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TO: Ron Owens, Town Manager  
Jeff Messer, Chairman, Scarborough Town Council

FROM: Harold Hutchinson, John Thurlow, Jack Callahan, Judy Shirk, Elaine Richer

REG: **Beachwalk Subdivision**

DATE: July 20, 2007

Thank you for keeping us informed of the developments at the Hollis subdivision. We understand you are still working through some issues. As you know, we have concerns regarding not only infrastructure construction at the peak of the summer season, but also fear that other conditions imposed on the development may not be honored, and commitments made by Paul Hollis were not necessarily documented in the final approval documents.

We acknowledge that the investors/lot owners are in a very difficult position. And it is in everyone's best interest to resolve this in a productive way. Since a great many neighbors were involved in this project from the beginning, and many endorsed the project based on promises made, we believe that it would be appropriate for neighbors to participate in the problem-solving process. This is a matter of public trust.

It is apparent that the investors/lot owners need some relief. Indeed, allowing construction during the summer when it was expressly prohibited by the recorded covenants (which were approved by the Town), and in the proceedings of the Planning Board, is significant relief for the investors. Other negotiations, such as construction of the sidewalk, landscaping of the Town property, installation of pavers and required granite monuments prior to construction, etc. may provide them with additional relief. We also understand from you that a demolition permit was not required for removal of the aged structure on the site as required by statute.

You are undoubtedly aware of the contractor's cause of a water main break in Pine Point on July 21<sup>st</sup> which rendered the entire peninsula without water for eight hours on a beautiful summer Saturday. This episode, along with the condition of the road, sight of construction equipment at the shore, road closings, etc., has served to further upset residents. Once you investigate this matter, you will learn, as we did from Biddeford Saco Water Company, the contractor installed the sewer line beneath the aging water main but failed to compact the material sufficiently causing the main to sag and break. Not only did the entire neighborhood lose water and endured additional traffic problems, but we've learned that it may not be fully potable for two to three days after the break occurred.

We are primarily concerned about the process. When you read our material we think you will agree that the integrity of the Planning Board process has been compromised. The default on the performance guarantee alone should have prevented lot sales as well as permits according to our

ordinances. We therefore feel the best solution for all affected parties is for the Homeowners Association, together with the Town and with support from the neighborhood, submit a site plan amendment to the Planning Board. We have suggestions as to what should be included.

We also feel that the Town should receive some benefit for the relief it has and might provide to the new developers, with Planning Board approval. Through a process of mutual cooperation and agreement between the investors and Town, both parties can be satisfied that the mistakes made and the unfortunate situation that resulted will be satisfactorily resolved for all parties. There is no benefit assigning blame for what has happened, but the citizens and the dedicated volunteers on our Planning Board should be reassured that the approval process for developments is honored.

At the heart of this issue is the question of what this language, which comes from the Hollis Beachwalk plat signed by the Planning Board, means:

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.

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(Above: actual scan of the recorded Hollis Plat)

Clearly Mr. Hollis made several representations during the “proceedings” not the least of which was a set of covenants the Board asked for and the Town’s attorney reviewed. It begs the question of why covenants are considered during the process when they can be altered immediately after approval by a vote of the association. There are elements of the covenants and representations made during the “proceedings” which should appear on the final plan and therefore be publicly enforceable. We have included the Planning Board minutes with highlights indicating these representations.

We would appreciate it if you would review our points and ideas for negotiating a resolution. We look forward to meeting you on **August 2<sup>nd</sup> at 3:00** to discuss these further, and we have been invited to meet with Mr. Wiggins and Mr. Hollis on August 26<sup>th</sup> to share our ideas.

Sincerely,

Judy Shirk, Elaine Richer, John Thurlow, Harold Hutchinson, Jack Callahan

ATTACHED: Documentation of Relevant Facts  
Planning Board Minutes