

Pine Point Residents Association



Beach Access Plan

Summary of Residents' Input

1/12/2010

PINE POINT RESIDENTS ASSOCIATION

UPDATE: January 12, 2010

BEACH ACCESS PLAN BESIDE DEPOT STREET

The final public forum about the Town's plan to create a beach access area next to the former Depot Street was held tonight at Town Hall. This was the third and last one. Unfortunately, only one citizen attended other than the same few Association members who have been at every forum advocating the group's positions. Three Town Councilors attended as well as the Town Planner and Town Manager. As predicted, attendance at these three forums was very poor, clearly due to the holiday timing and the fact that many residents are away this time of year. The forums were also not well-publicized. Nevertheless, those members of the Association who did attend promoted the same principles; openness, access, preservation of views, an identity, and a plan which reflects the needs and desires of the citizens, not primarily the investors at the Beachwalk or the motel owners. Whether we were successful or not will be learned once the Town Manager's Task Force reconvenes and comes up with a final plan. That plan will go before the Planning Board for its "advisory opinion" and then to the Council for approval.

This is a summary of positions we have advocated regarding both the process and the plan. The Plan can be viewed on our website at www.pinepointbeach.com and is attached to the e-mail you received.

THE REASON FOR A DESIGN PROMOTING "OPENNESS" SO THE PUBLIC RETAINS THE VIEWS ENJOYED FOR CENTURIES EVEN THOUGH WE LOST OUR BEACH ROAD.



PROCESS

FORUMS

We have stated repeatedly that the Town's goal of getting meaningful input would not be achieved with the three planned forums because there would be poor attendance. That proved to be true. We proposed the plan be sent by mail with a return mailer for feedback to all residents in the area, particularly those whose mail is forwarded during the winter. That was not agreed to due to cost. We argued that the Town spent money on a landscape

architect as well as surveyors, lawyers, and town staff time on both the land exchange proposal and the beach access plan so an additional expenditure to get meaningful public input during this time of the year was not unreasonable. The plan was just recently put on the Town's website, as mentioned at the last Council meeting. We have requested of the Council Chairwoman that the next Task Force meetings be opened to the public so citizens can attend and learn how the public input, albeit limited to those few who attended, will be deliberated. We are hopeful the Association's views will be given weight.

TASK FORCE

We objected earlier to the composition of the Task Force which is primarily town staff with two residents who were invited to participate by the Town Manager. Direct abutters, such as the owners of the Sand Dollar Inn, the homeowners across the street from the site, and the Beachwalk were not included on the committee. The Task Force meetings were not open to the public as we requested. As stated above, we have asked that the rest of those meetings be open.

TIMING

You will recall there is a Road Reconstruction Plan developed by a 2008 Study Committee which the Association petitioned the Council to create. This plan calls for the reconstruction of the end of the Pine Point Rd. from East Grand Avenue to what was Depot Street). It calls for considerably narrowing the presently 42-foot wide paved road to two 11-foot travel lanes and the installation of five-foot wide sidewalks and six-foot wide grass buffers (esplanades) on both sides of the road. Three-foot paved areas for unofficial bike lanes (3' does not meet the width requirements for bike paths) are also included.

Part of that reconstruction plan, which is already funded and planned for springtime construction, must be partially altered by the fact that Depot Street is now private property. It may need to be altered further depending on the outcome of the Task Force's work and Town Council approval of a final plan.

Two major changes to this heavily traveled corner have occurred since the 2008 Road Committee's plan to reconstruct the street was presented to the Council a year ago. They are; 1) the Town closed 50-foot wide Depot Street and conveyed it to the Motel, and 2) the Town acquired the motel's 21-foot wide parking strip and has been working since last summer on a design plan for public beach access (the Town Manager's Task Force).

