

Town of Scarborough

Planning Board

December 5, 2011

AGENDA

1. Call to Order (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (October 24, 2011)
4. Scarborough Gallery LLC requests amended subdivision review for previously approved site off Spring Street*
5. DMS&D, LLC request site plan amendment review for 1,924 square foot addition and a 5,000 square foot warehouse storage building on existing site at 8 U. S. Route One
6. Serenity Place Subdivision, Melissa Foshay requests amended subdivision approval to divide Lot 7 at 8 Summerfield Lane
7. Black Point Park at Scarborough Beach, Black Point Resource Management requests site plan review for a Commercial Outdoor Recreation Facility at 388 Black Point Road
(Public comment is anticipated to be heard at the January 9, 2012 meeting.)
- 8A. Eastern Village, Ballantyne Development LLC requests site plan review for 7 structures consisting of 37 townhomes in previously approved subdivision off Old Eastern Road and Ballantyne Drive*
- 8B. Eastern Village, Ballantyne Development LLC requests subdivision amendment review for amended site plan for previously approved plan*
9. Administrative Amendment Report
10. Town Planner's Report
11. Correspondence
12. Planning Board Comments
13. Adjournment

*Public comments will be allowed on this item.

NO NEW ITEMS SHALL BE TAKEN UP AFTER 10:30 P. M.

Town of Scarborough

Planning Board

December 5, 2011

MINUTES

Members Present

Mr. Bouffard
Mr. Chamberlain
Ms. Corthell
Mr. Fellows
Mr. Thomas

Staff

Mr. Chace, Assistant Town Planner
Ms. Logan, Recording Secretary
Mr. Parkinson, Town Attorney

1. Call to Order

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

2. Roll Call

The Recording Secretary called the roll; Messrs. Mazer and Paul were absent. Mr. Fellows authorized Ms. Corthell and Mr. Bouffard to vote.

3. Approval of Minutes (October 24, 2011)

Mr. Fellows moved to approve the minutes of October 24, 2011; Mr. Thomas seconded.

Voted 5-0

4. Scarborough Gallery LLC requests amended subdivision review for previously approved site off Spring Street*

Mr. Chace noted that the Board had received a memo from Mr. Wendel; he stated that the staff felt this was an administrative amendment to the subdivision. He stated that the splitting of Lot 6 was the greatest impact for the Board to consider.

Ms. Nancy St. Clair, of St. Clair Associates, stated that this commercial subdivision was approved in 2005 and some changes were made to the site during construction with some subsequent changes to the Zoning Ordinance. She stated that in 2005 the required front setback was 80 feet and was now 50 feet with latitude by the Board to allow a smaller setback; she stated that the plan showed the updated space and bulk amendments. Ms. St. Clair stated that they had also relocated the drainage line to a pond on Lot 7 rather than to Lot 8 and that the easements were modified for the fire hydrants. Ms. St. Clair stated that the majority of Lot 6 was a conservation easement with a developable area where the existing home is and it made sense to separate that structure as Lot 6A; she stated that the remainder of the lot would remain as a conservation easement along with 800 square feet of the new Lot 6A and the rest of Lot 6A could be sold and developed.

To a question from Ms. Corthell, Ms. St. Clair replied that the only useful piece of land was the area around the house. Ms. Corthell stated that as long as the staff was satisfied she had no further questions.

Mr. Fellows stated that this was a cleanup of the plan and moved to approve the amended subdivision plan as presented; Mr. Thomas seconded.

Voted 5-0

5. DMS&D, LLC request site plan amendment review for 1,924 square foot addition and a 5,000 square foot warehouse storage building on existing site at 8 U. S. Route One

Mr. Chace stated that the Board saw this item at the last meeting; he stated that the treatment of site access management was key to the Board to create driveways rather than the open pavement on Route One. He stated that the parking spaces needed to be identified. He stated that Mr. Tubbs was satisfied.

Mr. Shawn Frank, of Sebago Technics, stated that the plan showed a landscaping island; he stated that they moved the storage building back for access between the buildings and separated the parking for the residential building and the businesses. Mr. Frank stated that the addition would square off the building for a lunch room and conference room. He stated that the construction trailers would usually be offsite but he had shown storage areas for them. Mr. Frank stated that the building would be sprinklered and there would be no drainage issues for the abutters.

