



Pine Point Shore Access

Some facts, maps and articles to provide information and history with the goal of preventing more Town Owned Land at the Shore from disappearing or becoming less available for future public use.

Pine Point Residents Association

Shoe drops for possible Pine Point land swap

By Michael Kelley
Staff Writer

In 2009, the town of Scarborough executed a land swap with the owners of the Lighthouse Inn, much to the dismay of many in town.

Now, more than five years later, the council is debating another land swap at Pine Point. The Town Council met in workshop fashion with Jim and Kathy Wellehan, who own a long strip of land at 61 King St. that abuts Hurd Park, the public parking facility for Pine Point Beach.

The Wellehan property is bordered by Hurd Park on the north and a town-owned right-of-way to the south. Both properties are approximately 50 feet wide and extend to the high water mark on the beach.

The town property, Town Manager Tom Hall said, serves as a “natural extension of Avenue 4.” It is unlikely a road would ever be built there.

“I don’t see any public value in building the road out,” said Hall.

The proposal, still in the preliminary stages, would be to reconfigure the lots so the Wellehans would own the top half of the two sites and the town, the bottom half. The council did not vote on the swap, but did reach a consensus that it was a proposal worth looking at.

“It seemed logical to Jim that reconfiguring the town property and their property could result in two or three legally created lots that would be to the benefit of the town and the Wellehans,” said Melissa Murphy, the attorney with Perkins Thompson, a Portland-based law firm, who is helping the Wellehans with the potential land swap.

The swap would allow the Wellehans to rehabilitate their home, something that cannot be done by right, because it only has 50 feet of frontage and is considered a nonconforming lot. To do work, the Wellehans would need to get special permission from the Zoning Board of Appeals. The land swap would negate that requirement.



Kathy and Jim Wellehan have proposed swapping a section of their property with a section of abutting town-owned land in an effort to create a conforming lot and make improvements to their home. The Wellehan family has owned the property since 1940. (Michael Kelley photo)



The Town Council is weighing the benefits of a proposed land swap with Kathy and Jim Wellehan, who own property at 61 King St., which abuts the town parking lot for Pine Point Beach. The swap would allow the Wellehans to renovate their summer home and allow the town to potentially get additional property on the tax rolls. (Michael Kelley photo)

“They can keep what they have, but to make any changes they have to comply with today’s standards,” Murphy said.

The Wellehan family has owned the property since 1940, but the home on the site, which Kathy Wellehan said is only used as a summer cottage because it lacks insulation, has fallen into disrepair due to the parking lot being constructed next door. The town purchased 63 King St., where Hurd Park is, in 1978, tore down the existing building on the site in 1979 and opened it as a public parking lot shortly after.

“In the process of leveling the lot and excavating the land adjacent to my folks’ house, the project destabilized our cement block foundation, which sagged and cracked,” Jim Wellehan wrote in a Nov. 25 letter to the council. “The chimney top also fell off and had to be capped. Eventually the town put up a retaining wall to prevent our destabilized house from collapsing into the parking lot. However the retaining wall did not prevent our garage and front yard from flooding every rainfall. The parking lot changed the topography of the surrounding land, resulting in our front yard and the land a bit further in front becoming the collection spot for runoff.”

Nevertheless, Jim Wellehan, whose father founded Lamey-Wellehan shoe stores, said his family has enjoyed the property for annual weeklong family reunions in the summer.

Town Councilor Shawn Babine wondered what the town’s ultimate goal with the property across from Avenue 4 is. Town Manager Tom Hall said there is no long-range plan, but it serves as an access point to the beach as a “fair amount of foot traffic” uses it to get to the beach.

Council Chairman Jessica Holbrook said she is “open to the concept” of a land swap with the Wellehans, but remains concerned about what could be built next to the town parking lot if the swap goes through. The swap would potentially allow Dunefield Lane to be extended and two additional houses to be built.

Town Councilor William Donovan said if the swap is executed, he would like to ultimately see the town sell its reconfigured lot, which would be buildable, unlike how it exists today.

“Sell it and take the \$500,000 to \$1 million and put it in a fund that would benefit our beaches,” he said.