Part of the draft plan shows a 2-car "drop off" next to the entrance to the motel's new parking lot on Depot Street. These two changes presumably would impact the road design. We advocated assertively for the same process the Association has asked for in the past six years; that the Town conduct a traffic study and collect data on how this unique area is used by drivers, pedestrians and bicyclists so a design would reflect a careful examination of this unusual area. We argued that the road design, land exchange and beach access plan done without any data on traffic patterns during the summer makes no sense and is not responsible. We also reiterated concerns about the heavy commercial use of this corner (trailer trucks, RV's, trolleys, boats of all sizes, etc.) which is reason enough to conduct a study. Finally, we reiterated the traffic concerns elsewhere in the neighborhood, such as the horrendous bottlenecks near Hurd Park, the practice of allowing parking on the side of the road next to the fence at the overflow parking lot at Hurd Park, the danger of pulling out of the avenues on to Jones Creek Drive because of poor visibility caused by the parallel parking spaces, the dangerous curve at Bayley's Lobster Pound (not due to the business but because of encroachments to the road on the other side), and shared examples of the frequency with which people simply stop in the middle of the road to drop off beachgoers. Whether or not the Task Force will consider these points and propose a delay of the projects so a traffic analysis can be done remains to be seen. It is a question of priorities, we stated. If a study was done, it is very possible that a professional traffic engineer might recommend changes in the projects about to be undertaken.

As with the Land Exchange, the position we advocated was to slow down the process, look at the bigger picture and rely on information from a careful study. It's common sense and responsible governing.

BEACH ACCESS PLAN FEATURES

To focus on the beach access plan itself, those few residents who attended the forums presented the positions below and there was no disagreement among the Association members who attended the meetings and spoke. Again, we believe we represented the consensus of the Association and its long-held positions. We will be able to present these to the Town Council when it deliberates the Task Force's final recommendations, and possibly at the Planning Board review if public comment is allowed. We ask again if you have any other input not included here to send it along. Joan Lourie and Jack Callahan are the two residents on the Task Force and are encouraged to advocate these positions as the only residents on the committee.

FENCE

A three-foot high open, round, rail fence was overwhelmingly desired to protect views and establish "openness" on what is now smaller public property at the shore. With the loss of views due the land exchange (the motel parking lot on Depot Street will clearly obstruct views), we advocated for the most unobtrusive fence design possible, and one which is consistent with the character of the neighborhood. Hurd Park, the Municipal Parking Lot, the Beachwalk and several private properties use low-profile, open rail fences. The DEP and our Comprehensive Plan both contemplate limiting fencing for preservation of public views and for sand and wind movement at the shore.

The Task Force contemplated picket style fencing as you can see on the Plan Draft. Planning Board members, however, overwhelmingly supported a rail fence style when it reviewed the Motel's site plan and required the motel to use the same design the Town chooses for the beach access area. It appeared that this fence style had considerable support by most. Two concerns came to light, however. First, the Town Manager stated that the fencing would be "overtaken by plantings... in short order." He also stated, for the first time tonight, that he supported the use of a "mesh netting" of some material attached to the open rail fence because the Town had a responsibility to ensure the public remained on public land.

The feedback he received on these two issues was two-fold. First, vegetation should be limited in height so it does NOT overtake the fence. Plantings, such as Sea Rose, which is permitted to grow unchecked rather than maintained at a low height would become a "fence" itself and would obstruct views. A fence does not have to be made from dead wood or vinyl; a solid hedge of aggressive plants allowed to grow essentially creates a fence and should not be permitted. The Town should impose on itself a limit of plant height to two feet so the rail fence is not overtaken, and plants should be maintained by the Town at that height to preserve openness.

We also restated our written position on the absolute necessity for the Town to draft a fence ordinance for scenic areas so places like the Beachwalk and Motel would be prohibited from using high plantings to create de-facto fences. If the Town does not immediately begin the ordinance process soon to regulate fences, fence-like vegetation and other obstructions to views, then it is possible, and arguably probable, that the Beachwalk and Motel will try to screen their properties from what is to become a public access area. An ordinance draft NOW will prevent that from happening because Maine law allows municipalities time to draft, deliberate and enact ordinances while preventing these sort of grandfathering attempts, as was seen with the failed Condominium ordinance two years ago and the recent wind power ordinance (statutory reference 1 M.R.S.A. 302). In other words, if the Ordinance Committee of the Council initiates development of an ordinance regulating fencing in scenic areas, those who try to circumvent this lawmaking process would not be protected.

