

**CITY OF BELFAST CITY COUNCIL  
PROPOSED AMENDMENTS TO CITY CODE OF ORDINANCES  
SEPTEMBER 17, 2014 PUBLIC HEARING  
CHAPTER 102 ZONING, ARTICLE X, CONTRACT REZONING  
DIVISION 4, WATERFRONT MIXED USE 1 ZONING DISTRICT**

**NOTES TO THE PUBLIC:**

**NOTE #1.**

The City Council is conducting a public hearing on September 17 regarding the proposal to require the use of contract rezoning for all properties located in the Waterfront Mixed Use 1 zoning district. The Waterfront Mixed Use 1 is a new zoning district that is proposed to be created by dividing the current Waterfront Mixed Use zoning district into two separate districts; Waterfront Mixed Use 1 (WMU-1) and Waterfront Mixed Use 2 (WMU-2), and by adding several properties, particularly the Freezer Plant and vacant parcel owned by Penobscot McCrum near Front Street to the WMU-1 zoning district. A map that identifies the proposed boundaries of the two proposed zoning districts is attached.

A key provision of the proposed WMU-1 zoning district is that all properties (except a single family residence located on Field Street) would be required to obtain a permit through the contract rezoning process for any change of use or any significant building addition to the current buildings on the respective property if the use of the building(s) remains the same. The contract rezoning process would be the equivalent of the process the City used to review the Front Street Shipyard project and the reconstruction of the Tugboat property. The text of the proposed amendments is provided below.

**NOTE #2.** These amendments were by the Belfast Planning Board and are associated with implementation of the adopted City Future Land Use Plan. The Planning Board conducted a public hearing on the proposal on July 8, 2014, and minimal comment was received at the Board's public hearing. The City Council is now conducting a public hearing regarding the proposed amendments and has the authority to adopt, amend or reject the proposed amendments after conducting a hearing.

**NOTE #3.** The public is invited to offer public comment at the September 17, 2014 public hearing at the Boathouse before the Council. Comment will also be accepted via email: [public@cityofbelfast.org](mailto:public@cityofbelfast.org), or in writing to the Code and Planning Department.

**NOTE #4.** Newly proposed language that is to be added to the Ordinances is shown in **Red Font**. Existing language in the Ordinance that is proposed to be deleted is shown in ~~Blue and Strike Through Font~~. All language in Black font is existing language that is not affected by this Ordinance amendment.

# TEXT OF PROPOSED ORDINANCE AMENDMENT

## Chapter 102. ZONING

### ARTICLE X. Contract Rezoning

#### DIVISION 4. Waterfront Mixed Use-1 Zoning District, **Waterfront Mixed Use-2 Zoning District** and Waterfront Development Shoreland District

##### Sec. 102-1450. Purpose of contract rezoning provision. [Ord. No. 3-2005, 7-20-2004]

Pursuant to the authority delegated to municipalities under 30-A, M.R.S.A. § 4352(8), contract rezoning is hereby authorized for the rezoning of a property that is located **in any of the following districts: either or both** the Waterfront Mixed Use-1 zoning district, **Waterfront Mixed Use-2** zoning district and the Waterfront Development shoreland district. The City of Belfast Comprehensive Plan specifically identifies the use of contract rezoning to regulate certain activities in the Waterfront Mixed Use zoning districts and the Waterfront Development shoreland district. The intent is to encourage desired mixed use and waterfront development by allowing the applicant and the City greater flexibility in applying conditions regarding the physical development and operation of properties. The purpose of division 4 is to establish a process and standards to implement the policy guidelines of the City comprehensive plan.

##### Sec. 102-1451. Properties subject to contract rezoning. [Ord. No. 3-2005, 7-20-2004]

- (a) Contract rezoning required. An application for a use permit, site plan permit or subdivision permit ~~for any of the following properties~~ **for all properties located in the Waterfront Mixed Use-1 zoning district, except the single family residence located at Map 13, Lot 46,** shall be required to use the contract rezoning process identified in division 4 for any proposed change of use **or any expansion of an existing structure that is at least 10,000 square feet or greater in size if the current use of the property and building remains the same; Map 11, Lot 132, also known as the former Stinson Seafoods property, and Map 13, Lot 70, also known as the Penobscot Frozen Foods property, as such properties were identified on the City Tax Assessor maps on July 20, 2004 (date of adoption of ordinance).** **Many of T**these properties are also located in ~~both the Waterfront Mixed Use zoning district and~~ the Waterfront Development shoreland district.
- (b) Contract rezoning optional. Any applicant that is submitting an application for a use permit, site plan permit or subdivision permit for any property **that is** located in **both** the Waterfront Mixed Use-2 zoning district ~~or~~ **and** the Waterfront Development shoreland district may request that the application be reviewed in accordance with the contract rezoning process identified in division 4. The initial request shall be submitted in writing to the City Planning Board. The Planning Board shall act within 30 days of receipt of this request to either **grant permit** or deny the applicant to use the contract rezoning process.