Before the town does that, Town Councilor Peter Hayes said he would like to see the council explore what other potential values the reconfigured piece has for Scarborough residents. It is possible that the land could be used to expand the parking lot, although Hall said the area does not lack beach parking.

“It’s very seldom we are at full capacity and we have an overflow lot on the other side of King Street. It is not like we have a burning desire to expand that lot, but it is an option we could, and should consider if this moves forward,” Hall said.

Hall said he will work on drafting a memorandum of understanding — a nonbinding document that would put expectations into writing — with the Wellehans. A public outreach/neighborhood meeting requirement could be built into the document.

Want to comment on this story? Login to our website at leader.mainelymediallc.com and let us know your thoughts.

Rights of Way in Pine Point

Blue = Rights of Way (many of which have no signs for Public Access or Dog Ordinance Info)

**Resident
Encroached on
Town Land. Given
Permission to
Keep Private
Boardwalk on
Municipal
Property**

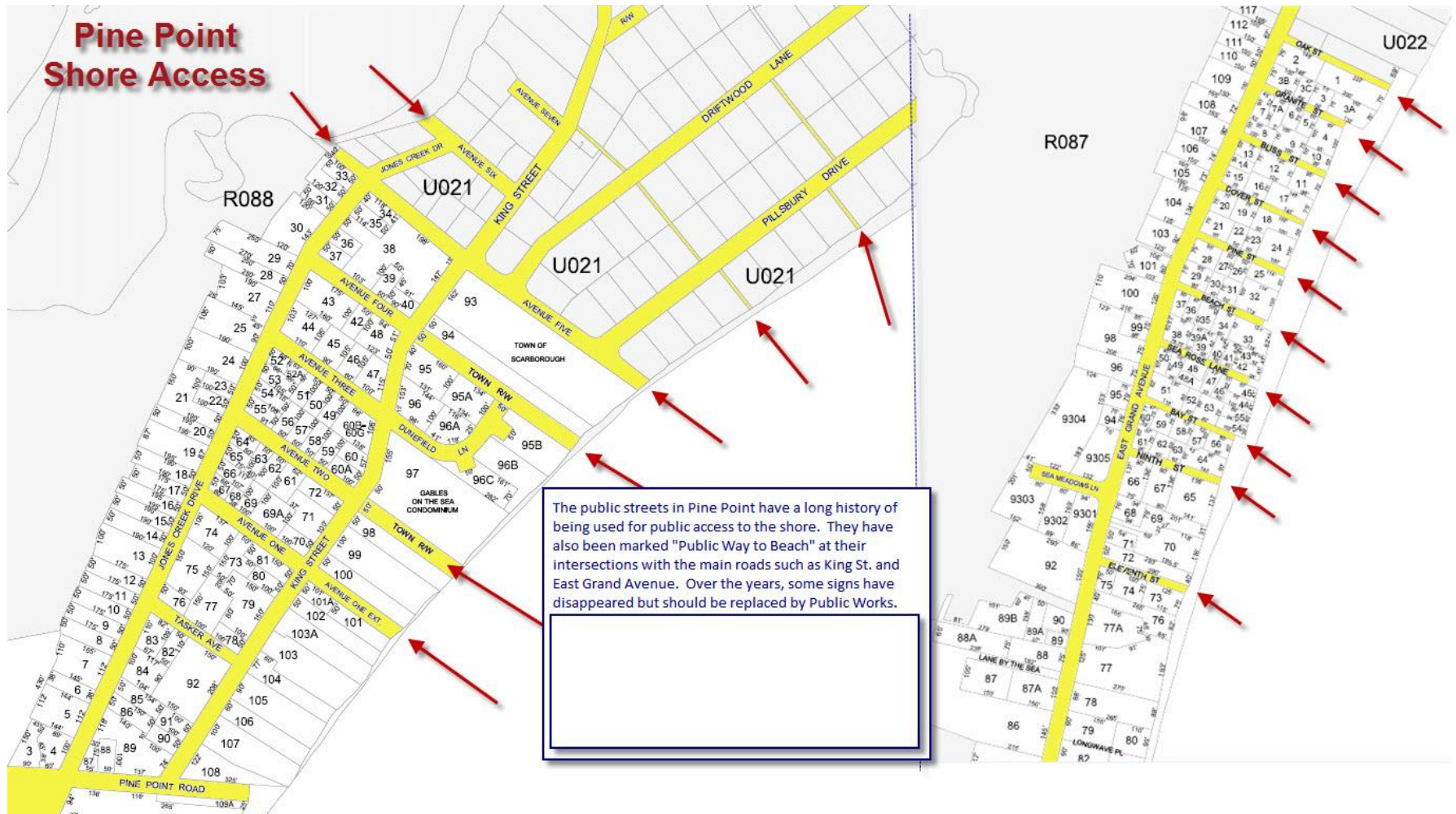
Town Access to River Discontinued

**Town
Owned
(Tidal Inlet)
(See History)**