The Town Manager stated that the Beachwalk owners have indicated they may want to plant trees along the property line where the Town land meets their land. Our position was that they would be precluded from doing that by the subdivision approval because the developer made representations to the Planning Board which must be considered conditions of their approval (the language in the ordinance is clear). If the Beachwalk chose to erect

a stockade fence for the privacy, we argued the Town should enforce these representations and not permit it. If the Town failed to do so it is possible the Town would install the split rail fence on its side of the property line and the Beachwalk, if unhappy with their loss of privacy now that the Truman's six foot stockade fence was removed last month, could erect the same style a few inches away on their common property (Claudia Lane). We cannot imagine such a scenario but without aggressive enforcement or an ordinance in place, it is possible -- and the Town Manager confirmed it this evening. We reminded him that the Beachwalk lot owners were investors and if their investments were not successful it was of no concern to the Town relative to its obligations. We also reminded the Town that the Beachwalk still has not completed all of its conditions of approval (such as constructing the sidewalk from East Grand to their private road entrance) and that they amended their covenants to allow summer road and building construction, something the developer promised (represented) to the Planning Board would not be allowed.

Secondly, the use of "mesh," attached to a rail fence (sort of like chicken wire), which came as a complete surprise tonight, should be rejected soundly by the Task Force because it would be both a visual obstruction as well as aesthetically unsightly, and not consistent with the character of the neighborhood. Imagine, for example, mesh netting attached to the lengthy open-rail fence which presently surrounds the Municipal Parking Lot at Hurd Park.

The Town has not previously taken the position outlined by the Town Manager tonight (i. e., that the Town has some responsibility for respecting private property owners which is why the mesh was being considered). In fact, the million dollar homes on nearby Dunefield Lane abut the Town right-of-way next to Hurd Park, but the Town has not attached mesh to its open rail fence there.

This image was provided to the Planning Board for its consideration when reviewing the Lighthouse Parking Lot Site Plan. The Board decided to require the Motel to use the same fence style as the Town selects for the Beach Access making this Task Force decision critically important. These pictures are examples. Hurd Park is pictured below (bottom left), which has the fence style strongly advocated by the Association with a three foot height limit for the upper rail and without mesh netting.

FENCING

Various Styles of "Cedar Pickett" Fences called for in the Task Force Plan. They range from closed, full privacy designs to more open. Open styles, however, appear solid when viewed at slight angles.

Post & Rail Alternatives are pictured below. They do not obstruct views, are easier to maintain and are less subject to vandalism.





< Albion Hurd Park in Pine Point has Rail Fencing



DROP OFF

We reiterated our fear that the “drop off” plan (2 cars along the road as shown on the plan) would be lost and indeed this was presented as a possibility tonight. The drop-off is clearly less than what the people wanted. We’ve advocated for an off-street turnaround on Depot Street for years. But while not ideal by any measure, the drop off plan proposed is the only remnant of compromise from the summer-long battle against the land swap.

The land swap removed virtually any possibility for an off-street turnaround and handicap parking on Depot Street, so the two-car drop off is likely the best we can get. If that is ultimately removed, then all that will be left is a 21-foot wide path to the beach where we once had a fifty foot road and unimpeded access to the shore.

It has been argued that we have that “teardrop-shaped” land also, which was obtained from the Beachwalk, but we (the Town) had that regardless because it was part of the negotiated deal when the Beachwalk was approved. It has been argued the parcel “is worthless” (in the words of Richard Sullivan in July), but our position has always been that this land was valuable because it prevented a house lot at that location and preserved that view corridor. Those are the reasons the Association lobbied strongly for the land with the developer and Planning Board.

The residents also were confident the Trumans would one day approach the Town again for help redeveloping their property, help the Town willingly was very generous with in 2005 with the first (and only) land swap agreement until this year. We believed the Town could use its powerful leverage to acquire the Motel parking strip in a future deal and all we had to do was wait them out. None of us ever imagined the Town would close Depot Street and gift excess land to the Motel as it did last year. In fact, just the opposite was planned in 2005. The Motel was going to tremendously benefit from the Town’s assistance with their five-condo plan which meant the Trumans would sacrifice some of their land in the deal so the Town could widen Depot Street and develop the Ocean Gateway concept while preserving landscaped frontage for the five condos. In summary, we reject the argument that the exchange was necessary to make the “teardrop” useful. It was very valuable the moment it was acquired and would have been much more valuable when added to all of Depot Street and likely more land from the Motel. We just needed to wait.

