



CITY OF SACO, MAINE

Administration
Saco City Hall
300 Main Street
Saco, Maine 04072-1538

Kevin L. Sutherland, City Administrator
Telephone: (207) 282-4191 x341
Email: KSutherland@sacomaine.org
Facebook: [/sacomaine](https://www.facebook.com/sacomaine)
Twitter: [@sacomaine](https://twitter.com/sacomaine)

SACO CITY COUNCIL MEETING MONDAY, OCTOBER 2, 2017 – 6:30 PM CITY HALL AUDITORIUM

- I. **CALL TO ORDER**
- II. **RECOGNITION OF MEMBERS PRESENT**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **GENERAL**
 - A. Recognition of Sandy Shaw
- V. **PUBLIC COMMENT**
- VI. **CONSENT AGENDA**
 - A. *“Be it ordered that the City Council approve the minutes for September 18, 2017”
“I move to approve the order”*
 - B. Application for a License to Operate Games of Chance **P2**
Biddeford & Saco Elks #1597
- VII. **AGENDA**
 - A. Saco Main Street Quarterly Report
 - B. Presentation on 2017 Bond Questions
 - C. (Second and Final) Contract Zone –994 Portland Road **P5**
 - D. (Second and Final) Zoning Map Amendment - 47 Ferry Road **P10**
 - E. (Second and Final) Code Amendment - Chapter 186, Article III, Building and Street Numbering **P11**
 - F. (First Reading) Contract Zone – 15 Oceanside Drive **P13**
- VIII. **COUNCIL DISCUSSION AND COMMENT**
- IX. **EXECUTIVE SESSION**

“Be it Ordered that the City Council enter into executive session,

Pursuant to [M.R.S.A. Title 1, Chapter 13, Subchapter 1, §405(6)

 - A. 1. Personnel and employee relation matters*
 - A. 4. Discussion of the City Administrator’s contract*

And

 - F. Pursuant to Title 36 M.R.S.A §841(2)*
 - E. Hearing and proceedings*

I move to approve the order”
- X. **REPORT FROM EXECUTIVE SESSION**

Language for this will be provided during Executive Session
- XI. **ADJOURNMENT**

CONSENT AGENDA ITEM: B

Date: October 2, 2017

MEETING ITEM COMMENTARY

AGENDA ITEM: Application for a License to Operate Games of Chance

STAFF RESOURCE: Michele L. Hughes, City Clerk

COUNCIL RESOURCE: Councilor Alan Minthorn

BACKGROUND: **Biddeford & Saco Elks #1597** has applied for a License to operate Games of Chance as follows: Nevada Gold (2 games), Daily Attendance (1game) and Queen of Hearts (1 game) from October 1, 2017 to September 30, 2018.

The applicant has submitted their applications in accordance with the provisions of Title 17 M.R.S.A. Chapter 13-A, and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operation of Beano/Bingo or Games of Chance.

EXHIBITS: Application

RECOMMENDATION: Staff recommends approval.

SUGGESTED MOTION: *“Be it Ordered that the City Council grant the application for a License to operate Games of Chance as follows: Nevada Gold (2 games), Daily Attendance (1 game) and Queen of Hearts (1 game) from October 1, 2017 to September 30, 2018 as submitted by the Biddeford & Saco Elks #1597.”*

“I move to approve the Order”.

CONSENT AGENDA ITEM: B

Date: October 2, 2017



**STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE STATE POLICE
SPECIAL INVESTIGATIONS UNIT
164 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0164
(207) 624-7210**

Application for a License to Operate Beano/Bingo or a Game of Chance

****The Special Investigations Unit must receive this application at least eight days before Beano or a Game of Chance may begin****

1. For what license are you applying (please check one): **BEANO** OR **GAME OF CHANCE**

2. Organization Name: **BIDD-SACO ELKS 1597** IF YOU CHECKED GAMES OF CHANCE:
 Name of Game: Nevada Gold ⁽²⁾ _{Heart}
 Organization Number: 1247
 Number of Games: Daily Attendance _{Heart}
 Federal Tax ID # (BIN): 01-022-7743
 Open to Public? Yes No
 Business Address: 68 Ocean Park Rd Saco ME
 Mailing Address: PO Box 1597 Saco ME 04072 Phone: 207-283-1597

