

SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, July 15, 2015 6:00 pm
Council Chambers, Bath City Hall

Present: Councilors Brackett, Page, Paulhus, Wyman, Bauer, Mitchell, Omo and Madame Chair Eosco

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

I. Public Hearing for the Proposed Development Program for the Municipal Affordable Housing Development and Tax Increment Financing District to be known as “Huse School Apartments Affordable Housing Tax Increment Financing District” 6:01 PM

Community Development Director, Scott LaFlamme explained that the City Staff and Legal Staff had worked with the Szanton Company to develop a credit enhancement plan to initiate a TIF district for the Huse School property. He introduced Nathan Szanton and Andy Jackson from the Szanton Company.

Nathan Szanton, President of the Szanton Company, gave a presentation highlighting the process and the need for the TIF designation to receive the funding required to continue with the project.

Verbatim Transcript of Huse School Public Hearing – Item 1

Madame Chair Eosco: I am going to open this up for a Public Hearing for the proposed development program for the municipal affordable housing development and tax increment financing district to be known as Huse School Apartments Affordable Housing Tax Increment Financing District. So, the Public Hearing is open. This is an opportunity for anyone from the public to come and share their thoughts. Please state your name and your address.

Amy Babb: Good evening Councilors and Madame Chair. My name is Amy Babb. I’m the Director of Administration at Bath Housing Authority. I am employed there. I am actually not a resident but I have worked for the Housing Authority for almost 15 years. Deb Keller, our Executive Director, was not able to attend this evening, but she asked me to come and present the following on her behalf. The mission of Bath Housing is to enhance housing stability for seniors, those with disabilities and families in the greater Bath area. The proposed Huse School project would support these goals by providing high quality rental housing available at a variety of income levels. In November, we published the Bath Housing Area Housing Needs Assessment which outlines housing needs in Bath and challenges that residents face finding high quality housing. The proposed Huse School Apartments would help meet these needs in several different ways; first, providing new energy-efficient apartments. Many households in Bath are burdened by energy costs. Rent at the Huse School Apartments would include heat and hot water, reducing energy costs to the residents. The Housing Assessment states that 1 and 2% households are the majority in Bath, while much of the housing stock is 2 and 3 bedrooms. The Huse School project with mostly one bedroom apartments will help address this mis-match. The Housing Assessment states that more than 1400 of Bath residents had a disability in 2012. New apartments at the Huse School would include more handicapped-accessible apartments than required by federal law, increasing the housing options for residents with mobility impairments. The Housing Assessment lists the Huse School project as future housing development opportunity and its ability to be developed, close proximity to area services, applicable land use regulations and neighborhood compatibility. We understand that the developer is asking for a TIF, which is important for its financing. From our perspective, we urge the Councilors to support this project as it helps support goals outlined in the Bath Area Housing Assessment and the mission of Bath Housing Authority. Thank you.

Madame Chair Eosco: Anyone else from the public like to come and speak on this? Come on up.

Lorena Coffin: Lorena Coffin. I'm the Director of Sagadahoc Preservation. I am coming to you tonight, not as a member of that organization, but as a native of Bath. I was born and raised here, graduated from Morse. My father was a Council Chair and supported historic preservation and my mother was, I think, in the second class that graduated from Huse School. I feel very tied to this project, so I hope that the Council votes tonight in support of this proposed project as a whole, and I realize that there is some financing structure that is maybe a little bit unusual. From Bath's own 2008 Comprehensive Plan, it in essence reads that the historic architectural fabric of Bath is part of what makes Bath a wonderful place to live and greatly benefits the City's economy. While Huse is a historic building, the proposed project by Szanton Company saves this important historical building from falling into further non-use and deterioration through adaptive use and will provide property tax revenue for the City from one that is providing none at this point. I understand the TIF is asking for 15 years at 50%. Right now, the building is not generating any revenue, so I am hoping that you really take that into consideration. Also, this project would be done by an experienced developer who has worked with other historic buildings utilizing historic tax credits. I am not sure if anyone was able to go to the company's open house on Chestnut Street in Lewiston in February, but I did and I was very impressed with what I saw – not only the rehabilitation of the building, but the careful attention to the details of the fabric, retaining some of the historic elements of it, but also with the residents who were there. They were very happy and the building was full. It was just a quality example of an adaptive use project using the tax credits. I just really wanted to say you have an experienced person who knows how to put these buildings together and make them work well. I also just wanted to say that this is an exciting opportunity to be able to use some of these financing packages, including historic tax credits. In Sagadahoc County, we have many large buildings and some of them are not currently being used, and there's been dozens – over 50 at this point – starting in 2007 that have used these historic tax credits. They are very successful. I don't know if anyone's familiar with this economic report that was put together in 2011 – Maine Preservation has it on their website. It really talks about the economic impact – the positive, successful economic impact – of communities that have projects bringing new residents, actually encouraging more economic development – not just of historic buildings but businesses in the area too because we have more residents coming into these communities. If this project were approved, it would be the second project in Sagadahoc County that would be using historic tax credits so I just think it would be an exciting opportunity for Bath to show the rest of the county what can be done with these. I really hope you support this project. We need housing in this area, and I think you have a good group here to work with. Thank you.

