

Town Council Special Meeting Excerpt from Draft Council minutes February 26, 2018

Item 10 Council review of the draft contract zone agreement for Homestead Farm LLC and Turning Point Development LLC.

Chair Hemphill said the applicant has submitted revised documents based on the comments at the last Council meeting. Staff submitted a cursory review of those documents late this afternoon, but the Council has not had a chance to review those comments.

Matt Ek of Sebago Technics, representing the applicant, summarized the changes made to the contract zone since the last meeting. Staff requested that exhibit 5, which addresses the roundabout design, be rewritten, and they are willing to work with staff on that.

Councilor Kitchel said the reference to street lights being “consistent” with the lighting on Route 100 is ambiguous. Mr. Ek said their goal is to use the same fixtures as those the Town selects for that section of Route 100 but those fixtures have not been selected yet.

Councilor King asked about the residential uses in the commercial area; Mr. Ek said they don’t know how many or what types of housing would be in that area, but they won’t exceed the total number allowed.

Councilor Farber asked if there is a max number of residential units that can be built in the commercial area; Mr. Ek said there is a maximum of 153 dwelling units that can be built in the entire project and they are not going to exceed that.

Councilor Farber said the exclusion of accessory dwelling units (ADU) should be in place for everything that is excluded from the growth cap, and not just for those that are limited by size. She said they can’t limit how many 55+ homes are sold, but they can limit how many are exempt from the growth cap.

David Chase, developer, said every lot will be restricted from ADU’s by deed covenants; the lots are too small. He asked if ADU’s are subject to a growth cap. Mr. Croce said yes; there is a town-wide cap of 20 per year.

Mr. Chase said there will be a maximum of 153 dwelling units in the entire zone, no matter how they address it. They are at 125 with the residential development as proposed, including the duplexes. He was happy to add the restriction to the agreement.

Councilor Farber said the current language for the retail/commercial area would allow for 25% of the first floor to be residential and 75% commercial. She asked how this is different than a multi-family building. Mr. Ek said there is a limit in the VMU zone for 6 maximum residential units per building, with an average of 4 per building.

Mr. Croce said the language in section 3b should read “Any use as allowed in the VMU Zoning district” since the intent was to allow current VMU zoning to govern the retail/commercial section of the project area.

Councilor Farber pointed out that the language currently reads that changes to allowed uses could be made by the Council. Her understanding is that the contract zone must be consistent with the underlying zoning and she didn’t think that was clear with this language.

Mr. Croce said there is some flexibility as to what uses would be consistent with the underlying district. This is different than the conditional zoning language, which only allows the Council to allow uses that are more restrictive than what is otherwise allowed.

Councilor Farber thought there should be more details on what the public park is going to be. She asked if it would include playground equipment, a basketball court, etc. Mr. Ek said they previously submitted a plan of what the park would look like; Councilor Farber suggested that it be added as an exhibit to the agreement.

Mr. Croce said the current language requires that Community Programs staff sign off on the final design. Mr. Chase said they met with the Director and PACPAC on the design. They can include it in the agreement.

Councilor Farber said the entire development could end up being 153 dwelling units of people 55+ and it would be excluded from the growth cap. She didn't think this was the intent, and was concerned about the impact on Town services.

Mr. Chase said they could cap the exemptions; he can't discriminate on who buys the homes. He doesn't envision this as a 55+ development.

Councilor Farber asked whether all 55+ dwellings would be exempt under the ordinance; Mr. Croce stated that the ordinance language addresses 55+ multi-family housing only. The contract zone language specifically exempts single- and two-family dwelling units for 55+ persons.

Councilor King agreed they needed to put a cap on the exemptions but she wasn't sure how to quantify it.

Mr. Chase thought they would see 25-30% of the homes sold to 55+; he suggested putting language in the agreement limiting the exemptions to 25% of the homes. That would come to about 38 homes.

Councilor Farber said adding 38 exemptions for 55+ homes to the minimum 32 exempt entry-level housing units would give them 70 units exempt from the growth caps.

Councilor Kitchel didn't think there would be a large number of 55+ sales; he thought there would be more interest in the affordable homes for young families. He agreed with the 25% limit.

The Council discussed how to address the concerns on the growth cap, whether to break it out by phase or by year. Councilor King asked about capping it per year, in recognition of the fact that the Town limits permits by year.

