



Community Development Department
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Memorandum

Date: March 12, 2018
To: Town Council
Ethan Croce, Community Development Director
Nathan Poore, Town Manager
From: Amanda L. Stearns, Land Use Policy Specialist
Re: Contract Zone Application – Homestead Acres, LLC

This memo serves two purposes, the first to outline the policy issues that are unresolved at this time regarding the project and secondly, to provide an overview of where we are in the review process.

POLICY ISSUES

1. **School enrollment** – Is there any information that would affect the project?
2. **Traffic impacts** – The peer reviewer, Tom Errico of TYLIN has been asked to review the Stantec study the Town had performed as part of the Route 100 study as well as the response from Sebago Technics (developer's consultant) and report back to the Town. Traffic impacts and needed improvements are typically part of the Planning Board review and approval process but with the Route 100 improvements scheduled for next year, it is important that the projects be coordinated and the impacts to the improvement area understood.
3. **Roundabout design** – Is this required or optional?
4. **Park Design** – Should the preliminary design be relied upon and part of the agreement as an exhibit? The design dated August 22, 2017 is attached to the packet.
5. **Architecture** – The applicant has submitted several conceptual designs. The Council has expressed an interest in the development having a diversity of architectural styles. The contract has language that is vague and will be difficult to administer.
6. **Total number of units** – Some councilors have expressed an interest in documenting the specific number of units to be allowed in Development Area 1 and then in the project as a whole.
7. **Home Occupations as a permitted use** – the contract limits the uses permitted in the residential areas. The current zoning ordinance permits two kinds of home occupations. The first is very limited and is permitted by right. The second requires approval by the BZA and may include outside employees and customer

- visits. It is suggested by staff that the first type be allowed to provide flexibility for the homeowner with regard to employment.
8. **Wetland Setbacks** – several councilors suggested that a map be submitted to identify the particular wetlands where the reduced setback was being requested (from 50 to 25 feet for structures). Staff also suggested that where the setback is reduced, the area be either landscaped with appropriate wetland buffer plants or be left unaltered. This was not resolved.
 9. **Street Connectivity through Phase 3** – several councilors have expressed concern that if Phase 3 is delayed or never built there are no requirements to build street connectivity between Phases 1 and 3 at a date certain.

In order to help facilitate the review process moving forward, I have made notes in blue below about the ordinance procedure for approving a contract zone agreement. I have also included the elements that need to be in the agreement if part of the project.

Sec. 19-26.5.8 Procedures, Formal Review

The following procedure shall be used to submit any request for 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.

Application has been submitted with one outstanding item, traffic impact study. The traffic impact study was submitted dated September 22, 2017.

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.

Planning Board completed their review on September 5. Public input and Board comments and recommendations will be forwarded to the Council and consolidated with staff comments.

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.

September 11 – Concept presentation to Council, Council decided that the applicant should address all comments to date from the Planning Board, CDC prior to another meeting.

November 2 – general staff team met to review initial comments from the applicant

November 11 and 29 – the general staff review team met with the applicant to assist with review and response to staff comments.

November 2 and 28 – Wastewater staff met with the applicant.

December 11 – Applicant to present progress on development design. Should the Council choose to move forward with the project and make any specific decisions on items to be included in the contract zone agreement, staff can begin developing the draft agreement.

The applicant has requested that they continue to pay for the Town's legal staff to draft the contract zone agreement.

February 12 and 26 – Council meeting to continue review

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).

This will be scheduled after the Council releases a draft contract zone agreement.

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.

Unlike conditional rezoning where the ordinance requires the Council to hold a hearing identical to that required of the Municipal Review Authority (Planning Board), the ordinance does not require the Council to hold a hearing where abutters have been notified of the draft conditions and restrictions. The Council could choose to hold an identical hearing to that required by 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.

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.

Charter, Section 213 Requirements

Sec. 213. Public Hearing on Ordinances. (excerpts only)

“Introduction” - A proposed ordinance may be introduced in writing by any Councilor to the agenda of any regular or special meeting of the Council.

[December 11, 2017 - Introduction](#)

“Public Hearing” - The public hearing shall follow the publication by at least 14 days, may be held separately or in connection with a regular or special meeting of the Council and may be adjourned from time to time.

[This hearing may be combined with the hearing required by the Zoning and Site Plan Review Section above 19-26.5.8.5 Town Council Hearing.](#)

“Order” - After the hearing the Council may adopt the ordinance with or without amendment or reject it; but in no case shall the ordinance be adopted or rejected in less than 14 days after the public hearing. If an ordinance is amended so as to change substantially its meaning, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required in the case of a newly introduced ordinance.