

Town of Scarborough

Planning Board

February 11, 2008

MINUTES – SPECIAL MEETING & WORKSHOP

Members Present

Staff

Mr. Shire  
Mr. Callahan  
Mr. Chamberlain  
Mr. Fellows  
Mr. Maynard  
Ms. Littlefield  
Mr. Paul

Mr. Bacon, Town Planner  
Mr. Chace, Assistant Town Planner  
Mr. Vaniotis, Town Attorney

1. Call to Order

Mr. Paul called the meeting to order at 7:00 P. M.

2. Roll Call

Mr. Bacon called the roll; all members were present.

3. Scarborough Donuts LLC, discussion and approval of the findings and conclusions for the denial of the site plan review application for a 5,000 sq. ft. building to include a Dunkin Donuts at 560 US Route One

Mr. Paul led the discussion on the draft findings and conclusions provide by staff and the Town Attorney. Mr. Callahan, Ms. Littlefield and Mr. Fellows all expressed that the findings and conclusions were through and appropriate. Mr. Paul proposed three amendments to the findings and conclusions, under findings 1 and 6 and under conclusion 1.

The Board then discussed the letter from Lambert Coffin attorneys at law dated February 11, 2008. Mr. Chamberlain asked if the applicant had explored a traffic signal or other improvements within the Route One right-of-way. Mr. Bacon replied that a traffic signal had not been mentioned by the applicant or MDOT as a potential.

Mr. Paul moved the Findings, Conclusions and Decision as amended. Mr. Fellows seconded.

Voted 5-0 in favor.

The Findings, Conclusions and Decision as amended reads:

FINDINGS

1. Applicant Scarborough Donuts LLC has applied for approval under the Scarborough Site Plan Review Ordinance to develop and operate a Dunkin Donuts shop with drive-through window on property located at 560 U.S. Route One, Tax Map U35, Lot 2. The proposal is to construct a 5,000-square-foot building, with about half the building to be leased for general office space and half to be occupied by Dunkin Donuts.
2. The property which the applicant seeks to develop is currently owned by David Parker, and the applicant proposes to develop only a portion of the Parker property.
3. The portion which the applicant seeks to develop is identified as Lot 3 on a proposed three-lot subdivision plan submitted by David Parker to the Scarborough Planning Board. On December 10, 2007, the Planning Board voted to deny preliminary approval for the Parker subdivision plan on the grounds that the proposed subdivision would cause unreasonable highway congestion and unsafe conditions. See Scarborough Subdivision Ordinance Section 4.E and 30-A M.R.S.A. § 4404(5). Mr. Parker has appealed that decision to the Cumberland County Superior Court.
4. In his application for subdivision approval, Mr. Parker made it clear that the intended use of Lot 3 was for a Dunkin Donuts shop and drive-through window to be operated by Scarborough Donuts LLC, which had filed its site plan application roughly contemporaneously with the filing by Mr. Parker of the subdivision plan.
5. Materials submitted by Mr. Parker, including traffic studies and traffic analysis, all assume the use of Lot 3 by Scarborough Donuts LLC.
6. The subdivision proposed only one driveway for public access into the subdivision, located on Lot 3, which would be the access point for the Dunkin Donuts shop and drive-through window. An existing driveway would be gated and used only for private deliveries to Lot 2.
7. The property is located on the easterly side of U.S. Route One. The entrance point to the Dunkin Donuts shop and drive-through would be located on a four-lane stretch of the highway, with no median and no center turning lane, and at a point where the speed limit for southbound traffic has just been reduced from 50 miles per hour to 35 miles per hour and where northbound traffic tends to increase speed as it approaches the 50-mile-per-hour zone.
8. Early on in the subdivision review process, the Planning Board, in consultation with the traffic engineers engaged by the Town to review the project, Gorrill-Palmer Consulting Engineers, Inc., advised the applicant that the location of the proposed entrance was such that left turns into the site and left turns out of the site would be a problem.
9. Accordingly, the proposed Parker preliminary subdivision plan and the Scarborough Donuts LLC site plan were designed to discourage such left turns, with the access designed to accommodate right turns in and right turns out only.

10. In a memorandum to the Planning Board dated December 5, 2007, the Town Planner expressed reservations that the proposed entrance design would create unsafe conditions and impede the flow of traffic on Route One. The Planner commented:

Planning staff have concerns about the right-in, right-out only design to access the site and its effect on surrounding properties and intersections. The Dunkin Donuts, the existing business on lot 2 and the future use on lot 1 will draw customers and employees arriving via Route One southbound and leaving to travel Route One southbound despite these turning restrictions. With this design, motorists will either inappropriately take left turns in and out -or- will travel beyond the site to turn around at a surrounding property or intersection to travel in the needed or desired direction. This side effect has the potential to create unanticipated conflicts at other driveways, curb cuts and intersections in this area that are not easily quantified.

