



Community Development Department
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Memorandum

Date: May 10, 2018
To: Town Council
Ethan Croce, Community Development Director
Nathan Poore, Town Manager
From: Amanda L. Stearns, Open Space Manager
Re: Contract Zone Application – Homestead Acres, LLC
Council Workshop – May 14, 2018

This memo serves two purposes, the first to outline the changes to the contract that were identified at the April 9 Council meeting. Also included are staff comments and recommendations since that date.

The second purpose is to identify the remaining steps in the review and consideration of approval for the project.

Changes Identified by the Council and staff recommendations– This list is in order of the contract and identifies the source of the comment and a description. Items that are highlighted are staff comments that have not been communicated to the developer and are not in the agreement. Staff's recommendation is that they be added to the final agreement.

1. **Right/Title/Interest** (staff) – Before approval of the agreement the developer should demonstrate that they have the development rights in land necessary to develop the property as shown on Exhibit 2, Concept Plan. The assembled land is restricted by two easements. The first is a CMP easement that runs concurrently with the old interurban line. The developer has indicated that this easement has been released but a recorded Release (or partial release) of Easement has not been submitted. The second is an easement that runs from Route 100 to the Maine Turnpike Authority (MTA) right-of-way in favor of the MTA. The developer has indicated that they are in contact with the MTA but no recorded Release (or partial release) of Easement has been submitted. If the easements allow the development to occur a legal opinion should be submitted for review by the Town Attorney.
2. **General** (staff) – All initial references to exhibits now include the date and title of the exhibit.

3. **Clarification on role of the Planning Board (Sec. 2) (Council)** – Language added clarifies and strengthens the Planning Board’s authority in the final design of the project.
4. **Permitted Uses (Sec. 3.a.i) (staff)** – Modified the accessory term to match the current zoning ordinance terminology.
5. **Permitted Uses (Sec. 3.a.ii) (staff)** – Changed “will” to “shall”.
6. **Entry Level single family detached dwellings (Item 3.a. iii) (Council and staff)** – Clarified that the permitted use conditions apply solely to single family detached dwellings, add language to state that initial financing costs can be added to the resale price and extend the resale restrictions to five years.
7. **Mixed use buildings (Sec. 3.b) (staff)** – Modify the language to clarify that buildings in Development Areas 2 and 3 may contain both dwelling units and non-residential units. The language of the existing ordinance is difficult to interpret and this will clarify the use for the purposes of this project.
8. **Total number of units (3.d.) (staff)** – The language has been modified to clarify that the maximum is not required but is a not to exceed number.
9. **Open Space Access (Sec. 4.c.) (staff)** – Add the language “and within” in describing the purpose of a public access easement.
10. **Street Trees (Sec. 4.f) (staff)** – Language has been added to clarify that street trees are a required component of the streetscape and to what extent they are required on various street segments.
11. **Sewer Ordinance references (Secs.4.m.iii, 4.n and 5.a) (staff)** – References to the current sewer ordinance have been added to avoid confusion on the relationship of this contract to the ordinance.
12. **Architecture (Sec. 4.o. and new Exhibit 7) (Council)** – Staff have modified this section to reflect the Council’s interest in relying on guidelines from the publication *The Great American Neighborhood*. Staff recommend that a few of the architectural designs submitted by the applicant be attached as an exhibit to provide an illustrative example of the guidelines for architecture. The submittal includes all previously submitted items. See Item 19 below for a list of acceptable plans. These are not an exhaustive list of plans that are acceptable.
13. **Off-site improvements (Sec. 4.r) (staff)** - Language has been added 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 Route 100 northerly entrance cost allocation between the developer and the Town has not been finalized.
14. **Growth Permits (Sec. 6.) (Council)** – The agreement is modified to limit exemptions to residential building permits to 35 annually including any attached to a growth permits. It is also modified to permit no more than 10 exemptions each calendar year for the entire project. NOTE: Only entry level single family detached dwellings are exempt.
15. **Phasing and Street Connectivity (Sec. 7. and Exhibit 3)** – Item 7 has been modified to require the development in its entirety be submitted for review to the Planning Board and that street connectivity must be preserved in any modification approved by the Planning Board. Exhibit 3 is to be modified to represent the four phases offered by the developer on April 9. NOTE: the submitted Exhibit 3 does not expand the number of phases to four.

16. **Effective Date of the Agreement (Sec. 8.) (staff)** – It is recommended that an effective date of 75 days following the action of the Council be added to account for the possibility of a petition to overturn the action.
17. **Wetland Setbacks (Exhibit 4) (Council)** – The Council is interested generally in the opportunity for mitigation of any wetland disturbance required for the development.
18. **Roundabout design (Exhibit 5) (Council)** – This has been revised to reflect the design as optional as discussed and agreed upon by the Council. The following language needs to be modified to be a statement as opposed to a request. “We are proposing a roundabout with a 100-foot inscribed diameter. We would like the option for the Planning Board to approve a roundabout between the sizes of 80-foot to 120-foot inscribed diameters.”
19. **Potential Building Plans (Exhibit 7) (Council and staff)** – Staff recommend that only those building plans that meet the guidelines added in Sec. 4 be attached as examples. The ones that qualify are The David, The Jasper, The Tami, The Castle Rock Colonial, The Linwood, The Castle Rock Cottage and The Duplex.

Final consideration by Town Council – The approval of the zoning and agreement will need to take place in three separate actions.

Order 1– The Council must make findings as outlined in Section 19-26.5.5 (language below). The applicant has submitted draft findings for the Council’s review and consideration. The findings may be modified by the Council.

Sec. 19-26.5 Contract Zoning [Adopted 9/26/16]

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
4. Provide public benefit that would not exist under the current zoning.

Ordinance – The Council must adopt an ordinance amendment approving the Contract Zone as an amendment to the existing Zoning and Site Plan Review Ordinance.

Order 2 – The Council must approve an order authorizing the Town Manager to execute the Contract Zone Agreement. It is recommended that a deadline be placed on this action as mutually agreed upon by the Council and the developer.