3. Current Officers:

NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES
<u>Timothy Crowley</u> ^{Exalted Ruler} _{Unit 6}	<u>The Orchids Saco ME</u>	<u>04072</u>	<u>282-4653</u>	<u>3/31/18</u>
<u>Michael Desjardins</u> _{Knight}	<u>Bloomfield Saco ME</u>	<u>04072</u>	<u>807-3460</u>	<u>3/31/18</u>
<u>Roger J. Sicard</u> _{Secretary}	<u>13 Skyline Dr Saco ME</u>	<u>04072</u>	<u>423-5330</u>	<u>3/31/11</u>
NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES

4. Location where Beano/Bingo or Game of Chance is to be conducted:
 BUILDING: LODGE ADDRESS: 68 Ocean Pk Rd CITY/ZIP: SACO 04072

5. Person responsible for operation of Beano or Games of Chance:
 NAME: Richard Gosselin + Roger Sicard DAYTIME PHONE & EVENING PHONE: 283-1597

Name & Address where Licenses will be sent: BPOE 1597 PO Box 1597 Saco ME 04072
 E-Mail Address: rjsicard@maine.rf.com

6. Circle the days of the week you expect to operate: Mon Tue Wed Thu Fri Sat Sun
 What are the hours of operation? 12 noon to 10pm

7. For Tournaments and Beano Only:
 What time do the doors open? _____ What time does the game start? _____

8. Dates to be licensed - Please specify weeks (Monday through Sunday) or full months. You may apply in advance for up to 6 months of licenses for Beano and 12 months for Games of Chance. See back of this form for rates.

<u>Oct 1-31/2017</u>	<u>Feb 1-28/2018</u>	<u>June 1-30/2018</u>
<u>Nov 1-30/2017</u>	<u>Mar 1-31/2018</u>	<u>July 1-31/2018</u>
<u>Dec 1-31/2017</u>	<u>Apr 1-30/2018</u>	<u>Aug 1-31/2018</u>
<u>Jan 1-31/2018</u>	<u>MAY 1-31/2018</u>	<u>Sept 1-30/2018</u>

BG 5 (09/13) - Previous Editions are Obsolete

FOR OFFICE USE ONLY

Check # _____

Amount \$ _____

CONSENT AGENDA ITEM: B

Date: October 2, 2017

9. Does the organization own all the equipment used in operating this amusement? Yes No

If "NO", please explain the circumstances under which the equipment was acquired:

10. Has any current officer of this organization or association ever been convicted of or have any charges currently pending for violating the gambling or lottery laws of the United States or the State of Maine? Yes No

If "YES" give the person's name, address, and date and place of conviction or date and location of pending charge:

11. If the Applicant is a Fair Association, attach a list of the names and home addresses of the persons operating or assisting in the licensed activity. Please write your organization name and number on the list.

-----APPLICANT SIGNATURE-----

12. The applicant agrees to obey the laws of the State of Maine and the United States and the rules and regulations governing Beano or Game of Chance promulgated by the Chief of the State Police. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: [Signature] Age 18 or older: Yes No

Name: Roger J. Sicard Title: Secretary Date: 5-23-17
(Please print name of officer who must be duly authorized officer of this organization -- title is required)

-----BLANKET LETTER-----

13. The following consent must be completed by the municipal officers of the city or town where the Beano/Bingo or Game of Chance will take place unless a separate "Blanket Letter of Approval" is filed with the Chief of the State Police:

- Check here if you have previously filed a "Blanket Letter of Approval" with us, which is still valid
 Check here if you have attached a "Blanket Letter of Approval".

-----CONSENT-----

The undersigned being municipal officers of the City/Town of Saco hereby certify that we consent to this application for a license to operate Beano/Bingo or a Game of Chance in accordance with the provisions of 17 M.R.S.A. Chapter 13-A (Beano) or Chapter 62 (Games of Chance) and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operating of Beano/Bingo or Games of Chance.

Table with 2 columns: Name, Date. Four rows for signatures.

