

**CITY OF BELFAST CITY COUNCIL
SECOND READING & PUBLIC HEARING
FEBRUARY 7, 2023 7:00 P.M.
COUNCIL CHAMBERS IN BELFAST CITY HALL**

**SECOND READING - PROPOSED AMENDMENTS
CITY CODE OF ORDINANCES
CHAPTER 102, ZONING
ARTICLE X, CONTRACT REZONING
DIVISION 4, WATERFRONT MIXED USE 1 and WATERFRONT MIXED
USE 2 ZONING DISTRICTS and the WATERFRONT DEVELOPMENT
SHORELAND DISTRICT**

Notes & Information to the Public on the Proposed Amendments.

- 1) **Background Information:** The City, in 2014, divided the former Waterfront Mixed Use zoning district into 2 separate zoning districts, Waterfront Mixed Use 1 (WMU-1) and Waterfront Mixed Use 2 (WMU-2), and also added several properties to the new WMU-1 zone, particularly the Freezer Plant and adjacent vacant parcel located on Front Street that are owned by Penobscot McCrum. A key provision of the 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 building(s) 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. In the WMU-2 zone, contract rezoning is an option available to property owners, but it is not required.

One purpose of the proposed amendments is to clarify current language in the Ordinance regarding the application of the Wharf Line for Belfast Harbor (reference Chapter 102, Marine Activities) through the Contract Rezoning process to the WMU-1 and WMU-2 zoning districts and the Waterfront Development Shoreland District. The amendments also specifically reference the Belfast Rail Trail as a Public Use Area and Pedestrian and Bicycle Circulation facility of importance, and clarify certain public notification requirements for public hearings/meetings. Most other amendments address minor procedural concerns or updates to language used in the Ordinance.

- 2) **Recommendation of Belfast Planning Board.**

The amendments presented at Second Reading were reviewed and prepared under the direction of the Belfast Planning Board. The Planning Board conducted a public hearing on the amendments at its meeting of December 14, 2022. No public comment was received on these proposed amendments at the December 14 hearing. At this same December 14 meeting, the Planning Board voted 5-1 to recommend the amendments for Council consideration.

- 3) **Council Process for Consideration of Proposed Amendments.**

The proposed amendments were considered at a formal First Reading at the Tuesday, January 17, 2023 regular City Council meeting. The Council also conducted a public hearing at the First Reading, however, no public comment was received regarding this proposal.

The Council has scheduled this same amendment for Second Reading and public hearing at the regular Tuesday, February 7 meeting. The Council, at the Second Reading, has the authority to adopt, reject, revise or table the proposed amendments.

4) How to Offer Public Comment:

The City of Belfast and Belfast City Council encourage public comment on the proposed amendments. Any member of the public can offer comment to the City Council for this public hearing in any of the following three ways:

- a) Comment can be submitted in writing via email to public@cityofbelfast.org. All email comment must be received by 2:00 pm on February 7, 2023. Persons who may want to offer extensive (longer) comment are particularly encouraged to submit comment via email or by letter.
- b) Comment can be submitted in writing via letter. The letter must be received by 2:00 pm on February 7, 2023, so it can be photocopied and presented to the Council. Persons who may want to offer extensive (longer) comment are particularly encouraged to submit comment via email or by letter.
- c) Comment can be orally presented to the Council at the February 7, 2023 public hearing. Oral comment should be limited to 3 minutes. The Council meeting that begins at 7:00 P.M. in the Council Chambers of Belfast City Hall, and the hearing will start as soon as practical after 7:00 pm. All oral comment must be delivered at the Council meeting; the City is not offering opportunities to offer oral comment via a ZOOM webinar to the Council.

The City notes that seating is limited in the Council Chambers. The public hearing and Council meeting can be live streamed on the City website www.cityofbelfast.org, seen live on BEL TV, channel 7 or channel 1303, or heard live on Belfast Community Radio WBFY 100.9.

