STATE OF MAINE
COUNTY OF YORK
CITY OF SACO

I. CALL TO ORDER – On Monday November 21, 2016 at 6:30 p.m. a Council Meeting was held in the City Hall Auditorium.

II. RECOGNITION OF MEMBERS PRESENT – Mayor Roland Michaud recognized the members of the Council and determined that the Councilors present constituted a quorum. Councilors present: David Precourt, Roger Gay, William Doyle, Kevin Roche, Alan Minthorn, Eric Cote and Nathan Johnston. City Administrator Kevin Sutherland was also present this evening.

III. PLEDGE OF ALLEGIANCE

IV. GENERAL

V. PUBLIC COMMENT

➢ Frank Carr, Hardy Pond Development, Cutts Ave, LLC – Mr. Carr noted that they have produced a rendering for the development and represents the process we have gone through with the community on designing this project. They will continue to work with the community on furthering the development before going to the Planning Board. He noted that there are some existing parking concerns but that they met the parking according to the design and to Saco Zoning, but will continue to work with the community on parking issues. He noted that his company received an award last week from the Maine Historic Preservation Commission for a project in Portland. Mr. Carr thinks that over-all this is a good project for the city.

➢ Lori Pennell, Buxton Road – Proposed Route #112 Bypass – Ms. Pennell noted that the city has proposed a project that will forever change her and her family’s life, the RT #112 Bypass. This project goes directly through her house and the second option destroys her farm. This decision has caused me deep emotional stress and I hope it was taken lightly. I feel it is a slap in the face for the 3 family’s that will be impacted by this Rt #112 Bypass Corridor. This project will destroy all that we created and cannot be replicated. Do you place such little value in this community that you believe that its only worth is to create a road that may or may not help relieve traffic? Why do you need to take my land when so many other options exist? Ms. Pennell submitted a letter with 12 questions that she would like to have answered about the project.

➢ Sam Zaitlin – Mr. Zaitlin encouraged the Council to move forward with the Hardy Pond project. With all the growth that is taking place in Biddeford and Saco we need to take advantage of some of these new ways of thinking about development: density, implications, transportation, and I believe from what I have read and seen this project is doing that.

➢ Johanna Hoffman, 10 Pepperell Square – Ms. Hoffman stated that she has been a downtown merchant for over 24 years and a member of the Historic Preservation Commission for around 10 years and is in support of this project. The Historic Preservation standpoint the developer has a proven track record in historic preservation and highly regarded in his field. As a downtown merchant I have benefited from other developments that are going on in the area. This will mean 80 more couples that will be exploring our downtown. You benefit when you bring new vital young people into the community.

➢ Mary Pelkey, Saco resident – Plastic Bag Issue – Ms. Pelkey noted that she personally uses cloth bags when grocery shopping, but I also like the plastic bags because I recycle them at home. If this ordinance goes into effect it will be an added burden on businesses that already have allot of regulations. The city should promote and utilize the recycling program more. I work with the city volunteer program and can recruit some volunteers to assist Public Works in preparing flyers and maybe mailers that could be sent out with the tax bills in February to encourage more recycling since there is a low usage of the program right now. Volunteers could also talk to the children in some of the schools and encourage them to help recycle. Explain to people the cost of hauling trash compared to recycling and maybe implement a fee for homes that do not recycle.

➢ Barbara Colman, 4SB Stockman Ave. – Ms. Colman noted she was speaking on behalf of Saco Citizens for Sensible Government. We all recognize the safety of the children in regards to where the playing fields at the transfer station were located. The DEP regulations were rarely mentioned during the discussions at Workshops and Council meetings. What we don’t understand is the cherry picking process utilized to have the transfer station worked on this summer and fall. When we requested information about the bid process
for performing the work at the transfer station, no answer was received. The explanation provided during last week Workshop created even more confusion surrounding the process of how it was started without approval of the Council to spend the funds. The funds approved for fiscal year 2017 budget total $264,245.00 (the bing cherries) used for the work at the transfer station. SCSG questioned the amount of $144,000 (cherries) used for the transfer station. Finally there was disclosure during the Workshop meeting several weeks back by the City Administrator, Finance Dir. And Public Works Dir. That these were funds left over from other completed projects. Now, the amount above the $408,245 (the maraschino cherry), how much will that total? Meaning the difference in what is on hand for use and what will actually be spent. How much engineering costs? How much employee cost was related to this project? SCSG became aware today that there are 17 different contracts the Public Works Dept. has for various construction project pieces like excavation work, trench work etc. all with a three year life cycle. Each was attained through a bid process. Were each of these contracts publically bided? If so, what was the process? Reading the revised purchasing policy I do not see where this was an emergency as it has been an existing field at the transfer station for years. The policy exception doesn’t appear to apply or are city staff allowed to cherry pick the purchasing policy to meet the needs of projects without the Council and public awareness?