-----FEES-----

Beano/Bingo: \$5.00/Special Per Game License; \$12/Week; \$36/Month; \$400/Year
Game of Chance: \$15/Week; \$60/Month; \$700/Year Video Poker: \$15/Week or \$60/Month Card/Cribbage: \$30 Per Calendar Year
Tournament Game (up to 100 players): \$75.00/Per Tournament; \$200.00/Month (Two Tournaments per Month); \$1,500/Year (Two Tournaments per Month)

Make check payable to Treasurer, State of Maine

Return the signed and completed application to: Department of Public Safety
Maine State Police
Special Investigations Unit
164 State House Station
Augusta ME 04333-0164

MEETING ITEM COMMENTARY

AGENDA ITEM: (Second and Final) Contract Zone –994 Portland Road

STAFF RESOURCE: Bob Hamblen, City Planner

COUNCIL RESOURCE: Councilor William Doyle

BACKGROUND: Applicants Bill Koch and Sandra Murray dba The Village at Pine Meadows propose to establish an Elder/Disability Housing Facility at 994 Portland Road. Similar related uses such as “Adult Care Services” and “Elderly Congregate Housing” are allowed in the MU-3 zone, but neither fully addresses the concept that the applicants have in mind. “Elder/Disability Housing Facility is defined by the Zoning Ordinance as “...housing in dwelling units for senior households in which a head of household is at least 55 years old or for disabled persons regardless of age.”

The Planning Board held a public hearing on this proposal at its July 11, 2017 meeting, and voted to forward a positive recommendation.

EXHIBITS:

1. Draft Contract Zone document
[Exhibit item was previously provided on 9.18.17](#) (See page 11)
2. Aging in Place Synopsis from applicant
[Exhibit items were previously provided on 9.5.17](#) (See pages 74-87)
3. Application materials
4. Planning Board Minutes, 7/11/17

RECOMMENDATION: Staff recognizes that the property is currently subject to site plan approval for a Motel use. The proposed Elder/Disability Housing Facility is probably a better fit, and the need for senior housing at a reasonable price point is certainly greater.

SUGGESTED MOTION: *“Saco City Council hereby ordains and approves the Second and Final Reading of the document entitled ‘Contract Zone Agreement by and Between The Village at Pine Meadows, LLC and the City of Saco’ dated July 11, 2017”*

**Contract Zone Agreement by and Between
The Village at Pine Meadows, LLC and the City of Saco**

July 11, 2017

THE CITY OF SACO HEREBY ORDAINS:

- I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through February, 2017 is hereby further amended by adopting this Contract Zone Agreement by and between the City of Saco and The Village at Pine Meadows, LLC, (“Applicant”)**
1. The Applicant proposes to establish an Elder/Disability Housing Facility, as defined in the Zoning Ordinance, at 994 Portland Road (“Subject Property”).
 2. The Subject Property is identified as Tax Map 63 Lot 5 on City of Saco tax maps and is located in the MU-3 zoning district.
 3. Subject property as it exists includes a two-family dwelling, and seven detached cabins. It has been utilized in the past as guest cabins. The Subject property is currently subject to a Planning Board approval for a “Motel” use, which is effective through May 19, 2018.
 4. Right, title and interest is demonstrated with the Applicant’s submission of a fee ownership deed as recorded in the York County Registry of Deeds Book 16914 Page 44.
 5. The proposed Elder/Disability Housing Facility is not an allowed use in the MU-3. The MU-3 zone does include “Adult Care Services” as a permitted use, and does include “Elderly Congregate Housing” as a permitted use if part of a Master Planned Development. However, neither is specific to the applicant’s objective.
 6. As stated in Section 1403-1 of the Zoning Ordinance, “Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas and at the same time recognize the effects of change.”
 7. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow an Elder/Disability Housing Facility to be established on the Subject Property.
- II. This Contract Zone, specifically and exclusively for the Subject Property, would allow the Applicant to establish an Elder/Disability Housing Facility as proposed on the Subject Property, subject to the following conditions, as provided for in Section 1403 of the Saco Zoning Ordinance.**