To a question from Mr. Thomas, Mr. Frank replied that the front parking lot would be paved and striped and the middle area between the two buildings would be gravel. Mr. Thomas stated that this would be a huge improvement from the last plan and thanked the applicant. Ms. Corthell agreed. Mr. Bouffard stated that he liked the plan and asked about landscaping which would not provide cover during the winter; Mr. Frank replied that the landscaping would give a little buffering to the gravel parking lot and they could put in some evergreens for winter cover. To a question from Mr. Chamberlain, Mr. Frank replied that they would extend the curbing to join the existing curb around the existing CMP pole. Mr. Fellows stated that he appreciated the responsiveness of the applicant and stated that the proposal made the site less nonconforming and a little more attractive.

Mr. Fellows moved to approve the amended site plan for DMS&D with the following conditions:

1. The site plan shall be revised to extend Route One curbing to join with the existing curb around the CMP pole;
2. Exterior lighting fixtures shall be full cutoff fixtures. The fixtures shall be reviewed and approved by the Planning Department staff prior to issuance of a building permit;
3. Prior to the issuance of a Certificate of Occupancy the applicant shall provide the Scarborough Fire Department with access to the onsite gates;
4. The plan shall show enhanced landscaping to include year round interest and buffering with evergreen trees; the plan shall be reviewed and approved by the Planning staff prior to issuance of a building permit;

Mr. Thomas seconded.

Voted 5-0

6. Serenity Place Subdivision, Melissa Foshay requests amended subdivision approval to divide Lot 7 at 8 Summerfield Lane

Mr. Chace explained that at the last meeting the Board asked for some revisions which had been done; he stated that Mr. Tubbs and Mr. Wendel were satisfied.

Mr. Shawn Frank, of Sebago Technics, stated that the Board was concerned about additional pavement on the driveways so he increased the easement which would come off the existing driveway about 10 feet into the new lot. He stated that there would be an agreement for the shared driveway. The Board agreed that they were satisfied.

Mr. Fellows moved to approve the second amended subdivision plan with the condition that, prior to the issuance of the building permit for Lot 7B, the Fire Department approves the access design to ensure compliance with their regulations. Mr. Thomas seconded.

Voted 5-0

7. Black Point Park at Scarborough Beach, Black Point Resource Management requests site plan review for a Commercial Outdoor Recreation Facility at 388 Black Point Road
(Public comment is anticipated to be heard at the January 9, 2012 meeting.)

Mr. Fellows noted that there would be public comment at the January 9, 2012 meeting; he stated that the Board continued to read the letters sent by the public and the letters would be part of the information that would factor into the decision.

Mr. Chace noted that this was the fifth meeting on this project and the applicant had made some adjustments based on comments from the Board and they would work on further adjustments in the coming months. He stated that there were comments from Mr. Bray, Mr. Tubbs and the staff. He stated that there was mention of a potential dwelling for a seasonal employee in the architecture narrative. Mr. Chace stated that there was a question about opening the gate at Black Point Road at 8:30 A. M. for queuing vehicles. He stated that there was also a question regarding the landscape buffer on the berms near the abutters and the staff suggested increasing the minimum caliper of the trees for earlier buffering. He stated that it would be helpful to know the type of foods to be served at the concession stand to plan for fire suppression and internal ventilation. Mr. Chace stated that the subsurface wastewater disposal design was presented to the Code Enforcement Officer who was comfortable that the design could be accomplished. Mr. Chace asked that the storage of equipment be addressed. He stated that the DOT Traffic Movement Permit had been received.

Mr. DeWan noted that the new name of the project was Black Point Beach to satisfy the Public Safety Department.

Mr. Les Berry, of BH2M, stated that the septic system would be to the right of the concession stand and would be designed for 1,970 gallons per day and was being reviewed by the Department of Human Services. Mr. Berry stated that Scarborough had a quirky requirement for parking lot components and they would blend some gravel in with the sandy soil to put in more rocks for a composite material and then test it onsite before it was laid. Mr. Chace stated that as part of the infrastructure management ordinance there would be Town oversight of the parking surface and reports would be received. Mr. DeWan stated that the bumper stops would be moved back from the edge of the surface so the walkway width would remain five feet with no car overhang.

