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**NOTE TO BELFAST CITY COUNCIL
SECOND READING AND PUBLIC HEARING
SEPTEMBER 5th, 2023**

**PROPOSED AIRPORT OVERLAY ZONING ORDINANCE AMENDMENTS
FROM BUB FOURNIER, DIRECTOR OF PLANNING AND CODES DEPARTMENT**

BACKGROUND

The Airport Overlay concept, as proposed in the Airport Master Plan, is a planning tool for development in proximity to the Belfast Municipal Airport's northwestern runway 15 and southeastern runway 33. The proposed concept involves 3-dimensional zones A and C (B reserved) and outlines building height and use standards so that airport operations and development on nearby properties may occur in a safe and concurrent manner while minimizing potential conflicts. By right-sizing zoning restrictions on property adjacent to the Airport, the proposed ordinance amendments make an additional 60 acres available for housing development, in addition to the 100-acre site already being reviewed for a 48 lot subdivision on Little River Drive.

On their meeting of August 15th, 2023 the Belfast City Council voted unanimously to accept a First Reading of this proposed Ordinance Amendment after reviewing written comments, holding a public hearing and discussing the proposal.

The Planning Board was officially introduced to the concept of an Airport Overlay District at their regular meeting of January 11, 2023. At that meeting Board members discussed multiple memorandums generated by Airport Manager Kenn Ortmann as well as a Note to the Board from Planning and Codes Director Bub Fournier. Most of the discussion at the introductory meeting was focused on the concept of the 3-D zones, the dimensions of Zone A in particular, as well as the potential use restrictions in the overlay.

Following the initial workshop, Airport Manager Kenn Ortmann again produced a series of maps describing potential alternatives for the Zone A configuration for the Board's February 8th, 2023 meeting. The 3-A layout alternative included what the Airport Manager described as likely the limit of potential runway expansion in the foreseeable future. Planning staff's recommendation for Zone A to encompass the existing RPZ dimensions, only 1,000 feet from the end of the existing runway, were also discussed. Although the Board did not necessarily reach a consensus or define a direction, they discussed alternatives.

At the March 22nd meeting, the Planning Board asked staff to generate maps and tables to describe an A zone configuration with symmetry reflecting the current airport runway size, based on a 1 mile visibility standard and extending to Schoodic Dr northwesterly and Perkins Rd southeasterly. The maps and tables generated by staff also compared this configuration to an A zone based on the current Runway Protection Zone (RPZ) length, symmetrical and downsized for a 1 mile visibility on both ends of the runway.

The Board then discussed the Airport Overlay concept on May 10th, 2023, with the goal of coalescing the work that had occurred up to that time so that the current draft language could be presented at a public hearing. The Board reached a consensus on a dimensional configuration of the A and C zones. The Board reached a consensus regarding potential use restrictions in the A zone. The Board also reached a consensus in regard to how to handle currently existing potential nonconformities in the proposed A Zone.

The Planning Board held a public hearing on July 26th, 2023, duly noticed in the Republican Journal as well as directly mailed to abutters within 1,000 feet of the airport. The Board unanimously recommended adoption by the City Council.

Some of the written comments addressed to the City Council on the First Reading concerned some dimensional errors in the draft language. These have been corrected for this Second Reading.

Some of the written comments addressed to the City Council on the First Reading made statements about potentially prohibited uses in undeveloped land, and technical interpretations of the 3-dimensional space which I have consulted with the Airport Manager about. If it is the wish of the Council, I can discuss these items directly at the Second Reading meeting, as they do not rise to the level of concern in my opinion because they represent issues with structures that would exceed the general height restriction already in place Citywide. Staff has been in contact with the legal representatives of a large property owner in the southern A Zone to provide more information regarding remaining development opportunities on their property, should the proposed ordinance be adopted. It is estimated that 14 acres of their 37 acre property would continue to allow housing. At potentially 4 dwellings per 2 net acres, this represents the potential for 26 additional dwelling units, on top of the two existing dwellings.

In regard to environmental issues, the Council may wish to rely on the City's adopted Shoreland Zoning Ordinance, environmental Performance Standards located in the

Chapter 102 Zoning Ordinance, and standards identified for development in Chapter 78 Floods as these standards would all be applicable for any proposed developments.

USES

As far as uses are concerned, the Board considered a memo from the Airport Manager dated March 31, 2022 as well as additional staff guidance. They also considered a summary generated by Planning Board Chair Hugh Townsend describing which uses may conflict with adjacent Airport operations.

An excerpt from the Planning Board Chair’s summary follows:

“Looking forward, the Airport Overlay District is being created to enhance safety for aircraft and citizens on the ground, reduce aircraft environmental incompatibilities such as noise with certain uses on the ground where impacts could be high, create more opportunity for development in areas where impacts would likely be low, and maximize the economic development benefits of the Airport. The current zoning around the airport is not restrictive enough for safety and compatibility in some areas and is too restrictive of development in other areas.”

The Board did not consider any C Zone use restrictions.