1. An Elder/Disability Housing Facility shall be allowed to operate as a permitted use on the Subject Property.
2. Said Elder/Disability Housing Facility shall be fully serviced by public utilities, including water and sewer.
3. The Applicants propose a metal bulkhead basement access at the rear of the proposed individual dwellings. The setback from side and rear property lines for said access structures shall be fifteen (15) feet, while the setbacks for the dwellings shall be twenty (20) feet. Said access structures shall be of metal construction, shall be limited to the rear of individual dwellings, and shall not be allowed on the sides of dwellings.
4. All other standards and requirements applicable to development in the MU-3 zone shall apply.
5. Upon approval of this contract by the City Council, the Applicant shall submit materials required for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicant to secure site plan approval from the Planning Board within one (1) year of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, this one (1) year deadline may be extended by one (1) year upon written request to the City Council.
6. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be “major” shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall be required to obtain City Council approval of the changes.
7. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City. A change in ownership prior to completion of the terms of this Contract may necessitate review and approval by the City Council. Determination of such shall be made by the Planning Office.
8. Failure of the Applicant to initiate construction of the Elder/Disability Housing Facility as described in the application materials for this Contract Zone within (2) years of the date of approval shall render this agreement null and void. Said two (2) year period may be extended for a period of one (1) year upon written request to the Planning Office prior to termination of said two (2) year period.
9. Breach of these conditions and restriction by the owner shall constitute a breach of the contract, and the owner may be required to apply for a contract modification. Failure to apply for, or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. A. The parcel identified as Tax Map 63 Lot 5 is a parcel of an unusual nature and location, for the following reasons:

1. The property is the site of a former “motor court,” catering to those seeking transient lodging, generally on a seasonal basis. Popular with the motoring public in the mid-20th century, such uses are slowly disappearing as other forms of overnight accommodations take their place.

2. The property operates today as a motel, based on the May 19, 2015 approval granted by the Planning Board, that would allow an expansion of the existing two-family dwelling and seven cabins with an additional twenty-nine cabins, swimming pool, stormwater management system, and extension of the public sewer system so as to service the project.

B. The proposed rezoning is consistent with the 2011 Saco Comprehensive Plan, based on the following goals:

Chapter 5. Community Goals and Policies

The City should continue to provide for the construction of a wide range of types of housing at a variety of densities and types to assure that a diversity of people can continue to live in the City including younger households.

G. Housing

The City should continue to allow housing for the elderly to be built at higher densities than other types of housing in recognition of the lower impact that this type of housing has on the community.

The City should continue to work with nonprofit organizations and private developers to expand the supply of housing that is affordable to lower and moderate income households. The City should consider offering economic and/or regulatory incentives for such affordable housing developments and, if appropriate, continue using contract zoning and similar techniques to allow case-by-case consideration of proposals for new affordable housing.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone.

The MU-3 zone was established in July, 2013 “... to allow for the development of high-quality mixed-use neighborhoods on either side of Route One with a wide range of both residential and non-residential uses.” (Sec. 405A-3, Zoning Ordinance) Existing uses found in the MU-3 zone include residential dwellings, amusement park, mobile home park, self-storage, financial institution, retail businesses, drive-in theater and others. Permitted uses in the MU-3 zone include Health and Fitness Clubs, Day Care Centers, Adult Care Services, Mobile Home parks in designated Mobile Home Park Overlay Districts, and Eating Establishments, among several others.

D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement in the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on September ____, 2017

By: _____

Kevin L. Sutherland
City Administrator

By: _____

William Koch
Village at Pine Meadows, LLC

By: _____

Sandra Murray
Village at Pine Meadows, LLC

AGENDA ITEM: D
Date: October 2, 2017

MEETING ITEM COMMENTARY

AGENDA ITEM: (Second and Final) Zoning Map Amendment – 47 Ferry Road

STAFF RESOURCE: Bob Hamblen, City Planner

COUNCIL RESOURCE: Councilor Kevin Roche

BACKGROUND: Mark and Judy Thayer of 47 Ferry Road have initiated this request, asking that the City consider changing the zoning for their 0.34 acre parcel at the corner of Ferry and Pine Ridge Road from R-1a to R-2. The Thayer’s have a single-family dwelling, and would like the ability to create two additional residential units in the attached barn.