- Beth Johnston, 62 Pleasant St – Ms. Johnston has been a downtown business & property owner since the 70’s. She has attended many of the meetings that HardyPond has had on their proposed project. She appreciated the idea of saving the church but I stand outside this building and look across the street to where this structure will stand and I think it is just too big. The buildings on either side of the church will over shadow everything on the street. I still wonder if we couldn’t save the vestry as well and turn that into more housing and then you would have a manageable project that would be allot more compatible. I know we have high density downtown and I have no problem with that but I think there is a limit at some point to what density really works. We talked about parking issues and there are still some and about where these people are going to work and whether they will contribute to our economy. Which I think is still a question because again depending on their level of income they may or may not be able to participate which is the case in some of our other downtown developments. Can we just think about this a little bit longer and see if it will be a benefit for the community or a negative. I would like to see the best possible job done here. The value of savings the church could be over shadowed by the detriment of what it does to our downtown. We are in the middle of a Comprehensive Plan revision and here we go doing projects before we get our Comprehensive Plan in ship shape.

- Rob Biggs, 92 Middle St. & Executive Director of Saco Main Street - Mr. Biggs noted that he was asked what the word on Main Street is regarding the proposed development on Cutts Ave. Talking among the merchants as you would expect there are varied opinions from one spectrum to the other. But, in general the responses were positive with many comments about preserving the integrity of the church, improving an idle property and getting another property on the tax roll and bringing a new population to our town. For merchants the thought of an additional 80 market priced apartment coupling with 150 coming online in Mill Building #4 is an exciting prospect. One issue that was brought up was the desire to see more store fronts filled with businesses that would keep these walkers and along with others attracted to our downtown in our downtown. As mentioned in the Bridge 2025 report these businesses should be mentioned such as coffee shops, additional varied food and drink establishments and gathering places. I am and will continue to work on this issue with you city staff and our landlords to attract quality businesses that will appeal to our residents as well as visitors of Saco. On December 3rd, Saco Main Street will be holding a Holiday Festival and Parade of Lights with events being held throughout the day.

- Introduction of new Special Projects Manager Meghan McInnis Doyon – Ms. Doyon is a native of Saco and has worked in various positions on the East Coast before moving back to Saco with her family.

VI. CONSENT AGENDA
A. CONFIRM THE MAYOR’S APPOINTMENT OF LYNN COPELAND TO THE CONSERVATION COMMISSION

Councillor Minthorn moved, Councillor Roche seconded “Be it Ordered that the City Council confirm the Mayor’s appointment of Lynn Copeland to the Conservation Commission, for a three-year term ending on November 21, 2019.” Further move to approve the order. The motion passed with seven (7) yeas.
VII. AGENDA
A. CONTRACT ZONE AMENDMENT 95 KING ST., THE FORMER WINTERHAVEN ASSISTED LIVING FACILITY – (PUBLIC HEARING)

Applicant Thornton Academy proposes to acquire the former WinterHaven assisted living facility at 95 King Street and convert it into student housing. The previous use was made possible by a contract zone, approved in 1996. TA proposes to amend the contract zone in order to allow a student and staff housing facility for up to eighteen beds, plus a living arrangement for a couple or family to staff the facility.

The City Council discussed this item during the October 24, 2016 Workshop and held the first reading at the November 7th Council Meeting.

Councilor Doyle moved, Councilor Precourt seconded to open the public hearing. The motion passed with seven (7) yeas.

- Reny Menard, Headmaster of Thornton Academy – Thornton Academy began an International Residential Program with the school 8 years ago to offset the declining local enrollment and reduced staff state funding. The success of the program has allowed us to add more opportunities and academic support for Saco students in a time where many area high schools have cut programs and laid off staff. The residential program has also added to the cultural diversity of our school and broader community. In addition to the dormitories on campus we have a number of students (approximately 50) who reside with local families in what we call our homestead program. Although the homestead program has worked well we have found that many students would prefer to live on or near the school to participate in campus life. The Winterhaven property on King Street provides a very unique opportunity for the school to purchase a turnkey student housing facility within walking distance to campus. Allowing us to bring many of those homestead students closer to the school. Unlike any other property in the immediate area the Winterhaven facility is large enough to provide an economy of scale necessary to efficiently house students. Since Winterhaven has been on the market for some time it seems that the student housing would be an efficient and positive reuse of a very specialized structure. I would like to speak to a few of the changes that we are proposing to the existing contract zone agreement and would be happy to answer any questions that you have about the intended use of this property. The first significant change of the proposed contract zone agreement is item #4 which asks that you allow a change in use from elderly housing to student housing. As Councilor Doyle mentioned we would house up to 18 students in the facility. The bedrooms are comparable to the size of those in our existing dormitories and the students would double up. There is actually per pupil greater space in the living common areas of the Winterhaven property than currently exist in our dormitories on campus. We will hire a family or couple to work full-time to supervise the facility as with our existing student housing there is always 24/7 adult supervision. These international students families have entrusted these students to us and in our care and we take that responsibility very seriously. Item #5 the restriction on additional parking space would remain. Our students are not allowed to have cars, they don’t drive and certainly there would be less vehicle traffic under the student housing use then there had been because a number of family members came to visit the elderly on a regular basis. Item #7 the restriction against dumpsters remains. We have a very competent custodial and maintenance staff that will maintain the building and the property. Items #7 and #9 remain untouched. We are not asking for any changes to the exterior to the building or any expansion of the existing space. We ask that the school be allowed to own the facility as a tax exempt entity with the provision that if we sell this property in the future the new owner must not be a tax exempt entity or must seek the approval of the City Council. We hope the city will recognize the long standing partnership between Thornton Academy and Saco and the tremendous economic value that T.A. provides to the city. What I have shared with you in some data per pupil expenditures from some surrounding communities that come from the Dept. of Education for the 2014/2015 school year. The local area cost per pupil is significantly less for the City of Saco than it is for the average or any of the surrounding communities. If you where to multiply the per pupil savings by the approximately 1,000 students that Thornton Academy educates you can see that the net savings runs anywhere between $500 to $50,000 somewhere up to the millions of dollars each year. We ask that you also consider the fact that Saco does not build, rent or maintain a high school. Other cities have taken out bonds for tens of millions of dollars to renovate their high schools and because T.A. is private Saco has
never had to float a high school renovation bond. All capital projects are covered privately. I have listed just a few of the surrounding communities who have taken out local bonds to renovate their high school. We know that Biddeford had a bond of about $34 million, South Portland had $47 million and Kennebunk is proposing a $43 million bond. In just the last 6 years T.A.’s privately invested $8.4 million into classroom and athletic upgrades at no cost to the city. Some of those upgrades include: new STEM Center, state of the art science labs, math facilities, library, new media and tech center, cafeteria, functional life skill classrooms and upgrades to the stadium, tennis courts, and athletic fields. On the outside spaces we welcome and enjoy seeing the people come and use our facilities on a regular basis. In many ways the grounds of Thornton Academy are a public park and we welcome that. The rest of the language in the contract zone agreement amendment that you have before you reiterates the fact that this is a permitted use in the R1B Zone, there would be less traffic, efficient reuse of a specialized structure and that Thornton Academy has a proven track record of providing quality student housing on and near our campus. Councilor Cote noted that he sees allot of the foreign students in the community shopping at several of the local businesses. Mr. Menard noted that he has a report that can show more data such as in 2012 Thornton Academy hired Planning Decisions to do a economic and feasibility study to look at the impact we have had on the local economy. He estimated that in 2012 with the student population at 106 students that the spending that these students brought to the local economy with discretionary spending and families coming to visit etc., it represented an annual flow of $585,000 into the economy. The spending provides a significant sales boost to local merchants thereby supporting many area jobs. Fast forward 4 years. The enrollment has grown from 106 to 162 residential students and we calculate the per pupil spending to be approximately $5,400 and we can estimate that the international students bring another flow of approximately $880,000 into the local economy. This is above the jobs created by the fact that we will have to hire more teachers, kitchen staff, drivers, custodians etc. So, the international program an been a boom in terms of job growth. More importantly it has allowed us to offer a tremendous range of supports and academic opportunities for all our Saco students.

