



Community Development Department  
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## Memorandum

**Date:** October 5, 2017  
**To:** Nathan Poore, Town Manager  
Town Council  
**From:** Amanda L. Stearns, Land Use Policy Specialist  
**Cc:** Ethan Croce, Community Development Director  
**Re:** Contract Zoning Application – Homestead Acres -multiple parcels  
off Route 100 and Mountain Road

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In order to facilitate the review process for this application I have provided a summary of the procedural steps required by the Town's ordinances and the applicable state statute, 30-A §4352(8). The summary includes actions to date.

### Concept Review

1. CDC review – findings are attached to the agenda item.
2. Planning Board review – minutes and Notice of Decision are attached to the agenda item
3. Council Presentation – September 11, 2017 – hearing scheduled for October 11, 2017. Council requested the applicant categorize and respond to the staff, CDC and Planning Board comments to date. This has not been received by the Town.
4. Council Hearing -October 11, 2017 (this was scheduled prior to the introduction)

### Formal Review

1. Introduction (required by Section 213 of the Charter)- Has not occurred.
2. Council Review (required by 19-26.5 of the Zoning Ordinance) – Council develops draft conditions and restrictions. The applicant has submitted a draft but it has not been updated by the applicant since the submittal to the Planning Board in June. Any redesign of the site or additional zoning variations need to be developed at this point or additional hearings may be required if substantive changes are made)
3. Council Hearing (required by 19-26.5 of the Zoning Ordinance) –Since no conditions and restrictions have been developed, the October 11, 2017 hearing does not suffice to meet this requirement.
4. MRA Hearing (required by statute, The hearing required by the ordinance requires that the conditions and restrictions to be considered by the Planning Board are part of the abutter notice.)

5. Ordinance Consideration- must occur at least 14 days after the Ordinance Hearing.
6. Subdivision and Site Plan Review – application process is through the Planning Board

The review process as prescribed by Section 19-26.5 is as follows. I have added in green where the Charter and statutory portion of the process is required. Explanatory note in red is regarding the MRA hearing.

#### 19-26.5.8 Procedures, Formal Review

The following procedure shall be used to submit any request for a a contract zoning agreement under this section.

1. Application Submittal. The applicant shall submit their formal request for a contract zoning agreement on an application form provided by the Community Development Department and shall be accompanied by a fee as approved by the Town Council. The application shall contain the items as indicated in Sec. 19-26.5.9 2. below. At such time the Community Development Director or their designee determines the application is complete, it shall be forwarded to the Planning Board and the Town Council.
2. Planning Board Review. The Planning Board shall review the proposal and forward any observations, recommendations and comments to the Town Council. This review will also serve as the pre-application sketch review required for subdivisions where applicable.
3. Town Council Review. Following the Planning Board review in Sec. 19-26.5.8 2. above, the Town Council shall review the proposal. Following its review, the Town Council may refer the proposal to the Planning Board for a hearing as prescribed in Sec. 19-26.5.8 4. below.

Introduction must occur before the MRA hearing of the Planning Board.

4. Planning Board Hearing. Should the Town Council refer the proposal to the Planning Board, the Planning Board, as the municipal reviewing authority, shall hold a hearing which meets the requirements of 30-A MRS Sec. 4352(8). [NOTE: the MRA hearing is required only if the Council continues to consider the contract zone after its review.]
5. Town Council Hearing. The Town Council shall hold a hearing, which hearing requirements shall be no less stringent than the public hearing requirements of Section 213 of the Town Charter. The Town Council may elect to hold a joint hearing with the Planning Board.
6. Final consideration by Town Council. Prior to adopting a contract zoning agreement, the Town Council shall determine that the proposed contract zoning agreement meets the requirements of each determination in Sec. 19-26.5.5 above. The Town Council shall state its reasons for its findings and conclusions for each of those determinations.

General Findings – The Council must act on the following prior to approval of a contract zone agreement.

#### **Sec. 19-26.5.5 Findings General.**

The Town Council, prior to or as part of an approval of a contract zoning agreement under this section, shall find that the resulting development to be permitted by the agreement and the agreement:

1. Are consistent with the adopted Comprehensive Plan;
2. Allow uses that are consistent with the existing, permitted and conditional uses within the underlying zoning district;
3. Include only conditions and restrictions that relate to the physical development or operation of the property; and

Development of Contract Zone Agreement – Section 19-26.5.6 of the Code of Ordinances lists examples of the types of conditions and restrictions that may be imposed in the agreement:

#### **Sec. 19-26.5.6 Contract Zoning Agreement Required.**

In order to allow for flexibility for the development of the land, to assure public benefit, and to mitigate potential negative impacts on subject, abutting, and nearby properties, a contract zoning agreement is required. Conditions and restrictions may include, by way of example:

1. All variations from standards of Chapter II-19 of the Code of Ordinances
2. Open space, historic or natural resources and natural buffer zones to be protected
3. Limitations on the number and types of uses
4. Design and layout of buildings, site and any site improvements
5. Scale and density of development
6. Days and hours of operation
7. Provisions for reservation or dedication of land for public purposes
8. Provisions for affordable housing
9. Contributions toward the provision of municipal services required by the development, such as, infrastructure improvements and specialized maintenance needs arising from the rezoning
10. Schedules for commencement and completion of construction including any phasing plan.
11. Performance guarantees securing temporary erosion and sediment control measures, all improvements associated with the project and maintenance of improvements
12. Provisions for enforcement and remedies for breach of any conditions or restrictions
13. Procedures for modifications or amendments.

The Council may begin their review at their October 11 meeting after the public hearing or schedule the review for future Council meeting(s). The Council may choose to hold additional hearings or workshops to finalize the contract zone agreement prior to

forwarding to the Planning Board for an MRA hearing to avoid two MRA hearings if substantive changes are made. The Council could also give the applicant direction on the need to modify or add design elements of the proposal. If subsequent submittals by the applicant require staff review, it is requested that a deadline be imposed on the submittal a minimum of two weeks prior to the publication of the agenda.

When a final draft contract zone agreement is completed by the Council to be included in the hearing notice for the MRA Hearing, that hearing may be scheduled. If the contract zone agreement is altered substantially after the Council and MRA hearings, new hearings may be required.