**Sec. 102-1452. Contract rezoning process for all applications.** [Ord. No. 3-2005, 7-20-2004]

(a) Applicant meeting with City Planner, step 1. An applicant who proposes to use or must use the contract rezoning process shall first meet with the Belfast City Planner or his designee. The applicant shall describe the property to be developed, the proposed use of the property, and **factors related to the use of why** contract rezoning **is appropriate for this property**. The City Planner shall explain requirements of the contract rezoning process to the applicant, and identify information the applicant must prepare to submit an **initial** application for review **by the Belfast Comprehensive Plan Committee, step 2; reference 102-1452(b)**. Further, the City Planner or his designee shall coordinate review of the application through all steps of this process, steps 1 through **5 6**, and shall prepare draft findings, conditions and similar information as requested by the respective review committees and boards.

~~(b) Comprehensive Plan Committee review, step 2. The Belfast Comprehensive Plan Committee shall review an application to use contract rezoning for a property and shall issue a written finding regarding the consistency of the application with the Belfast Comprehensive Plan. The Comprehensive Plan Committee must find that an application is consistent with the comprehensive plan, or that the comprehensive plan or the project can be amended so that it is consistent, for an applicant to proceed to step 3; reference 102-1452(e). Step 2 shall involve the following procedures:~~

~~(1) The applicant shall submit a written application to the Department of Planning and Community Development for presentation to the Comprehensive Plan Committee that includes, at a minimum, the following information:~~

~~a. A description of why the applicant believes contract rezoning is appropriate for this property.~~

~~b. A description of the current use of the property and the use or uses proposed by the applicant. This description must identify why the applicant has chosen this approach for use of the property.~~

~~c. A site plan at an appropriate scale that identifies the general boundaries of the property and its relationship to surrounding properties, existing structures located on the property, including structures located below the normal high water mark, existing structures that will be altered and new structures that will be added, and significant natural features on the property. This is a concept plan and detailed information is not required.~~

~~(2) The Comprehensive Plan Committee, within 30 days of receipt of an application, shall schedule a public hearing regarding the application. The Department of Planning and Community Development shall provide notification of the public hearing in the following manner:~~

~~a. In writing by first class mail at least 10 calendar days prior to the hearing to all owners of property that directly abut or that are located within 250 feet of any property line of the property for which a contract rezoning application is submitted. The department shall keep a record of all persons to whom notice is sent.~~

- ~~b. —By posting notice of such public hearing in Belfast City Hall a minimum of 10 calendar days prior to the hearing.~~
- ~~c. —By publishing notice of the public hearing in a local newspaper a minimum of 10 calendar days prior to the hearing.~~
- ~~d. —By sending notice of the public hearing to the chair of the City In-Town Design Review Committee, Harbor Committee, and Planning Board, and to the Mayor and City Council.~~

~~(3) —The Comprehensive Plan Committee, after conducting a public hearing, shall issue a written finding regarding the consistency of the application with the Belfast Comprehensive Plan. The Comprehensive Plan Committee shall also review other City plans that may apply to the area or this project in rendering its decision of consistency. This finding shall be issued within 30 days of the public hearing, unless both parties mutually agree to an extension of this time. The Department of Planning and Community Development shall send this finding to the chair of the In-Town Design Review Committee, Harbor Committee, and Planning Board, and to the Mayor and City Council.~~

(b e) In-Town Design Review Committee, step ~~2~~ **3**. The In-Town Design Review Committee shall review an application to use contract rezoning for a property and shall issue a written finding regarding its compliance with standards identified in the City Code of Ordinances, chapter 80, in-town **commercial** design review. The committee, in conducting its review, shall consider layout of the site and its relationship to surrounding properties, the proposed reuse and alteration of existing structures, the demolition of existing structures, the construction of new structures, and the uses for which the property and accompanying structures are intended.

The role of the In-Town Design Review Committee is to provide both conceptual and detailed direction to the applicant regarding project compliance with chapter 80 requirements, as well as providing direction to the Planning Board. An applicant, at the conclusion of this process, shall present a site plan and architectural plans that have been signed by the In-Town Design Review Committee to the Planning Board, step ~~4~~ **5**, reference 102-1452(~~d~~ **e**), which incorporates recommendations of the In-Town Design Review Committee, or that illustrates and explains why the applicant has not incorporated recommendations of this committee. **If the application involves construction of a new building, renovation of an existing building, or the demolition of an existing building,** ~~A~~an applicant must receive a decision by the In-Town Design Review Committee to proceed to step ~~4~~ **5**.