David Galli, 41 Winter St. – Mr. Galli lives 5 doors down from the proposed site. He is in a unique situation because he was a teacher for 40 years and he also drives these students as a retirement job. I come to the school and take them to the airport, post office, gym, etc. I’m their mother because their mother is somewhere far away. I have gotten to know these students rather well and living in the neighborhood I see both sides of the picture. The kids that I drive and I have been doing this for 5 years are absolutely the most polite students. I take them to the gym everyday and there might be 10 of them on the bus and as they get off the bus they say thank you Mr. Galli, thank you Mr. Galli, thank you Mr. Galli and that is the way they are. These kids are academically driven and want to do well and do things correctly and having them as neighbors would be a tremendous asset and an ideal use for this facility.

Ms. Cynthia Thurston, Washington Ave. – This was brought to my attention first by a letter to the editor from Johnston and Ted Sirois regarding Winterhaven. I live on Washington Ave. Our second notice was a letter from Thornton Academy and I thank you for sending that out. I heard 110 letters were sent out. I went around to the neighbors and there are not many people that were aware of this whole thing. Again, tonight with this meeting I went around the neighborhood and not that many people were sent out letters and notified of this whole thing. Hopefully you guys will think about this whole tax exempt thing for Thornton Academy. It is $46,000 per person and they are tax exempt. For us taxpayers our taxes went up 18% and we see nothing except for a new fire barn. The traffic on that street as it is now Washington Ave and King Street is a drag. We have stop signs and they go through it and the lighting on the sidewalks is not good. Crosswalks, the children walking from Winterhaven and going to school. I walk that street all the time as an adult and it is not safe. It is dark. What are you going to do about lighting? The snowplowing for those roads comes from our tax money, not Thornton Academy. I agree with Mr. Johnston. Thornton Academy is always tax exempt and they should be getting some of the bills on some of the taxes on plowing the street and police patrol for them to watch. Granted they have their own security and will be doing it 3 nights a week there. You go across the street and granted these children are great. You go across the street now to Thornton Academy and you see groups, groups. They are all out there smoking and yes some of the exchange students, I’m sorry. But they are going to be students, going to be children and yes they bring in money here. But I think the whole idea of this whole thing is Thornton Academy is coming on the other side of Route #1. They own all the other side of 800 acres. Keep it all
together. Don’t come back into the residential zone as it is unsafe to bring in some more 18 students to that neighborhood. Busing back and forth. If you could just look at that whole neighborhood now and keep Thornton Academy on the other side of Route #1 so they are not putting students in danger of crossing Route #1 at the junction of the 4 streets. I think it is very dangerous. So, really think hard. Yes, it is a great set-up and listed in the paper for sale as a hospital. I saw it listed as a hospital and I like said it is not listed as a assisted living facility. I have been in Saco for 40 something years. Please think of this place Winterhaven as not a safe place for bringing into residential this side of Route #1 and keep Thornton Academy on the other side. We have many people in the neighborhood trying to do better for their business and they get shot down. You have to pay $300 for a daycare and she can’t do anything she has to pay for everything. We pay taxes as it is and we can’t do anything but Thornton Academy can do whatever they want because they are tax exempt. So please, I really hope you guys think what you are doing to this neighborhood which is already getting bad traffic. The cops are down there and it is just getting overwhelming right now and please, think about it.