- 5) **Format of Amendment:** Language/text proposed to be added to the existing Ordinance is shown in **Red Font**. Language/text proposed to be deleted/repealed from the existing Ordinance is shown in **Blue Strike-through Font**. Language/text in black font is existing language in the Ordinance that is not proposed to be changed through this amendment. Language that is **highlighted in Yellow** identifies a date that needs to be added to final Ordinance if the Council adopts the proposed amendments.

6) Questions and Information on the Proposed Amendments.

The complete text of this proposed amendment can be found on the City website, cityofbelfast.org, reference Planning and Codes, February 7, 2023 Council Hearing, and a printed copy of the amendments can be inspected at the Planning and Codes offices during normal business hours, Monday - Thursday, 7:00 am - 6:00 pm. Questions regarding the proposed amendment should be directed to the Planning and Codes office at 338-3370 x 125, or by email to Wayne Marshall, Project Planner, at wmarshall@cityofbelfast.org.

TEXT OF PROPOSED ORDINANCE AMENDMENTS

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 ~~e~~Contract ~~r~~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: the Waterfront Mixed Use-1 ~~zoning district~~, ~~and~~ Waterfront Mixed Use-2 zoning districts, 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 ~~d~~Division 4 is to establish a process and standards to implement the policy guidelines ~~identified in~~ ~~of~~ the City ~~e~~Comprehensive ~~p~~Plan ~~for these areas~~.

Sec. 102-1451. Properties subject to ~~e~~Contract ~~r~~Rezoning. [Ord. No. 3-2005, 7-20-2004]

- (a) Contract ~~r~~Rezoning required. An application for a use permit, site plan permit, or subdivision permit 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 ~~d~~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, ~~and the property was not previously subject to terms of a contract rezoning agreement. If a property has an adopted contract rezoning agreement, any proposed changes shall be governed by terms of said contract rezoning agreement, as such may be amended.~~ Many of these properties are also located in the Waterfront Development shoreland district.
- (b) Contract ~~r~~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 and the Waterfront Development shoreland district may request that the application be reviewed in accordance with the contract rezoning process identified in ~~d~~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 or deny the applicant's ~~ability~~ to use the contract rezoning process. ~~If a property in the Waterfront Mixed Use-2 zoning district is granted a contract rezoning agreement, the future use and development of the property shall be governed by~~

terms of the adopted contract rezoning agreement, unless said agreement is voided by the City Council at the request of an applicant.

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

- (a) Applicant meeting with the **Director of Department of Planning and Codes (hereinafter Director) or the Director's designee City Planner**, **sStep 1**. An applicant who proposes to use or must use the contract rezoning process shall first meet with the **Director Belfast City Planner** or **his the Director's** designee. The applicant shall describe the property to be developed, the proposed use of the property, and factors related to the use of contract rezoning. The **Director City Planner** shall explain requirements of the contract rezoning process to the applicant, and identify information the applicant must prepare to submit an application for review. **Further, tThe Director City Planner or his designee** shall coordinate review of the application through all steps of this process, **sSteps 1 through 5**, and shall prepare draft findings, conditions, and similar information as requested by the respective review committees, **and Planning bBoards, and Council**.
- (b) In-Town Design Review Committee, step 2. 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, eChapter 80, iIn-town dDesign rReview**. The **eCommittee**, in conducting its review, shall consider **the** 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 **eChapter 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, **sStep 4**, reference **Sec. 102-1452(d)**, which incorporates recommendations of the In-Town Design Review Committee, or that illustrates and explains why the applicant has not incorporated recommendations of this **eCommittee**. If the application involves construction of a new building, renovation of an existing building, or the demolition of an existing building, an applicant must receive a decision by the In-Town Design Review Committee to proceed to **sStep 4**.