Disproportionate Land Swap Which Closed Depot Street to the Shore Permanently.

Avenue 4 Extension Often Used Public Way to Beach Threatened By Land Swap 2007 and 2014

This was a study done by the Resident Association in 2006. The left map is the Pine Point Peninsula showing rights of way. The right map is the area from Conroy's Garage to the Old Orchard line where access to the beach is shown.



HISTORY

Wellehan Cottage

The Pillsbury House Razed and
turned into Town Parking

Ave. 5

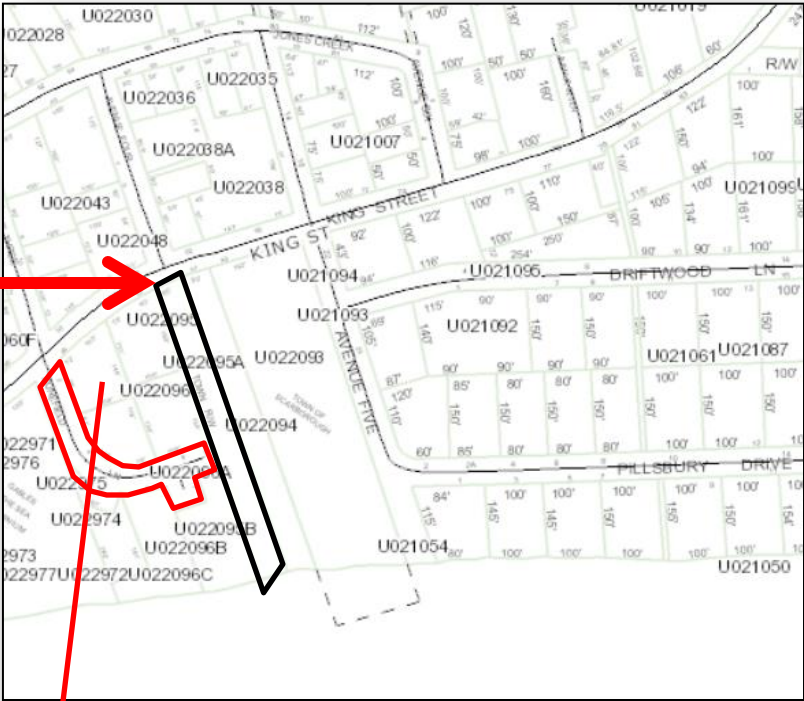
King St.

Ave. 5 Ext.



The Ocean Spray Motel Complex was purchased by the Town to create Hurd Park where there is now municipal parking and a concession stand. Notice the dune system in the old photo. Accretion of sand over the decades created more shorefront land. The red outline is an estimation of the property lines superimposed on the aerial. Photo taken about 1960. Town Leaders were forward-thinking in acquiring these two parcels.

This is the 50 foot wide TOWN right of way known as Ave. Four Extension which has been in existence since the 1888 Plan of Pine Point (see map other page). The Town has placed the appropriate signs to make the public aware of this right of way to the beach, including the Dog Ordinance Sign. The top tax map is from 2005. The lower one is current.