We’re stuck now with the significant limitations of last year’s decision, which is clearly significantly less available land with which the Town could create the Ocean Gateway or “Beach Access” concept. Preserving vehicle access to the shore, particularly for seniors and persons with handicaps, was an important goal which can now only be very partially achieved by at least a place they can pull over and catch a glimpse of the beautiful bay. If it goes, there will be absolutely no place to stop except for the travel lane, which people will do as they do now. The lure of that view or need to drop off beachgoers has for decades compelled drivers to stop wherever they chose, but that fact has never been confirmed by a careful study.

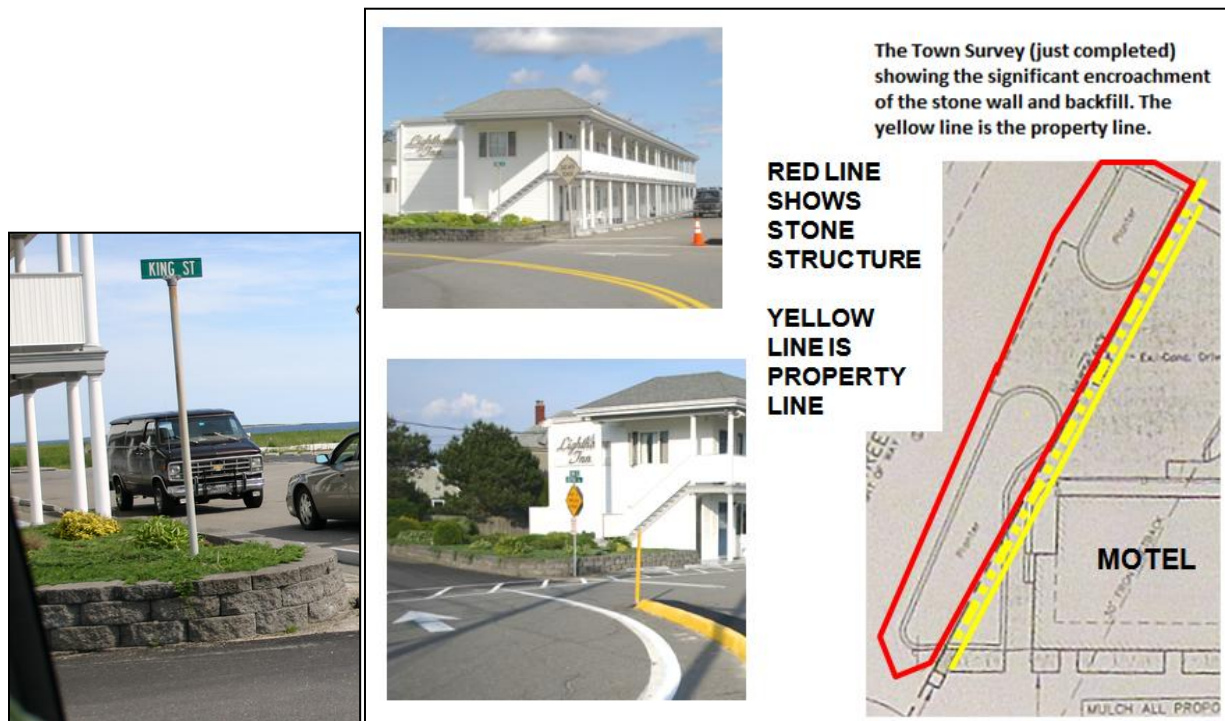
The history and commentary above boils down to the position we advocated, which is to at least maintain the drop off area. Related to that was our strongly-exerted position, which we put forth at the last forum, that the Trumans’ stone wall encroachment must be removed. You will recall that this structure is almost entirely located on the Town’s right of way and has created safety concerns since it was built many years ago. We argued that removal of it would make the two-car drop off area safer because cars would have more room to maneuver back on to King Street and would prevent a likely bottleneck at the curve. Removal of the wall would also give pedestrians more room to walk safely where they now are forced by the wall’s presence to walk in the travel lane.