Step ~~2~~ **3** shall involve the following procedures:

- (1) The applicant shall submit a written application to the **Code and Planning** Department ~~of Planning and Community Development~~ for presentation to the In-Town Design Review Committee that includes, at a minimum, the following information:

- a. A description of the current use of the property and the use or uses proposed by the applicant. This description must identify why the applicant has chosen this approach for use of the property.
  - b. A site plan at an appropriate scale that identifies the general boundaries of the property and its relationship to surrounding properties, existing structures located on the property, including structures located below the normal high water mark, existing structures that will be altered and new structures that will be added, **existing structures that are proposed to be demolished**, and significant natural features on the property. The site plan also shall identify all parking areas, open areas and other public or private amenities.
  - c. Elevation drawings that identify all profiles of all existing or proposed structures. Such drawings shall include sufficient detail to allow committee members to understand the type of building materials, building accents, entrances, windows, and roof lines proposed. These drawings shall be prepared by a licensed architect or engineer.
  - d. The committee may require the applicant to prepare a "view" analysis that illustrates how the proposed development would impact views from public property, particularly streets, views from private properties in the area, and views from the water. The committee shall define the parameters of the "view" analysis that the applicant must conduct.
  - e. The committee may request additional information that it deems relevant to determine project compliance with chapter 80 requirements.
- (2) The In-Town Design Review Committee, within 30 days of receipt of an application, shall schedule a public meeting regarding the application. The committee shall accept public comment at the beginning of each meeting at which an application is reviewed. The **Code and Planning** Department ~~of Planning and Community Development~~ shall provide notification of the first public meeting at which an application is reviewed as described below. Public notice of any additional meetings must only comply with b. and d. below.
- a. In writing by first class mail at least 10 calendar days prior to the first meeting of the committee to all owners of property that directly abut or that are located within 250 feet of any property line of the property for which a contract rezoning application is submitted. The department shall keep a record of all persons to whom notice is sent.
  - b. By posting notice of each meeting in Belfast City Hall a minimum of 10 calendar days prior to the meeting.
  - c. By publishing notice of the initial public meeting in a local newspaper a minimum of 10 calendar days prior to the hearing.
  - ~~d. By sending notice of the initial all public meetings of the committee to the chair of the City Comprehensive Plan Committee, Harbor Committee, and Planning Board and to the Mayor and City Council.~~
- (3) The membership of the In-Town Design Review Committee for the review of an application pursuant to this section shall be selected as prescribed in chapter 80, but

shall include five regular members and one alternate member. The alternate member may participate in all reviews, but may only vote in the absence of a regular member.

- (4) The In-Town Design Review Committee shall issue a written finding regarding compliance of the application with requirements of chapter 80. The applicant shall prepare a site plan and architectural plans sealed by a licensed architect or engineer which the committee shall sign that incorporates requirements of the committee, or that illustrates and explains why the applicant has not incorporated recommendations of this committee. This finding shall be issued within 30 days of the committee vote to find that the application is in compliance or is not in compliance. The **Code and Planning** Department ~~of Planning and Community Development~~ shall send this finding to the chair of the ~~Comprehensive Planning Committee~~, Harbor Committee and Planning Board, and to the Mayor and City Council. The In-Town Design Review Committee may send a representative to the Planning Board, reference step **4 E**, to explain the committee's findings to the board.
- (**c d**) Belfast Harbor Committee, step **3 4**. The role of the Harbor Committee is defined by the request of the applicant. The committee's review shall consist of either (1) or (2), as described below. If the application does not involve structures located below the normal high water mark, Harbor Committee review is not required.
- (1) Contract rezoning to determine wharf line in the Inner **or Outer** Harbor. The Harbor Committee shall review an application in which the applicant proposes to use contract rezoning to seek flexibility in implementation of the wharf line, reference section 30-95 and section 82-206(9), that applies to construction of a structure located below the normal high water mark of that section of the Inner **or Outer** Harbor that is located in the Waterfront Mixed Use-1 **or Waterfront Mixed Use-2** zoning districts and Waterfront Development shoreland district. The Harbor Committee shall review such application in accordance with standards identified in section 82-206.5, and in its deliberations, shall consider the relationship between the proposed marine use and structures and the proposed onshore use and structures.

The Harbor Committee shall issue a written finding to the Planning Board, step **4 5**, reference 102-1452(**d e**), which describes the appropriateness of the proposed use, the structures that should be permitted in the Inner **or Outer** Harbor and the wharf line that should apply to such structures. The applicant, at the conclusion of step **3 4**, shall prepare a site plan sealed by a licensed engineer that depicts the findings of the Harbor Committee. This site plan also shall be presented to the Planning Board, step **4 5**, reference 102-1452(**d e**). The Belfast Planning Board shall incorporate this finding of the Harbor Committee in the contract rezoning agreement that it approves and submits to the City Council.