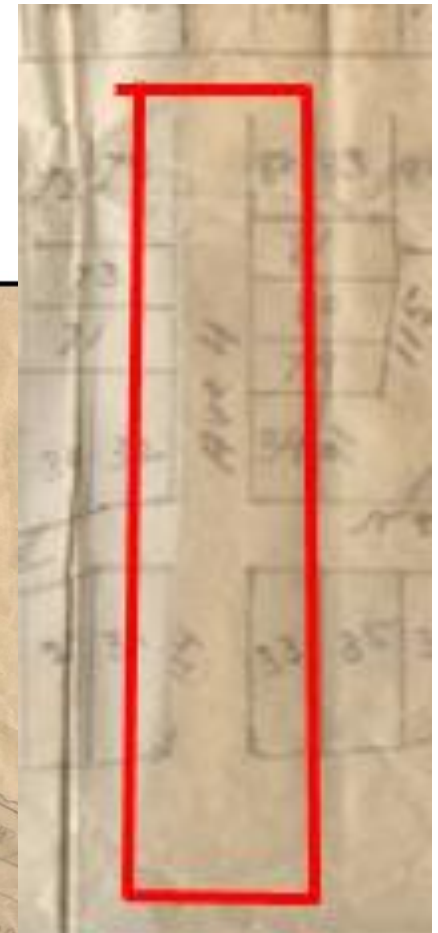
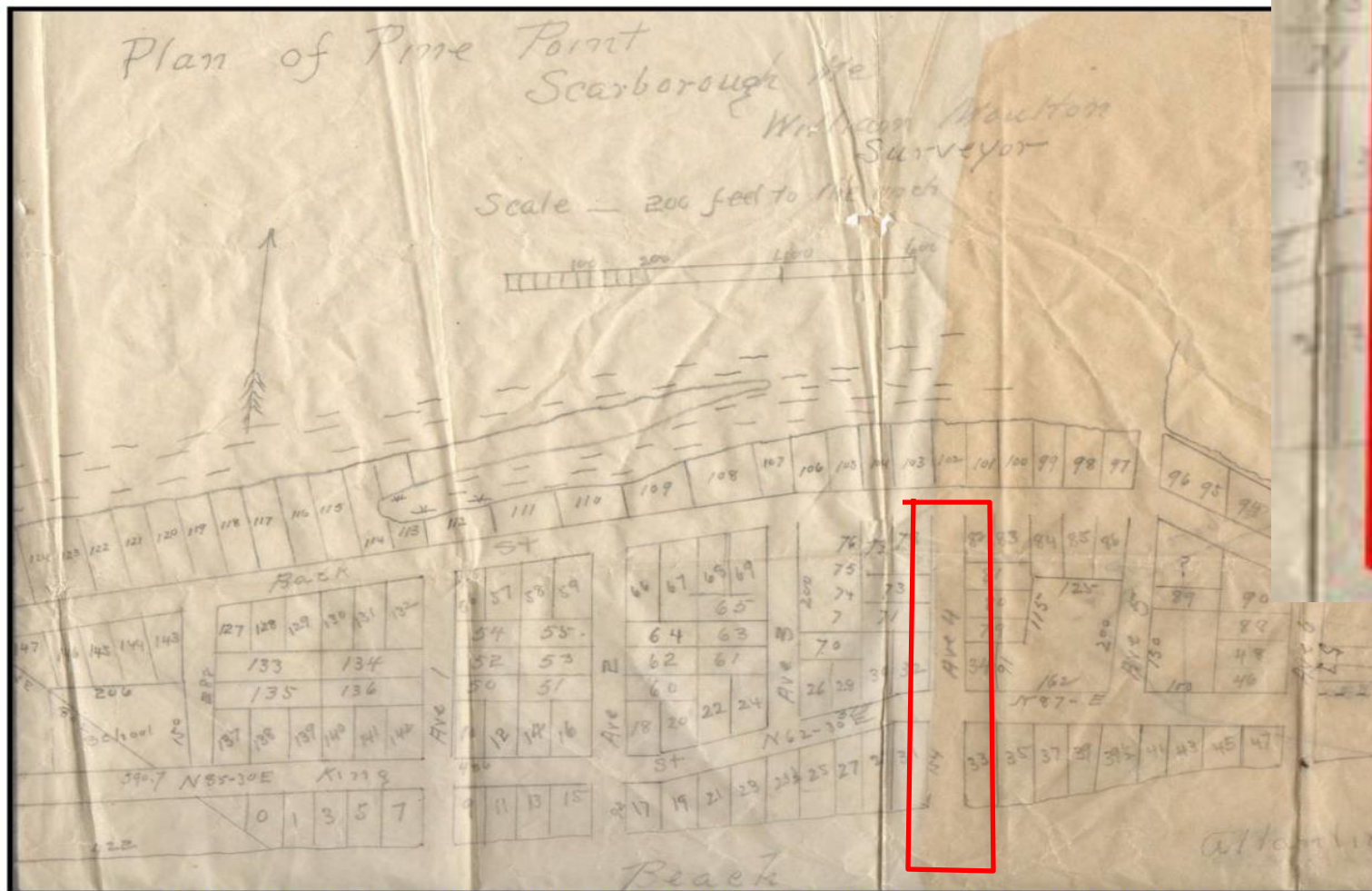