Mr. DeWan stated that the buildings would be weathered grey with green roofs. Mr. Seth Sprague, of Black Point Management, stated that the Zoning Board of Appeals had questions about security so the applicant determined that the design of the concession stand could accommodate a small apartment on the second floor; he stated that they hoped it would not be necessary for safety issues but thought it a good idea to put it there in the event it was needed. He stated that the apartment would be used only seasonally when the park was open and the septic system could handle the wastewater.

Mr. DeWan stated that there would be a storage area in the concession building for equipment but gas-fired equipment would remain outside the building. He stated that only basic food would be sold with no fryolator or cooking; he stated there would be a range or oven and an internally ventilated exhaust system. Mr. DeWan showed the gatehouse and picnic shelters. He stated that the Beach Management Agreement, of which the Board had a draft copy, was being reviewed by Inland Fish and Wildlife. Mr. DeWan com-

pared this project with the State Park and noted that there were about 83 square feet of beach area per person and at Black Point Beach there would be 73 square feet per person.

Regarding swimmer safety, Mr. Greg Wilfert, of Black Point Management, explained that they averaged six certified lifeguards per day at the State Park, who had extensive first aid training and averaged over 21 years of experience. He stated that they had made many rescues and tried not to let people get into the rips. Mr. Wilfert stated that there were rips every day and they had never had a drowning. He stated that there were two guard stands, an ATV and a jetski for rescue and all the life guards were trained to use the equipment. Mr. Wilfert showed the weather station sign which showed the surf conditions and would be at both beaches. He noted that they put safety first and shut the whole beach down when there were storms and when life guards were on duty they could stop people from going in the water. Mr. DeWan noted that a draft of the Beach Management Plan had been sent to Attorney Natalie Burns but they had not yet received a response.

Mr. DeWan stated that they had received the Traffic Movement Permit and would open the gates at 8:30 A. M. for vehicle stacking before the beach opened. He stated that there would be "No U-Turn" signs and cones to deter people from turning in the driveway.

Mr. DeWan stated that they had 0.08% nonvegetated area in the Shoreland Overlay Zone so met that requirement. He stated that they held their DEP public information meeting on November 28, 2011 and had a presubmission meeting with the DEP to go over the material; he stated that issuance of their permit would take about 120 days. Mr. DeWan stated that there were landscape buffers on 6 to 8 foot berms and the ever-green trees would be 6 to 8 feet tall so they felt that was sufficient buffer. Mr. DeWan stated that the employees would park in the general parking lot but they could designate spaces if necessary. He stated that they would develop the maintenance agreement and details of the light fixtures.

Mr. Fellows stated that the purpose tonight was to hear about some of the revisions and the ongoing work and for the Board to ask some questions; he stated that after the public comments on January 9, 2012, there would be more homework for the Board so there would be a break until the applicant received all the state and federal permits.

Ms. Corthell stated that she wanted to see details on policy and procedures of the park in general. Mr. Sprague stated that they felt the right hours of operation were 9:00 A. M. to sunset but there were days when people would arrive earlier and they would open the gate at 8:30 when it was very busy, but did not want to change the hours of operation to encourage people to arrive even earlier. He stated that vehicles would not be allowed to back up on Black Point Road. Mr. Chace noted that the Zoning Board allowed opening at 9:00 A. M. and only the gate, not the gatehouse, would open at 8:30. Mr. Wilfert stated that he opened the gate early if there were cars in the road. Mr. DeWan stated that details of the apartment were in the Board's package. Mr. Chace asked whether the apartment was a definite request and if so it needed to be determined whether an apartment was a permitted use. Mr. DeWan stated that their intent was to have it permitted but may or may not need to use it for security; he stated that this would be a good way to have eyes on the beach at night. To a question from Ms. Corthell, Mr. Wilfert replied that during the off season the tractor and ATV would be stored in a lean-to outside the concession building. Ms. Corthell stated that she would like to see the design of the signs.

To a question from Mr. Bouffard, Mr. Wilfert replied that the same equipment would be used for both areas but they did have a backup ATV. Mr. Bouffard asked where the beach users would go as they came off the path; Mr. Wilfert replied that most people stayed within the snowfenced area near the life guards but anyone could walk the entire beach. To questions from Mr. Chamberlain, Mr. DeWan replied the hours of operation would be posted on the sign and that the vehicles were stored at the State Park

behind a stockade fence and would not be stored inside. Mr. Chamberlain stated that the apartment made sense and asked how many employees there would be; Mr. Wilfert replied that there would be about six employees with one life guard post and up to three life guards. Mr. Wilfert stated that there would be people directing cars when the parking lot was nearing capacity. Mr. Chamberlain stated that he was satisfied with the berm height and buffering.