- (2) Harbor Committee review of proposal that does not involve use of contract rezoning to determine the wharf line in the Inner Harbor. The Harbor Committee shall review an application in which the applicant proposes to construct a new structure, alter an existing structure or use an existing structure that is located below the normal high

water mark. The Harbor Committee, in its deliberations, shall consider the relationship between the proposed marine use and structures and the proposed onshore use and structures. The Harbor Committee shall issue a written finding to the Planning Board, step 4 5, reference 102-1452(d e) that describes compliance of this marine use and structure with chapter 82, shoreland, section 82-204 requirements. If the application involves a change to an existing marine structure or construction of a new marine structure, the applicant shall prepare a site plan sealed by a licensed engineer that depicts the findings of the Harbor Committee. Such plan shall be signed by the Harbor Committee and shall be presented to the Planning Board, step 4 5, and shall be included in the contract rezoning agreement that the Planning Board submits to the City Council.

- a. The applicant shall submit a written application to the **Code and Planning** Department ~~of Planning and Community Development~~ for presentation to the Harbor Committee that includes, at a minimum, the following information:
  1. A description of the current use of the property and the use or uses proposed by the applicant. This description should concentrate on the proposed marine use of the property and should identify why the applicant has chosen this approach for use of the property.
  2. A site plan at an appropriate scale that identifies the general boundaries of the property and its relationship to surrounding properties, existing structures located on the property, particularly structures located below the normal high water mark, existing structures that will be altered and new structures that will be added, significant natural features on the property, and the location of the wharf line, all City-approved moorings and the navigable channel that applies to the waterfront area of this property. The site plan shall also generally identify all parking areas, open areas and other public or private amenities.
  3. Engineering plans for all new or altered marine structures located below the normal high water mark.
  4. A description of how the applicant believes the application complies with applicable chapter 30, chapter 82, section 82-206.5 and chapter 102, section 102-1454 requirements.
  5. The Harbor Committee may request additional information that it deems relevant to determine project compliance with chapter 30, chapter 82 and chapter 102 requirements.
- b. The Harbor Committee, within 30 days of receipt of an application, shall schedule a public hearing regarding the application. The Harbor Committee is required to conduct at least one public hearing, and shall always conduct a hearing at its initial meeting to review an application. The committee, however, is not required to conduct a public hearing at any subsequent meetings at which it reviews the application. The **Code and Planning** Department ~~of Planning and Community Development~~ shall provide notification of the first public

hearing at which the application is reviewed as described below. Public notice of any additional meetings must only comply with 2. and 4. below.

1. In writing by first class mail at least 10 calendar days prior to the initial public hearing conducted by the Harbor Committee to all owners of property that directly abut or that are located within 250 feet of any property line of the property for which a contract rezoning application is submitted. The Department shall keep a record of all persons to whom notice is sent.
2. By posting notice of each meeting in Belfast City Hall a minimum of 10 calendar days prior to the meeting.
3. By publishing notice of the initial public hearing in a local newspaper a minimum of 10 calendar days prior to the hearing.
- ~~4. By sending notice of the initial all public meetings of the committee to the chair of the City Comprehensive Plan Committee, In-Town Design Review Committee and Planning Board, and to the Mayor and City Council.~~

c. The Harbor Committee shall issue a written finding regarding compliance of the application with requirements of chapter 30, chapter 82 or chapter 102, as appropriate. The applicant shall prepare a site plan sealed by a licensed engineer that depicts the requirements of the Harbor Committee for all marine structures, and the committee shall sign this plan. The written findings shall be issued within 30 days of the Harbor Committee vote to find that the application is in compliance. The **Code and Planning** Department ~~of Planning and Community Development~~ shall send this finding to the chair of the ~~Comprehensive Planning Committee~~, In-Town Design Review Committee and Planning Board, and to the Mayor and City Council. The Harbor Committee may send a representative to the Planning Board, reference step ~~4 E~~, to explain the findings of the committee to the Planning Board.

d. Harbor Committee review, step ~~3 4~~, shall occur simultaneously with the In-Town Design Review Committee review, step ~~2 3~~.

~~(d e)~~ Planning Board, step ~~4 5~~. The Planning Board shall review an application to use contract rezoning for a property and determine its compliance with standards identified in chapter 102, zoning, article X, contract rezoning, division 4, particularly sections 102-1453 and 102-1454. The Planning Board, in conducting its review, shall consider the findings of the ~~Comprehensive Plan Committee (step 2)~~, the In-Town Design Review Committee (step ~~2 3~~) and the Harbor Committee (step ~~3 4~~), public comment that is offered to the board, the lay-out of the site and its relationship to surrounding properties, the reuse and alteration of existing structures, the demolition of existing structures, the construction of new structures, ~~and~~ the uses for which the property and accompanying structures are intended, **and consistency of the project with policy recommendations in the City of Belfast Comprehensive Plan**. The Planning Board is responsible for preparing a contract rezoning agreement for presentation to the City Council as a proposed contract rezoning ordinance

amendment. Said agreement shall define specific terms that the applicant must satisfy, including but not limited to the uses permitted for the site, permitted structures, required site plan improvements, a schedule for the construction of public and private improvements, and a list of all conditions that apply to this application.

