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Memorandum

Date: March 19, 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. The comments below regarding the agreement and exhibits does not constitute a full and comprehensive review of the March 19 draft. The draft is currently out to all relative departments for comment. It focuses only on those issues that were raised and discussed at the March 12 meeting with the Council and the staff on March 15.

POLICY ISSUES OUTSTANDING – references are to the draft agreement dated March 19, 2018 and submitted by the developer.

1. **Entry Level single family dwellings (3.a. iii)** - This has been amended to require a minimum of 32 entry level single family dwellings. If additional are provided in two-family dwellings they will count toward the maximum of 45 allowed.
2. **Home Occupations as a permitted use (3.a.v.)** – The agreement has been modified to include home occupations under Section 19-54.a.
3. **Total number of units (3.d.)** – This paragraph has been added to iterate the maximum number of dwelling units in each phase and in the whole project.
4. **Public Park Design (4.a.)**– This paragraph has been amended to refer to a new Exhibit 6 as a general concept plan. The Parks and Community Development Director recommends that this paragraph refer specifically to Park A on Exhibit 2. 4.b. should refer out to Parks B & C on Exhibit 2.
5. **Sidewalks (4.k.)** – Sidewalks have been added to the infrastructure elements that require a public use easement to be offered to the Town.
6. **Architecture (4.o. and new Exhibit 6)** – Staff presented their recommendation that the guidelines of the *Great American Neighborhood* be utilized by the Planning Board to review and approve all architecture and siting of the dwellings. The developer has responded with a proposal that now includes 14 house designs. Staff have not had an opportunity to review these designs to determine if they are sufficiently different from one another. Does the Council want to require review

- through the Planning Board or allow the house designs? If the house design option is chosen, staff and the developer need to work on better representation to have a clear distinction between designs as several are very similar to others. The two-family design has been amended to add more architectural detail; the design is substantially the same.
7. **Off-site improvements (4.r)** - Language needs to be edited to clarify the intent of the Town with regard to the left hand turn lane and improvements to the entrance at Harmon's and the parking to be replaced. The left hand turn lane is in the Town design but is the financial responsibility of the developer. The entrance cost allocation between the developer and the Town has not been finalized.
 8. **Growth Permits (6.)** - The agreement now limits the number of exemptions for 55+ housing to 23 total. The number of exemptions for entry level housing is now 32, with no more than 15 permits allowed in any given phase. This provides for a total of 55 exemptions out of 153 units or about 30% project wide.
 9. **Phasing and Street Connectivity (7. and Exhibit 3)** - Exhibit 3 has been edited to redesign phase lines so that Phase 1 and 2 join. This will insure street connectivity between Phase 1 and 2.
 10. **Wetland Setbacks (Exhibit 4)** - The developer has deleted the request for any setback variation.
 11. **Roundabout design (Exhibit 5)** - Is this required or optional? The documentation stills shows as optional although the developer indicated at the March 15 staff meeting that it will be a design element.
 12. **School enrollment** - The study has been received by the Council. No discussion has occurred regarding any concerns around future enrollment impact.
 13. **Traffic impacts** - The town's peer reviewer, Tom Errico of TYLIN International, has completed his review comparing the Stantec impact study completed for the town for the Route 100 project and the Sebago Technics study completed for this project. His findings are included in the Council packet.

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

3. Town Council Review.

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. NOTE: Legal staff indicated that there would be a conflict of interest and the developer will hire an attorney to draft the agreement. Town legal will be part of the staff review team.

February 12 and 26 – Council meeting to continue review

March 12 – Council – public input

March 15 – staff meeting

March 26 – Council discussion

4. Planning Board Hearing. This is scheduled for April 3.
5. Town Council Hearing. This is scheduled for April 9.
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.

“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.