The parcel has an area of 14,810 s.f., while 5,000 s.f. per unit is required for a multi-family dwelling in the R-2 zone. They mention the possibility of acquiring some additional land from an abutter. At this time, however, their parcel falls 190 s.f. short of supporting the proposed 3-unit dwelling.

The Planning Board held a public hearing for this request on August 8, 2017, and voted to recommend to the City Council that the request not be approved.

EXHIBITS: [Exhibit items were previously provided on 9.18.17](#) (See pages 12-30)
1. Planning Board Memorandum from City Planner
2. Application Materials
3. Deed
[Exhibit items were previously provided on 8.21.17](#)
4. Memo from City Planner to Council (See page 45)

RECOMMENDATION: Both Planning Board and City Council have historically been cautious with Zoning Map amendments. Staff is supportive of this approach.

SUGGESTED MOTION: *“Saco City Council hereby ordains and approves the Second and Final Reading of the proposed amendments to the Zoning Map that rezones the parcel identified as Tax Map 22, Lot 28, from R-1a to R-2”*

MEETING ITEM COMMENTARY

AGENDA ITEM: (Second and Final) Code Amendment – Chapter 186, Article III, Building and Street Numbering

STAFF RESOURCE: Corey Huntress, Deputy Police Chief
Kate Kern, Deputy Assessor

COUNCIL RESOURCE: Councilor Alan Minthorn

BACKGROUND: In accordance with the State of Maine E911 system, the city is concentrating on the growing number of private roads and driveways with more than 2 houses, which do not have a name. The citizen's who live on these unnamed private roads, etc., have addresses located on the main road, making finding them in an emergency harder to accomplish.

The goal going forward is to have these private roads/ROW's/ and driveways with more than 2 houses be given a name and number whether it be at the Planning Board stage or the Building Permit Stage. In order to provide guidance in this area, Chapter 186 of City Code is being updated with proposed language to fulfill this mission.

EXHIBITS:

1. City Code – Chapter 186: Streets and Sidewalks, Article III, Building and Street Numbering:

RECOMMENDATION: Staff recommends moving forward with the draft changes to City Code Ch. 186.

SUGGESTED MOTIONS: *“Saco City Council hereby ordains and approves the Second and Final Reading on the Amendment to Chapter 186, Article III, Building and Street Numbering for October 2, 2017.”*

§ 186-46. Private ways.

If there are three or more developed parcels that abut a private lane or way, the owners of those lots may petition the City to name the private way. The Assessor will then issue street numbers for that road. It will be the sole responsibility of the owners to maintain a street sign at the entrance to the private way in accordance with the current public works standards for other public and private road signs. The name of the private way cannot conflict with or sound similar to existing road names.

Proposed Language: ~~City Code Zoning Ordinance~~— Chapter 186: Streets and Sidewalks, Article III, Building and Street Numbering
§186-46

(please note underline represents new language, while ~~strikethrough~~ is language to be deleted.)

If there are three or more developed parcels that abut a private lane or way, the owners of those lots, with a consensus of opinion, may shall petition the City E911 Addressing Officer to name the private way. ~~The Assessor will then issue street numbers for that road.~~ The name of the private way cannot conflict with or sound similar to existing road names. It will be the sole responsibility of the owners to purchase a street sign from the Department of Public Works, and maintain the street sign at the at the entrance to the private way in accordance with public works standards for public and private road signs. ~~The name of the private way cannot conflict with or sound similar to existing road names.~~ The City will then issue street numbers for that road.

AGENDA ITEM: F
Date: October 2, 2017

MEETING ITEM COMMENTARY

AGENDA ITEM: (First Reading) Contract Zone - 15 Oceanside Drive

STAFF RESOURCE: Bob Hamblen, City Planner

COUNCIL RESOURCE: Councilor Kevin Roche

BACKGROUND: Applicants George and Nancy Driscoll propose to clarify through the contract zoning process that their property at 15 Oceanside Drive should be regarded by the City as two lots: one developed and one eligible for a building permit. Two lots were established as part of the Kinney Shores subdivision in 1914, and were acquired by the Driscolls in 1980, but were combined as a result of a 1985 amendment to the Zoning Ordinance. Today the City regards and taxes the property as a single parcel.

