

## STATE OF MAINE

### COUNTY OF YORK

### CITY OF SACO

**I. CALL TO ORDER** – On Monday, January 29, 2018 at 6:30 p.m. a Council Meeting was held in the City Hall Auditorium.

**II. RECOGNITION OF MEMBERS PRESENT** – Mayor Marston Lovell introduced the members and determined that the Councilors present constituted a quorum. Councilors present: Marshall Archer, Roger Gay, William Doyle, Lynn Copeland, Alan Minthorn, Micah Smart, and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

### **III. PLEDGE OF ALLEGIANCE**

**IV. GENERAL** – Mayor Lovell announced that there would be a brief workshop following this Council Meeting. He also noted for information purposes that the Internal Revenue Service began accepting income tax returns as of today, that Thursday is the beginning of African-American Heritage Month, and that Friday is both a blue moon and Groundhog Day.

### **V. PUBLIC COMMENT**

**A.** School Board liaison Stephen Shiman said that he did not have a lot to report, other than the School Board regular meetings continue and they have begun to work on budget issues. He said that there are three meetings scheduled to hear from various departments within the school system on the upcoming budget.

**B.** Sandra Gay of 52 Cumberland Avenue, Saco. Mrs. Gay said that although she is a land use attorney, she was not serving in that capacity this evening. She said that she was speaking in support of the contract zone extension for the Simpson Road project and to share her thoughts regarding the Public Hearing that was held last week on this matter, which she watched on video. She said that she has no affiliation with the Ecology School, but as a citizen, has some concerns as to the fairness in the way that some things happened.

She said that as she watched the meeting, it was her understanding that the issue was an extension of the previously approved contract zone. She said that was not the appearance of the meeting, that a lot of issues were raised that had been discussed in 2016 before the contract zone had been approved. The Council at that time had heard all of those concerns and had approved the contract zone. While a lot of those concerns are legitimate concerns, ie traffic, subsurface waste, water, those concerns are properly addressed at the site plan review by the Planning Board. She said that Saco was blessed with an excellent City Planner, a mature and experienced

Planning Board, and they will do a good job addressing the neighbor's concerns during the site plan review.

In regard to this contract zone, it has already been approved, and there have been no substantive changes to it. It is her understanding that the owners of the property and the Ecology School had worked as quickly as possible to deal with the issues raised by the Saco Valley Land Trust in regard to the proposed uses, and the court, which found that the proposed uses are allowable under the deed restrictions that are on the property. And then, there was further negotiation with the Land Trust, resulting in the agreement to turn over ninety-six acres to the Maine Farmland Trust, which seemed like a very good idea to everyone involved and would protect that conservation land, perhaps better than the Saco Valley Land Trust could.

Now it is two years later. It seems that everyone has acted in good faith and has moved forward as quickly as possible. The Ecology School has purchased the property based on the contract zone approval, the courts decisions, and the agreement with the Saco Valley Land Trust, and now they are just asking for an extension of that contract zone. Mrs. Gay said that her concern from listening to the last meeting was that this issue was being opened up to an entirely new contract zone, and that didn't feel fair to her.

As a reminder, she said that the C-1 zoning that encompasses this project already allows for much more intensive uses than the Ecology School is proposing, including hospitals, clinics, day care centers, nursery schools, far equipment dealers. She said that she believes that over time, the neighbors would come to realize that this proposed use is not as intense as other uses might be. She said that she hopes the Council would approve this action this evening, and turn the work over to the Planning Board, and allow it to do what it does very well.

**C.** Elizabeth Desimone – She said that she understood that the City Planner had provided the Council with language for an amendment which addressed the fact that part of the contract zone is in resource protection, and that the description of the property that is currently in the contract zone is incorrect. She is hoping that one of the Councilors would put forward that amendment this evening and that it would pass. She said that it is important that the description of the property be as accurate as possible.

**D.** Inga Browne of 161 Simpson Road, Saco. Mrs. Browne said she realized that Mrs. Gay is correct, that the C-1 Zone allows for many intense uses, such as a golf course or a conservation center, Riverbend Farm, with its conservation easement, would not sustain those kinds of uses, and the neighbors of that property have always understood that this property is unique in that regard. She also wanted to point out that while the Council would be dealing with amendments

this evening regarding “weekly” student numbers, with the addition of “day” students, either one hundred twenty, or one hundred fifty, additional staffing would have to be present in the neighborhood of a twelve to one student ratio. With the expansion of the farm to include livestock, additional personnel such as farm staff, kitchen staff, farm managers and so forth will add to the number of people on the property and this number will continue to grow.

