

**SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, October 15, 2014 6:00 PM
Council Chambers, Bath City Hall**

Present: Councilors Brackett, Merrill, Paulhus, Wyman, Sinclair, Mitchell, Winglass, Madame Chair Eosco

Also in attendance were the City Manager, William Giroux, City Solicitor, Roger Therriault and City Clerk, Mary White.

Madame Chair Eosco led the Pledge of Allegiance and City Clerk White called the Roll.

I. ORDINANCE: Land Use Code Map Amendment Lot 153 on Tax Map 28 from Residential (R-1) to Highway Commercial (C-4) and an amendment to change the zoning on Lots 81, 82 and 154 from C-2 Mixed Use Light Commercial District to Route 1 Commercial Contract District (C-4) (first passage)

Madame Chair Eosco read the following Ordinance:

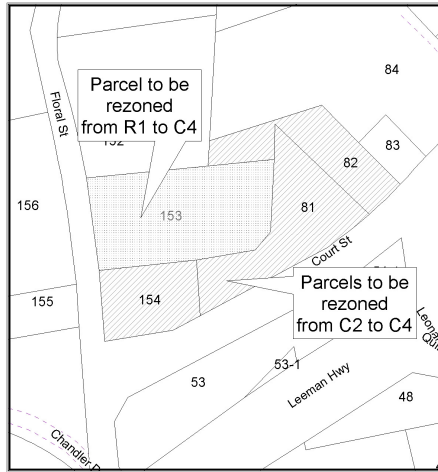
ORDINANCE

WHEREAS, THE CITY COUNCIL OF THE CITY OF BATH, AS PART OF THE ADOPTION OF THE BATH LAND USE CODE ON JULY 19, 2000, EFFECTIVE AUGUST 9, 2000, DEPICTED THE BOUNDARIES OF ALL LAND USE DISTRICTS ON A ZONING MAP OF THE CITY OF BATH, ALSO DATED JULY 19, 2000, INCORPORATED BY REFERENCE INTO THE LAND USE CODE PURSUANT TO THE PROVISIONS OF SECTION 7.02 OF THE SAID CODE; AND

WHEREAS, IT IS NECESSARY AND APPROPRIATE THAT THE BOUNDARIES OF THE LAND USE DISTRICTS BE, FROM TIME TO TIME, ADJUSTED AND AMENDED, IN ORDER TO CREATE NEW DISTRICTS AND ADJUST BOUNDARY LINES OF EXISTING DISTRICTS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE ZONING MAP OF THE CITY OF BATH, DATED JULY 19, 2000, BE AND HEREBY IS AMENDED IN ACCORDANCE WITH THE SKETCH PLAN ATTACHED HERETO AND MADE A PART HEREOF. THIS CHANGE SHALL BE INCORPORATED INTO AND BE PART OF THE OFFICIAL ZONING MAP OF THE CITY OF BATH. THE SPECIFIC ADJUSTMENTS ARE:

An amendment to the Zoning Map changing the zoning on Lot 153 on Tax Map 28 from Residential (R-1) to Highway Commercial (C-4) and an amendment to change the zoning on Lots 81, 82 and 154 from C-2 Mixed Use Light Commercial District to Route 1 Commercial Contract District (C-4).



Land Use Code Map Amendment/Contract Rezone
 Map 28, Lots 81, 82 & 154 from C2 to C4
 Map 28, Lot 153 from R1 to C4
 All parcels to be Contract Zoned

Councilor Winglass made a motion to put the Ordinance on the floor for discussion. Councilor Sinclair seconded the motion.

City Planner, Andrew Deci, explained the process this Ordinance had gone through and that the vote the Planning Board for this Ordinance had been 3 for and 3 against and recommend denial of change.

Sandra Gay representing the applicant, TMC New England, LLC, stated that they are proposing to reduce the building setback from the residential zone property line from 50' to 34', reduce the front yard area setback from 20' to 2', reduce the side/rear yard area setback from 20' to 10', and reduce the yard ear from the residential zone property line from 35' to 13'.

David Fenstermacher, Project Manager, explained that the applicant was offering to provide the following public benefits use decorative lighting fixtures on the site and reduce the pole heights, use a decorative retaining wall and fence, enhance the building design, provide enhanced screening, expending the scope of the traffic study and a cash contribution of \$35,000.

ROLL CALL VOTE:

YEAS: Merrill, Paulhus, Wyman, Mitchell, Winglass

NAYS: Brackett, Sinclair

Ordinance passed. 5-2

Madame Chair Eosco set second passage for November 5, 2014 at 6:01 PM.

II. ORDINANCE: Land Use Code Contract Rezoning, Article 16, Section 16.22 – CVS Pharmacy Contract Zone (Tax Map 28, Lots 81, 82, 153 and 154). (first passage)

Madame Chair Eosco read the following Ordinance:

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATH THAT THE LAND USE CODE OF THE CITY OF BATH ADOPTED JULY 19, 2000, AND SUBSEQUENTLY AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

Amend Article 16, Contract Zoning Districts, by adding the following Section:

ARTICLE 16. CONTRACT ZONING DISTRICTS

SECTION 16.22 – CVS PHARMACY CONTRACT ZONE

A. District Regulations

The property designated for this Contract Rezoning is an approximately 1.8-acre site comprised of four parcels located at 127 & 131 Court Street and 82 & 86 Floral Street (Tax Map 28, Lots 81, 82, 153 & 154, dated April 1, 2013), hereafter collectively referred to as the “Property.”

