giving the applicant notice and an opportunity to be heard, may rescind its approval of the agreement if the Council determines that changed circumstances warrant rescission. All contract zoning agreements approved and recorded prior to [insert date of passage of amendment] are hereby ratified, notwithstanding any different recording requirements in effect at the time of their approval.

Be it further ordained that Section II(I)(5)(c)(vii) of the Zoning Ordinance of the Town of Scarborough, Maine is amended by adding the underscored language and deleting the language in strikeover type, as shown below:

- (vii) The amendment to the contract zoning agreement approved by the Town Council shall be executed by the Town Manager or by such other Town officer as the Council may designate, and recorded by the applicant in the Cumberland County Registry of Deeds. The amendment shall not take effect until it is recorded. If the amendment to the contract zoning agreement is not recorded ~~in the Registry of Deeds~~ within ~~30-90~~ days after the Town Council approves the request, ~~then the approval shall become void, but the Town Council may extend the recording period if a request for extension is made prior to the expiration of the original 30 day period or of a subsequently granted extension~~ the Council, after giving the applicant notice and an opportunity to be heard, may rescind its approval of the amendment if the Council determines that changed circumstances warrant rescission. All contract zoning amendments approved and

recorded prior to [insert date of passage of amendment] are hereby ratified, notwithstanding any different recording requirements in effect at the time of their approval.

Vote: 6 yeas.

Order No. 08-93. First reading and schedule a public hearing and second reading on the proposed amendments to Chapter 406, the Subdivision Ordinance, Section 8, Final Plan Requirements and Procedures subsections 8:5 and 8:6. Motion by Chairman Messer, seconded by Councillor Roy to Move approval of the first reading on the proposed amendments to Chapter 406, the Subdivision Ordinance, Section 8, Final Plan Requirements and Procedures subsections 8:5 and 8:6 and schedule a public hearing for Wednesday, August 20, 2008.

AMENDMENT TO SCARBOROUGH SUBDIVISION ORDINANCE

Be it hereby ordained by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Section 8:5 of the Subdivision Ordinance of the Town of Scarborough, Maine is amended by adding the underscored language and deleting the language in strikeover type, as shown below:

The Board shall determine by vote whether to approve the Final Plan, approve the Final Plan with conditions or deny approval of the final plan. The Board's vote shall constitute the Board's decision and order on the subdivision application. The approval of a Final Plan shall be attested on the original plan on reproducible medium and three copies by the signatures of a legal majority of the members of the Board. Signing of the Final Plan may be deferred to a meeting occur subsequent to approval of the Plan, ~~but no later than 30 days after the Board's vote and does not require a meeting of the Board.~~ In addition, the subdivider shall provide a copy of the recording plan in digital format in compliance with the current specifications for placement in the Town's GIS database which is based on the Maine State Grid. Specifications are on file with the Town Planning Office.

Be it further ordained that Section 8:6 of the Subdivision Ordinance of the Town of Scarborough, Maine is amended by adding the underscored language and deleting the language in strikeover type, as shown below:

A Final Plan on reproducible medium shall be retained by the Board. The subdivider shall record the approved Final Plan with the Cumberland County Registry of Deeds within thirty ninety days after the date on which ~~the Plan is signed by~~ the Board votes to approve the subdivision. The Town Planner shall not release the attested final plan on reproducible medium to the subdivider for recording until the subdivider has provided the performance guarantee required by section 9 of this Ordinance, and all fees required under section 11 of this Ordinance. In addition, the Town Planner shall not release the attested final plan on reproducible medium for recording if the subdivider or an affiliate of the subdivider is in default on any performance guarantee on any other development within the Town or is in arrears on any fees owed to the Town of Scarborough in connection with any other development within the Town

Vote: 6 yeas.

Order No. 08-94. First reading and refer to the Planning Board the proposed amendments to Chapter 405, the Zoning Ordinance to establish a Running Hill Mixed Use District (RH). Dan Bacon, Town Planner, gave an overview of the proposed amendments.

Public comments were as follows:

- Harry White, 135 Running Hill Road, spoke against the proposed amendments;
- Dennis Dinsmore, 119 Running Hill Road, spoke against the proposed amendments;
- Dale Mulqueeney, 31 New Road, spoke against the proposed amendments and asked that New Road residents receive information sooner before the next meeting. They were only notified a few days before this meeting.

Motion by Chairman Messer, seconded by Councillor Most to move approval of the first reading and refer to the Planning Board the proposed amendments to Chapter 405, the Zoning Ordinance to establish a Running Hill Mixed Use District (RH) and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board.

AMENDMENTS TO THE ZONING ORDINANCE ESTABLISHING A RUNNING HILL MIXED USE DISTRICT (RH)

WHEREAS, the Town's adopted Comprehensive Plan proposes a new mixed use growth area in the Running Hill Road area of Scarborough;

AND WHEREAS, a RH District needs to be established to accomplish this,

AND WHEREAS, the Town desires to make the changes in the Zoning Ordinance necessary to bring it into conformance with the adopted Comprehensive Plan,

THEREFORE BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the Town of Scarborough Zoning Ordinance, is amended as follows:

Add a new Section XXXA. RUNNING HILL MIXED USE DISTRICT (RH) to read:

Section XXA. RUNNING HILL MIXED USE DISTRICT, RH

A. PURPOSE

To provide for and encourage the Running Hill area to develop as a high-quality, well-planned mixed use center. This district is intended to accommodate a mix of office, service, financial, research, small retail, and residential uses in an environment conducive to both pedestrians and motorists. Development is intended to be compact and interconnected with common spaces, enabling walk-ability, human activity and vibrancy as well as convenient and orderly vehicular access and circulation. Master planning for larger parcels will enable flexibility, creativity, open spaces, and an overall character for the development. The Running Hill Mixed Use District (RH) shall be considered a business district whenever this Ordinance distinguishes between types of districts.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsection I. of this district.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant's option.