Mrs. Browne said that she found the memo from Mr. Girard of the Planning Board that he had sent to the Council Members today, outlining his understanding of the process to date. Mrs. Browne asked to draw the Council’s attention to Item #9 of that memo which said: “As the City contemplates extending the TES contract zone agreement, it should be further modified to define what TES decides it needs, and what the City Council decides is an appropriate scope of TES operations with respect to total participants. In all fairness to the City, and to TES, this is an issue that should be clearly defined and described in the contract zone agreement.” Mrs. Browne said that while she finds this statement factually true, and can support that statement, to omit what is appropriate for the site and for the neighborhood is lacking in that type of statement.

## **VI. CONSENT AGENDA**

Councilor Minthorn moved, Councilor Doyle seconded to approve the Consent Agenda Items A and B as follows:

**A. Minutes** Be it ordered that the City Council approve the Council Minutes for January 16, 2018

**B. Application for Solid Waste Permit** Be it ordered that the City Council grant the application for a Solid Waste Permit as submitted by Waste Management. Further moved to approve the Order.

The Motion passed with seven (7) Yea’s.

## **VII. AGENDA**

**A. (Second and Final Reading) Contract Zone Amendment and Extension – 184 Simpson Road.**

Applicant “The Ecology School” requests consideration of an extension to the contract zone approval granted on Feb. 1, 2016 that would allow an ecology education school to be established at 184 Simpson Road. The contract zone agreement as approved would expire two years after approval if site plan review has not yet been granted by the Planning Board (it has not).

Since the 2016 approval, the applicant has laid some groundwork for pursuing the contract zone: the property, known as River Bend Farm while owned by members of the Merrill family, is subject to a conservation easement, which was recently transferred from Saco Valley Land Trust to the Maine Farmland Trust. And, the applicant closed on the purchase of the property on Nov. 21, 2017. Their next step after seeking the approval extension is to submit the site plan application for Planning Board review.

Details addressed in the contract zone agreement include the fact that 95 acres of the 105 acre parcel are subject to a conservation easement; the school would serve up to 120 weekly participants and approximately 10 season staff; the school could include two dormitory buildings, each up to 9,000 s.f. of total floor area, up to three stories in height but not to exceed the existing 35 foot height limitation, and a dining hall/kitchen/classroom building of approximately 7,000 s.f. Existing building would be used for office, classroom and meeting space.

Councilor Archer Moved, Councilor Minthorn Seconded, and The City Council hereby Orders that the contract zone document entitled “Contract Zone Agreement By and Between The Ecology School and the City of Saco” dated January 19, 2016 be emended to allow the Applicant two 1-year extensions from the expiration date of Feb. 1, 2018 to receive site plan approval from the Planning Board and to approve the requested one-year extension to Feb. 1, 2020.”

Mayor Lovell read an email from Attorney Tim Murphy, representing the City of Saco, which said: “The Council is to bear in mind that the decision to grant a contract zone is ultimately one of the City Council. It is a legislative decision by the governing body. The Planning Board has an advisory role in the process, but the final call of whether to grant a contract zone or to make any zoning provision rests with the City Council. Second, because contract zones or an exemption to and relief from in-place zoning that is an amendment to an existing zone, there is no right to have a contact zone agreement, no one party is ever entitled to a contract zone, rather the grant of a contract zone is at the pleasure of the City Council. So, when the consideration of a grant of a contract zone, the Council may condition that grant upon extension or approval of reasonable request that benefit The City, and the advance of City goals and interests. Third, any contract zone decision must be found in compliance and furtherance of The City’s existing comprehensive plan. No contract zone may run afoul of this condition, or it is void.

Mayor Lovell also said that the Planning Board had come to a conclusion on January 23<sup>rd</sup>, and he read the first paragraph of their decision which stated: “The Planning Board voted unanimously to recommend to the City Council that the requested extension of the contract zone

for The Ecology School be approved. If the City Council moves forward with the approval of the extension, I suggest that the contract zone be further clarified with respect to total program participants anticipated in its operation. There should be no ambiguity in the understanding between The City and The Ecology School in scope and initial and future operations by The Ecology School and a clear understanding of the total program participants will be useful to the Planning Board as it moves into the site plan review for the proposal.”