Step 2 shall involve the following procedures:

- (1) The applicant shall submit a written application to the **Code and Planning and Codes** Department 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 **highest annual tide (applications submitted prior to July 2022 referenced 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 **generally** 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 **eCommittee** members to understand the type of building materials, building accents, entrances, windows, and roof lines proposed. These drawings shall **typically** be prepared by a licensed architect or engineer.
 - d. The **eCommittee** 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 **eCommittee** shall define the parameters of the "view" analysis that the applicant must conduct.
 - e. The **eCommittee** may request additional information that it deems relevant to determine project compliance with **eChapter 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 **eCommittee** shall accept public comment at the beginning of each meeting at which an application is reviewed. The **Code and Planning and Codes** Department 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 **a minimum of at least** 10 calendar days prior to the first meeting of the **eCommittee** 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 **eDepartment** 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 posting notice of each meeting on the City of Belfast website a minimum of 10 days prior to the meeting.**

Notwithstanding the above notification requirements, the Committee Facilitator for the Intown Design Review Committee, typically the Department Director, shall have the authority to recess a public meeting and to reconvene said meeting

at a subsequent date. No specific notification requirements shall apply to a meeting that is recessed by the Facilitator and subsequently reconvened, however, the Department, to the greatest extent practical, shall provide advance notice of the reconvened meeting on the City website and by posting notice in City Hall.

- (3) The membership of the In-Town Design Review Committee for the review of an application pursuant to this **s**Section shall be selected as prescribed in **e**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 **e**Chapter 80. The applicant shall prepare a site plan and/or architectural plans ~~sealed by a licensed architect or engineer which the committee shall sign~~ that incorporates requirements of the **e**Committee **that the Committee shall sign**, or that illustrates and explains why the applicant has not incorporated recommendations of this **e**Committee. This finding shall be issued within 30 days of the **e**Committee vote to find that the application is in compliance or is not in compliance. The ~~Code and~~ Planning **and Codes** Department shall send this finding to the **e**Chairs of the 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 **s**Step 4, to explain the **e**Committee 's findings to the **b**Board.
- (c) Belfast Harbor Committee, **s**Step 3. The role of the Harbor Committee is defined by the request of the applicant. The **e**Committee's review shall consist of either (1) or (2), as described below. If the application does not involve structures located below the **highest annual tide (applications submitted prior to July 2022 referenced the normal high water mark)**, Harbor Committee review is not required.
- (1) Contract **r**Rezoning to determine **the** 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 **s**Section 30-95 and **s**Section 82-206(9), that applies to construction of a structure, **including the installation of a moored float**, located below the **highest annual tide 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 **s**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, **s**Step 4, reference **Sec.** 102-1452(d), **which that** 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 ~~s~~Step 3, shall prepare a site plan, **typically** sealed by a licensed engineer, that depicts the findings of the Harbor Committee. This site plan also shall be presented to the Planning Board, ~~s~~Step 4, reference **Sec.** 102-1452(d). 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 **a** proposal that ~~does not~~ involves **use of contract rezoning to determine the wharf line the construction or installation of structures beyond the highest annual tide** in the Inner Harbor **or Bridge Harbor**.

In the Inner Harbor and Bridge Harbor, as identified in Chapter 30, Sec. 30-95, the wharf line limit for any structure, including a moored float, located beyond the highest annual tide (referenced as the normal high water mark for applications submitted prior to July 2022), shall be located a minimum of 25 feet from the designated navigable channel for Belfast Harbor. The Harbor Committee, Planning Board, and City Council, shall not have the authority to alter this minimum standard through this contract rezoning process.