William Kany, 3 Blackberry Lane and on the Board of Trustees of Thornton Academy – Mr. Kany noted that they are very proud of their boarding program. We are proud of the fact that students are safe and we would never suggest putting any of our students into harm’s way. The fact of the matter is I grew up in Saco and allot of you have. Kids have walked from the King Street area to school for decades. There are crosswalks and traffic lights. These children are going to be safe just as all of us were safe when we walked to school. Second, I think it is important to perhaps take a step further from what Mr. Menard was talking about in terms of our contributions to Saco. One of the things that some of you know is that we have a number of students that attend our school, roughly 250-300 who can’t afford food. We feed them on our own nickel. We do not get any federal funding or any local funding to feed these students. It costs $6 a day to feed these students and that is a budget of approximately $260,000 a year. That completely comes out of our funds. So whatever we paid in terms of a pilot or in terms of taxes for this facility would be directly a real impact on monies that would otherwise be available to help our students. This is not as it has been suggested a gigantic profit generating machine. I would suggest that if any of you want to go to the York County Registry of Deeds and review the records you will see that we have mortgage obligations just like any other private business would have. Those are significant obligations because we have to pay for all our own facilities and some of the money has to come from borrowing. So, we are not sitting on a mountain of cash that allows us to do whatever we want to do. We are providing the best possible school services and the safest possible housing for our students and we hope that you will approve this contract zone amendment as we have proposed it.

Bruce Martel, 29 Winter Street – I live about 8 doors down from the facility. Some sort of groups living facility is going to be there just based on the configuration of the building now. I would much prefer and I think a number of my neighbors feel the same way, would prefer that it be this rather than another group home. Nothing against group homes but we had one show up at the other end of Winter Street and never did know about it until after it was in place and we started to wonder about the additional activity there. So I do appreciate that we are finding out about this well in advance. The idea that it is somehow unsafe up to 18 more students to be walking down the street is to say that it is an unsafe street under any circumstances. There aren’t normal demographic ebb and flow of the neighborhood that could result in 18 more high school students living in that neighborhood 5 years from now. If it is unsafe for people living at the dorm it would be unsafe for people living in houses too. I just did not notice that it is particularly unsafe. I would say that if this goes into place, there should be a well defined cross walk and pedestrian walkway from the corner sidewalk in front of the building right now. That is some minor improvement that I would like to see. I have not noticed in 9 years of living in the neighborhood that there has been very little police presence at all but certainly I do not see as a cause for much concern or expense for that matter there is going to have to be an additional police presence because of this dormitory. I have shared the experience with others that my interactions are limited with the Thornton Academy students has been very positive. I did though just want to speak as someone that is in the neighborhood in favor of this and doesn’t have any connection at all to the school.

Jeff Brochu, 257 Buxton Road – Just summarizing what I have heard tonight, I think that it is a very positive use for the existing building. It is a custom special building in that area. I think we have all seen the benefits that Thornton Academy has given to our community and how strong attachment there is to
their alumni association and what not. The excellence they will provide as an academic institution to draw other people to our community. When people consider moving to a community that is one of the things they look for is the quality of the education their children will receive. So I think that is a benefit. Yes, we will possibly be losing some tax revenue from the property but overall the benefits far outweigh that loss. I would just encourage you to support that so that when we look at the possibility of doing some sort of less desirable multi living facility. It would be a perfect fit for that area.

- Kristine Bolduc, 14 Weymouth Street – I also think it would be a great opportunity for the students to live there. I would just ask that if they are going to be tax exempt, if they could do something with the sidewalk because I have young kids that also walk those streets and there isn’t one on the left hand side leading towards Main Street. So heading from Weymouth Street down towards Main Street on the left hand side after Locke Street on the left hand side there is no sidewalk that entire way. All the way down to the community garden there is no sidewalk. I walk my dog in that area at night and we could use a couple of street lights. I didn’t know if maybe Thornton Academy could kind of help out with accommodating with those. Mayor Michaud noted that there was a Traffic Safety Committee that someone could refer the issues to them. The City Administrator is taking notes and you make a good point. Ms. Bolduc noted that maybe if there was more foot traffic there would be interest in doing this and this was one of my concerns with the increase of kids. I feel they need to have sidewalks on both sides of the street and lighting at night. These kids are old enough and they are going to want to run to Starbucks, Dunkin Donuts or whatever in the evening time.

- Perley Hodgkin, 70 King Street – Mr. Hodgkin noted that he has lived there are 40 years. We have never had any problems and the lighting is fine from 95 right up to Thornton Academy. If any of you folks have any kids that were over-seas I think that you would like to have them live in the group home rather than spread all out the way they are now. I would appreciate it if you would stop and think of them and hopefully help the kids out. It is basically for the kids, it is not for anyone else.