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land, shall be reviewed as Planned Developments in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIII. Planned Development of this Ordinance.

3. New Parcels. Any parcel created after July 16, 2008 by dividing a larger parcel must be at least 5 acres in area and must be developed as a Planned Development.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES

The following residential uses are permitted in both conventional and planned developments:

1. Multifamily dwellings
2. Multiplex dwellings
3. Townhouses
4. Senior housing

MIXED USES

The following mixed uses are permitted in both conventional and planned developments:

5. Dwelling units in a mixed use building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV.(I) of this Ordinance
6. Live/Work Units
7. Retail sales and services establishments with less than 5,000 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services, if located in a mixed use building that includes other non-residential uses and/or residential uses
8. Restaurants with no drive-through service if located in a mixed use building that includes other non-residential uses and/or residential uses
9. Personal services if located in a mixed use building that includes other non-residential uses and/or residential uses

NON-RESIDENTIAL USES:

10. Professional offices
11. Business services and business offices
12. Financial, insurance and real estate offices
13. High technology facilities, subject to the performance standards of Section IX(M) of this Ordinance
14. Health clubs
15. Non-municipal government offices
16. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions
17. Funeral homes
18. Place of worship
19. Group day care homes, day care facilities, and nursery schools
20. Accessory uses (excluding outdoor storage)

- 21. Family day care homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
- 22. Municipal buildings and uses
- 23. Elementary and secondary schools
- 24. Libraries and museums

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

- 1. Adjunct Uses, Place of Worship
- 2. Public utility facilities
- 3. Residential and long-term care facilities for the ill, aged or disabled with no more than 20,000 square feet of floor area per unit of occupancy. If the facility includes dwelling units, then the regulations governing the particular type of dwelling shall apply
- 4. Telecommunication facility

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road; 50 for lots not abutting Running Hill Road	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting Running Hill Road; 50 for lots not abutting Running Hill Road	50

- 3. **Yard Standards** - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road	30 or the height of the building fronting Running Hill Road, whichever is greater	15 ^{1 & 2}
All other streets	10	15 ^{1 & 2}

¹When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

²When a site abuts a residential district the minimum yard shall be 100ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

3. Maximum Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
50%	85%	A building must be either a minimum of 2 stories or 30 feet in height over at least 50% of the building footprint	45 feet

The following space and bulk regulations are applicable to Planned Developments:

4. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road; for lots not abutting Running Hill Road the Planning Board shall determine the lot frontage under subsection I. of this district	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Running Hill Road; for lots not abutting Running Hill Road the Planning Board shall determine the lot frontage under subsection I. of this district	50

5. Yard Standards and Building Distance Requirements from Running Hill Road – The following minimum front yard standards apply in conjunction with subsection I. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road – Buildings 45 feet in height or less	30 or the height of the building fronting Running Hill Road, whichever is greater	15 ^{1 & 2}
Running Hill Road – Buildings greater than 45 feet in height (permitted only within the RH District on the north side of Running Hill Road)	Minimum Front Yard or Horizontal Distance (ft.) Buildings located on the north side of Running Hill Road shall be a minimum of 300’ from Running Hill Road, the exact location determined by the Planning Board under subsection I. of this district	50
All other streets	10	15 ^{1 & 2}

6. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
Determined by the Planning Board under subsection I. of this district	85%	A building must be either a minimum of 2 stories or 30 feet in height over at least 50% of the building footprint	45 feet on the south side of Running Hill Road; 60 feet if the building is located 300' or more from Running Hill Road and the building is approved by the Planning Board under subsection I. of this district

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions

Multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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2. Additional Residential Density Thru Development Transfer – A development may incorporate up to ten (10) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID of this Ordinance.

4. Additional Residential Density Thru Affordable Housing – A development may incorporate up to ten (10) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed ten (10) dwelling units per acre of net lot area beyond the maximum base residential density. If subsections F.2. and F.3. are both used, the additional dwelling units permitted under F.3. shall not also be subject to the development transfer provisions under F.2.

G. BUILDING ORIENTATION, STREETScape, ACCESS MANAGEMENT AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road, the streetscape of Running Hill Road, access management as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – Running Hill Road shall be a landscaped boulevard. A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road. The width of the landscaped buffer strip shall be a minimum of thirty (30) feet. Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor as a landscaped boulevard. Where significant trees do not exist the buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, the Design Standards for Scarborough’s Commercial Districts and any subsequent Running Hill Road corridor landscaping plan. In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.

2. Building Orientation – The location of buildings and their orientation to Running Hill Road is critical to establishing an attractive gateway into the Town of Scarborough. Buildings fronting Running Hill Road shall be located relatively close to the street to exhibit a strong relationship with the street and shall be designed in coordination with the required landscape buffer strip. The height of buildings shall be proportional to their distance (or setback) from the Running Hill Road right-of-way. The front line of buildings two-stories or thirty (30) feet in height may be sited as close as thirty (30) feet from the right-of-way, while taller buildings are required to be setback from Running Hill Road in proportion to their height in order to correspond with the landscaped buffer strip and not shadow or visually dominant the Running Hill Road corridor.