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~~ **highest annual tide in the Inner Harbor or Bridge Harbor**. 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, ~~s~~Step 4, reference **Sec.** 102-1452(d) that describes compliance of this marine use and structure with ~~e~~Chapter 82, ~~s~~Shoreland, ~~s~~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, **typically** 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, ~~s~~Step 4, 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 and Codes** Department 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~~ **highest annual tide**, 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~~ **highest annual tide**.
 4. A description of how the applicant believes the application complies with applicable ~~e~~Chapter 82, ~~s~~Section 82-206.5 and ~~e~~Chapter 102, ~~s~~Section 102-1454 requirements.
 5. The Harbor Committee may request additional information that it deems relevant to determine project compliance with ~~e~~Chapter 30, ~~e~~Chapter 82, and ~~e~~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 ~~e~~Committee, however, is not required to conduct a public hearing at any subsequent meetings at which it reviews the application. The ~~Code and~~ Planning **and Codes** Department shall provide notification of the first public hearing at which the application is reviewed as described below. Public notice of any additional meetings **or hearings** must only comply with 2. and 4. below.
1. In writing by first class mail **a minimum of 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 posting notice of each meeting on the City of Belfast website a minimum of 10 days prior to the meeting.**

Notwithstanding the above notification requirements, the Chair of the Harbor Committee shall have the authority to recess a public hearing or public meeting and to reconvene said hearing or meeting at a subsequent date. No specific notification requirements shall apply to a hearing or meeting that is recessed by the Chair and subsequently reconvened, however, the Department, to the greatest extent practical, shall provide advance notice of the reconvened hearing or meeting on the City website and by posting notice in City Hall.

- c. The Harbor Committee shall issue a written finding regarding compliance of the application with requirements of **eChapter 30, eChapter 82, or eChapter 102**, as appropriate. The applicant shall prepare a site plan, **typically** sealed by a licensed engineer, that depicts the requirements of the Harbor Committee for all marine structures, and the **eCommittee** 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 and Codes** Department shall send this finding to the **eChairs** of the 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 **sStep 4**, to explain the findings of the **eCommittee** to the Planning Board.
 - d. Harbor Committee review, **sStep 3, to the greatest extent practical and appropriate**, shall occur simultaneously with the In-Town Design Review Committee review, **sStep 2**.
- (d) Planning Board, **sStep 4**. The Planning Board shall review an application to use contract rezoning for a property and determine its compliance with standards identified in **eChapter 102, zZoning, aArticle X, eContract rRezoning, dDivision 4**, particularly **sSections 102-1453 and 102-1454**. The Planning Board, in conducting its review, shall consider the findings of the In-Town Design Review Committee (**sStep 2**) and the Harbor Committee (**sStep 3**), public comment that is offered to the **bBoard**, 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, 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 **and dimensional standards that apply to all 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, **typically** sealed by a licensed engineer, and architectural plans, **typically** sealed by a licensed architect or engineer, ~~which that~~ incorporates all requirements specified by the Planning Board, ~~and which for~~ the Planning Board **shall to** sign. The **bBoard shall also shall** prepare written findings that address requirements of **eChapter 90, sSite pPlan, sSection 90-42**, and the standards specified in **eChapter 102, zZoning, sSections 102-1453 and 102-1454**.

Step 4 shall involve the following procedures:

- (1) The applicant shall submit a written application to the ~~Code and~~ **Planning and Codes** Department 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 **eChapter 90, sSite pPlan, sSection 90-72**, and a final site plan as stipulated in **eChapter 90, sSite pPlan, sSection 90-102**.
 - b. All findings and plans approved by the In-Town Design Review Committee, **sStep 2**, and the Harbor Committee, **sStep 3**.
 - 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 **eChapter 78, fFloodplain, eChapter 80, iIn-town dDesign rReview, eChapter 82, sShoreland, eChapter 90, sSite pPlan, eChapter 98, tTechnical sStandards, and eChapter 102, zZoning**, 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 and Codes** Department shall provide notification of **all the** public hearings as described below.
- a. **For the initial public hearing, i**n writing by first class mail **a minimum of 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. **For any subsequent public hearings, the written notification by mail requirement is a minimum of 10 days.** The **d**Department shall keep a record of all persons to whom notice is sent.
 - b. By posting notice of **the initial each-meeting public hearing** in Belfast City Hall a minimum of 13 calendar days prior to the **meeting-hearing, and 10 days for any subsequent public hearings.**
 - c. By publishing notice of all public hearings in a local newspaper a minimum of seven calendar days prior to the hearing.
 - d. **By posting notice of the initial public hearing on the City of Belfast website a minimum of 13 calendar days prior to the hearing, and 10 days for any subsequent public hearing.**

Notwithstanding the above notification requirements, the Chair of the Planning Board shall have the authority to recess a public hearing and to reconvene said hearing at a subsequent meeting. No specific notification requirements shall apply to a hearing that is recessed by the Chair and reconvened, however, the Department, to the greatest extent practical, shall provide advance notice of the hearing on the City website and by posting notice in City Hall.