Councilor Doyle moved, Councilor Minthorn seconded to close the Public Hearing and further move to set the Second and Final Reading of the contract zone document entitled “Contract Zone Agreement by and between the City of Saco and Thornton Academy,” dated October 24, 2016 for the property identified as Tax Map 32, Lot 179 as authorized by Section 1403 of the Zoning Ordinance; for December 5, 2016. The motion passed with seven (7) yeas.

Contract Zone Agreement
By and between the
City of Saco and Thornton Academy

October 24, 2016

THE CITY OF SACO HEREBY ORDAINES:
That the zoning ordinance of the City of Saco, dated January 2, 1985 and amended through September 19, 2016, is hereby amended by adopting the change in use as further described in the following contract by and between the City of Saco and Phil and Lucie Hatch Thornton Academy.

This amendment to the Saco Zoning Ordinance shall be subject to the following conditions and restrictions, as provided for in Section 1403 of the Zoning Ordinance:

1. All work performed as a result of the 1996 approved plan shall be done in conformance with the approved plans entitled “Site Development Plan” Assisted Living Home for Philip & Lucie Hatch, drawn by Foster Associate Associates. Architects. Any deviations from the approved plans shall be reviewed and approved by the City prior to work commencing. The approved plans were received by the Saco Planning Department on July 3, 1996.

2. Prior to work beginning, the applicant shall establish performance guarantee, acceptable to the City, for 150% of the cost of the following improvements:
   - Landscaping
   - Draining
   - Paving
   - Erosion Control

3. All work shall be done in conformance with Section 806 of the Saco Zoning Ordinance, Erosion Control.

4. The approved 1996 contract is for the express purpose of allowing elderly congregate housing as use on this parcel of land, Map 32, lot 179, located at 95 King Street, in an R-IB zoning district. The 2016 amendment shall allow a Student and Staff Housing Facility that would house up to sixteen (18) high school students and residential directors which may be a couple or a family who would reside in the existing dwelling at 95 King Street, which is attached to the facility.

5. Density requirements for this parcel limit the elderly congregate use to 10 beds as long as the home is owner occupied. If, at some point in the future, the home is no longer owner occupied, the elderly congregate use will be allowed to expand to 15 beds. This shall only occur upon notification and concurrence by the Code Enforcement Officer.
The area designated as future parking shall remain in an undeveloped state. If at any time in the future the City determines that additional parking is required, the owner shall be notified and shall have six months to provide the parking. If the owner proposes to expand the use to 15 beds, the additional parking shall be required.

The wooded area to the rear of the proposed addition, lying adjacent to land owned by Desjardins, shall remain in its present condition. Only dead or dying trees may be removed, along with underbrush. No structures are permitted in this area.

No dumpsters will be allowed on the property, unless the owner secures an amended approval.

No further structures will be allowed on the property between the parking area and King Street.

All details as shown on the approved plans are hereby incorporated into this contract by reference, and the site shall be developed substantially in conformance with those plans. 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.

To provide adequate funding for City services, the applicant agrees to not convert this business or use to a not-for-profit enterprise, either now or in the future. This condition shall extend to any future owners of the business or land. As agreed under the 2016 amendment, the applicant shall be allowed to own the facility as a tax exempt entity. If Thornton Academy should convey the facility in the future, any future transferee of the property shall not be a tax exempt entity, unless so approved by the City Council.

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 and shall constitute a zoning violation, subject to enforcement action.

The area shown on the approved site plan, bounded by King Street, Winter Street, the garage, and the areas labeled "future parking", shall remain in a vegetated condition. No paving or structures shall be permitted in this area.

By vote of the Saco Planning Board on June 25, 1996, and the Saco City Council on August 6, 1996, the following findings were hereby adopted:

A. The subject real estate is somewhat unusual and unique in its size and location. The parcel consists of 32,000 square feet of usable land area. This size parcel is relatively large compared to the other typical 10,000 square foot parcels in the immediate neighborhood. This size factor makes it uniquely conducive to this type of use. Due to the fact that the Winter Haven assisted living facility utilized elderly congregate living facilities typically need to be ten (10) beds or more to achieve economic feasibility, a facility of that size would be required at least a 20,000 square foot parcel in the R-1 zone to meet the zone's density requirement. Given this size constraint, additional similar development in the R-1B zone seems to be precluded, being that there few, if any, similarly sized, undeveloped parcels of land in the zone. In addition to its unique size, the site is centrally located and is easily accessible to most public, religious, and business services.

B. Chapter 5 of the 2011 Comprehensive Plan, Subpart 8 expresses the City’s desire to limit commercial activities within residential neighborhoods except for strictly regulated uses with minimal impact. Thornton Academy’s proposed use of the property is similar to the existing use, with younger occupants. The net effects of the new use would be a change of ownership, and a change in the nature of the occupants.

A goal of the Transportation section of the 2011 Plan is to reduce road congestion while minimizing traffic in residential neighborhoods. The students living at the facility would walk to school most days, or may board a single small bus for a ride in inclement weather. Boarding students are not allowed to have cars, so the impact of the facility will be far less than the previous use, with family members and staff traveling to and from the property at all hours.

The Housing section of the 2011 Plan discourages the conversion of properties from single family dwellings to multi-family in order to limit adverse impacts on older residential neighborhoods. Thornton Academy’s proposed use of the property is similar to the existing use, with younger occupants. The net effects of the new use would be a change of ownership, and a change in the nature of the occupants.