Mr. Thomas noted that beach area would be gained when the employees used the parking spaces. Mr. Wilfert stated that there would be an ATV at each beach but there was no need for two jetskis. To a question from Mr. Thomas, Mr. Wilfert replied that they did call the police for unruly patrons but infrequently and they watched the beach for drinkers; he stated that this year there were two rescues and last year there were 8 to 10 surfing injuries. To a question from Mr. Thomas, Mr. Wilfert replied that the resident would be assigned to watch the beach at night to check for fires and would help keep dogs out of the plover areas. Mr. Thomas asked about the parking surface; Mr. DeWan replied that there would be grass over the gravel surface.

Mr. Fellows stated that there should be some clear policies and procedures so there was a system in place to deal with issues. Mr. Fellows asked whether any other beaches had onsite dwellings; Mr. Wilfert noted three Maine beaches and larger state parks that had residences; he stated that no one would be there in the winter. Mr. Fellows asked about the width of the paved shoulder on Route One; Mr. Randy Dunton, of Gorrill-Palmer, replied that Mr. Bray was satisfied with the nine foot width as long as the gate was open at 8:30 A. M. to keep the queuing down. Mr. DeWan noted that there would be "No Parking" signs. To a question from Mr. Fellows, Mr. Wilfert replied that the fencing would be taken up during the winter and stacked and stored in the parking lot.

Mr. DeWan asked whether the Board expected a presentation in January; Mr. Fellows replied that he believed the Board would only listen to the public comments. Mr. Parkinson stated that it was important to make sure that if there were any oral rebuttal, the applicant could do that; he stated that he and the staff could work on protocol.

Mr. Fellows called a recess at 8:45; the meeting resumed at 8:55 P. M.

8A. Eastern Village, Ballantyne Development LLC requests site plan review for 7 structures consisting of 37 townhomes in previously approved subdivision off Old Eastern Road and Ballantyne Drive*

8B. Eastern Village, Ballantyne Development LLC requests subdivision amendment review for amended site plan for previously approved plan*

Mr. Chace noted that these two items functioned together but should be voted on separately. He stated that this subdivision was approved in 2008 including the location of the townhouses, but the final details of the units needed to be approved under the Site Plan Ordinance. Mr. Chace stated that there was a memo from Mr. Tubbs who indicated that the grading was adequate. He stated that the applicant was asking to amend the phasing line for the infrastructure and there was a requirement for modification of the DEP permit for the temporary stormwater pond.

Mr. Joe Laverriere, of Deluca Hoffman, explained that all the infrastructure was installed as part of the previously approved Phase II for the Block D townhouse and they had presented architectural details for Block D and would finalize the details for the remaining buildings in the future. He stated that they had modified the width of the lot to accommodate the architecture; he noted that the lot lines went through the building so unit owners would also own the land beneath them. He stated that the buildings would be three stories with separate garages at the rear of the lot with access from the alley and each unit would have two or three spaces. He stated that all the utilities had been stubbed to the lots; he indicated the bulk

and space notes on the plan.

Mr. Fellows opened the meeting to public comment. Mr. Paul Austin, of 3 Tide Mill Lane, noted that there was a suit against this project using the Eastern Trail for access and he suggested that the Board not act until that suit was settled.

Ms. Stephanie Smith, of Audubon Way, stated that currently Ballantyne Drive was the only access to this project; she stated that just three houses across from where she lived created increased traffic. She stated that her fellow condominium owners would appreciate another access and speed limits or speed bumps. Ms. Janelle Carson, of Audubon Way, urged the Board to consider how snow would be handled with the density of the buildings.

Mr. Kerry Anderson, developer of the project, stated that Mr. Austin had tried to stop this project in a number of ways but the project had prevailed with the DEP and an earlier law suit. He stated that the project continued to move ahead; he asked that the Board not hold up the project for something that was not relevant. Mr. Anderson stated that once Eastern Village got built out there would be other ways to access the site; he stated that he instructed his contractors to drive slowly through the neighborhood. He stated that they did not violate the 2,000 foot road limit and would construct another road when the economy turned around. He stated that the project met all the standards including the DEP requirements.