The Board is recommending restricting the following uses in the A Zone that may be currently allowed in the general zoning districts in which the Airport Overlay is proposed:

- One- and Two-Family Homes, Accessory Dwelling Units, Accessory Residential structures with habitable space.
- Multi-Family and Flex Housing dwellings
- Planned Unit Development including Rural Affordable Developments
- Manufactured housing on a chassis or modular
- Group homes, Owner Occupied Boarding or Lodging Houses, Congregate Care, Residential Retirement housing, Assisted Living Facilities
- Bed and Breakfasts
- Nursing Homes and Long-Term Care facilities
- Child, Youth and Adult Care facilities
- Public and Private Schools

NONCONFORMITY

The Board is proposing that existing uses occurring in the proposed A Zone of the Airport Overlay that would be restricted, should the proposal be adopted, would be considered legally existing nonconformities. The proposal provides for a 30% lifetime expansion of the footprint of a nonconformity’s structure in the A Zone, although no additional dwelling units would be allowed in the A Zone. This would allow existing homes in the proposed A Zone to grow and be modified within the 30% limit. There would be no limits on upward expansion within the

footprint existing at the time of enactment of this proposed ordinance, although additional dwelling units would be prohibited. This ability to build upward from existing footprint was a modification the Planning Board asked for at the public hearing stage on July 26th, 2023.

REZONING

Finally, the Board is proposing zoning reconfigurations to support the City's goals of creating new housing opportunities and "right sizing" the Airport Overlay zone. The proposal includes the 174 Lincolnville Ave (Boynton property, Map 4 Lot 62) being rezoned as Office Park along with the smaller properties directly to the north including 152 Lincolnville Ave and their back lot (9+ac), 156 Lincolnville Ave (2.7ac). The Board is also proposing that all of the smaller lots north of the large Boynton lot including Map 4 Lots 2, 63, 63A and 62H plus Map 5 Lots 2, 6B, 6A, 8 and 8-A be rezoned from Airport Growth to Office Park as well. The Board is also proposing that the smaller 190 (4.14ac) and 182 (1.5ac) Lincolnville Ave properties are rezoned from Airport Growth to the adjacent Outside Rural 2 zoning district.

These zoning district reconfigurations result in almost 60 acres of property in Belfast becoming available for new housing. The changes would eliminate the Airport Growth zoning district, which currently prohibits new housing on approx. 140 acres. Those areas would be rezoned according to their adjacent Office Park or Outside Rural 2 districts which both allow a variety of housing uses. The newly proposed A Zone restriction on new housing in the proposed Overlay would shrink the affected area from approx. 140 acres down to 80 acres, immediately off the ends of the runway as shown on the A Zone maps. This proposal also follows support from the Board and City Council to rezone the approx. 100-acre former County owned property as part of the right-sizing of the Airport Growth zoning district. This property is currently being reviewed by the Planning Board for a 48-lot subdivision for much needed residential housing.

**BELFAST CITY COUNCIL
SECOND READING
TUESDAY SEPTEMBER 5th, 2023**

Format of Amendment: Language/text in **black font** is existing language in the Ordinance that is proposed to be changed by this amendment. Language/text proposed to be added to the existing Ordinance is shown in **Red Font**. Language/text proposed to be deleted from the existing Ordinance is shown in ~~Blue Strike-through Font~~. Staff notes to the public and City Council are highlighted in **Green Text**.

Role of the City Council: The Belfast City Council conducted a First Reading and public hearing on August 15, 2023 and voted to move forward with this Second Reading. The Planning Board discussed this proposed amendment at several meetings, and voted unanimously after a public hearing on July 26th, 2023 to recommend the language for adoption by the City Council. The Planning Board is an administrative/quasi-judicial body, and does not have the authority to adopt, amend, or repeal an Ordinance. That authority is vested solely with the City Council, the legislative body for the City. The City Council, after it receives the Planning Board's recommendations, will conduct two public readings (First Reading and Second Reading) and at least one duly noticed public hearing on the proposed amendments. **After a Second Reading, the City Council has the authority to adopt, reject, change, or table the amendments recommended by the Planning Board.** If the Council adopts the amendments, they will become part of the City Code of Ordinances.

CHAPTER 102 ZONING

ARTICLE VII

DIVISION 2

Airport Overlay District

Sec. 102-851. Applicability of division.

No person shall build, occupy, maintain or use a structure or create a new use in the Airport Overlay District of the City unless it is in compliance with the provisions of this division. The purpose of this division is to limit future conflicts between airport uses and other uses allowed in the underlying zoning districts.

Sec. 102-852. Nonconforming uses.

Existing uses or structures which are not permitted in sections 102-873, 102-874, 102-875 and 102-876 which are legally owned, occupied or maintained within the Airport Overlay District of

the City on (date of adoption), are nonconforming uses under the provisions of this chapter. Legally existing nonconforming uses may continue, provided they do not create any significant risk of causing an adverse impact upon the Belfast Municipal Airport or property users. Expansion of legally existing non-conforming uses may be permitted by the Code Enforcement Officer, provided that the expansion does not exceed a 30% lifetime footprint area expansion limit. For these purposes, only the area of a structure located in the overlay may be considered for expansion, similar to the Chapter 102 Article III Type 2 Nonconformity section of the City Code. **Notwithstanding general zoning requirements and other standards regarding height in this Chapter, upward expansion of any legally existing, nonconforming one- and two-family homes within an existing structure's footprint area is permitted as long as no new dwelling units are created.**

Sec. 102-853. Structures and uses permitted in Airport Overlay District with approval of Planning Board.