Mr. Croce said there is no language in the agreement that prohibits the developer from building all three phases at once. Mr. Chase said it is not practical to build them all at once, but he would probably start phase 2 once a certain percentage of phase 1 was complete to keep inventory and momentum, for example. He suggested a cap per phase of 25%. Mr. Croce suggested language that "no more than 25% of units per phase would be exempt under the 55+ exemption".

Mr. Chase said the entry-level housing is going to be exempt anyway. He estimated that the total number of exempt units in the development would be about 50.

Chair Hemphill asked how many lots would be included in the phases. It isn't specified in the plan. Mr. Chase said the lots shown on the plan will not vary more than 10%; they are limited by the available street frontage. Mr. Ek said they don't know how many units will be built in the commercial area and they broke that out of the phases.

Councilor King said the number of units has changed over the course of this process; she said 153 dwelling units feels like a lot for Falmouth. She asked if there was a way to narrow their range.

Mr. Ek said they originally were looking at more than 153 and had asked for an increase in the net residential area. They are now asking for less than what the Town currently allows.

Chair Hemphill argued that this is very different than what the Town would allow given the exemptions they are requesting.

Councilor Farber asked about the wetland setback provision. Mr. Ek said there is a 50-foot setback from any wetland that is 4000 sf or larger. There are a couple wetlands of that size on the property, including the one behind Harmons. There is one lot that would be impacted by a 4-foot wide finger of that wetland; imposing a 50-foot setback on that lot would make it unbuildable. They were originally looking at filling that wetland. There is another wetland on the Ferrante lot they are going to cross with a road and there would be a couple lots near there. They are going to move the lots further away from the wetland but are asking to allow a 25-foot setback from that wetland.

Councilor Farber asked if these are low-value wetlands. Mr. Croce said there is a 50-foot structural setback from wetlands Town-wide. The extra setbacks for high-value wetlands are only applicable in the residential zones, not in VMU.

Councilor Farber asked if the 25-foot proposal would be a no-cut buffer. She asked if this 50-foot setback request could be addressed by the Planning Board for specific lots as part of the site plan approval. She was concerned about changing the setback for the entire project. Mr. Ek argued that those are the only two wetlands of that size in the project area. Mr. Croce said the Planning Board does have waiver authority on the 50-foot structural setback.

Councilor Farber suggested the Planning Board deal with this issue at the site plan review; she didn't think the plans were specific enough at this point for the Council to grant this as part of the agreement. Councilor King agreed.

The Council discussed how to proceed; removing the language, or adding a note to the agreement that the request should go to Planning Board.

Mr. Ek discussed the work they have done to minimize their wetland impacts with this development; they were trying to maintain the lot sizes on the three impacted lots without moving the roads. He said they are not looking at impacting the wetlands beyond the crossings, just reducing the buffers. They said it will all be reviewed by DEP as well as the Planning Board.

Councilor King asked if they could submit a map with the specific areas highlighted; Mr. Ek said they can do that and amend the language to reference the exhibit. He showed the subject lots and the wetlands on a map of the project and discussed the impacts.

Mr. Croce said staff suggested making the reduced 25-foot buffer a no-disturb vegetative buffer to help with water quality. Mr. Ek said one of the three lots is a field; even the wetland in that area is a field. A vegetative buffer would require that lot to have a different backyard than the other land in that area.

The Council will hold a public forum on this item at their March 12 meeting.

Mr. Croce discussed the staff comments. One policy question that remains is the process by which the agreement could be amended in the future. Another question is whether the roundabout is required or optional, whether a four-way stop could be designed, and a request that the design of the roundabout either be more specific, or more general to give the Planning Board flexibility in reviewing the design. Mr. Ek said their submitted language encompasses the three typical sizes of a roundabout; they would prefer the middle to accommodate larger moving trucks and fire equipment. They would prefer a roundabout rather than a 4-way stop, but would do whichever the Council preferred.

The applicant and town staff will work to incorporate the changes discussed for a version to be posted for the March 12 meeting.

The Town Council and School Board will hold a joint meeting on March 5 at 5:30 at the elementary school to review the school enrollment study. There will be an opportunity for the public to comment at that meeting and the report will be posted online prior to the meeting.

Councilor Farber asked if the Planning Board would review the traffic movement as part of their review; Mr. Croce said they would unless they waived the requirement, which would be unlikely with such a large development. Mr. Ek said they will be required to file for a traffic movement permit with the DOT, which will also be reviewed by the Town.