**Dunfield Lane
PUBLIC ROAD**



Wellehan
Property

Avenue Four extends to the shore in this 1888 survey of Pine Point. Future rights of way were acquired in the past 125 years as the land mass changed and properties were developed.



William Moulton Survey Plan of Pine Point, 1888 (Plan Book 6, Page 36, Recorded 12/1/1888)

This is an excerpt from the Dunefield Subdivision approval which required Lot 5 to have beach access through the Town Right of Way known as Avenue Four Extension. Eliminating the right of way or modifying it would impact the legal rights to this lot's access as required in the subdivision approval.

LEFT
Tax Map from 2005



PLAN SUPERSEDES PREVIOUSLY RECORDED PLAN, PLAN BOOK 195, PAGE 76 AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS

Beach access for Lot 5 shall be along the Avenue Four Ext. R.O.W. pathway. Beach access for Lots 6 and 7 shall be from the termination of the Dunefield Lane R.O.W. to the Avenue Four Ext. R.O.W. pathway, thence along this path to the beach.

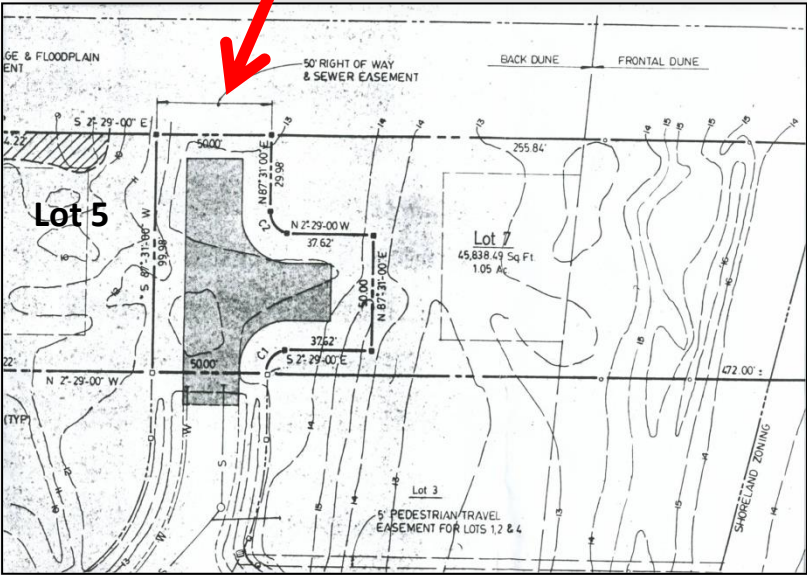
NOTE:
"THE PROPERTY SHOWN ON THIS PLAN MAY BE DEVELOPED AND USED ONLY AS DEPICTED ON THIS APPROVED PLAN. ALL ELEMENTS AND FEATURES OF THE PLAN AND ALL REPRESENTATIONS MADE BY THE APPLICANT CONCERNING THE DEVELOPMENT AND USE OF THE PROPERTY WHICH APPEAR IN THE RECORD OF THE PLANNING BOARD PROCEEDINGS ARE CONDITIONS OF THE APPROVAL. NO CHANGES FROM THE CONDITIONS OF APPROVALS IS PERMITTED UNLESS AN AMENDED PLAN IS FIRST SUBMITTED TO AND APPROVED BY THE PLANNING BOARD."

I CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF REGISTRATION FOR LAND SURVEYORS STANDARD BOUNDARY SURVEY CATEGORY I, CONDITION I, WITH THE FOLLOWING EXCEPTIONS:

1. NO WRITTEN REPORT
2. INTERIOR LOT LINES ONLY. (SEE NOTE 11)

SEAL
ROBERT C. LIBBY JR. PLS 0190

Portion of Notes from Final Approved Plan for Dunefield Lane



This is the sandy public way to the beach known as Avenue 4 Extension. It's 50 feet wide. This photo is taken from the end of Dunefield Lane which connects to the town right of way. The No Trespassing sign was apparently put up by the homeowner on their land and is deceiving because it can only refer to their own property but makes it appear it's the town right of way that is private. There should be a sign by the town here for access to the beach. In the background is the town parking lot.



**Hurd Park
Municipal Parking
& Concession**

**Wellehan Property
50' wide to shore**

**Town Right of Way
Avenue 4 Extension
50 Feet Wide Beach Trail
Sensitive Habitat Area
(approximated property lines)**

The “No Trespassing” sign on private property is deceptive, reportedly placed by the former owner of the house to discourage beach access through Dunefield Lane, a public street.

**NO
TRESPASSING**
Private Property
**POLICE TAKE
NOTICE**





Town Right of Way - Avenue 4 Extension
50 Feet Wide Beach Trail
Sensitive Area
(approximated property lines)

Aerial photo of Avenue 4 Extension. This is one of the few remaining public beach access points along the shore that is vegetated by dunes and has sandy paths.

Access is from King Street across from Avenue 4 and from Dunefield Lane

The municipal parking lot is shown.



This sign was placed at the entrance to Dunefield Lane by private parties in 2007. Residents complained because Dunefield is a public road which connects to Ave. Four Extension and is therefore a Beach Access. The Town removed the sign but did not install the standard signs for the public to be aware of beach access through here.



This Beach Access sign was at the King Street Right of Way (also 50 feet wide) and was parallel to the road, difficult to see.

Residents Association asked that it be replaced and installed perpendicular to the road for better visibility to encourage beach access. The Town installed a new sign.





Town Sold Large Piece of Public Property From Hurd Park Which Limited Future Public Use



**We Need More
Beach Access,
Habitat
Protection and
Parking.**

A common issue at Pine Point's Municipal Parking Lot known as Hurd Park is depicted in these photos. There are back ups in the summer often, and the overflow parking lot on the left fills up, so the attendants allow people to park outside of the fenced area.

The Town sold off a lot from the overflow parking area rather than remove the bushes and add some more parking.



Will History Repeat Itself?

The 50 foot wide right of way to the shore was ultimately given to the motel in exchange for a 22 foot parking strip shown on the right. Residents did not object to a 1:1 exchange by simply moving this access 22 feet to the right but the Town Council chose to give the entire street away by a 4-3 vote.

August 27, 2009 Pine Point, Maine

Pictured here are 26 of the hundreds of Scarborough citizens who tried to prevent the Town from closing the end of the Pine Point Rd. at the shore (historically known as Depot Street) and deeding it to the Lighthouse motel. The Town Council voted 4-3 to discontinue this centuries-old public road, which extends to the ocean, and swap it for the motel's narrow parking strip (shown on the right). A fair and equal land exchange was promoted by the public which would have moved the seasonal motel's parking across the street while maintaining the public road for future generations. The un-equal exchange by the Council "gifts" the motel owners over 6,700 square feet of shorefront land at no cost and closes the road forever. The unprecedented act by a majority of the Town Council disregarded overwhelming public opposition, serious questions as to its legality, the historical use and significance of the public way, and a number of public due-process protections. Citizens intend to continue their efforts to correct this injustice and exhaust all means available to them. To join the cause, e-mail pine-point-beach@maine.rr.com.

Depot Street - the End of Pine Point Road. Scarborough's Priceless Shorefront Road.

Done Deal: Land swap vote stands

Council declines to reconsider vote infuriating Pine Point neighbors

By David Harry
Staff Writer

For more than 90 minutes, Scarborough residents implored the town council to reconsider a land swap on Pine Point.