The Land Use Goals and Policies in the 2011 Plan, Chapter 6, promote orderly development that discourages urban sprawl and encourages the efficient use of City resources. The proposed use would be located in the in-town area and constitutes an efficient re-use of a very-stratified site currently serviced by public water and sewer. The proposed change in ownership and use will not result in significant exterior changes to the property.

The Saco Comprehensive Plan, dated 1987, clearly intends that the R-1 zone be developed to promote a variety of residential uses. Specific to the housing needs of the elderly, the plan establishes the City's socio-economic development goals and policies by suggesting that the Planning Board shall investigate the use of various zoning and siting techniques to encourage elderly and barrier-free housing in Saco. (p. D44). The land use portion of the Comprehensive Plan also encourages housing for all income and age levels (p. E1). Additionally, the plan further
B. CONTRACT ZONE – CUTTS AVE LLC – (SECOND & FINAL READING)

Applicant Cutts Avenue, LLC proposes to redevelop the Notre Dame Church property, which would include rehabilitation and conversion of the church building, removal of the rectory, and construction of new apartment buildings to each side of the church. A total of up to 80 residential units are proposed, each 7-800 s.f. in area with one-bedroom. While the existing B-3 zone allows multi-family dwellings, the applicant seeks a contract zone that would allow greater density than is currently allowed; reduce the side and rear setbacks from 10 feet to 5 feet; and reduce the number of required parking spaces from 47 to 33, though the parking reduction is now subject to amendment.

This item was reviewed by the Planning Board at its October 4, 2016 meeting. The Board arrived at a positive finding on each of the four standards found in Section 1403-6, and voted to forward a positive recommendation to the Saco City Council.

Councilor Johnston moved, Councilor Precourt seconded to approve the Second and Final Reading and adopt the
findings in the contract zone document entitled “Contract Zone Agreement by and Between Cutts Avenue, LLC and the City of Saco,” dated October 4, 2016; for the property identified as Tax Map 38, Lots 105, 105-1 and 106 as authorized by Section 1403 of the Zoning Ordinance, pursuant to 30A M.R.S.A. Section 4352(8).”

Amendment #1 – Councilor Doyle moved, Councilor Minthorn seconded to amend the motion in order to amend the draft contract zone agreement by deleting Section II.C, as the Applicant has determined there is no need to seek relief from parking requirements. The motion passed with five (5) yeas and two (2) nays – Councilors Precourt and Johnston.

Amendment #2 - Councilor Roche moved, Councilor Johnston seconded that the applicant has to secure 25 additional spaces outside the property for the residents.

Amendment #2 Modified– Councilor Roche moved, Councilor Minthorn seconded that the applicant has to secure 25 additional spaces offsite or the equivalent of 3 zip cars and not to be in effect until phase 3 is being built.

Note: Councilor Johnston withdrew his second to the modified amendment. Councilor Minthorn seconded the motion.

Mayor Michaud called for a vote on the modified amendment. The motion passed with four (4) yeas and three (3) nays – Councilors Doyle, Cote and Johnston.

Mayor Michaud called for a vote on the main motion as amended. The motion passed with five (5) yeas and two (2) nays – Councilors Cote and Johnston.

Contract Zone Agreement
By and between
Cutts Avenue, LLC and the City of Saco

October ___, 2016

THE CITY OF SACO HEREBY ORDAINS:

I. That the Zoning Ordinance of the City of Saco, dated January 2, 1985 and amended through May 2, 2016 (the “Ordinance”), be amended as further described in this Contract by and between the City of Saco and Cutts Avenue, LLC (Applicant).

a. The Applicant proposes to renovate the existing church building and develop and construct up to 80 units of residential housing in three (3) phases on parcels located at 16-18, and 28 Cutts Avenue, City of Saco, County of York, and State of Maine (the “Subject Property”). The Subject Property is identified as Tax Map 38, Lots 105 and 106 on the City of Saco Tax Maps.

b. The Subject Property is the site of the former Notre Dame de Lourdes Roman Catholic Church, which includes the former church, school, and rectory, as well as an adjacent parking lot.

c. The Applicant has established right, title and interest with the submittal of a Contract for the Sale of Commercial Real Estate dated July 15, 2016, as the same may be amended, wherein the Roman Catholic Church of Portland will sell the Subject Property to the Applicant.

d. The Subject Property is located within the B-3 Downtown Business District (the “B-3 District”), which includes in its permitted uses Multifamily dwellings and Elder/Disability Housing Facility. The Subject Property is across the street from the R-3 High Density District.

e. The Subject Property has an area of 27,504 square feet. The minimum lot area requirement in the B-3 District is 7,500 square feet.

f. The Subject Property has 300 feet of frontage on Cutts Avenue. The minimum frontage requirement for a parcel in the B-3 District is fifty (50) feet. The minimum side and rear setback in the B-3 District is ten (10) feet.

g. The minimum lot area per dwelling unit is 1,500 square feet.

h. The parking requirement for a mix of multifamily residential housing and multifamily residential housing restricted to elderly is approximately 46.5 parking spaces for 80 units of housing under the Ordinance.  