11. In his memo, the Planner also noted that the entrance design does not meet the standards of the Scarborough Fire Department for access to the property because it is less than 20 feet wide, and the proposed delta island in the entrance could not be mounted by emergency vehicles.
12. In addition, the Planner relayed the comments of the Public Works Department that the design of the proposed right-turn slip lane and its termination at the delta island create a hazard for plowing operations.
13. During the subdivision review, members of the Planning Board expressed concerns about sudden lane changes that could occur as motorists attempted to negotiate into or around the proposed entrance to the site, and Board members commented that traffic in the area routinely exceeded the speed limit, making sight distances at the entrance to the property questionable.
14. Members of the Planning Board also expressed the concern that attempting to limit motorists to right-turn-in and right-turn-out only would prompt motorists to make u-turns, creating a traffic hazard, particularly in light of the very heavy trip generation predicted from a Dunkin Donuts shop with a drive-through window.
15. Considering those problems with the proposed subdivision plan, the Planning Board concluded that the subdivision plan did not meet the traffic review standard of the Scarborough Subdivision Ordinance and state subdivision statute.
16. The site plan now before the Board presents exactly the same configuration for access to the property as did the preliminary subdivision plan which was denied by the Board.
17. In order to approve the site plan application, the Board must find that “[v]ehicle access to and from the site shall be safe and convenient, shall minimize conflict with the existing flow of traffic, and shall be from roads that have adequate capacity to accommodate the

additional traffic generated by the development.” Scarborough Site Plan Review Ordinance, Section IV.B.

18. In considering that site plan review standard, the Board finds that the site plan of Scarborough Donuts LLC presents the same traffic flow and traffic safety problems as the preliminary subdivision plan which the Board denied and, in fact, is the primary cause of those problems.
19. The Board recognizes that the subdivision applicant attempted to address those problems through traffic engineering and that both the subdivision applicant’s traffic engineer and the Town’s consulting traffic engineer concluded that the proposed right-in, right-out only configuration could meet quantitative traffic engineering criteria.
20. Nevertheless, the Board finds that, from a practical, qualitative perspective, serious traffic flow and traffic safety issues remain unresolved.
21. The Board is familiar with this heavily utilized stretch of Route One and with the behavior of motorists utilizing this stretch.
22. Members of the Board have observed that southbound traffic approaching this site, having just come across the Scarborough Marsh at speeds of 50 miles per hour and greater, does not reduce speed immediately at the 35-mile-per-hour sign and typically is traveling by this site at a much higher rate than the posted speed.
23. Members of the Board have also observed that northbound traffic headed by the site is speeding up as it approaches the 50-mile-per-hour zone on the Scarborough Marsh and is typically proceeding past this site at greater than the posted speed.
24. The Board is not convinced that the right-in, right-out design will deter motorists from making illegal maneuvers to enter and exit the site.
25. The Board is concerned that southbound motorists who wish to patronize the Dunkin Donuts store will ignore signage and make a left turn in. Because of the width of Route One, such a left-turn maneuver – amounting essentially to a U-turn across Route One – will be physically possible, but extremely hazardous.
26. Similarly, the Board is concerned that motorists exiting the Dunkin Donuts site and wanting to proceed south on Route One will also ignore the right-turn only configuration and cut across oncoming traffic to make a left turn and head south.
27. In addition, southbound motorists who do obey the no-left-turn signage (whether entering or exiting the Dunkin Donuts site) will need to find other ways to reverse direction in order to patronize the site. Because this area of Scarborough is not laid out in a grid pattern of lots, motorists will not have the option of simply going around the block in order to reverse direction. Therefore, southbound motorists who wish to patronize

Dunkin Donuts are most likely to make illegal U-turns or to utilize private driveways or parking lots of other businesses to reverse direction.

28. The Board anticipates that the attempt to limit access for a high traffic volume business to northbound traffic only is likely to create dangerous confusion, as motorists trying to figure out how to get into the site slow unexpectedly or make sudden lane changes when they discover that driveway design is at odds with their expectations of being able to access the site.
29. The Planning Board also finds that the attempt to encourage right-in, right-out only has resulted in an entrance design which does not meet the requirements of the Scarborough Fire Department for a 20-foot-wide travel lane and an island which can be traversed by emergency vehicles.
30. The Planning Board further finds that the proposed design creates a hazard for plowing operations and is not acceptable to the Director of Public Works.

#### CONCLUSIONS

1. Based on the foregoing findings, the Board concludes that vehicular access to and from the site will not be safe and convenient and will not minimize conflict with the existing flow of traffic, but rather will create conflicts with existing flow of traffic.
2. The Board concludes that the risk of motorists ignoring the right-in, right-out limitations coupled with the risk of unpredictable maneuvers by confused motorists create a safety hazard which the Board considers unacceptable.
3. The Board therefore concludes that the site plan application does not meet the standard of Section IV.B of the Site Plan Review Ordinance that “[v]ehicle access to and from the site shall be safe and convenient” and “shall minimize conflict with the existing flow of traffic....”

#### DECISION

For the foregoing reasons, the site plan application of Scarborough Donuts LLC is denied.

Dated: February 11, 2008

SCARBOROUGH PLANNING BOARD

4. Workshop with the Town Attorney to focus on the Planning Board’s legal duties and rights

The Town Attorney and Board discussed this item for which no minutes were taken.

5. Adjournment      The meeting adjourned at 9:20PM