Proposed Amendment to Zoning Ordinance Concerning Change of Ownership of Guest Rooms in Non-confirming Hotels or Motels

Dear Town Councilors,

We are writing to ask you to consider the following principles as you deliberate this very important amendment to the Zoning Ordinance. Thank you for your consideration.

Harold Hutchinson, Elaine Richer, Jack Callahan, John Thurlow, Judy Shirk
July 15, 2007

THE ORDINANCE

- An updated ordinance will provide direction to code enforcement and fair treatment to all property owners.
- Converting from commercial to residential use is a "change of use" given the nature of the use of the property at the time it was grandfathered.
- The suggestion a change of ownership does <u>not</u> represent a change of use is not the relevant issue; it is the <u>conversion</u> of a commercial enterprise to multiple single family dwellings, owned by different individuals, which needs to be addressed.
- By definition a conversion in some cases will create a multiplex, non-conforming to space and bulk requirements.
- Language in the current ordinance is insufficient. Language regarding <u>conforming</u> motels and hotels is not applicable to non-conforming properties.

NON-CONFORMING LODGING PLACES CONVERTING TO CONDOMINIUMS

- Conversion of a commercial enterprise located in a residential zone to a more residential use (such as single family dwellings in the form of condominiums) is sound public policy. Such conversion should go through a process of approval by the Town applying specific criteria with input from abutters and neighbors as to the impact on the character of the neighborhood.
- Conversion should include review and regulation by the municipality just as other changes in other non-conforming uses are regulated.
- Simply converting a hotel or motel to condominiums does not guarantee the objective of greater conformity to the residential zone. In some cases, such a conversion would arguably be less conforming, as in the case of a multiplex (which by today's standards would require five acres of land for no more than 8 units).
- The number of units present at the site should have reasonable density relative to the location, size of the lot, and zone.
- The goal of regulating non-conforming structures of any kind is to make them become more conforming. The suggestion lodging places converting to condominiums will not impact schools is irrelevant.

- New dwellings in Scarborough require a growth permit fee and an impact fee. All dwellings pay it. Should new dwellings created by the conversion of a commercial establishment to dwellings require an impact fee?
- The impact on the neighborhood should be given greater consideration than return on the owner's investment.
- Conversion to condominiums of any non-conforming commercial property should require strict application of all building codes (sprinkler systems, firewalls, etc.).

AFFECTED PROPERTIES

- An inventory of properties was developed and presented to the Council.
- There are not many properties affected, but the impact on various neighborhoods could vary substantially should they convert to condominiums.
- It is useful to examine these properties to understand the distinctions among them.
- Consider the difference between a five-unit lodging place on 3 acres converting to condos compared to a 20 unit hotel on one- half acre of land, both in a residential zone. Density should be a strong factor in granting approval.
- The difference between several detached units and one large structure with multiple units is considerable and should be addressed in the ordinance. Multiplexes present a great many challenges due to common ownership of the structure as well as the land.
- Major considerations include traffic patterns, access to units, lighting, signage, licensing, inspections, etc.

DENSITY ISSUE

- A move toward more conformity to a zone must be balanced against additional density created.
- New dwellings bring new burdens on Town services. It is not useful to speculate as to the expected use of the dwellings (a second vacation home for a retired couple, for example) when that could change in the absence of regulation.

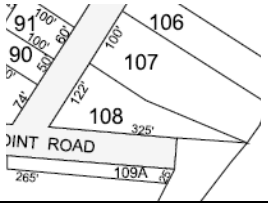
ORDINANCE REGULATION

- Enforcement of the ordinance's provisions, and any conditions placed on converted structures, must be manageable and effective.
- Enforcement of a hotel-motel that continues to operate while selling units should be tied to annual innkeeper's license and inspection to ensure compliance.
- The Town must be able to enforce the elements of the condominium declarations.
- The language in the ordinance covering pending proceedings is very important

Exhibit A

EXAMPLES OF 3 POTENTIAL CONVERSIONS

(source of data: Town of Scarborough Web Site)

	Lighthouse Inn **386 Pine Point Rd.**	**Sun & Sand** **77 King Street**	**Jones Creek Drive** **#27-31: Lot 75** (converted already)
Number of units	22 Units	8 Units	4 Units
Land Size (Assessor's Database)	.36 acre (+.13 for off-site parking strip)	.34 acre	.36 acre
Units per Acre Extrapolated (mathematical comparison)	44 units per acre (multiplexes = 8 units, 5 acres)	23 units (multiplexes = 8 units, 5 acres)	11 units (multiplexes = 8 units, 5 acres)
Parking	26 (off site - bisected by a public street)	13 on site parking	4 on site parking
Kitchens	No	Yes	Yes
Occupied Year Round	No	Yes	Yes
Detached Units or One Structure	One Structure with 22 units	Two structures	4 detached single units
Dimension of Lot from Tax Maps	Lots 108 & 109A 	Lots 118 & 119 	Lot 75

This comparison of three potential conversions points out the significant differences in the properties.