1 For multifamily residential, 1.5 parking spaces are required per one-bedroom unit of housing. See Table 708-2. For multifamily residential restricted to elderly, one parking space for every two units is required ( .5 per unit). See Table 708-2. However, Section 708-2 of the Ordinance reduces both requirements by 50% for the B-3 District north and west of the Boston and Maine Railroad, which would mean .75 parking spaces per one-bedroom unit of multifamily residential and .25 parking spaces per one-bedroom unit of multifamily residential restricted to elderly. Isd.
i. The applicant proposes to renovate the existing church building and develop and construct up to 80 units of residential housing in three (3) phases, and requests that certain lot, depth, and parking requirements found in Article 4 of the Ordinance be amended as follows:
   
   i. That the 1,500 square feet minimum lot area per dwelling unit in the B-3 District be reduced to 340 square feet minimum lot area per dwelling unit to permit up to eighty (80) dwelling units on the Subject Property.
   
   ii. That the ten (10) foot minimum side and rear yard setback be reduced to five (5) feet.
   
   iii. That the maximum number of parking spaces on the Subject Property for up to eighty (80) one-bedroom residential dwelling units be thirty-three (33) parking spaces, down from approximately 46.5 parking spaces currently required under the Ordinance.

j. The Zoning Ordinance provides no authority for either the Planning Board or City staff to deviate from the stated lot, depth, and parking requirements.

k. Accordingly, this Contract Zone Agreement is proposed by the Applicant to permit differing land uses and development for the Subject Property, while maintaining the current character of the Subject Property through renovations of the existing church.

II. This Contract Zone Agreement Amends the Saco Zoning Ordinance as follows:

   a. The minimum lot area per each dwelling unit on the Subject Property shall be 340 square feet.

   b. The minimum depth side & rear yard on the Subject Property shall be five (5) feet.

   c. The maximum number of parking spaces on the Subject Property shall be thirty-three (33).

III. This Contract Zone is subject to the following conditions and restrictions, as provided for in Section 1403 of the Ordinance:

   a. The provisions of this Contract Zone shall become effective only in the case of a subdivision application being submitted by the Applicant, or an agent thereof on behalf of the Applicant. Should no subdivision plan application be submitted to the Planning Office of the City of Saco within two (2) years of the date of approval of this Agreement, then the provisions herein shall become null and void.

   b. Minimum lot per dwelling and setback requirements established in Table 412-1 of the Ordinance shall be reduced in accordance with Section II(a)-(b) above. The parking requirements in Table 708-2 shall be reduced in accordance with Section II(c) above.

   c. The Subject Property shall be served by public sewer and public water.
d. Except as addressed in this Contract Zone Agreement, the project shall adhere to all other applicable provisions of the Ordinance and subdivision regulations.

e. This Contract Zone Agreement applies only to the Subject Property.

f. Failure of the Applicant, its successors and assigns, to submit an application for a residential subdivision as proposed to the Planning Office for review and approval by the Planning Board within two (2) years of the approval of this Contract Zone Agreement shall render this Agreement null and void. In the event that permits or approvals are delayed due to circumstances beyond the control of the Applicant, its successors and assigns, this deadline may be extended by one (1) year upon written request submitted by the Applicant.

g. This Contract Zone Agreement and Contract Zone it creates shall not be transferable prior to the development as proposed by the Applicant unless said transfer is approved by the City Council.

h. Breach of these conditions, restrictions and/or Contract Zone Agreement by the Applicant shall constitute a breach of the contract and a zoning violation, subject to enforcement action by the City of Saco.

IV. Pursuant to authority found in 30A M.R.S.A. §4352(8), and the Ordinance, Section 1403, and by vote of the Saco Planning Board on __________, and the Saco City Council on __________, the following finds are hereby adopted:

a. The Subject Property is a parcel of unusual nature and location for the following reasons:

i. The Subject Property is the site of the former Notre Dame de Lourdes Roman Catholic Church, which includes the former church, school, and rectory buildings.

ii. The Applicant is interested renovating the existing church building and construct additional buildings to permit residential housing, while maintaining the character of the neighborhood as it currently exists.

iii. The Applicant proposes to construct a new residential building over the existing paved parking area to add much needed single bedroom units to Saco’s housing stock.

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

i. Population and Demographics. To accommodate growth in a manner that maintains the character of the City. To assure that a diversity of people is able to continue to live in Saco. As a result, the City should continue to provide for the construction of a wide range of types of house at a variety of densities and types to assure that a diversity of people can continue to live in the City, including younger people.

ii. The Local Economy. To maintain the vitality of Downtown Saco and expand its role as a commercial, office, retail, educational and cultural residential and service center.

iii. Utilities. The City should allow residential development in higher densities in those areas where water (and sewer) service is available than in those areas where service is not available.

iv. Transportation. The City should review the parking requirements in the Downtown area and consider reducing the requirements if reasonable.

v. Housing. To provide a diversity of housing to meet the needs of a wide variety of residents. To that end the City should consider relaxing the standards for parking and other regulations governing housing development in Intown neighborhoods to ensure that these requirements do not adversely affect development proposals.

c. The proposed use is consistent with the existing uses and the permitted uses within the B-3 District, which includes multifamily dwellings. Additionally, the Subject Property is located across the street from the R-3 High Density Residential District, which allows land to be developed “more intensively” due to its proximity to the business area and the availability of utilities.

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

V. Based on the above findings, conditions and restrictions, the City Council hereby incorporates this Contract Zone 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 this ___ day of ____________, 2016.

Signed this ___ day of ____________, 2016.