Councilor Johnston moved, Councilor Smart Seconded to Amend Section 1C to read: “A statewide non-profit organization that protects farmland, supports farmers, and advances farming. Their goal is not just to protect Maine farmland, but to revitalize Maine’s rural landscape by keeping agricultural lands working and helping farmers, and their communities thrive.”

The Amendment passed with seven (7) Yea’s.

Councilor Gay asked if the land in question had a Resource Protection area and would that violate the Contract Zone?

City Planner Bob Hamblen answered that the full length of Saco River frontage in the City of Saco has a 500’ Resource Protection Zone and that this property has roughly 3,000’ of frontage on the River. He said that if there were to be an effort on the part of the applicant to impose contract zoning within that area, then that would be a violation. However, it has been recognized by all parties involved over this two and a half year process that no contract zoning is to take place in the Resource Protection Zone. If this moves forward, it will be made very clear that the Resource Protection Zone will be observed, not only along the Saco River, but also along Stackpole Creek.

Councilor Johnston moved, Councilor Minthorn seconded to Amend Section 2G to read: “The current 1794 farm house, cemetery and other existing farm buildings will be maintained and preserved. The farm house and other farm buildings would be used for farming and education purposes, office & meeting space and housing.”

The Amendment passed with seven (7) Yea’s.

Councilor Minthorn moved, Councilor Copeland seconded to Amend Section 2 E to read: “Approximately 95 acres of the Property will be maintained under the current Maine Farmland Trust conservation easement for farming, education, research and recreation purposes only. The remaining approximately 8.75 + / - acres of the property not under a conservation easement will serve as a “green campus” that can accommodate up to a maximum weekly average of 120 daily participants and 120 dormitory participants in multi-day programs; with no

more than 200 program participants on site, any given day, except during transitions between programs. Weekly dormitory participants may be more than 120 individuals, staying less than 15 days, not exceeding 1050 guest overnights weekly including participants, chaperones, and on-site staff. In order to prevent sending participants home when overages occur, special needs groups having lower student chaperone/staff ratios, or other special events exceeding these limits – a monthly or quarterly average will be used to calculate compliance with the above stated maximums. Two concurrent non-compliant reports require a meeting attended by Code Enforcement Office, City Administrator, and The Ecology School Executive Director. The Ecology School and Code Enforcement Office shall agree upon format of reporting document to be emailed by the 5<sup>th</sup> of each month during first year, and quarterly thereafter by the 5<sup>th</sup> of April, July, October, and January. Code Enforcement Office shall electronically file reports and make them available for inspection upon request.”

The Amendment passed with five (5) Yea’s and two (2) Nay’s, Councilors Archer and Gay voting in the minority.

Councilor Johnston moved, Councilor Minthorn seconded to Amend Section V 4 to read: “The property contains historic farm buildings including a 1794 farmhouse, 1840’s barn and an historic cemetery which The Ecology School will preserve and maintain for all times hereafter. The parcel also abuts the historic Stackpole Bridge, and thus provides additional educational opportunities for program participants.”

The Amendment passed with seven (7) Yea’s.

Councilor Johnston moved, Councilor Gay seconded to Amend Section II by adding S to read: “The Ecology School will participate in a PILOT (Payment in lieu of taxes), which will go in effect once the school has received its final occupancy permit at Riverbend Farm.”

Councilor Minthorn suggested that instead of creating another PILOT in the city, this amendment should be tabled by a Nay vote, and task the City with coming up with a PILOT program for all of the non-profits that fall into this same category. There are several of these in the city, and there should be a uniform PILOT program within the City ordinance.

Mayor Lovell said that might require opening up this contract, along with all of the other contracts where this might occur, and in our attorney’s opinion, that would mean that the contract holder would have to do so voluntarily.

Councilor Minthorn said again that instead of creating a unique situation with this contract, that the City should sit down with all of the participants in like situations and negotiate

a uniform program. He also said that the City should not be picking and choosing these contracts with individual PILOTS.

Councilor Minthorn moved, Councilor Doyle seconded, to Table the Amendment.

Motion to table passed with four (4) Yea's and three (3) Nay's, Councilors Archer, Gay, and Johnston voting in the minority.

Mayor Lovell then raised the issue of when is this Amendment to come off the table, because it appeared the intention was to vote this amendment down, and if the Council has voted to table the amendment, then in effect it has tabled the contract.