3. Access Management and Interconnections – Access management is critical to preserving mobility in the Running Hill Road corridor as well as to establish an attractive gateway into the Town of Scarborough. Individual sites shall be limited to no more than one curb cut onto Running Hill Road. Where feasible, adjacent sites shall be interconnected through the use of internal driveways or streets and shall establish one common curb cut onto Running Hill Road in order to share an access point and reduce the number of curb cuts along the corridor. Site access shall also be designed in accordance with the Site Plan Review Ordinance.

4. Off-Street Parking Location –No off-street parking shall be located within the front yard of sites fronting Running Hill Road. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above.

Therefore on sites fronting Running Hill Road off-street parking shall be located to the side or rear of the building or may be incorporated into the building design as structured parking. Further, where parking lots and associated access drives are visible from Running Hill Road they shall be buffered in accordance with the Design Standards for Scarborough’s Commercial Districts.

H. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Signs - Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

2. Commercial Design Standards – All development within the Running Hill Mixed Use District must be consistent with the Design Standards for Scarborough’s Commercial Districts.

3. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough’s Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

4. Public Sewer Service – All new development or redevelopment within this district shall be served by public sewer. Existing single-family dwellings served by on-site wastewater systems shall not be subject to this requirement until the single-family dwelling is changed, converted or redeveloped to a new use.

5. General Off-Street Parking Standards -

a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.

b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill Mixed Use District (RH) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough’s Commercial Districts and provide more specific requirements for development in the RH District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIII.E. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH District as a mixed use center. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

a. Running Hill Road Streetscape – The streetscape along Running Hill Road is critical to establishing an attractive gateway into Scarborough. Running Hill Road shall be treated as a landscaped boulevard with shade trees and a generous landscaped buffer strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along Running Hill Road where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from Running Hill Road but shall be setback from and separated from the street by this landscaped buffer. In addition to landscaping, sidewalks, pedestrian trails, freestanding signage and access drives are permitted within the buffer strip, but parking is not.

b. Internal Street Streetscape - The streetscape along internal streets and driveways within a planned development shall differ from the streetscape along Running Hill Road and shall exhibit a more compact layout, form and scale. The streetscape along internal streets and driveways within a planned development shall be designed with shade trees on both sides; road widths that are of a more compact, urban scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard I(1)c. below. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways.

c. Walk-able, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the RH District. Sidewalks or pedestrian trails shall be designed along both Running Hill Road and internal streets and shall be a primary component of each streetscape. Pedestrian amenities along Running Hill Road should generally be setback from the street leaving a larger landscaped buffer strip along the roadway. Sidewalks along internal streets and driveways should be closer to the roadway creating a more compact environment as per standard (I)1.b. above. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses to establish a greater pedestrian network.

d. Building Orientation for Buildings 45 feet or less in Height – Buildings shall be a key component of the streetscape and exhibit a strong relationship to the street and associated sidewalks and landscaping. For buildings 45 feet in height or less, off-street parking shall not be permitted between the front line of the building and the street that the building fronts. Off-street parking shall be located to the side or rear of the building(s) or as a component of the building in the case of structured or covered parking. In planned developments with multiple buildings on one lot, the Planning Board may allow some buildings to be setback from the street(s) or driveways with parking between those buildings and the street provided: other buildings front the street(s) or driveways and maintain a more compact, human scale streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards.

e. Building Orientation and Visual Impact for Buildings great than 45 feet in Height – The Planned Development provisions enable the Planning Board to review and approve of buildings greater than 45 feet in height, up to a maximum of 60 feet in height, on the north side of Running Hill Road if the Planning Board finds that the building meets the following standards. This provision is available only on the north side of Running Hill Road because the topography of the land on this side of the hill lends itself to taller structures that may not visually dominant the roadway or the surrounding landscape. Any building in excess of 45 feet shall be setback of minimum of 300 feet from Running Hill Road, as required under subsection

E.6., and the Planning Board may require the building to be setback further than 300 feet if they determine a greater setback to be necessary to ensure the building does not shadow or visually dominate the Running Hill Road corridor. When determining the appropriate distance from Running Hill Road the Planning Board may require graphic representations of how a building will look upon completion from various perspectives along the road corridor. The Planning Board shall also ensure that the building does not significantly alter the appearance of the natural tree line of Running Hill viewed from the surrounding area, including from South Portland. The Planning Board may require graphic representations of how a building will look upon completion from various surrounding locations in Scarborough and South Portland. When buildings are setback 300 feet or greater from Running Hill Road the Planning Board off-street parking is permitted between the building and Running Hill Road provided it is screened in accordance with the streetscape requirements of subsection I.1.a above.

f. Place-making – A planned development shall include at least one “place” and potentially a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a planned development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a planned development; shall be an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a “place” unless they are available for public use.

g. Access management and interconnections – Access to planned developments from Running Hill Road shall be strictly controlled to limit the number of curb cuts on Running Hill Road and maintain the roadway as an attractive landscaped boulevard. All development within a planned development shall connect to Running Hill Road at one common intersection by way of internal street and driveway connections. Planned developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, to share the use of curb cuts and intersections, and to reduce the overall number of curb cuts on Running Hill Road.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XXA. when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XXA.(I)(1).

a. On-street Parking On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. As indicated in subsection (I)(1) above, a planned development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible maximum building footprint – The Planning Board shall determine the allowable building footprint for each building in a planned development by applying the standards of subsection (I)(1), in particular subsection I.1.d. Compact design.

c. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of subsections (I) (1). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection E.2. and the Site Layout and Off-Street Parking Regulations under subsection G. that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to internal streets than conventional development or require buildings to be set further back from Running Hill Road or internal streets to meet the standards of subsection (I) and further the purpose of this district.

Vote: 6 yeas.