B. Findings

The property identified as Map 28, Lot 153 is currently designated as Residential (R-1); the property identified as Map 28, Lots 81, 82 and 154 is currently designated as C2 Mixed Use Light Commercial District. There is currently a proposal before Council requested by the Developer to change the zoning designation of these four lots to the Route 1 Commercial Contract District (C4). The City Council makes the following additional specific findings:

1. The Property is currently improved with three structures: (1) 1657 square foot retail fish market and restaurant with takeout window service and outside seasonal seating; (2) Single family residential dwelling; (3) 3-unit mixed residential/commercial structure; and, vacant land with asphalt parking area that is accessory to an existing commercial use.
2. The applicant proposes to demolish and remove the existing structures, replacing them with a new, free-standing approximately 13,225 square-foot CVS Pharmacy with drive-through window.
3. Without the creation of the Contract Zone, the proposed site improvements would be unable to meet all of the minimum setback and yard area requirements for the C4 District.
4. Contract Zoning is allowed on the Property per Section 8.10(D) and Section 8.20(B)(1) of the Land Use Code.
5. The applicant has offered the following voluntary Discretionary Conditions in exchange for the Contract Rezoning:
 - a) Site Lighting – In addition to following the applicable Zoning Requirements, the applicant will incorporate restricted pole heights and decorative fixtures to enhance the site, while reducing light levels on the abutting property.
 - b) Retaining Wall/Fencing – The applicant will provide a natural stone facing for the wall adjacent to the sidewalk along Court Street, with a decorative black rail fence along the top of the wall.
 - c) Building Façade – The applicant will provide an enhanced color scheme and appearance, and will further augment the structure with windows or faux windows along the southern and western sides of building.

- d) Equipment Screening – The applicant will provide enhanced screening along the roofline.
- e) Traffic Study – The applicant expanded the scope of the required traffic study to analyze additional items as requested by the City. These items included a Speed Data Collection of the existing traffic along Court Street and Floral Street, an evaluation of the impacts of the closing of Quimby Street, and an analysis of deceleration lane warrants for the Route 1 access to the Shopping Center. If requested, the Application is willing to provide a standalone document summarizing the results of these items for the City’s reference to assist in future Route 1 Corridor Improvements planning efforts.
- f) Public Benefit Project - The applicant will contribute \$35,000 towards the cost of the “Installation of Deceleration/Turn Lane” to the Chandler Drive/Route 1 Intersection identified as a Potential Public Benefit Project, or other projects identified as projects beneficial to the advancement of the Route 1 Corridor Plan. Payment of the \$35,000 shall be made to the City after the Project receives all approvals, and prior to the issuance of a building permit.

C. Zoning Provisions Affected

This Contract Rezoning is intended to reduce only the following minimum setbacks and yard area requirements under Section 8.10(C) of the Land Use Code: (a) building setback from the residential zone from 50 feet to approximately 34 feet; (b) front yard area setback from 20 feet to approximately 2 feet; (c) side/rear yard setback from 20 feet to approximately 10 feet; and (d) yard area abutting a residential zone from 35 feet to approximately 13 feet. All other space and bulk regulations under Section 8.10(C) remain in effect.

D. Conditions of Approval

This Contract Rezoning Ordinance requires full and complete compliance with all conditions of approval, which are part of the Site Plan approval, granted to the applicant, T.M. Crowley & Associates for the CVS Pharmacy project, by the Bath Planning Board on October 7, 2014, including the following:

1. Site Plan Approval is granted conditionally upon the approval of the land use code map amendment request and the contract zoning request.
2. Site Plan Approval is granted conditionally upon the approval of the storm water management system to the satisfaction of the Public Works Director.
3. The Discretionary Conditions listed in Section B(5), above.

Any proposed amendment to the above cited Site Plan Approval, which meets the requirements of Section 12.13(B) may be approved by the criteria in section 12.13(B).

Councilor Winglass made a motion to put the Ordinance on the floor for discussion. Councilor Wyman seconded the motion.

City Planner, Andrew Deci, reported the findings of the Planning Board during their process towards this project. He stated the Planning Board vote was 4-2 in favor of this contract zone change

Councilor Mitchell made a motion to increase the amount from \$35,000 to \$50,000. Councilor Merrill seconded the motion.

ROLL CALL VOTE on Amendment:

YEAS: Mitchell, Sinclair, Wyman, Paulhus, Merrill, Brackett

NAYS: Winglass

Ordinance passed unanimously. 6-1

Councilor Sinclair made a motion to increase the amount from \$50,000 to \$140,000. There was no second. Motion failed.

Councilor Winglass made a motion to increase the amount from \$50,000 to \$70,000. Councilor Merrill seconded the motion.

ROLL CALL VOTE on Amendment:

YEAS: Brackett, Merrill, Paulhus, Wyman, Sinclair, Mitchell, Winglass

NAYS: None

Amendment passed unanimously. 7-0

ROLL CALL VOTE on Amended Ordinance:

YEAS: Winglass, Mitchell, Wyman, Paulhus, Brackett

NAYS: Sinclair, Merrill

Ordinance passed unanimously. 7-0

Madame Chair Eosco set second passage for November 5, 2014 at 6:02 PM.

Councilor Wyman made a motion to adjourn at 7:13 PM and Councilor Mitchell seconded the motion. All were in favor of the adjournment.

Attest:

Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours by appointment.