Councilor Minthorn moved, Councilor Doyle seconded to Reconsider the previous motion.

Motion to reconsider passed with five (5) Yea's and two (2) Nay's.

Councilor Johnston said that this amendment had been left with an open timeline, until the Ecology School had been issued their final Occupancy Permit, which could be two years or four years away. He said that his intention was that this would give city staff time to come up with a program, and if the Council approved this, that city staff would come up with that program quite quickly.

Councilor Smart moved, Councilor Johnston seconded to Amend the Amendment by adding the words: "provided that by the time the final Occupancy Permit has been received, City Staff has developed a standard, city-wide PILOT program for all non-profits."

Councilor Doyle said that he did not think the City should be placing a PILOT on this contract. He referenced Sec. P of the contract which states "The Ecology School, as part of its curriculum and educational programming, shall commit to supporting the Saco School System, in perpetuity, with at least sixty-six percent of all yearly program tuition for school year academic programs that are provided upon mutual agreement between the Saco Schools and The Ecology School. If the Ecology School program is unable to provide support at the sixty-six percent level, the value of the overall program is below \$40,000.00 or the Saco School system is no longer able to participate, The Ecology School will make an annual contribution of \$20,000.00 to the City of Saco." Councilor Doyle said he believed that this figure was well above the tax amount that the property had brought in previously. In adding a PILOT program to something that The Ecology School already gives to the City, they are being told that they have to pay more than other non-profits have to pay. Councilor Doyle said that he didn't believe the City should do this, and that the City should be fair, firm, and consistent when going through these. He said The Ecology School already provides a service to the community.

Motion to Amend the Amendment passed with four (4) Yea's and three (3) Nay's, Councilors Minthorn, Doyle, and Archer voting in the minority.

The Amendment failed with a vote of three (3) Yea's and four (4) Nay's, with Councilors Johnston, Smart, and Gay voting in the minority.

Councilor Johnston moved, Councilor Gay seconded to Amend Section II by adding Paragraph T to read: "The Ecology School will provide access down to the Saco River via a walking path, site determination and layout to be determined during site plan review".

Councilor Smart said that he was concerned that this would bring the walking path close to where the dormitories would be located, and opening this up to the public might pose a safety concern for students who are staying overnight there. He said he would like to include hours of access to the path.

Councilor Johnston said that he worded the amendment to be open-ended, with the details to be worked out between the Applicant and the Planning Board during site plan review.

Councilor Minthorn cited the restriction of a seventy-five foot Resource Protection Zone along Stackpole Creek, so that the path would have to be situated in the field? Mayor Lovell called City Planner Bob Hamblen to speak to this issue. Mr. Hamblen said that there are several allowed uses within a Resource Protection Zone and walking trails is one of those allowed uses.

Councilor Copeland said that she thought a walking trail along Stackpole Creek would be fantastic and would coincide with her greenbelt idea, but that this is not the time nor the place to be discussing it. She said that the Council is currently talking about a contract zone that has already been approved, extremely vetted, and that she didn't think that the Council should be adding more things to debate.

The Amendment passed with five(5) Yea's and two (2) Nay's, Councilors Doyle and Copeland voting in the minority.

Councilor Smart moved, Councilor Minthorn seconded to Amend Section II, Paragraph K by adding an additional sentence to read: "The portions of the property zoned Resource Protection are not subject to this Contract Zone Agreement".

Mayor Lovell said that this proposed amendment would nullify the previous amendment.

Councilor Smart then moved, Councilor Minthorn seconded to withdraw the currently proposed amendment.

Councilor Smart moved, Councilor Minthorn seconded, to Amend Section II Paragraph K, by adding an addition sentence to read: "The portions of the property zoned Resource

Protection are not subject to this Contract Zone Agreement, save for the Amendment to add or to require a walking path as per the previous Amendment.”

The Amendment passed with five (5) Yea’s and two (2) Nay’s, Councilors Archer and Doyle voting in the minority.

Councilor Smart commented that he was not happy with the way in which these amendments were proposed to the Council, many of them coming “last moment”, and he said that it was obvious what that does to this process. He said that he didn’t believe that there was a person or place to lay blame for this, but he wanted his uneasiness at this process to be known, and that his hope and wish is that in the future, these things would be given to the Council further in advance, to be talked through and made sure that they coincided with each other.

Councilor Minthorn asked if the Council had passed the Amendment extending the extension for a two years vs. one plus one. Mayor Lovell referred the Council to the original motion made by Councilor Archer.