Order No. 08-95. First reading and refer to the Planning Board the proposed amendments to Chapter 405, the Zoning Ordinance to establish a Running Hill Mixed Use District (RH2). Public comments were as follows: Donna Dwyer, 125 Running Hill Road, asked that if the questions and answered addressed tonight could be posted on the Town’s website so everyone will have the information.

Motion by Chairman Messer, seconded by Councillor Roy to move approval of the first reading and refer to the Planning Board the proposed amendments to Chapter 405, the Zoning Ordinance to establish a Running Hill Mixed Use District (RH2) and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board, as follows:

**AMENDMENTS TO THE ZONING ORDINANCE ESTABLISHING
A RUNNING HILL TRANSITION DISTRICT (RH2)**

WHEREAS, the Town’s adopted Comprehensive Plan proposes a new mixed use growth area in the Running Hill Road area of Scarborough;

AND WHEREAS, a RH2 District needs to be established to accomplish this,

AND WHEREAS, the Town desires to make the changes in the Zoning Ordinance necessary to bring it into conformance with the adopted Comprehensive Plan,

THEREFORE BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the Town of Scarborough Zoning Ordinance, is amended as follows:

Add a new Section XXXB. RUNNING HILL TRANSITION DISTRICT (RH2) to read:

SECTION XXB. RUNNING HILL TRANSITION DISTRICT, RH2

A. PURPOSE

To provide an area for the location of small retail, business, service and community uses as well as a range of residential uses including multifamily dwellings and dwellings that are part of mixed use developments. The goal of the district is to supplement the RH District in fostering a high-quality, mixed use center, with development at a scale and uses at an intensity which are compatible with the surrounding area. This medium intensity mixed use district allows a range of land uses that are intended to compliment the core development pattern and uses in the RH District as well as serve as a transition to the surrounding rural residential areas.

The Running Hill Transition District shall be considered a businesses district whenever this Ordinance distinguishes between types of districts.

B. DEVELOPMENT DESIGN AND REVIEW PROCEDURES

Depending on the acreage, scale and site layout of a proposed project, a development/redevelopment project within this district may undergo a conventional review process involving Site Plan Review and/or Subdivision Review applying the quantitative standards of subsection E. or may be reviewed as a Planned Development applying the qualitative standards and design criteria of subsections E. and I.

1. Conventional Developments. Projects that are proposing to develop or redevelop less than 5 acres of land may be reviewed as a conventional development or may be reviewed as a Planned Development, at the applicant’s option.

2. Planned Developments. Projects that are proposing to develop or redevelop 5 acres or more of land, shall be reviewed as Planned Developments in accordance with the standards of subsection I. Qualitative Development Standards for Planned Development of this district and Section VIII. Planned Development of this Ordinance.

3. New Parcels. Any parcel created after July 16, 2008 by dividing a larger parcel must be at least 5 acres in area and must be developed as a Planned Development.

C. PERMITTED USES, CONVENTIONAL AND PLANNED DEVELOPMENTS

RESIDENTIAL USES:

The following residential uses are permitted in both conventional and planned developments:

- 1. Single family dwellings
- 2. Two family dwellings
- 3. Multifamily dwellings limited to no more than twelve (12) dwelling units per building
- 4. Multiplex dwellings
- 5. Townhouses limited to no more than eight (8) dwelling units per building
- 6. Senior housing

MIXED USES:

The following mixed uses are permitted in both conventional and planned developments:

- 7. Dwelling units within a mixed use building limited to no more than eight (8) dwelling units per building. Permitted residential uses mixed with special exception uses requires special exception approval by the Zoning Board of Appeals under Section IV.(I)
- 8. Live/Work Units
- 9. Retail sales and services establishments with less than 1,000 square feet of retail floor area per unit of occupancy, excluding car washes, gasoline filling stations and outdoor sales and services, if located in a mixed use building that includes other non-residential uses and/or residential uses
- 10. Restaurants with no drive-through service if located in a mixed use building that includes other non-residential uses and/or residential uses
- 11. Personal services if located in a mixed use building that includes other non-residential uses and/or residential uses

NON-RESIDENTIAL USES:

The following mixed uses are permitted in both conventional and planned developments. The following non-residential uses are limited to 5,000 square feet of floor area per unit of occupancy.

- 12. Business services and business offices
- 13. Professional offices
- 14. Financial, insurance and real estate offices
- 15. Non-municipal government offices
- 16. Non-residential institutional uses, including educational, religious, philanthropic, fraternal, or social institutions, which are not otherwise permitted uses in this section
- 17. Funeral homes
- 18. Group day care homes, Day care center facilities and Nursery schools
- 19. Family Day Care Homes, subject to the standards and conditions of Section IV(I)(6), except that Board of Appeals review is not required
- 20. Health clubs

The following non-residential uses are not limited in square footage of floor area per unit of occupancy.

- 21. Municipal buildings and uses
- 22. Elementary and secondary schools
- 23. Place of worship
- 24. Accessory uses, excluding outdoor storage
- 25. Libraries and museums

D. SPECIAL EXCEPTIONS

The following uses are allowed as special exceptions in both conventional and planned developments:

- 1. Nursing homes.
- 2. Boarding care facility for the elderly.
- 3. Public utility facilities.
- 4. Telecommunication facility.
- 5. Adjunct Uses, Place of Worship.
- 6. Home occupations. Special exception approval is required only for those professions or occupations not otherwise allowed as permitted uses under subsection (B)

E. SPACE AND BULK REGULATIONS

The following space and bulk regulations are applicable to conventional developments:

1. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings; two-family dwellings; multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road; 50 for lots not abutting Running Hill Road	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting Running Hill Road; 50 for lots not abutting Running Hill Road	50

2. Yard Standards - The following minimum front yard standards apply in conjunction with subsection G. of this district.

Abutting Streets	Minimum Front Yard (ft.)	Side and Rear Yard (ft.)
Running Hill Road	<u>2530 or the height of the building fronting Running Hill Road, whichever is greater</u>	15 ^{1&2}
All other streets	<u>010</u>	15 ^{1&2}

¹ When multiple buildings and lots are within the same development the minimum side and rear yards may be reduced to 5 feet if the buildings meet the Fire Rating requirements for the lesser yard as per the NFPA 101 Life Safety Code and the Scarborough Fire Department approves the reduced yard.