This item came before the prior City Council in fall of 2015 but was voted down (4-3). The Driscoll's have requested the current Council approve their Contract Zone. Prior documentation was included in the September 11th workshop material.

This item will be reviewed by the Planning Board at its Oct. 3rd meeting.

EXHIBITS:

Draft Contract Zone Agreement
[Exhibit items were previously provided on 9.11.17](#) (See pages 3-63)
City Administrator's Memo
Item commentary from 2015
Contract zone agreement from 2015
Letter from Bob Hamblen, City Planner
Denial by the Zoning Board of Appeals
Superior Court and Maine Supreme Court Denial
Letter of request from the applicant
2009 Building Permit Denial Letter from Code Enforcement Officer
Zoning Board of Appeals Findings
Maine Supreme Judicial Court Memorandum of Decision
Superior Court Civil Action and Conclusion
A map of the lots as 201 and 202
Planning Board Minutes from September 1, 2015
Email correspondence between Bob Hamblen, Dick Lambert, and Tim Murphy dated July 27th and 28th 2015
Email correspondence between Bob Hamblen, Natalie Burns (attorney with Jensen Baird Gardner & Henry) and Mike Morse (Maine DEP, Assistant Shoreland Zoning Coordinator).
Site Plan Review – Code Enforcement comment.
Warranty Deed Joint tenancy to J. George Driscoll and Nancy S. Driscoll dated 10-4-1980

AGENDA ITEM: F
Date: October 2, 2017

RECOMMENDATION: Staff recognizes that, due to a Zoning Ordinance amendment in 1985, what had been two legally nonconforming lots were combined. Maine’s judicial system has stated that traditional zoning methods and procedures have been correctly applied to date. Consideration should be given by the Council as to whether “public necessity, convenience, or the general welfare” is served by supporting this contract zone application.

SUGGESTED MOTION: *“I move to approve the First Reading and subsequently schedule a Public Hearing for October 16, 2017 for the contract zone document entitled ‘Contract Zone Agreement By and Between J. George and Nancy S. Driscoll and the City of Saco dated October 3, 2017’ for the property identified as Tax Map 11, Lot 116 as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8).”*

AGENDA ITEM: F
Date: October 2, 2017

Contract Zone Agreement By and Between
J. George and Nancy S. Driscoll and the City of Saco

October 3, 2017

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and amended through July 17, 2017 is hereby amended by adopting this contract by and between J. George and Nancy S. Driscoll (Applicants) and the City of Saco.

1. The Applicants seek a single family residential building permit to be issued for a portion of the parcel they own at 15 Oceanside Drive (Subject Property).
2. Said parcel is improved with a single family dwelling, a permitted use.
3. Said property is identified as Tax Map 11, Lot 116 on City of Saco tax maps. The current lot (Map 11, Lot 116) was transferred to the Applicants as two separate parcels in 1980, was formerly taxed by the City as two separate parcels, but were merged into a single parcel when Saco adopted its Zoning Ordinance in 1985.
4. Said merger of the two separate parcels was subject to Section 502-1(2) of the Zoning Ordinance, which reads as follows: "If two or more vacant, contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this Ordinance, if these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards, except where the contiguous lots front onto different streets or where the lots were legally created and recorded as part of an approved subdivision after March 22, 1972, the date of adoption of Saco's subdivision standards."
5. Said property is in the R-1c and Shoreland Overlay zoning districts.
6. The Applicants contend that the Subject Property is actually two parcels, and have submitted a surveyed plan to that effect dated November 1, 2005.
7. The Applicants submitted an application for a building permit to the Code Enforcement Office on August 27, 2009 for the construction of a single family dwelling.
8. The Building Inspector, Richard Lambert, denied the application in a letter to the Applicants dated August 27, 2009.
9. An Administrative Appeal and Variance application was submitted to the City on August 18, 2009.
10. A hearing was held on Sept. 14, 2009 by the Zoning Board of Appeals; review was tabled due to missing factual information.