The City Administrator noted that Alternate Motion B was read into the record by Councilor Archer.

Councilor Archer said that this issue was a difficult one to decide, since it is located in his ward, that he had heard from people in his ward on both sides of the issue who had valid arguments. However, as an elected official, he has to do look at fairness and due process and that means deciding if there is any reason to deny this extension. He said that he might have had a different perspective on the original contract zone two years ago. He said that the only grounds to deny that he could determine were inability to complete a project, fraudulent submission, or substantial change. Councilor Archer said that he could not find any of those reasons present. Although there have been some minor changes and amendments, from a fairness and due process standpoint, he could see no reason to deny. He encouraged the residents of his ward who are not happy with this decision to hold the City accountable for the process going forward if this extension is approved.

Motion to approve the Contract Zone Extension as Amended passed with a vote of six (6) Yea’s and one (1) Nay, Councilor Gay voting in the minority.

Contract Zone Agreement between  
The Ecology School and the City of Saco  
February 1, 2016  
Proposed Amendment, December 18, 2017

~~LABOR UNION 1~~

THE CITY OF SACO HEREBY ORDAINS:

**I. Definitions:**

A. The Ecology School

- i. A 501c3 educational nonprofit organization incorporated in December 1998 in Saco, Maine. The mission of the school is to foster stewardship for the earth by reimagining education through the science of ecology and the practice of sustainability. The school's programs bring a rigorous, field-based ecology education curriculum to students, teachers and other program participants through residential programs, multi-year and day program field trips, teacher workshops and vacation programs for kids. The Schools programs provide a hands-on outdoor learning experience and the curriculum serves a growing need to provide authentic science and sustainability experiences to students in natural surroundings including varied ecosystems and farmland.

B. The City of Saco

- i. The Inhabitants of the City of Saco, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal corporation by the name of the "City of Saco." as initially incorporated in the State of Maine and County of York on February 18, 1867.

~~C. Saco Valley Land Trust Maine Farmland Trust~~

- ~~i. A 501c(3) nonprofit, chartered to hold conservation easements and own land, as well as to promote the concepts of value of preservation of open spaces to wildlife, water quality and quality of place for southern Maine residents.~~

**II. That the Zoning Ordinance of the City of Saco, dated January 2, 1985, and as amended, is hereby further amended by adopting this contract by and between the City of Saco and The Ecology School.**

- A. The Ecology School (the "Applicant" or "School") submitted an application for a contract zone to operate an ecology education school on an approximately 105 acre parcel of land located at 184 Simpson Road, City Tax Map 121, Lot 6 and more particularly depicted on a survey attached as Exhibit A entitled "Standard Boundary Survey for Mary Merrill of the River Bend Farm Parcel (the "Property").

- B. The Property is owned by Ecology Education, Inc., a Maine non-profit corporation with a mailing address of 8 Morris Avenue, Saco, Maine as reflected in a deed recorded in Book 17609 Page 484 at the York County Registry of Deeds. Thomas W. Merrill and Mary R. Merrill as reflected in a deed recorded in Book 16175, Page 690 at the York County Registry of Deeds, and is subject to a contract for the sale

of real estate to the Applicant (Attached as Exhibit B).