² When a site abuts a residential district the minimum yard shall be 50ft. and the buffering requirements of Section VIII of this Ordinance shall apply.

3. Maximum Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

Maximum individual building footprint	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
5,000 sq. ft.	35%	85%	None	3 stories or 45 feet, whichever is less

The following space and bulk regulations are applicable to Planned Developments:

14. Minimum Lot Area and Dimensions

Housing & Use Type	Lot Area (square ft.)	Lot Frontage (ft.)	Lot Width (ft.)
Single-family dwellings; two-family dwellings; multi-family dwellings; multiplex; townhouses; senior housing	10,000	200 for lots abutting Running Hill Road; for lots not abutting Running Hill Road the Planning Board shall determine the lot frontage under subsection I. of this district	50
Non-Residential and Mixed Uses	10,000	200 for lots abutting on Running Hill Road; for lots not abutting Running Hill Road the Planning Board shall determine the lot frontage under subsection I. of this district	50

25. Yard Standards – Determined by the Planning Board under subsection I. of this district

36. Maximum Building Footprint, Building Coverage, and Lot Coverage, and Minimum and Maximum Building Height

<u>Maximum individual building footprint</u>	Maximum percent of lot coverage by buildings	Maximum percent of lot coverage by buildings and other impervious surfaces	Minimum building height	Maximum building height
<u>5,000 sq. ft.</u>	35% <u>Determined by the Planning Board under subsection I.</u>	85% <u>Determined by the Planning Board under subsection I.</u>	None	3 stories or 45 feet whichever is less

F. RESIDENTIAL DENSITY REGULATIONS, APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

Within this zoning district the Residential Density Factors in Section VII C. A. of this Ordinance shall apply to multi-family, multiplex, townhouse, live/work, senior housing or dwelling units in a mixed-use building

1. Maximum Base Residential Density – The maximum base residential density is the maximum residential density permitted without utilizing additional density through the development transfer or affordable housing provisions

Single-family, two-family, multi-family, multiplex, townhouse dwellings, live/work units, senior housing and dwelling units located in a mix use building	5 dwelling units per acre of net lot area. The net lot area is the gross area of a lot exclusive of those areas described in paragraphs 1, 2, 3, 5 and 6 of the definition of Net Residential Acreage in Section VI of this Ordinance
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2. Additional Residential Density Thru Development Transfer – A development may incorporate up to five (5) additional dwelling units per acre of net lot area beyond the maximum base residential density by utilizing the development transfer provisions in accordance with Section VIID. of this Ordinance.

3. Additional Residential Density Thru Affordable Housing – A development may incorporate up to five (5) additional dwelling unit per acre of net lot area beyond the maximum base residential density provided at least 40% of the additional dwelling units (with fractional numbers of units rounded up to the nearest whole number) are designated as affordable housing.

The Planning Board may allow a development to utilize additional residential density through both the affordable housing and development transfer provisions but the combined additional residential density shall not exceed five (5) dwelling units per acre of net lot area beyond the maximum base residential density. If subsections F.2. and F.3. are both used, the additional dwelling units permitted under F.3. shall not also be subject to the development transfer provisions under F.2.

G. BUILDING ORIENTATION, STREETScape AND OFF-STREET PARKING STANDARDS, APPLICABLE TO CONVENTIONAL DEVELOPMENTS

The design of a development site, and more specifically the orientation of buildings to Running Hill Road and internal streets, the streetscape of Running Hill Road and internal streets, as well as the location, layout and form of site parking, are fundamental to realizing the purpose of this district.

1. Streetscape – Running Hill Road shall be a landscaped boulevard. A landscaped buffer strip shall be established along the front property line of a lot where it abuts Running Hill Road. The width of the landscaped buffer strip shall be a minimum of ~~twenty-five (25)~~thirty (30) feet. Where trees exist within the buffer strip the Planning Board may require these trees to be saved to preserve this corridor as a landscaped boulevard. The buffer strip shall be landscaped in accordance with the Site Plan Review Ordinance, the Design Standards for Scarborough’s Commercial Districts and any subsequent Running Hill Road corridor landscaping plan. In addition to landscaping, the buffer strip may contain sidewalks or pedestrian trails, freestanding signage, and an access drive to the site.

2. Building Orientation - The location of buildings and their orientation to Running Hill Road is critical to establishing an attractive gateway into the Town of Scarborough. Buildings fronting Running Hill Road shall be located relatively close to the street to exhibit a strong relationship with the street and shall be designed in coordination with the required landscape buffer strip. The height of buildings shall be proportional to their distance (or setback) from the Running Hill Road right-of-way. The front line of buildings two-stories or thirty (30) feet in height may be sited as close as thirty (30) feet from the right-of-way, while taller buildings are required to be setback from Running Hill Road in proportion to their height in order to correspond with the landscaped buffer strip and not shadow or visually dominant the Running Hill Road corridor.