Structures and uses permitted in the Airport Overlay District with Planning Board review are as follows:

ZONE A

Any use permitted with Planning Board approval in the underlying zoning district except the following:

- One- and Two-Family Homes, Accessory Dwelling Units, Accessory Residential structures with habitable space (does not include garages, greenhouses, sheds, etc.).
- Multi-Family and Flex Housing dwellings
- Planned Unit Development including Rural Affordable Developments
- Manufactured housing on a chassis or modular
- Group homes, Owner Occupied Boarding or Lodging Houses, Congregate Care, Residential Retirement housing, Assisted Living Facilities
- Bed and Breakfasts.

Any new building, temporary structure, appurtenance or other development shall not penetrate the three-dimensional space of Zone A.

ZONE C

Any use permitted with Planning Board approval in the underlying zoning district. Any new building, temporary structure, appurtenance or other development shall not penetrate the three-dimensional space of Zone C.

Sec. 102-854. Structures and uses permitted in Airport Overlay District with approval of the Code Enforcement Officer.

Structures and uses permitted in the Airport Overlay District with CEO review are as follows:

ZONE A

Any use permitted with CEO approval in the underlying zoning district except the following:

- One- and Two-Family Homes, Accessory Dwelling Units, Accessory Residential structures with habitable space (does not include garages, greenhouses, sheds, etc.).
- Multi-Family and Flex Housing dwellings
- Planned Unit Development including Rural Affordable Developments
- Manufactured housing on a chassis or modular
- Group homes, Owner Occupied Boarding or Lodging Houses, Congregate Care, Residential Retirement housing, Assisted Living Facilities
- Bed and Breakfasts.

Any new building, temporary structure, appurtenance or other development shall not penetrate the three-dimensional space of Zone A.

ZONE C

Any use permitted with CEO approval in the underlying zoning district. Any new building, temporary structure, appurtenance or other development shall not penetrate the three-dimensional space of Zone C.

Sec. 102-855. For Airport Overlay purposes, permitted uses shall be considered according to their location at grade, located below Zones A and C.

Sec. 102-856 (Reserved)

Sec. 102-857 Appeals.

An appeal of a decision of the code enforcement officer or the Planning Board denying any application where such denial is based on the provisions of this division shall be reviewed by the Zoning Board of Appeals in accordance with Chapter 102 Division 4 Appeals. A complete appeal application must be received within 30 days of the reviewing authority's written decision to be eligible for review.

Sec. 102-858 Description of Airport Overlay District dimensions.

(a) Zone A shall include the space above the area extending from the northern (15) end of the runway at the Belfast Municipal Airport including the Runway Protection Zone measuring 500 feet wide 200 feet from the end of the paved runway, thence widening to 700 feet wide at a

distance of 1200 feet from the end of the paved runway, thence widening at the same angle and extending to Schoodic Drive on Map 5 Lots 1 and 26.

Zone A shall also include the area extending from the southern (33) end of the runway at the Belfast Municipal Airport measuring 500 feet wide 200 feet from the end of the paved runway, thence widening to 700 feet wide at a distance of 1200 feet from the end of the paved runway, thence widening at the same angle and extending to a line 400' north of the northern edge of the Perkins Road right of way on Map 4 Lots 9 and 9-A.

The elevation of Zone A begins at the runway surface elevation of 197.6 feet (Mean Sea Level) and rises in a 34:1 slope away from the runway.

(b) reserved.

(c) Zone C shall include the space above the areas adjacent to Zone A described above, extending immediately adjacent to the runway (east and west sides) at a slope of 7:1 to 150 feet above the runway elevation. Zone C shall also include areas extending away from Zone A in the shape of an ellipse with a 10,000 foot radius surrounding the runway at an elevation 150 feet above the runway elevation, thence at a slope rising away from the runway at 20:1 for an additional 4,000 feet horizontally outward.

The elevation of Zone C begins from the plane established in Zone A and continues at a 34:1 slope, rising away from the runway to 150 feet above the runway elevation, or 347.6 feet (Mean Sea Level).

(d) The Airport Overlay is reflected in the official Airport Overlay Map as a supplement to this chapter.

****This language accompanies a revision of the official zoning map to reflect Board rezoning adjustments in the current Airport Growth zoning district as well as an Airport Overlay map for Zone A and C. This Second Reading language also reflects corrections to a dimensional error in the First Reading runway and zone elevations.**

All existing unchanged text in the proposed Ordinance amendment is in **BLACK**.

All deleted text from the in the proposed Ordinance amendments is in **BLUE-~~STRIKETHROUGH~~**.

All new text in the proposed Ordinance amendment is in **RED. Bold red font was modified from Planning Board public hearing.**

All explanatory text, not to be included in the final draft, is in **GREEN**.