- (3) The Planning Board shall prepare a written finding that describes project compliance with requirements of **eChapter 78, fFloodplain, eChapter 80, iIn-town dDesign rReview, eChapter 82, sShoreland, eChapter 90, sSite pPlan, sSection 90-42, and eChapter 102, zZoning, aArticle X, eContract rRezoning, dDivision 4**. This finding

shall include a draft contract rezoning agreement **which that** defines **recommended** conditions that the Planning Board **recommends be imposed**s on the project. Such conditions shall address the mandatory conditions **which that** an applicant must satisfy, reference **s**Section 102-1453(a), and the discretionary conditions **which that** an applicant must satisfy, reference **s**Section 102-1453(b). The applicant also shall present a site plan for **b**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, reference **s**Section 102-1452(e). The ~~Code and~~ **Planning and Codes** Department shall send this finding and agreement to the **e**Chairs of the 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/s~~ **Step 5**, to explain the findings of the **b**Board and draft contract rezoning agreement.
- (e) City Council, **s**Step 5. The City Council shall review and act on the findings of fact and draft contract rezoning agreement presented by the Planning Board, **s**Step 4, for an applicant that proposes or is required to use contract rezoning. Council consideration of ~~such said~~ request constitutes an amendment to the City Code of Ordinances, **e**Chapter 82, **s**Shoreland, and **e**Chapter 102, ~~z~~**Z**oning, 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 **that the Planning Board recommended be** 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 the first reading of an amendment, and second reading and public hearing of an amendment.
 - (2) The Chair of the Planning Board, or ~~his~~ **the Chair's** designee, assisted by the **Planning and Codes Department staff City Planner**, shall present its findings and contract rezoning agreement to the Council, and the **staff from the Planning and Codes Department 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 ordinance amendment process and shall attend 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 **recommended be imposed**.

- (3) The ~~Code and~~ Planning **and Codes** Department, 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 ~~f~~**F**irst ~~r~~**R**eadings of the proposed ordinance amendment, and by first class mail at least 14 calendar days prior to the scheduled ~~s~~**S**econd ~~r~~**R**eadings 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 **and Codes** Department shall **retain provide** a record ~~to the City Clerk~~ of all persons to whom notice is sent, **and shall provide this record to the City Clerk**.
 - b. By posting notice of each meeting in Belfast City Hall a minimum of 14 calendar days prior to the scheduled meeting **or hearing**.
 - c. By publishing **two** notices of the ~~s~~**S**econd ~~r~~**R**eadings and public hearing in a local newspaper, **and similarly any other public hearings that may be held on the application**. At least one notice shall be published a minimum of seven days prior to the hearing.
 - d. **By posting notice of any public meetings or hearings on the City website a minimum of 14 calendar days prior to the scheduled meeting or hearing.**

Notwithstanding the above notification requirements, the Mayor shall have the authority to recess a public hearing and to reconvene said hearing at a subsequent meeting. No specific notification requirements shall apply to a hearing that is recessed by the Mayor and reconvened, however, the Department, to the greatest extent practical, shall provide advance notice of the hearing on the City website and by posting notice in City Hall.

- (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 ~~s~~**S**ection 102-1453(a) and shall address all discretionary conditions identified in ~~s~~**S**ection 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 **and Codes** Department as a deed covenant and ~~z~~**Z**oning ~~e~~**O**rdinance 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, ~~e~~**C**hapter 82, ~~s~~**S**horeland, and ~~e~~**C**hapter 102, ~~z~~**Z**oning.