AGENDA ITEM: F
Date: October 2, 2017

11. The ZBA meeting continued on Oct. 26, 2009, with updated copies of Section 7.1, Shoreland Zoning of the Zoning Ordinance, and with copies of the pending variance notice sent to the Maine Department of Environmental Protection on Sept. 16, 2009 via certified mail.
12. The ZBA voted unanimously to deny the administrative appeal of the Building Inspector's decision based on the merger of the vacant lot with the developed lot pursuant to the Board's understanding of Section 501-1(2) of the Zoning Ordinance.
13. The ZBA continued the meeting on Nov. 30, 2009 to consider the Applicants' request for space and bulk variances, and voted unanimously to deny said requests.
14. The Applicants subsequently appealed the ZBA decisions to Maine Superior Court, which issued a denial of the appeal dated Oct. 5, 2010.
15. The Applicants subsequently appealed the Superior Court decision to the Maine Supreme Judicial Court, which issued a denial of the appeal on Sept. 22, 2011, concluding the two lots had merged.
16. The Applicants have continued to weigh options that may allow them to legally establish the Subject Property as two separate, buildable lots. In so doing, they cite Article 14 of the Zoning Ordinance, which addresses contract zoning.
17. Recognizing the limitations of the Subject Property, and the requirements of the Zoning Ordinance, the Applicants hereby make application for a Contract Zone that would allow the Subject Property to be legislatively established as two separate, conforming lots.

II. This contract amends the Saco Zoning Ordinance as follows:

This Contract Zone, specifically and exclusively for the parcel at 15 Oceanside Drive, would allow the Applicants or their designees, upon making application to the City of Saco Code Enforcement Office, a single family residential building permit for "Lot 202" as shown on a "Plan of Land of M.H. Kinney, Saco, Maine Called "Kinney Shores," recorded at the York County Registry of Deeds on April 24, 1919, filed in Plan Book 4, Page 64, or as previously identified by the City of Saco as Tax Map 11, Lot 116-1, subject to the following conditions and restrictions, as provided for in Section 1403 of the Saco Zoning Ordinance:

- a. The parcel identified by the City of Saco Assessor's Office as Tax Map 11, Lot 116 is hereby reconfigured into two separate parcels, henceforth to be labeled as Tax Map 11, Lot 116 and Tax Map 11, Lot 116-1.
- b. The parcel identified as Tax Map 11, Lot 116 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,293 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.
- c. The parcel identified as Tax Map 11, Lot 116-1 shall be configured as shown on a surveyed plan produced by Dow and Coulombe, dated Nov. 1, 2005, with an area of 5,450 square feet, and 50.10 linear feet of frontage on Oceanside Drive, a City way.

AGENDA ITEM: F
Date: October 2, 2017

- d. Minimum Lot and Yard Requirements set forth in Table 412-1 of the Zoning Ordinance shall be modified for the Subject Property as follows:

For Tax Map 11, lot 116:

1. A reduction in the minimum lot size requirement from 7,500 square feet to 5,293 square feet.
2. A reduction in the minimum lot area per dwelling unit from 7,500 square feet to 5,293 square feet.
3. A reduction in the minimum street frontage requirement from 75 feet to 50 feet.
4. A reduction in the minimum shore frontage requirement from 100 feet to 50 feet.
5. A reduction in the minimum width requirement from 100 feet to 50 feet.
6. A reduction in the minimum width of the side yard setback requirement on the north side from fifteen feet to one foot.
7. An increase in the maximum lot coverage requirement from 20% to 54%.

For Tax Map 11, lot 116-1:

1. A reduction in the minimum lot size requirement from 40,000 square feet to 5,293 square feet.
 2. A reduction in the minimum lot area per dwelling unit from 20,000 square feet to 5,293 square feet.
 3. A reduction in the minimum street frontage requirement from 75 feet to 50.10 feet.
 4. A reduction in the minimum shore frontage requirements from 100 feet to 50 feet.
 5. A reduction in the minimum width requirements from 100 feet to 50 feet.
- e. The Applicants shall adhere to all other applicable provisions of the R-1c and Shoreland Overlay zoning districts and of the City of Saco Zoning Ordinance.
- f. All details as shown on the submitted plans and included in the submitted application are hereby incorporated into this contract by reference. The proposed use shall be operated substantially in conformance with those plans.
- g. Minor changes may be approved by the staff of the City of Saco. Any changes determined by the staff to be "major" shall be submitted to the Planning Board for review. If it is determined that the changes constitute a change in the contract, then the developer shall also be required to obtain City Council approval of the changes.
- h. Upon approval of this contract by the City Council, the Applicants shall submit an application for site plan review to the Planning Office in order that the project may be reviewed by the Planning Board. Failure of the Applicants to secure site plan approval from the Planning Board within one year of the approval of this Contract by the Saco

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City Council shall render this Contract null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicants, this one year deadline may be extended by one year upon written request to the City Council.