The Town Manager, based on this input at last week’s forum, asked Bill Bray, the traffic engineer who proposed the first infamous “orange barrel barricade” on Depot Street in 1989 after conducting a four hour traffic study. Mr. Bray still does work for the Town and will look at the stone wall and the drop off plan to determine if it makes sense to remove it. The Town Manager stated tonight that it’s possible that “leaving the wall there may actually be

a safer alternative.” The Manager indicated that Bray would give the Town an objective opinion not “just what we want to hear.” While unstated during the meeting, those residents in attendance who spoke privately just after the forum ended were concerned Mr. Bray would simply endorse the Town’s long-held position and allow the stone wall to remain. It was compared to the Town Attorney determining Zoning Board approval of the parking lot expansion was not required; residents believe these professionals who make judgment calls and interpretations, will do what their client wants. The client is the Town of Scarborough and it has wanted to leave that stone wall in place.

Residents reviewed their repeated attempts to have the wall relocated on to the motel property over the years because of safety and because it was not a typical “encroachment” such as bushes, lawns or a picket fence commonly placed in the town right of way. What distinguishes this stone wall from those, and always has, is that it is clearly a large structural stone wall which was backfilled with soil to a height of about 3 feet, landscaped, has electrical connections for lighting and has held signs. In fact, the town’s street sign for King Street was surrounded by this substantial construction project when it was done (see insert).

It was not until the recent land swap process, when surveys were done, that it became an undeniable fact this very large structure is almost entirely on town property. The Planning Board also expressed concerns about it when they reviewed the motel’s parking lot site plan last month. It must go. That was our input.



RECENT SURVEY SHOWING STONE WALL ALMOST ENTIRELY IN TOWN ROAD

IDENTITY AND SIGNAGE

We advocated for some identity for the beach access area (a name at the very least) and clear signage which invites and promotes its use by the public and visitors. One of the recent renderings by the landscape architect was labeled “Ocean Gateway” which was the term coined by Ron Owens years ago when the 2005 committee was designing a plan. That plan actually included an expanded Depot Street for the “Gateway” (back when the motel was going to become a five unit high-end condo with its parking in the back and the Town was going to simply move Depot Street toward the Beachwalk).

After the Trumans, at the end of the 8-month study, pulled the plug on their plan and converted later to 22 condo dwellings, they installed a sign which read “Ocean Gateway Condominiums.” Using that name was considered an affront to both the neighborhood and Town Manager because the term was widely accepted as “just right” for the plan being developed by Ron Owens and the Committee (which had five citizens on it). Nevertheless, the name was taken. The feedback tonight was for the Town to avoid that name if the Trumans were using it.



A suggestion was made by Bob Baizley to ask students at the high school to come up with some names and design a sign for the area. This would reinforce the fact this is a town-wide resource and the student effort could be as successful as the 350th Anniversary logo design they did. People liked this new idea which will be presented to the Task Force. The Town Manager’s question about naming it for an historical person from Pine Point was rejected because of the obvious difficulty involved in determining who deserved such recognition.

We did support an informational kiosk on the site with historical information and perhaps information about the natural resources there. Signage which made it clear that beach parking was available at Hurd Park was agreed upon (the use of the name “Hurd Park” on the current sign was probably not clear enough to visitors).

PREVIOUS POSITIONS PRESENTED AT TWO OTHER FORUMS BY RESIDENTS (unless mentioned above)

BENCHES

Agreed, although the height should vary to accommodate seniors.

BLOCK WALL REMOVAL

Agreed the cement block walls constructed on the dunes by the motel owners years ago (on Town property) should be removed. These are not to be confused with the large stone wall in the street. You can see the Task Force plan for the location.

6 FOOT FENCE BY NEW HOUSE

We strongly opposed this feature of the draft plan. The Beachwalk lot owners are prohibited from erecting fences over 42 inches by the Planning Board's conditions of approval. The purpose of this restriction was to protect view corridors. It makes no sense, therefore, for the Town to install a six foot fence (which it just took down two weeks ago) at that location when the lot owner the Task Force seeks to provide privacy to is prohibited from installing his or her own. Investors should have been aware of the Planning Board's approvals and developer's representations prior to making their investment. Here are excerpts from Planning Board approval which is recorded in the Registry of Deeds. The Task Force might have done more research prior to including this privacy fence on the plan.