**Exhibit Item: 1**

- C. ~~The Property is subject to a Conservation Easement held by the Saco Valley Land Trust as reflected in the Conservation Easement recorded in Book 8640, Page 232 at the York County Registry of Deeds (Attached as Exhibit C).~~  
The Property is subject to a Conservation Easement held by the Maine Farmland Trust as reflected in the Amended and Restated Grant of Conservation Easement recorded in Book 17609, Page 452 at the York County Registry of Deeds (Attached as Exhibit C).
- D. The Applicant proposes to establish a new campus on the Property for their ecology education program for children, currently located on Ferry Beach in Saco. The School leads on-campus overnight and day programs, teaches outreach programs at schools, runs camps and publishes curriculum and field guides so that students can better understand and care for the environment.
- E. Approximately 95 acres of the Property will be maintained under the current ~~Saco Valley Land~~ Maine Farmland Trust conservation easement for farming, education, research and recreation purposes only. The remaining approximately 8.75+/- acres of the property not under a conservation easement will serve as a “green campus” that can accommodate up to 120 weekly program participants and approximately 10 seasonal staff (educators & other staff) for residential education programs primarily in the spring & fall (weekdays & weekends) and summer (conferences, workshops & camps).
- F. The number of buildings to be permitted hereunder will be based on the lowest ecological footprint possible (including parking) but may include two dormitories of approximately 9,000 square feet each (3 stories in height) and one dining hall/kitchen/classroom space of approximately 7,000 square feet and will be built within the area of the property where new structures are permitted by the Conservation Easement.
- G. The current 1794 farm house and other existing farm buildings will be maintained and would be used for farming & education purposes, office & meeting space and housing.
- H. The property is currently located in the C-1 Conservation District under the Saco Zoning Ordinance (hereafter the “Zoning Ordinance”). The C-1 District does not presently allow, either as a permitted or a conditional use, public or private schools, but the proposed use of the property is consistent with the other permitted uses in the C-1 zone and with the Comprehensive Plan, as more fully described in Section V(B) and (C) below.
- I. In order for the School to operate on the Property and to construct the necessary student dormitories and other administrative buildings that are essential to the School, certain amendments to the Zoning Ordinance are required.
- J. As stated in Section ~~230-1405.A~~ 4403-4 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.”

Exhibit Item: 1

- K. Recognizing the use restrictions imposed by the Zoning Ordinance, the Applicant hereby makes application for a Contract Zone that would allow the proposed ecology school use as described above to be established and to operate on the Subject Property.
- L. This contract and its provisions shall specifically and exclusively apply to the Contract Zone request submitted by the Applicant. Accordingly, this contract and the contract zone it creates shall not be transferable without approval of the City Council.
- M. Delivery of services/supplies shall occur between the hours of 8AM and 8PM.
- N. The Applicant shall not permit, authorize or allow parking on Simpson Road nor on the property of neighbors.
- O. To the extent that the Applicant retains any perimeter fencing, said fencing shall be either maintained or removed.
- P. The Ecology School, as part of its curriculum and educational programming, shall commit to supporting the Saco School system, in perpetuity, with at least 66% of all yearly program tuition for school year academic programs that are provided upon mutual agreement between the Saco Schools and The Ecology School. If the Ecology School program is unable to provide support at the 66% level, the value of the overall program is below \$40,000, or the Saco School system is no longer able to participate, the Ecology School will make an annual contribution of \$20,000 to the City of Saco.
- Q. A majority (51% or more) of all construction work to be done as part of the Applicant's final and approved development will be done by Maine contractors and tradesmen.
- R. The applicant shall submit evidence of financial capacity and technical ability as part of its site plan review application.

**III. This Contract Zone Agreement amends the Saco Zoning Ordinance as follows:**

This Contract Zone, specifically and exclusively for the Property as identified above, would allow the Applicant to establish an ecology school use in and associated with the Property, as provided for in Article 14 of the Saco Zoning Ordinance:

- A. Permitted Uses. Notwithstanding Section 410-14 of the Zoning Ordinance, as it may be amended from time to time, and in addition to the permitted and conditional uses in the C-1 District, an ecology school with residential programs, field trips, and outreach programs to schools, workshops, curriculum design, camps and events is a permitted use on the Property.
- B. New Structures. Notwithstanding the requirements in Table 412-1 of the Zoning Ordinance, the Property shall contain no more than two dormitories of up to nine thousand (9,000) square feet of Floor

Area and no more than a 4,500 square foot Footprint each and height no more than thirty-five (35) feet from the highest point of the property and up to three stories in size which will be used to house up to 120 students. Also, a building of up to seven-thousand square feet of Floor Area and no more than a 7,000 square foot Footprint which will be used as a dining hall, kitchen, and classroom. Also, accessory buildings as may be needed to support the School's mission, subject to site plan review by the Planning Board. These new structures will be built within the approximately 8.75 acre parcel designated at the "Residential/Farm Area" as permitted by the conservation easement, and shall meet all other applicable requirements found in Table 412-1 of the Zoning Ordinance.

- C. Existing Agricultural Buildings. Notwithstanding Section 726 of the Zoning Ordinance, the existing agricultural buildings will be reused for residential and nonresidential purposes to support the School's mission, including for farming, education, office, meeting space and housing purposes. The existing farm structures shall be preserved and maintained as part of the School going forward.