~~In this district buildings shall be located relatively close to the street to exhibit a strong relationship with the street, provide human-scale development, and promote pedestrian activity. The minimum front yard setbacks enable this relationship by permitting buildings to be 25 feet from the Running Hill Road right of way and 0 feet from the right of way of new internal streets.~~

3. Access Management and Interconnections – Access management is critical to preserving mobility in the Running Hill Road corridor as well as to establish an attractive gateway into the Town of Scarborough. Individual sites shall be limited to no more than one curb cut onto Running Hill Road. Where feasible, adjacent sites shall be interconnected through the use of internal driveways or streets and shall establish one common curb cut onto Running Hill Road in order to share an access point and reduce the number of curb cuts along the corridor. These standards shall also be designed in accordance with the Site Plan Review Ordinance.

4. Off-Street Parking Location – No off-street parking shall be located within the front yard of sites fronting Running Hill Road. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above.

~~No off-street parking shall be located within the front yard. The front yard shall be used to meet the streetscape requirements of subsection G.1. above and may also include sidewalks, other pedestrian amenities, street lighting, site access drives, and additional landscaping or buffering that exceeds the minimum requirements of subsection G.1. above. This standard shall not apply to single-family and two-family dwellings that may utilize driveways for parking within the front yard.~~

~~Therefore on a site with a single building, off-street parking shall be located to the side or rear of the building or may be incorporated into the building design as structured parking. Within a unified development with multiple buildings, the off-street parking shall be located to the side and rear of the buildings closest to the street(s), but may be located in front of the buildings located to the rear of the site or may be incorporated into the buildings as structured parking.~~

Where parking lots and associated access drives are visible from adjacent public streets, they shall be buffered in accordance with the Design Standards for Scarborough's Commercial Districts.

4. General Off-Street Parking Standards:

~~a. Off street parking shall be provided in accordance with the requirements of Section XI if this Ordinance, except as otherwise permitted in this subsection.~~

~~b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.~~

H. ADDITIONAL DEVELOPMENT STANDARDS APPLICABLE TO BOTH CONVENTIONAL AND PLANNED DEVELOPMENTS

1. Signs - Signs shall be regulated in accordance with the requirements of Section XII of this Ordinance.

2. Commercial Design Standards – All development within the Running Hill Mixed Use District, with the exception of single-family and two-family dwellings, must be consistent with the Design Standards for Scarborough's Commercial Districts.

3. Pedestrian, Bicycle and Mass Transit Facilities – All developments shall provide for pedestrian movement to and within the site in accordance with Section IV.E. of the Site Plan Review Ordinance and the Design Standards for Scarborough's Commercial Districts. Provisions must be incorporated into new developments for bicycle movement including appropriate facilities, such as bike racks and bike lanes, if the scale of the project makes these reasonable. Provisions must also be incorporated into new developments for mass transit use, such as bus stops and bus stop shelters, if the scale of the project makes these reasonable.

4. Public Sewer Service – All new development and redevelopment within this district shall be served by public sewer. Existing single-family dwellings served by on-site wastewater systems shall not be subject to this requirement until the single-family dwelling is changed, converted or redeveloped to a new use.

4. General Off-Street Parking Standards -

a. Off-street parking shall be provided in accordance with the requirements of Section XI of this Ordinance, except as otherwise permitted in this subsection.

b. In order to reduce the establishment of unnecessary parking spaces and impervious area which segregates structures, uses and pedestrian amenities, the Planning Board may approve the shared or joint use of parking facilities by two or more principal buildings or uses. This allowance shall be granted where it is clearly demonstrated that the said parking facility will substantially meet the intent of the parking requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments or uses. In the RH2 District, approval of this allowance by the Board of Appeals under Section XI(I) shall not be required.

I. DEVELOPMENT STANDARDS FOR PLANNED DEVELOPMENTS

The Running Hill Transition District (RH2) Planned Development standards provide qualitative standards that are intended to promote flexible and innovative design solutions that further the purpose of this zoning district. These standards supplement the provisions of the Design Standards for Scarborough's Commercial Districts and provide more specific requirements for development in the RH2 District.

This subsection includes specific standards that a planned development is required to meet and a range of design criteria to be applied by the Planning Board when a development is reviewed under this subsection and in accordance with Section VIII.E. Planned Development.

1. PLANNED DEVELOPMENT STANDARDS

A planned development shall be designed in a manner that reinforces the RH2 District as a mixed use transition zone. Buildings, parking, pedestrian amenities, landscaping, streets and common space shall be arranged in a compact, interconnected development pattern that exhibits a human scale and a mix of land uses.

a. Running Hill Road Streetscape – The streetscape along Running Hill Road is critical to establishing an attractive gateway and a transition into the rural area of Scarborough. Running Hill Road shall be treated as a landscaped boulevard with shade trees and a generous landscaped buffer strip along the road right-of-way. This landscape buffer shall meet or exceed the thirty (30') foot width required of conventional developments. The planned development process will be used to identify areas along Running Hill Road where existing trees and vegetation shall be preserved as well as areas in which new shade trees and landscaping shall be planted to enhance this corridor. Buildings may be visible from Running Hill Road but shall be setback and separated from the street by this landscaped buffer. Parking is not appropriate between Running Hill Road and buildings within a planned development, but sidewalks, ~~or~~ pedestrian trails, freestanding signs and access drives are.