- i. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicants. Approval of this Contract Zone is in part based on the financial and technical qualifications of the Applicants as submitted to the City.
- j. Failure of the Applicants, or buyers of a second lot that is created by virtue of this Agreement, to seek a single family dwelling building permit as described in application materials for this Contract Zone within two (2) years from the date of approval shall render this approval and Contract null and void. This two year deadline may be extended by one year upon written request to the City Council.
- k. Breach of these conditions and restrictions by the developer shall constitute a breach of the contract, and the developer shall be required to apply for a contract modification. Failure to apply for or to obtain a modification shall constitute a zoning violation, subject to enforcement action.

III. Pursuant to authority found in 30A M.R.S.A. Section 4352 (8), and the City of Saco Zoning Ordinance, Section 1403, and by vote of the Saco Planning Board on October 2, 2017, and the Saco City Council on _____ 2017, the following findings are hereby adopted:

- A. City Tax Map 11, Lot 116 is a parcel of an unusual nature and location, for the following reasons:
 - 1. The parcel is one of 131 in Saco with beach frontage.
 - 2. A portion of the parcel (the former Lot 202) has been previously prepared in anticipation of building a residence with the installation of a 50 foot seawall and plantings of sea grass, as well as a second sewer service to the property.
 - 3. The parcel dates to 1919, identified as Lots 201 and 202 on a “Plan of Land for M.H. Kinney, Saco, ME called Kinney Shores” and existed for several decades as two separate lots.
- B. The proposed rezoning is consistent with the Saco 2011 Comprehensive Plan, based on the following goals:

Chapter 3, Section D. Marine Resources --
Saco’s coastline, in the face of mounting development pressure in southern Maine, has managed to stay relatively undeveloped. Marine industries still have a foothold in Saco. To help maintain that foothold, commercial development should generally be limited to marine and tourism related uses at Camp Ellis. Development on the bulk of the beach area should be limited to primarily small-scale residential uses.

Chapter 5, Section A. Population and Demographics

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1. The City should assure that residential growth is accommodated in appropriate locations that are properly zoned and able to be provided with public services.

Chapter 6, Land Use Goals and Policies

Limited growth areas are the parts of the community where the City desires a limited amount of growth and development over the next ten years (see Figure 6.1). Limited growth areas include two types of environments:

Established Residential Neighborhoods – areas that are essentially fully developed and therefore have limited development potential where the City’s objective is to maintain the current land use pattern while allowing limited infill or redevelopment that is in character with the neighborhood...

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original zones are, a) the Residential-1c (R-1c) zone, a low density residential district “. . . designated for areas which are predominately single-family residential in character. It includes both sewerred and unsewerred land, with appropriate lot size requirements for each situation. New land uses in this district are restricted to low-density residential and associated uses.” (Zoning Ordinance, Section 405-1.) Among the permitted and conditional uses allowed in the R-1c zone are single and two-family dwellings, churches, daycare centers, elderly congregate housing and bed and breakfast establishments. And, b) the Shoreland Overlay zone, which “. . .is intended to assure that activities that occur within close proximity of the waterbodies subject to state mandated shoreland zoning are carried out in a manner that protects water quality, promotes wildlife movement, and preserves the scenic quality of these shorelands.”

D. The conditions proposed are sufficient to meet the intent of Section 1403. Contract Zoning, of the Saco Zoning Ordinance.

IV. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zoning agreement into the Saco Zoning Ordinance by reference. By signing this contract, both parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on _____ 2017.

by _____
Kevin L. Sutherland
City Administrator

by _____
J. George Driscoll
Applicant

by _____
Nancy S. Driscoll
Applicant