An applicant, at the conclusion of this process, shall present a site plan sealed by a licensed engineer and architectural plans sealed by a licensed architect or engineer which incorporates all requirements specified by the Planning Board, and which the Planning Board shall sign. The board shall also prepare written findings that address requirements of chapter 90, site plan, section 90-42, and the standards specified in chapter 102, zoning, sections 102-1453 and 102-1454.

Step ~~4~~ **5** shall involve the following procedures:

- (1) The applicant shall submit a written application to the **Code and Planning** Department ~~of Planning and Community Development~~ for presentation to the Planning Board that includes, at a minimum, the following information:
  - a. All information required for Planning Board review of a preliminary site plan as stipulated in chapter 90, site plan, section 90-72, and a final site plan as stipulated in chapter 90, site plan, section 90-102.
  - b. All findings and plans approved by the ~~Comprehensive Plan Committee, step 2~~, the In-Town Design Review Committee, step ~~2~~ **3**, and the Harbor Committee, step ~~3~~ **4**.
  - c. A proposed schedule for the construction of all public and private improvements.
  - d. The Planning Board may request additional information that it deems relevant to determine project compliance with chapter 78, floodplain, chapter 80, in-town design review, chapter 82, shoreland, chapter 90, site plan, **chapter 98, technical standards** and chapter 102, zoning, requirements.
- (2) The Planning Board, within 30 days of receipt of an application, shall schedule a public hearing regarding the application. The Planning Board also shall conduct a public hearing at all meetings at which it reviews the project. The **Code and Planning** Department ~~of Planning and Community Development~~ shall provide notification of all public hearings as described below.
  - a. In writing by first class mail at least 13 calendar days prior to a public hearing conducted by the Planning Board to all owners of property that directly abut or that are located within 250 feet of any property line of the property for which a contract rezoning application is submitted. The department shall keep a record of all persons to whom notice is sent.
  - b. By posting notice of each meeting in Belfast City Hall a minimum of 13 calendar days prior to the meeting.
  - c. By publishing notice of all public hearings in a local newspaper a minimum of seven calendar days prior to the hearing.

~~d. —By sending notice of all public meetings of the Planning Board to the chair of the City Comprehensive Plan Committee, In-Town Design Review Committee and Harbor Committee, and the Mayor and City Council of the City.~~

- (3) The Planning Board shall prepare a written finding that describes project compliance with requirements of chapter 78, floodplain, chapter 80, in-town design review, chapter 82, shoreland, chapter 90, site plan, section 90-42, and chapter 102, zoning, article X, contract rezoning, division 4. This finding shall include a draft contract rezoning agreement which defines **recommended** conditions that the Planning Board imposes on the project. Such conditions shall address the mandatory conditions which an applicant must satisfy, reference section 102-1453(a), and the discretionary conditions which an applicant must satisfy, reference section 102-1453(b). The applicant also shall present a site plan for board signature that depicts all Planning Board requirements.

The applicant, if it contests any requirements imposed by the Planning Board in the draft contract rezoning agreement, must prepare a written report that specifically describes why it opposes certain terms of the contract rezoning agreement, and if applicable, prepare a site plan that illustrates such alternative site concerns.

- (4) The Planning Board shall issue written findings that describe why it approved, approved with conditions, or denied a request for a contract rezoning proposal and a draft contract rezoning agreement. The findings and contract rezoning agreement shall be presented to the Belfast City Council, Step **5 6**, reference section 102-1452(**e f**). The **Code and Planning** Department ~~of Planning and Community Development~~ shall send this finding and agreement to the chair of the ~~Comprehensive Planning Committee,~~ In-Town Design Review Committee and Harbor Committee, and to the Mayor and City Council. The Planning Board may send a representative to the City Council, reference step **e/step 5 F**, to explain the findings of the board and draft contract rezoning agreement.

(**e f**) City Council, step **5 6**. The City Council shall review and act on the findings of fact and draft contract rezoning agreement presented by the Planning Board, step **4 5**, for an applicant that proposes **or is required** to use contract rezoning. Council consideration of such request constitutes an amendment to the City Code of Ordinances, chapter 82, shoreland, and chapter 102, zoning, and shall involve the following procedures.

- (1) A contract rezoning application that has been approved, approved with conditions, or denied by the Planning Board shall be submitted to the City Council within 60 days of Planning Board action. This application shall also include a statement of consent or opposition by the applicant to contract rezoning agreement terms imposed by the Planning Board. Council consideration of the application shall occur in accordance with the ordinance adoption process that the Council regularly follows, **and shall include:** ~~Introduction of an amendment,~~ **the** first reading of an amendment, and second reading and public hearing of an amendment.