b. Internal Street Streetscape - The streetscape along internal streets and driveways within a planned development shall differ from the streetscape along Running Hill Road and shall exhibit a more compact form and scale. The streetscape along internal streets and driveways within a planned development shall be designed with shade trees on both sides; road widths that are more compact in scale; human scale street lighting; frequent intersections and crosswalks; and sidewalks as per standard I(1)c. below. The streetscape of internal streets may also include on-street parking on one or both sides of the streets or driveways. ~~As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.~~

c. Walk-able, pedestrian-oriented design – Appropriately designed and oriented sidewalks, and other pedestrian amenities, are critical to promote walk-ability, pedestrian activity, and a sense of place within the RH2 District. Sidewalks or pedestrian trails shall be designed along both Running Hill Road and internal streets and shall be a primary component of each streetscape. Pedestrian amenities along Running Hill Road should generally be setback from the street leaving a larger landscaped buffer strip along the roadway. Sidewalks along internal streets and driveways should be close to the roadway creating a more compact environment as per standard (I)1.b. above. In general, sidewalks or pedestrian trails shall be designed to provide linkages and continuity between each use within a planned development as well as connections to abutting uses ~~and the~~ to establish a greater pedestrian network.

d. Compact building design – Planned developments with the RH2 District shall exhibit a compact development pattern. Buildings shall be designed to front onto the internal street or driveway that provides access to the building(s). Buildings shall be a key component of the streetscape and exhibit a strong relationship to the street and associated sidewalks and landscaping. The majority of off-street parking shall be located to the side or rear of buildings or as a component of the building in the case of structured or covered parking. In planned developments with multiple buildings, the Planning Board may allow some buildings to be setback from the street or driveway with parking between those buildings and the street provided: other buildings front the street(s) or driveways and maintain a human scale streetscape; there is continuity between buildings with no major expanse of parking; and the development meets or exceeds each of the other planned development standards. The Planning Board may determine that this standard need not apply to single-family and two-family dwellings that may seek to utilize driveways for parking within the front yard.

e. Access management and interconnections – Access to planned developments from Running Hill Road shall be strictly controlled to limit the number of curb cuts on Running Hill Road and maintain the roadway as an attractive landscaped boulevard. All development within a planned development shall connect to Running Hill Road at one common intersection by way of internal street and driveway connections. Planned developments shall also make provisions for street and driveway interconnections to abutting properties to enable cross connections, the share use of curb cuts and intersections and to reduce the overall number of curb cuts on Running Hill Road.

f. Place-making – A planned development shall include at least one “place” and potentially a number of “places”, depending on the size and scale of the development. A “place” shall be a common space(s) where people can gather, meet and cross paths. A “place” can be a community green or common; plaza; court; square or some variation of each. Regardless of the style or size, “places” are required to be designed as an integral part of a planned development in locations where people will naturally gather, meet and cross paths. “Places” shall be located at the core of the pedestrian realm of a planned development; shall an element of the development streetscape and overall development pattern; and shall be available and desirable for public use. Areas for outdoor seating, court yards or green space associated with a particular use or establishment are desirable amenities, but should not be counted as a “place” unless they are available for public use.

2. DESIGN CRITERIA FOR PLANNED DEVELOPMENTS

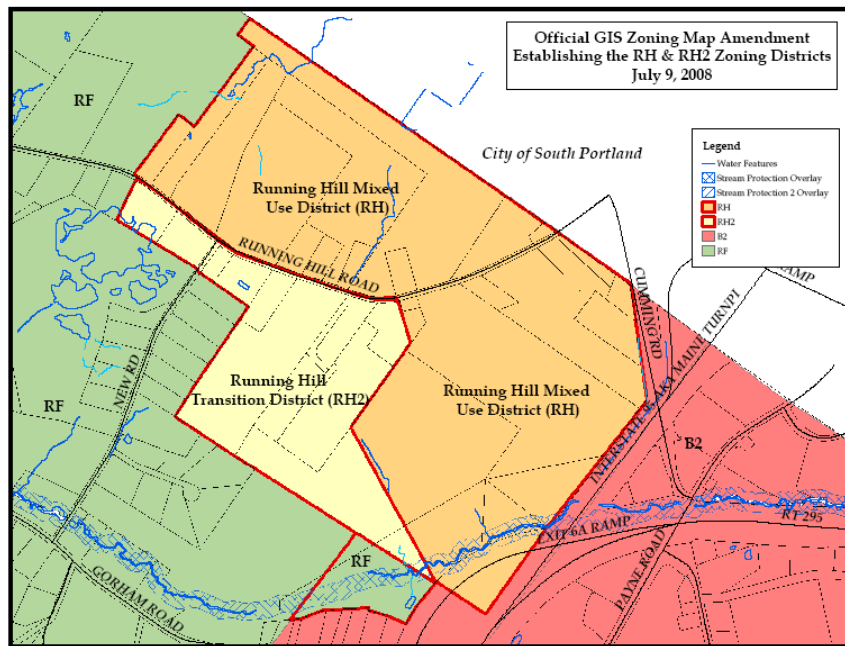
The following design criteria shall apply to all planned developments. In addition, the Planning Board may require a planned development to be designed in conformance with any other standards of this Section XXB. when the Board finds that application of such standards will achieve conformity with the Planned Development Standards of section XXB.(I)(1).

a. On-street Parking On-street parking can provide spaces directly in front of residential and non-residential uses when buildings are sited close to the street; provide parking that can supplement off-street parking; function as a buffer between pedestrians using the sidewalk and vehicular traffic; and can act as a traffic calming measure. As indicated in subsection (I)(1) above, a planned development may include new internal streets or driveways with parallel or angled on-street parking or “on-driveway” parking. As part of the planned development review process the on-street parking design shall require approval from all applicable town departments, including Public Works, the Fire Department and Public Safety. When approved according to this Section, on-street parking can be used to satisfy the requirements of Section XI of this Ordinance.

b. Flexible yard standards - The Planning Board shall determine the yard requirements and site layout and off-street parking configuration for a planned development by applying the standards of subsections (I) (1). In reviewing a planned development, the Planning Board may use the Yard Standards under subsection E.2. and the Site Layout and Off-Street Parking Regulations under subsection G. that correspond with the yard standards as guidelines, but is not required to apply them. This enables the Planning Board to allow buildings to be sited closer to internal streets than conventional development or require buildings to be set further back from Running Hill Road or internal streets to meet the standards of subsection (I) and further the purpose of this district.