**IV. This Contract Zone Agreement is subject to the following conditions and restrictions, as provided for in Section 230-1405.E 1403-5 of the Saco Zoning Ordinance:**

- A. Except as set forth above regarding the development and use of the Property, the Applicant shall adhere to all other applicable provisions of the underlying C-1 Zoning District and of the Zoning Ordinance.
- B. The City and Applicant recognize that the boundary plan submitted for contract zone review is representative of the existing site layout, but is subject to change as a result of site plan review conducted by the Planning Board for proposed future structures including dormitories and administrative and classroom buildings. If it is determined by the City that any change in use required by the Planning Board constitutes a significant change in undertakings described in this contract zone, then the Applicant shall also be required to obtain subsequent and additional City Council approval of the change.
- C. Upon approval of this contract by the City Council, the Applicant shall submit materials required for site plan review to the Planning Office. Failure of the Applicant to secure site plan approval within two years of the approval of this Contract by the Saco City Council shall render this Contract null and void. In the event the Applicant is not able to meet this requirement due to unforeseen events, but continues to make documented progress toward establishing an ecology education school as contemplated by this Agreement, then the Council may approve a one year extension of this Agreement, if requested in writing prior to the original two year expiration date. A second one year extension may also be requested in a like manner and granted, with the approval of the City Council.
- D. The above stated restrictions, provisions and conditions are an essential part of this Agreement and shall run with the Property, shall bind the Applicant, their successors and assigns of the Property or any part thereof, and any party in possession or occupancy of the Property or any part thereof, and shall insure to the benefit of and be enforceable by the City, by and through its duly authorized representatives. This Agreement may not be amended except by mutual written agreement of the parties.
- E. Breach of these conditions and restrictions by the Applicant shall constitute a breach of the contract, and the Applicant 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 pursuant to 30-A M.R.S.A. § 4452 as it may be amended from time to time.

- F. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine except any conflict of laws or provisions applying laws of any other jurisdiction.
- V. Pursuant to authority found in 30-A M.R.S.A. Section 4352(8), and Section ~~230-1405~~ 1403 of the Zoning Ordinance, and by vote of the Saco Planning Board on November 10, 2015, and the Saco City Council on February 1, 2016, and amended by the City Council on \_\_\_\_\_, 2018, the following findings are hereby adopted:
- A. The Property identified on City Tax Map 121, Lot 6 is a parcel of an unusual nature and location for the following reasons:
1. In comparison to other land parcels in the coastal York County area, the River Bend Farm property is an unusually large and ecologically diverse 105 acre farm with a mix of woods, fields, ponds and intervals. In addition, the parcel has almost a half-mile of frontage along the Saco River.
  2. River Bend Farm is also unique and unusual in that approximately 96 acres of the property are subject to a conservation easement held by the ~~Saco Valley~~ Maine Farmland Land Trust. This land is also partially located in the Resource Protection Zone of the Saco River Corridor, which contains numerous and additional restrictions on the use and development of the land.
  3. The City is of the opinion that non-commercial, architecturally appropriate development is allowed under the conservation easement on the approximate 8.75 acres of the property. In addition, River Bend Farm in its entirety is ideally suited for educational, outdoor ecology and agricultural activities for children and provides a singularly unique location to engage both children and adults with conservation, farming and sustainability.
  4. The property contains historic farm buildings including a 1794 farmhouse and 1840's barn which The Ecology School will preserve and maintain for all times hereafter. The parcel also abuts the historic Stackpole Bridge, and thus provides additional educational opportunities for program participants.
  5. The unique combination of conserved and limited-development land along with historic farm buildings on a large and beautiful parcel with accessible river frontage, makes the property

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unique not only in Saco but in the whole of Southern Maine, and well suited as a location for a School committed to stewardship and educational programming regarding our environment.

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

#### **Chapter 5, Community Goals and Policies**

##### **B. The Local Economy**

**Local Goals:** To strengthen Saco's role as a service center for the region, including the industrial, commercial, office, health and medical, tourism and hospitality, education and retail.

#### **Chapter 6, Land Use Goals and Policies**

##### **Farm and Forest Land**

31. The City's policy should be to work to retain the City's farm and forest land in natural resource use while allowing the owners of this land to have reasonable use of this property...

32. The City should work proactively and in cooperation with the owners of farm and forest land to keep this land in production where possible. As part of this effort, the City should actively encourage the owners of this land to make use of the Farm and Open Space and Tree Growth Tax programs. In addition, the City should develop and help fund a program to voluntarily acquire conservation easements/leases on farmland in which the property owner agrees not to develop or subdivide the property during the term of the agreement in return for an annual payment tied to the property taxes paid on the property.