- S-6. THE PROPERTY SHOWN ON THIS PLAN MAY BE DEVELOPED AND USED ONLY AS DEPICTED ON THIS APPROVED PLAN. ALL ELEMENTS AND FEATURES OF THE PLAN AND ALL REPRESENTATIONS MADE BY THE APPLICANT CONCERNING THE DEVELOPMENT AND USE OF THE PROPERTY WHICH APPEAR IN THE RECORD OF THE PLANNING BOARD PROCEEDINGS ARE CONDITIONS OF APPROVAL. NO CHANGE FROM THE CONDITIONS OF APPROVAL IS PERMITTED UNLESS AN AMENDED SUBDIVISION PLAN IS FIRST SUBMITTED TO AND APPROVED BY THE PLANNING BOARD.
- S-28. COVENANTS FOR MANDATORY MEMBERSHIP IN THE ASSOCIATION SETTING FORTH THE OWNERS RIGHTS AND INTEREST AND PRIVILEGES IN THE ASSOCIATION AND THE COMMON LAND SHALL BE APPROVED BY THE PLANNING BOARD AND INCLUDED IN THE DEED FOR EACH LOT.
- S-31 VIEW CORRIDORS: ALL PLANTINGS AND FENCING WITHIN THE PERIMETER OF THE SUBDIVISION ("WITHIN THE PERIMETER OF THE SUBDIVISION" INCLUDES ALL AREA LOCATED ON INDIVIDUAL LOTS), SHALL NOT EXCEED A HEIGHT OF 42" TO PROTECT THE VIEWS OF THE ABUTTING PROPERTIES, EXCEPT FOR PLANTINGS IN THE FRONT OF EACH HOME WHEREAS, THE HOME ITSELF ALREADY LIES WITHIN THAT VIEW CORRIDOR. DECLARANT WILL WORK DILIGENTLY WITH ABUTTERS AND LOT OWNERS OF THE SUBDIVISION WHEN CONSIDERING PLANTINGS AND FENCING, TO NOT UNNECESSARILY OBSTRUCT ANY VIEWS TO THE OCEAN AND BEYOND. THIS SPECIFIC COVENANT CANNOT BE CHANGED BY A VOTE OF THE HOMEOWNERS ASSOCIATION.

BIKE RACK

The location of the bike rack indicates that there will be both pedestrian and bike movement along the beginning of the path or trail. The Task Force should consider ways to prevent conflicts in the name of safety, we offered.

ARBOR

Any structure of this type to provide shade should have no walls to obstruct views. The necessity of this was questioned.

PLANTINGS

Along with height restrictions of two feet or less for plant growth, we proposed no sensitive species such as dune grass be included which would later limit any changes to the area by DEP or other rules. You will recall that the Town Manager presented a plan by DeWan a year ago which called for completely filling the "teardrop" town land with this sensitive and fast-growing species. That would have resulted in the complete loss of public access to that public property.

LIGHTING

No plan for lighting is included. Some provision for low level lighting should be included for safety, security and for off-season use when days are very short.

WINTER ACCESS

Provisions should be made to maintain a clear path during the winter (perhaps the way sidewalks are cleared). Depot Street was always plowed so residents could drive to the shore year-round. With the street now closed and owned by the Trumans, winter residents should enjoy access in the winter.

PATH MATERIAL

When pavement is removed from this site, any future consideration of restoring impervious surfaces may not be possible due to the site's location in the frontal dune and more and more regulation as time goes by. Since the entire portion of the site which was once the Motel's parking strip is currently impervious, it was strongly suggested that as much pavement as possible be retained for the trail or walkway, bike rack area, arbor area and other areas not devoted to plantings.

FORCE OF ORDINANCE

The final plan for this public area should be memorialized in an ordinance like that for the Scarborough River Wildlife Sanctuary. This would provide more permanence and the force of local law to ensure the plan is not easily altered and the specific requirements are enforceable. Here is the reference to the Sanctuary Ordinance.

<http://www.scarborough.me.us/common/ordinances/301admincode.pdf>

ARTICLE XIX TOWN OF SCARBOROUGH ORDINANCE ESTABLISHING AND REGULATING THE USE OF THE SCARBOROUGH RIVER WILDLIFE SANCTUARY Adopted January 5, 2000

Thank you for taking the time to read this update. This is also provided to the Task Force to summarize the feedback the Town Manager sought through the Forums. We are hopeful these points will be considered.

For the Association,

Judy Shirk, Membership Coordinator

883-9400