- (2) The Chair of the Planning Board, or his designee, assisted by the City Planner, shall present its findings and contract rezoning agreement to the Council ~~at the introduction step of the ordinance amendment process~~ and the City Planner shall attend subsequent Council meetings to respond to Council questions regarding the proposed contract rezoning agreement.

The applicant shall present its proposal at the ~~introduction step of the~~ ordinance amendment process and shall attend ~~subsequent~~ Council meetings to respond to Council questions regarding the proposed contract rezoning agreement, including its statement of consent or opposition to terms imposed by the Planning Board.

- (3) The **Code and Planning** Department ~~of Planning and Community Development~~, on behalf of the City Clerk, shall provide the following public notices regarding the ordinance amendment process:

- a. In writing by first class mail at least 14 calendar days prior to the **first reading** ~~introduction~~ of the proposed ordinance amendment, and by first class mail at least 14 calendar days prior to the scheduled second reading and public hearing to all owners of property that directly abut or that are located within 250 feet of any property line of the property for which a contract rezoning application is submitted. The **Code and Planning** Department ~~of Planning and Community Development~~ shall provide a record to the City Clerk of all persons to whom notice is sent.
- b. By posting notice of each meeting in Belfast City Hall a minimum of 14 calendar days prior to the scheduled meeting.
- c. By publishing notice of the second reading and public hearing in a local newspaper. At least one notice shall be published a minimum of seven days prior to the hearing.
- ~~d. By sending notice of all public meetings of the Council to the chair of the City Comprehensive Plan Committee, In-Town Design Review Committee, Harbor Committee, and Planning Board.~~

- (4) The Council, by majority vote, shall act to approve, approve with conditions, or deny an applicant's request for a contract rezoning agreement. The Council also may amend, as it deems appropriate, the terms of a contract rezoning agreement presented by the Planning Board. A contract rezoning ordinance amendment approved by the Council shall address all mandatory conditions identified in section 102-1453(a) and shall address all discretionary conditions identified in section 102-1453(b) that the Council determines are applicable.

- (5) The applicant shall record a contract rezoning amendment approved by the City Council in the Waldo County Registry of Deeds within 60 days of its approval. Such amendment shall be enforced by the City **Code and Planning** Department ~~of Planning and Community Development~~ as a deed covenant **and zoning ordinance** that applies to the property, and shall be binding on any heirs, successors and assigns

to this property. The contract rezoning agreement for the respective property also shall be identified in the City Code of Ordinances, chapter 82, shoreland, and chapter 102, zoning.

**Sec. 102-1454. Minimum goals that the applicant shall satisfy and that the City shall address in establishing conditions for a contract rezoning request.** [Ord. No. 3-2005, 7-20-2004]

An application to establish a project described in section 102-1451 shall address, at a minimum, the following goals and project requirements. The respective City review authorities identified in section 102-1452, particularly the Planning Board and City Council, shall use these goals and project requirements to identify the minimum standards (conditions) that a proposed contract rezoning application must satisfy. It is expressly understood that the City may impose specific standards as part of the contract rezoning agreement to ensure that community concerns regarding the use of the proposed site addresses these issues well.

- (1) Use of site. Issues to consider include but are not limited to the following:
  - a. Does the applicant propose multiple use of the site, particularly multiple use of the larger sites?
  - b. Are existing functionally water dependent uses retained, or are new water dependent uses established, such as but not limited to a marina or boat repair, **boat storage, boat retrofitting, boat building and/or boat sales.**
  - c. If housing is a component of the project, what are the number of housing units and scale of the housing development compared to the amount of nonresidential development. The **City** intent is to allow mixed use, which includes allowing housing as a component of a project.
  - d. Does the project involve subdividing **or dividing** a larger parcel? The City goal is to encourage an applicant to retain existing large lots (lots greater than one acre) to better allow waterfront development.
  - e. How does the proposed use complement or enhance existing uses of the waterfront?
  - f. How does the proposed project complement or benefit public purposes and use of the waterfront?**
  
- (2) Site lay-out. The goal is to achieve a site lay-out that complements the character and functionality of the area and that promotes a healthy waterfront. The standards for the ~~Commercial~~–Waterfront **Mixed Use** zoning districts and Waterfront Development shoreland district are very permissive and require little if any structure setbacks from lot lines or the normal high water mark, and allow 100% lot coverage. Contract rezoning is a tool that should promote a balance between how to allow intensive use while recognizing problems associated with full development. The City shall consider issues such as structure setbacks, access to the site, the lay-out of parking areas, and the provision of open areas in determining the amount of development permitted.
  