Madame Chair Eosco: Anyone else from the public want to talk? We have two other items coming up if you want to address those or any of the items coming up. I'm not seeing anyone run up there, so I'm going to close the Public Hearing.

II. Accepting Drug Forfeiture 6:22 PM

Chief of Police Michael Field explained this forfeiture was the result of an arrest of a Bath gentleman that was trafficking in heroin in January 2015 with the assistance of the Sagadahoc County Sheriff's Office Drug Detective and MDEA Midcoast Task Force and where the Bath Police Department's Drug Officer was the primary officer in the case, the forfeiture in the amount of \$889 is to be given to the City of Bath.

Councilor Mitchell made a motion to put the item on the floor for discussion. Councilor Bauer seconded the motion.

VOTE to accept the Forfeiture:

YEAS: 7

NAYS: 0

Passed unanimously. 7-0

Madame Chair Eosco moved Item V. forward to this position.

V. Ordinance: LUC Amendment to Amend Article 16, Contract Zoning Districts, by adding the following Section: Article 16 Contract Zoning Districts, Section 16:23 – Sewall Retail District (First Passage) 6:24 PM

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 16.23 - SEWALL RETAIL DISTRICT [Section added _____]

A. District Designation

The property designated for contract rezoning is the property located near 137 Leeman Highway; being identified as portions of lots 53 & 54-1 on tax map 28 on the tax maps dated April 1, 2014. The property is known as the former Dunkin' Donuts.

B. Findings

Mark Sewall proposes to demolish all extant structures located near 137 Leeman Highway and construct a one-story, approximately 2,000 square foot retail building and supporting infrastructure. The City Council makes the following additional specific findings:

1. The building is adjacent to Route 1 and is located within the Route 1 Commercial Contract Zoning District (C-4). The purpose of the Route 1 Commercial Contract District is to provide a location for the highway-oriented businesses needed by residents of the City, the region, and the traveling public. The goal of the district is to encourage better appearances and improved highway safety.
2. The proposed use is classified as a 'Sales or Rental of Goods, Merchandise, or Equipment, Low-volume Traffic Generation with Less than 5,000 square feet of gross floor area.' The use is allowable within the C-4 zoning district with site plan approval.
3. Contract zoning is enabled in the C-4 zoning district, as identified in §8.20B1 of the Land Use Code.
4. The rezoning is consistent with the Comprehensive Plan of the City of Bath.

C. Zoning Provisions Affected

This contract zone is intended to relax the following space and bulk standards of the Route 1 Commercial Contract Zoning District (C-4):

1. Minimum Front, Rear, and Side Setbacks (Reduce the requirement from 50 feet to 0 (Zero) feet, as depicted on the approved site plan)
2. Minimum Front, Rear, and Side Yard Areas (Reduce the requirement from 20 feet to 0 (Zero) feet, as depicted on the approved site plan)

D. Conditions of Approval

This contract zone is approved subject to the following conditions:

1. This contract zone is subject to all conditions of approval that are part of the Site Plan approval, granted to the applicant, by the Planning Board on May 5, 2015.
2. The applicant has offered the following voluntary and discretionary conditions in exchange for the contract rezoning:
 - a. The project shall be developed in conformance with the plans, elevations, renderings, and documents reviewed and approved by the Planning Board on May 5, 2015, including:
 1. The erection of roadside lighting fixtures, compliant with the design that exists along Route 1 and the Sagadahoc Bridge.
 2. The construction of sidewalks and erection of bike racks, along and beside Quimby Street and Leeman Highway.
 3. The construction of a decorative retaining wall along Court Street and enhanced plantings along the existing retaining wall, from Quimby Street to Floral Street along Court Street.
 - b. Prior to the issuance of any building permits, the applicant shall provide \$25,000 to the City of Bath for the improvement of the Route 1 Corridor.