33. Within areas designated as Rural Conservation Areas, the City's land use regulations should allow for the continued operation of traditional agricultural and forestry uses.

##### **Rural Conservation Area (RC)**

**Vision:** The Rural Conservation Area continues to be a primarily rural landscape with agricultural and other natural resource activities. Limited very-low density residential development occurs over time in a manner that preserves both the rural character of this area and large blocks of unfragmented wildlife habitat. Large scale residential developments do not occur in this area.

**Allowed Uses:** Uses in the Rural Conservation Area are limited to agricultural and forestry activities, other natural resource related uses, and single-and two family homes

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including manufactured housing units on individual lots. Limited community and commercial activities that are compatible with a rural environment are also allowed. The following types of uses are generally appropriate in this area as a permitted or conditional use: - agriculture and agriculturally related businesses - forestry and natural resource uses including extractive industries - outdoor recreational uses including campgrounds and golf courses - adult and child care facilities - bed and breakfasts - medical services - single and two-family dwellings including manufactured housing units on individual lots - small clustered residential developments that preserve habitat blocks (See Development Standards) - community facilities such as places of worship, cemeteries, and municipal facilities.

C. The proposed use is consistent with the existing uses and permitted uses within the original zone. The original (existing) zone is the C-1 Conservation District, designated for areas which are predominantly agricultural in character. Allowed uses in the C-1 include agriculture, public parks and playgrounds, clustered residential projects, places of worship, adult day care centers, agriculturally related business uses, the reuse of existing agricultural buildings, outdoor commercial recreational facilities involving limited structural development, golf courses, campgrounds, nursery schools, day care centers, hospitals and clinics for humans, among other uses. The proposed use is consistent with the character and intensity of these and other uses.

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

VI. 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, all parties agree to abide by the conditions and restrictions contained herein.

Adopted by the Saco City Council on \_\_\_\_\_, 2018.

WITNESS:

CITY OF SACO

\_\_\_\_\_  
*name of witness*

By: \_\_\_\_\_  
Kevin L. Sutherland  
City Administrator

WITNESS:

THE ECOLOGY SCHOOL

\_\_\_\_\_  
*name of witness*

By: \_\_\_\_\_  
Andrew J. Dumsch  
Executive Director

## **VIII. COUNCIL DISCUSSION AND COMMENT**

Mayor Lovell asked Mr. Girard if the Council had provided to the Planning Board what was necessary for this Contract Zone to move forward.

Mr. Girard replied that the Council had provided what their vision for the scope of operations for The Ecology School would be, and with that, The Planning Board would be able to move forward with the site plan review.

Councilor Gay announced that The Historic Mills and Cityscapes of Biddeford and Saco will be having a meeting on February 8<sup>th</sup> from 6:00 to 8:00 p.m. at the Pepperell Center at 40 Main Street in Biddeford.

Councilor Copeland said that she wanted to applaud the residents of Simpson Road for coming to the Council Meeting and having their voices heard, and although they might not agree with the Council's decision, it is important for people to be involved with the community. She said there are several ways to get involved with the city, much of the work done by volunteers, and she urged them to get involved with the Saco Conservation Commission, which is an advisory council to the City Council and to The Planning Board. She said there are currently several openings and anyone wishing to serve should contact the Mayor to be considered for appointment to the commission.

The Council then recessed for ten minutes.

## **IX. EXECUTIVE SESSION**

Councilor Minthorn Moved, Councilor Smart Seconded and "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. Consultation with Attorney Adam Lee regarding contemplated litigation on the opioid crisis.

B. Discussion on the City Administrator's Contract.

C. Real Estate transactions and potential real estate transactions associated with Unit 91 and with the Public Works Facility.

Motion passed with seven (7) Yea's. The City Council Entered Executive Session at 7:42 pm.

## **X. REPORT FROM EXECUTIVE SESSION**

Councilor Minthorn Moved, Councilor Copeland Seconded to Exit Executive Session at 9:26 pm. Motion was approved by unanimous consent.

There was no report from Executive Session

**XI. ADJOURNMENT**

Councilor Minthorn Moved, Councilor Doyle Seconded to Adjourn.

Mayor Lovell Adjourned the Meeting at 9:26 pm.

Attest \_\_\_\_\_

William T. Rankin, Deputy City Clerk