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 **s**Section 102-1451 shall address, at a minimum, the following goals and project requirements. The respective City review authorities identified in **s**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 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 **highest annual tide (identified as the normal high water mark for applications submitted prior to July 2022)**, and allow 100% lot coverage. Contract rezoning is a tool that should promote a balance between how to allow intensive use while recognizing **problems potential concerns** 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 **properties that have shore frontage**; management of public parks, including Steamboat

Landing Park, the Boathouse at Steamboat Landing, and Heritage Park; ownership of several buildings, **several of** which it **currently** leases for private purposes; management of both City Landing and Thompsons Wharf to provide public access to the water; **and the** management of the Armistice Bridge, ~~and management of the~~ Belfast Harbor Walk, **and the Belfast Rail Trail, all of which the City constructed to create opportunities for pedestrians and bicyclists to have connected and continuous access to Belfast's waterfront.**

- (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, **if any are warranted.** An applicant may provide the City an off-site impact fee for street improvements rather than being required to construct ~~the~~-specific improvements **that may be identified through a traffic analysis.**
- (5) Pedestrian and bicycle circulation. This is a key consideration for the waterfront area because of the City's Harbor Walk, ~~and~~ the Armistice (footbridge) Bridge, **and the Belfast Rail Trail. In the past 20 years that City has invested significant public funds to create continuous public access to this waterfront area for both pedestrians and bicyclists.** An applicant must identify how **their proposed project will contribute to and support** public access to ~~the~~ waterfront ~~can be encouraged and supported~~, including both pedestrian and bicycle **use 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, e~~Chapter 80, ~~i~~In-town ~~d~~Design ~~r~~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 ~~s~~Shoreland ~~d~~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 a key role in considering** ~~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?

Applicants who prepare a view impact assessment are strongly encouraged to use techniques and approaches that allow City boards, committees and the Council, as well as property owners and the public, opportunities to visually understand the degree of impact that a proposed increase in building height may have on a variety of views.

- (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 the parking generated by an intensive use that typically requires large amounts of parking, such as but not limited to a large restaurant or 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 **to required for a project** 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 **facilities**, 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 be required to provide **reasonable amounts of** 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 **over the long-term and using said fee to assist in the cost of constructing parking that would benefit this project and other uses in the area.**

- 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 manage** adverse noise impacts.
- (12) Odors, gases, noxious impacts. **The City recognizes that this is a working waterfront area and that some noxious impacts from waterfront uses; fishing, commercial and recreational boating, boat repair and building, and similar activities likely will occur. The intent is to ensure that a use does not produce levels of odors, gases, and noxious impacts that cause an undue adverse impact on surrounding uses and properties.** These issues shall be **managed controlled** to prevent adverse impacts on surrounding properties.
- (13) Floodplain impact. Much 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 **eChapter 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 satisfying these standards.
- (14) Stormwater management. The goal is **to** require an applicant to efficiently direct stormwater **to available City and/or private stormwater management facilities that outlet** to the **rRiver/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 **rRiver/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 **its** 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) Outside storage and display. All outside storage, including 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 **sign** standards identified in ~~the City Sign Ordinance~~, **eChapter 86, Signs**, 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 (**agreement**) being rendered void **by the City Council**. 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 versus new estimated municipal expenditures, and the impact of the project on the local economy. The purpose of this impact statement is to provide the City **and public** 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 Chapter 102, Zoning~~, 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. **The amount of the project review fee, including costs for technical and legal reviews, shall be determined by the Planning and Codes Department, however, an applicant may contest the amount of fee assessed by the Department to the Belfast City Council.**

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

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

The amendments identified in this ~~d~~**D**ivision shall become effective upon adoption by the City Council of the City of Belfast (Note: Council adopted ~~Ordinance on October 7, 2014 the~~ **currently proposed amendments at its meeting of [REDACTED]**).