Vote: 6 yeas.

Order No. 08-96. First reading and refer to the Planning Board the proposed amendments to the Town of Scarborough GIS Zoning Map regarding the new zone changes to the Running Hill Area. Motion by Chairman Messer, seconded by Councillor Most to move approval of the first reading and refer the Planning Board the proposed amendments to the Town of Scarborough GIS Zoning Map regarding the new zone changes to the Running Hill Area and schedule a public hearing for the next regular meeting following the filing of the recommendations of the Planning Board, as follows:



Vote: 6 yeas.

Order No. 08-97. Act to accept the following street, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Clover Leaf Lane, Barley Lane and Berry Road [that portion of Berry Road to Barley Lane associated with the development.] Motion by Chairman Messer, seconded by Councillor Rancourt to move approval to accept the following street, pursuant to Title 23, M.R.S.A. §3025 and the requirements of Section 4, of the Scarborough Street Acceptance Ordinance: Clover Leaf Lane, Barley Lane and Berry Road [that portion of Berry Road to Barley Lane associated with the development.]

Vote: 6 yeas.

Order No. 08-98. Act on the nomination of Councillor Rancourt to the Maine Municipal Association's Legislative Policy Committee. Motion by Chairman Messer, seconded by Councillor Roy to move approval on the nomination of Councillor Rancourt to the Maine Municipal Association's Legislative Policy Committee.

Vote: 6 yeas.

Motion by Chairman Messer, seconded by Councillor Rancourt to move to suspend the rules to add an item to the agenda to vote on the Officers of Executive Committee.

Vote: 6 yeas.

Motion by Chairman Messer, seconded by Councillor Most, to move approval of the following:

- John Sylvester, Selectman, Town of Alfred, Vice President for 1 year term;
- Mark Green, Town Manager, Town of Sanford, Director for 3 year term;
- Ryan Pelletier, Town Manager, Town Agatha, Director for 3 year term;
- George Richardson, Jr., Chair of Selectman, Westport Island, Director for 3 year term.

Vote: 6 yeas.

Order No. 08-99. Act to re-appoint Amelia Kurtz to the SEDCO Board of Trustees, with a term to expire in June 2011. Motion by Chairman Messer, seconded by Councillor Most to move approval to re-appoint Amelia Kurtz to the SEDCO Board of Trustees, with a term to expire in June 2011.

Vote: 6 yeas.

Order No. 08-100. Act to approve the issuance of an Overlimit Permit by the MDOT to the Contractor to allow for overweight vehicles during the construction project on Route One. Ronald Owens, Town Manager, gave an overview of this item.

Motion by Councillor Most, seconded by Councillor Rancourt to move approval on the request for the issuance of an Overlimit Permit by the MDOT to the Contractor to allow for overweight vehicles during the construction project on Route One.

Vote: 6 yeas.

Item 6. Non-Action Items.

- a. **Duties of the Conservation Commission.** Councillor Wood and Councillor Most gave an overview of this item including background as well as suggestions for the future.

Item 7. Committee Reports : Standing Committee Reports and Other Committee Reports.

- Councillor Most advised that solar/wind power will be discussed at the next Ordinance Committee meeting. CPIC. She also noted that Councillor Wood would replace her on the CPIC Committee effective September 1st.
- Chairman Messer advised that he attended his last ecomaine meeting and Councillor Wood replaced him effective July 1st and Mike Shaw, Public Works Director, will replace Ronald Owens effective October 1st. Chairman Messer advised that there would be a workshop on Tuesday, July 22nd to review the applications for the Town Manager position, which will narrow down the applicants to be interviewed. Interviews will take place in August.

Item 8. Public Comments.

- Art Dillon, 180 Black Point Road, thanked the 350th Committee on behalf of his family for a great celebration. Mr. Dillon, at Chairman Messer's request, gave the upcoming schedule for the Concerts in the Park. All concerts start at 6:30 p.m. and are free.

Item 9. Town Manager Report. Ron Owens, Town Manager, advised that an estimated 8,000-10,000 people attended the events of the 350th Celebration. He again thanked the Town departments for the hard work necessary for an event of this size. Mr. Owens also advised that the Dunstan sidewalk project will be officially awarded this week. The project will be done with concrete sidewalks and concrete curbs for less than \$1 million.

Item 10. Council Member Comments. Closing comments were made by Council members.

Order No. 08-101. Act on the request for an executive session pursuant to Title 1 of the M.R.S.A. §405(6)(C) to discuss the possible sale of real property. Motion by Chairman Messer, seconded by Councillor Rancourt to move approval on the request for an executive session pursuant to Title 1 of the M.R.S.A. §405(6)(C) to discuss the possible sale of real property.

Vote: 6 yeas.

Item 11. Adjournment. Motion by Chairman Messer, seconded by Councillor Rancourt, to move approval to adjourn the regular meeting of the Scarborough Town Council.

Vote: 6 yeas.

Meeting adjourned at 10:05 p.m.

Respectfully submitted,

Tracey O'Roak
Deputy Town Clerk