WITNESS

CITY OF SACO
By: 
Print: 
Its: 

WITNESS

CUTTS AVENUE, LLC
By: 
Print: 
Its: 

<table>
<thead>
<tr>
<th>MINIMUM LOT &amp; YARD REQUIREMENTS</th>
<th>REZONE</th>
<th>PROPOSED</th>
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<tr>
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<td>MINIMUM LOT AREA PER DWELLING UNIT</td>
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PRELIMINARY - NOT FOR CONSTRUCTION
C. ADDITION OF CHAPTER 171 – SINGLE-USE CARRYOUT BAGS TO SACO MUNICIPAL CODE OF ORDINANCES – (FIRST READING)

Single-use carry-out bags are a pervasive part of our society, whether a small paper bag in which a store clerk places a single greeting card or the multiple plastic bags in which we carry home our groceries. However, these single-use bags negatively impact the environment, particularly plastic bags that proliferate near roadsides and can harm wildlife and marine life. More than a dozen states have introduced legislation seeking to ban the use of plastic bags. Currently in Maine, York, Portland, Falmouth, Freeport and South Portland have passed legislation encouraging the use of reusable bags, and imposing a fee on single-use bags.

The current proposal is to add “Chapter 171 – Single-Use Carryout Bags” to the City of Saco’s general code, which would impose a fee on single-use bags in stores in Saco. The City’s goal is to discourage single-use bags and to encourage the use of reusable bags. We recommend the implementation of a monetary fine system for violations of Chapter 171, should the proposal be approved and go into effect.

Councilor Gay moved, Councilor Minthorn seconded “Be it Ordered that the City Council does hereby ordain and approve the First Reading of the document titled, “City of Saco Code Amendment: Chapter 171 - Single-Use Carryout Bags, November 21, 2016” and further moves to set the Public Hearing for December 5th, 2016 Further move to approve the order.

Tabled – Councilor Minthorn moved, Councilor Precourt seconded to table this item until the February 2017 Joint Saco and Biddeford Council Workshop. The motion failed with three (3) yeas and four (4) nays – Councilors Gay, Roche, Cote and Johnston.

Mayor Michaud called for a vote on the main motion. The motion passed with seven (7) yeas.
Sec. 171-103. Authority:

This proposed Ordinance to be adopted pursuant to the City’s home rule authority pursuant to 30-A MRS Section 3001, et seq. as amended from time to time.

Section 171-104. Definitions:

Single-Use Carryout Bag. Single-Use Carryout Bag means a bag other than a Reusable Bag, as defined below, provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment. The term Single-Use Carryout Bag includes compostable and biodegradable bags, including paper bags, but does not include Reusable Bags, Produce Bags, Product Bags or bags provided by pharmacists to contain prescription drugs.

Produce Bag or Product Bag. The terms Produce Bag or Product mean any bag without handles used exclusively to carry produce, meats, other food items or merchandise within the store to the point of sale inside such store or to prevent such items from coming into direct contact with other purchased items.

Reusable Bag means a bag that meets all of the following criteria:

(a) Designed and manufactured to withstand repeated uses over a period of time;

(b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;

(c) Has a minimum lifetime of 75 uses; and

(d) Has the capability of carrying a minimum of 18 pounds.

Store. The term Store means a full line, self service retail market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable or non-perishable items to the ultimate consumer for direct use or consumption and not for resale.

“Store” does not mean:

1)___ Restaurants; or

2)___ Businesses at which food sales are an incidental part of the business. Food sales will be considered to be “incidental” if such sales comprise no more than two percent (2%) of the business’s gross sales in the City of Saco as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.

Section 171-105. Single-Use Carryout Bag:

(a) No Store, as defined above, shall provide a Single Use Carryout Bag made of plastic that does not meet all the criteria as a Reusable Bag, as defined above, to a customer at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment.

(b) A Store may make available for sale to a customer a Single-Use Paper Carryout Bag for a mandatory, uniform charge of five cents ($0.05) per bag.

(c) All monies collected by a Store for Single-Use Carryout Bags under this Section may be used by the Store for any lawful purpose.

(d) All Stores must post signage clearly indicating the per bag charge for Single-Use Carryout paper bags.
VIII. COUNCIL DISCUSSION

- Councilor Roche brought up the Bridge 2025 project and noted that he has heard for many years now that people want another restaurant in the community. We’ve seen the presentation on the sewer and TIF sides, now the Council needs to discuss a policy on how to attract restaurants (district port). When will the Council discuss this to make it happen? To firm up how are we going to set policies to attract potential restaurants to our downtown?

- Councilor Minthorn was in total concurrence with what Councilor Roche just said. If we want to have Saco be a destination than we can’t keep saying no to change. It doesn’t work. We need to embrace it and create pathways for it to occur.

- Councilor Johnston noted that there are restaurants already in the downtown such as: Traditions, Hannabi and Blue Moon. We need to shop local first. We don’t know what the impacts will be for the 80 proposed units on Cutts Ave. or the 150 proposed units on Saco Island. The residents of the downtown are the most impacted.

- Councilor Gay had a follow up question for the City Administrator on how many contractors bid on the Transfer Station project? The City Administrator stated that he would look into the answer.

IX. ADJOURNMENT

Councilor Minthorn moved, Councilor Roche seconded to adjourn the meeting at 8:11 p.m. The motion passed with seven (7) yeas.

Attest:  
Michele L. Hughes, City Clerk