- (3) Public use areas. The City shall consider the extent to which an applicant is allowing or encouraging public use of a site, particularly waterfront access. Waterfront access is critical

to this area. **The City and community has a strong public presence on the waterfront, including but not limited to: ownership of several properties, including waterfront; management of public parks, including Steamboat Landing Park, the Boathouse at Steamboat Landing, and Heritage Park; ownership of several buildings which it currently leases for private purposes; management of both City Landing and Thompsons Wharf to provide public access to the water; management of the Armistice Bridge, and management of the Belfast Harbor Walk.**

- (4) Traffic analysis and management. An applicant shall analyze traffic generated by the proposed project and identify measures to accommodate traffic, including potential street improvements. The analysis should include base-line traffic, estimated traffic resulting from this project, estimated traffic resulting from anticipated ancillary development to this project, and growth trends for start-up and build-out of the site and surrounding area. Traffic volumes shall be projected for a minimum period of five-years, with identification of present and future levels of service and suggested mitigating measures. An applicant may provide the City an off-site impact fee for street improvements rather than being required to construct the specific improvements.
- (5) Pedestrian and bicycle circulation. This is a key consideration for the waterfront area because of the City's **Harbor Walk** ~~coastal trail~~ and **the Armistice** (footbridge) **Bridge**. An applicant must identify how public access to waterfront can be encouraged and supported, including both pedestrian and bicycle circulation. This includes access both within the project site and to the project site via adjacent public ways. An applicant should incorporate measures in their plan to address this issue. Potential alternative approaches include measures such as payment of an off-site impact fee for public improvements in the area, or the dedication or use of private property for public access.
- (6) Nonresidential structure design requirements. The applicant shall carefully consider and address the orientation of the building to public roads, scenic vistas, site circulation, other buildings on the site, natural site characteristics, and surrounding properties in their proposal. All buildings shall be of a high quality design and shall address standards identified in the City Code of Ordinances, chapter 80, ~~commercial~~-in-town design review. The goal is to encourage building and site design that enhances the visual and functional appeal of the Belfast waterfront.
- (7) Building height. An applicant who requests flexibility in the building height standard of 35 feet that is in effect for the Waterfront Mixed Use **1 and 2** zoning districts and Waterfront Development shoreland district shall prepare a view impact assessment that considers potential impacts of the project on public and private views. The issues to be analyzed and considered by the City in establishing a height limit for a specific property or structures on such property are listed below in order of priority. Flexibility in the height (no predetermined maximum height) is inherent in the contract rezoning process. The In-Town Design Review Committee has the prime responsibility to consider height issues as a component of overall building and site design.

- a. How has the applicant retained existing or provided new views available from public property and facilities, including roads **and pedestrian/bicycle facilities**. This includes how public access is provided to the proposed site.
  - b. The degree of impact the proposed project may have on public views. For example, is the view from a public facility fully obstructed, partially obstructed, or not obstructed? In addition, what elements of the public view are obstructed?
  - c. How has the applicant retained existing or provided new views available from private property?
  - d. The degree of impact the proposed project may have on private views, including the number of properties impacted and the degree to which they are impacted. For example, is the view fully obstructed, partially obstructed or not obstructed?
- (8) Parking areas. The amount of on-site parking that can be provided on most properties is quite limited, and is a factor that can limit the amount of use that can occur on a site. For example, few if any properties in this area could provide sufficient parking to **fully accommodate—handle** the parking generated by ~~a large-scale~~ **an intensive** use **that typically requires large amounts of parking**, such as **but not limited to** a large restaurant or **intensive** retail **use**. The availability and proximity of public parking can accommodate some of the parking demand in this area, but some uses may overwhelm the availability of public parking.

Guidelines that shall be considered in determining the amount of on-site parking required include but are not limited to the following:

- a. The proximity of public parking lots and on-street parking, the amount of demand on such parking, and accessibility to this parking from the applicant property.
  - b. The amount, lay-out and purpose of on-site parking that the applicant can reasonably provide. The location and design of parking areas shall be well integrated on the site in relation to other uses. At a minimum, an applicant **typically would should** be required to provide on-site parking for all proposed residences; usually two spaces per dwelling unit.
  - c. The availability and amount (timing) of joint use private parking on the applicant site or on other private properties in the area.
  - d. An applicant may pay a parking impact fee in lieu of making on-site parking improvements, with the City assuming responsibility to construct parking facilities.
  - e. An applicant can provide or financially contribute to a public transportation system to transport customers to off-site parking lots in lieu of making on-site parking improvements.
  - f. Other methods of public accessibility to the site (walking) can be considered in determining the amount of on-site parking.
- (9) Utilities. The applicant shall identify the lay-out of all proposed utilities, and shall make utility services as unobtrusive as possible in this waterfront area.
- (10) Glare/lighting. The project shall not produce adverse impacts with regard to glare and lighting on surrounding properties and uses, including all public roads. In addition, the

proposed lighting plan shall recognize the use of the waterfront, and shall not detract from views of the City in looking at it from the water. The lighting plan shall complement the character of the buildings and site, and not dominate it or the surrounding area.