Ms. Susan Wilder, of 3 Tide Mill Lane, stated that she and a group of citizens were formed to protect the Eastern Trail and did not want to thwart the project but wanted to protect the marsh; she stated that there were conditions imposed that allowed the project to go forward. She urged the Board to table this project until the present suit was settled.

Mr. Thomas stated that the architecture looked very appealing and he had no issues with the amendments. To a question from Mr. Thomas, Mr. Laverriere replied that the land on the other side of the alley was another lot; he stated that the green area between the alley and that lot was five feet wide to the edge of the pavement. Mr. Laverriere stated that snow would be plowed into corners and, when necessary, would be removed from the site, which would be noted in the homeowners' documents. To questions from Mr. Thomas, Mr. Laverriere replied that the main streets in Eastern Village would be offered to the Town which would post the speed limits and they would try for nothing higher than 25 MPH. Mr. Thomas stated that he had no issues other than the traffic speeds which the Board had little control over.

Mr. Chamberlain commended Mr. Anderson on the vision of the project; he noted that the project had been approved. Mr. Chamberlain asked about a landscaping plan for the yards. Mr. Laverriere stated that the backyards would be fenced off and for private use; Mr. Anderson stated that the owners could do what they wanted on their own private lots. Mr. Chamberlain asked where the applicant stood with the required affordable housing; Mr. Anderson replied that there was a foundation for an affordable house in Phase 1 that had been there for 16 months unpurchased and had hampered their sales because it looked abandoned. He stated that they were willing to provide affordable housing but no one was interested so it was tough trying to comply with the requirement.

To questions from Mr. Bouffard, Mr. Laverriere explained the Traditional Neighborhood Development and stated that there would be an association that would be responsible for the common areas. Mr. Bouffard stated that he did not like the garage on the end with the access to Inspiration Drive rather than on the alley. Mr. Laverriere stated that turning the garage would make the alley seem too wide. Mr. Bouffard stated that he would be concerned about pulling into the street but he understood the design concept.

To a question from Ms. Corthell, Mr. Chace replied that one of the requests was for full approval of Building D with conditional approval for the other seven townhouse structures; he stated that the architecture of those buildings would follow that of Building D and the staff could do the final review and approval by the Chairman as noted in the staff comments. Mr. Chace stated that final review by the Fire Department would be part of the building permit process. Mr. Laverriere stated that he had sent a copy of the drainage plan to the DEP but the phase lines did not matter to them. To a question from Ms. Corthell, Mr. Anderson replied that the price range of affordable housing depended on the median income in each town; he stated that this house would sell for about \$220,000.00 and the developer would be responsible for the remainder of the cost. Ms. Corthell stated that she had no issues with the architecture, the drainage line or the pedestrian walkway.

Ms. Corthell noted that she saw nothing to indicate that the Board should consider that there was a legal proceeding underway; Mr. Fellows agreed. Mr. Fellows noted that Mr. Anderson went through a lengthy process with this project and all the approvals were in place and nothing changes materially. Mr. Chace stated that the applicant had proven that he has right, title and interest to use the Eastern Trail. Mr. Fellows stated that he thought an administrative review of the remaining seven structures would be satisfactory and the Chairman could decide whether it needed to come back to the Board. Mr. Chace stated that any subdivision amendment would have to be addressed by the full Board so only the architecture could be approved by the Chairman.

Mr. Fellows moved to approve the second amended subdivision plan as proposed; Mr. Thomas seconded.

Voted 5-0

Mr. Fellows moved to approve the site plan with the condition that prior to issuance of building permits for townhouses A, B, C, E, F and G, the final architectural details shall be reviewed and approved through the Board's administrative review process. Mr. Thomas seconded.

Voted 5-0

9. Administrative Amendment Report

There was no report.

10. Town Planner's Report

Mr. Chace noted that on Wednesday, December 7, 2011, there would be a meeting at the Pine Point Fire Station at 6:30 P. M. to discuss the rezoning of the Pine Point area.

11. Correspondence

Mr. Chace noted the letter from Mr. Nahan regarding the Settler's Green area. Mr. Fellows noted that many of the points in the letter referred to the industry-wide mold issues which were addressed by staff as much as possible.

12. Planning Board Comments

Mr. Fellows wished everyone happy holidays.

13. Adjournment

The meeting was adjourned at 10:10 P. M.