In about two minutes, the council decided the deal it approved in July would stand and the town will trade a formerly public road bisecting the Lighthouse Inn and its parking lot for the parking lot itself.

The road is currently used by residents to reach the public beach at the end of what has been called

Pine Point or Depot Road. Councilors Karen D'Andrea and Carol Rancourt were in the minority of the 5-2 vote against reconsidering the deal, which Town Manager Tom Hall said will allow inn owners Peter and Nicholas Truman title to a swath that is 49 by 230 feet.

In return, the town gains the parking lot, which is 21 feet wide and retains the sandy path to the beach behind the inn. The land will be combined with a parcel deeded to the town during the approval of the Beachway subdivision

and Hall said he hopes a new drop-off area for the beach will be ready by next summer.

"The fact is, it was of great and somewhat intangible value to make the land contiguous," Hall said.

D'Andrea and more than 20 residents who spoke at the town council meeting Aug. 19 disputed the value of the trade and said they feared the loss of public access to the beach.

Pine Point Resident's Association member Judy Shirk used her three minutes allotted for public comment to sum up the pleas that had been made

See SWAP, page 32



Gaston Lee, left and Pammela Rovner show their opposition to a land swap on Pine Point they said was inequitable and threatens public beach access. (David Harry photo)

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Swap

Continued from page 1

before – that public beach access is threatened by a one-sided deal in favor of inn owners Nicholas and Peter Truman and the road is a historic byway used for centuries by residents.

"I don't know what happened. They planned this," Shirk said after the council vote.

D'Andrea said she favors such land swaps only when it is established they are for the benefit of the public.

"That was never proven in any way," D'Andrea said last week.

She said she also opposed the trade because there is no approved plan for new beach access and what is being considered goes against town efforts to reduce curb cuts that can confuse motorists.

Because she voted against the land trade in July, D'Andrea said she could not ask the council to reconsider its decision. She said the issue was put on the agenda last week because she and

Rancourt were approached by residents asking to have a motion added to the agenda.

Residents also petitioned the council to reconsider its decision.

Opponents of the trade including Pammela Rovner said the town is trading land valued at \$340,000 for little in return, an amount disputed by attorney Gene Libby.

"It was false and a bit irresponsible," Libby said. He said the real value is about a third of what opponents claim because deed restrictions on the land that limit development.

Residents including Graham Pierce agreed with D'Andrea that beach access is important to the town as opposed to simply Pine Point residents.

"Our beaches are an asset and the road is important," he said.

Pierce said he is also concerned the four-foot wall the Trumans plan to build means the "view of the dunes and beach will be obliterated."

Libby was uncertain when the deeds will be exchanged, and said his clients will need planning board approval before changes to their new land can be made.

"Why do you not listen to the people?" Pierce asked the councilors.

The legality of the swap was questioned by Rep. Sean Flaherty (D-Scarborough), who said his research with state agencies questions whether the town has clear title of the land it proposes to trade.

Hall said he was not worried about title issues because minutes from a town meeting in 1876 indicate the town has clear ownership of the land.

The town is making a quit claim on the land that means the Trumans will deal with challenges to ownership, Hall said.

Because only abutters can challenge the ownership, and the Trumans are the abutters of the property, Hall doubts challenges will be made.

Hall also defended the private meetings that led to presenting details of the swap to the council for approval.

"We could not have had a plan worth public scrutiny," without the initial meetings, Hall said.

Mike Starn, a spokesman with the Maine Municipal Association, said the meetings were legal and an accepted practice because no

votes were made on the deal in private.

Ultimately, opponents of the trade including Rovner said the council did not listen to public opinion.

"This is a terrible way to run a city," she said.

Staff writer David Harry can be reached at 282-4337, ext. 219

Long Creek

Continued from page 1

circles the Maine Mall area.

A project overview provided by Pinard details work that both filters and controls water flow into the south branch of Long Creek.

Dillon said one remedy is to let things grow. By establishing "no mow" zones near the banks, the vegetation needed to hold banks in place and absorb runoff can thrive, he said.

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