- (11) Noise. The City recognizes that this is a working waterfront area and that noise from waterfront uses; fishing, commercial and recreational boating, **boat repair and building**, and similar activities will occur. The intent is to ensure that a use does not produce levels of noise that cause an **undue** adverse impact on surrounding uses and properties. An applicant shall identify approaches that they intend to use to minimize adverse noise impacts.
- (12) Odors, gases, noxious impacts. These issues shall be controlled to prevent adverse impacts on surrounding properties.
- (13) Floodplain impact. **Much Most** of the waterfront area is located in either the VE or AE zone of the floodplain. Chapter 78, floodplain requirements, often impact the development of vacant land or redevelopment of existing structures. Further, the City must require an applicant to satisfy floodplain requirements and **typically** cannot vary chapter 78 requirements. The intent is to encourage applicants to address floodplain requirements to the greatest extent practical, while allowing flexibility regarding issues, such as building height, to aid an applicant **in to-satisfying** these standards.
- (14) Stormwater management. The goal is require an applicant to efficiently direct stormwater to the river/**Bay**, with an emphasis on controlling erosion of the waterfront and ensuring stormwater quality. A specific concern is run-off from large parking lots directly out-letting to the river/**Bay**. The construction of significant on-site stormwater retention and detention facilities should be discouraged in this area and more passive measures encouraged.
- (15) Soils/contamination. Some sites in this area have soil contamination problems. An applicant, if warranted, must address how soil contamination will be addressed. Further, if an applicant is required to undertake extraordinary measures to address contamination issues, the City shall consider these costs and site alterations in review of the project.
- (16) Solid waste collection and disposal. An applicant shall identify how they will collect and dispose of all wastes. If applicable, the applicant shall address how to manage litter generated on the site.
- (17) Explosive materials, chemical and fuel storage facilities, and hazardous wastes. An applicant shall ensure that the proposed development does not cause any adverse impacts with regard to the use or storage of explosive materials, chemicals, fuel or hazardous wastes. A particular concern is boat repair and the interaction between this use and other uses on a site and in the surrounding area.
- (18) Performance guarantees for required improvements. The City shall determine the amount and type of performance guarantees that should be required to ensure that an applicant

successfully constructs required on-site and off-site improvements, and can routinely maintain constructed improvements in the long-term.

- (19) Handicap accessibility. The applicant shall ensure that all new project facilities fully satisfy handicap accessibility requirements. This could be a challenge for proposed uses, particularly with floodplain requirements. Contract rezoning is a tool that allows the City flexibility in establishing standards for structure and site layout so that an applicant can best address handicap accessibility concerns.
- ~~(20) Cooperative use with the railroad. If a project site is impacted by railroad operations, an applicant must address how the respective operations are compatible. The City goal is to allow flexibility so that adjacent uses are compatible.~~
- (20 ~~21~~) Outside storage and display. **All** ~~O~~outside storage, **including except for** boat storage, should be **well** managed. The outside display of merchandise for sale is an activity that may be permitted if the proposed activity complements the area and use of the property.
- (22) Signs. All signs shall complement the site and structure development and shall be in proportion to the structure(s). Common signage patterns within the development shall be encouraged. An applicant may exceed the standards identified in the City Sign Ordinance, chapter 86, if such signage complements the site and surrounding area and is appropriate for the type of use of the property and the scale of the **respective** buildings.
- (23) Phasing of project development and construction schedule. The timing of when the project and supporting improvements, including public improvements, are constructed is a critical issue in City approval of a contract rezoning application. Each contract shall include specific guidelines regarding when project improvements must be constructed. Failure of an applicant to comply with these requirements could result in a contract rezoning ordinance amendment being rendered void. An applicant is responsible for providing the City clear guidance regarding the schedule for project construction, and subsequently adhering to this schedule.
- (24) Community impact analysis. An applicant may be required to prepare an impact statement regarding the amount of impact on municipal facilities and services, the amount of tax revenue generated verses new estimated municipal expenditures, and the impact of the project on the local economy **including but not limited to existing retail operations**. The purpose of this impact statement is to provide the City information regarding potential project benefits and detriments.

**Sec. 102-1455. Decision not appealable.** [Ord. No. 3-2005, 7-20-2004]

Notwithstanding any provisions in the City Zoning Ordinance, a decision of the Planning Board or the City Council to approve, approve with conditions, or deny a contract rezoning application shall not be appealable to the City of Belfast Zoning Board of Appeals. An appeal must be filed with the Superior Court.

**Sec. 102-1456. Cost of contract rezoning process.** [Ord. No. 3-2005, 7-20-2004]

The applicant shall pay all costs associated with City review of a contract rezoning project, whether or not the project is approved.

**Sec. 102-1457. Effective date of ordinance amendments.**

[Ord. No. 3-2005, 7-20-2004]

The amendments identified in this division shall become effective upon adoption by the City Council of the City of Belfast.