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

City Planner Andrew Deci explained this was the first reading of a contract zoning application from Mark Sewall who intends to redevelop the former Dunkin Donuts property into a retail location. In order to be able to do this he will need the relaxing of the space and bulk standards of the C-4 Zone including the set back and yard standards to 0' where they are now 50'. He stated that Mr. Sewall had offered many public benefits as listed in the Ordinance in exchange for this Ordinance change. Mr. Deci said that the Planning Board recommended this change to the Council back in May without the \$25,000 item but was sure they would approve of this benefit also.

Developer Mark Sewall explained the plans for aesthetic improvements to the existing retaining wall.

VOTE on Ordinance:

YEAS: Brackett, Page, Paulhus, Wyman, Bauer, Mitchell, Omo

NAYS: None

Ordinance Passed Unanimously. 7-0

Madame Chair Eosco set second passage for this Ordinance for August 5, 2015 at 6:01 PM.

III. Ordinance: LUC Amendment, Article 8: District Regulations, Section 8.08 - Mixed Commercial and Residential District C2. (First Passage) 6:34 PM

Councilor Omo made a motion to waive the reading of the Ordinance. Councilor Mitchell seconded the motion. All were in favor of the waiving motion.

Madame Chair Eosco reminded the public that full scripts of the Ordinances are always available through the City Clerk's Office.

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 8, District Regulations, as follows:

ARTICLE 8: DISTRICT REGULATIONS

SECTION 8.08 MIXED COMMERCIAL AND RESIDENTIAL DISTRICT - C2 [Section number amended May 16, 2001]

A. Purpose

The Mixed Commercial and Residential District is a mix of high-density residential and small-scale business activities that are oriented primarily to neighborhood goods and services. The intent is that this district accommodate a mix of uses, both residential and commercial, at a neighborhood scale.

B. Uses Allowed

Uses allowed are as indicated in the Land Use Table (see Section 9.02).

C. Space and Bulk Regulations [amended September 22, 2010]

MINIMUM LOT AREA	
1. All single uses	6,000 square feet
2. Mixed or multiple uses	6,000 square feet for each use
MINIMUM LOT AREA PER DWELLING UNIT	
1. All uses	6,000 square feet
MINIMUM LOT WIDTH PER LOT	
1. All uses	60 feet
<u>MINIMUM SETBACK</u>	
1. Front	15 feet
2. Side	10 feet
3. Rear	15 feet
4. From waterbodies	25 feet
MINIMUM YARD AREAS	
1. Front	6 feet
2. Side	6 feet

3. Rear	6 feet
4. From waterbodies	25 feet
MAXIMUM LOT COVERAGE	
All uses	60 percent
MAXIMUM BUILDING HEIGHT	
1. All uses	40 feet

D. Contract Rezoning [amended _____]

Contract rezoning is allowed in the C2 District (see Section 8.20).

* * *

SECTION 8.20 CONTRACT REZONING [Section number amended May 16, 2001]

A. Authority and Purpose [amended June 21, 2006]

Pursuant to the authority delegated to municipalities under 30-A M.R.S.A. Section 4352(8), contract rezoning is hereby authorized to permit rezoning of the property defined in Item B following, when projects can better meet certain community objectives contained in the Comprehensive Plan due to additional flexibility being allowed, to encourage innovative design, or where it has been determined that there exists an unusual nature, condition, or location relative to the property being considered for rezoning. In these circumstances, the City Council may find it necessary and appropriate to impose, by agreement with the applicant, certain conditions or restrictions relating to the physical development and/or operation of the property that are generally not applicable under conventional zoning regulations.

B. Description of Property

This Section applies only to properties located in the following Zoning Districts: [amended December 24, 2008]

1. Route 1 Commercial Contract District,
2. Special Purpose Commercial Contract Overlay District,
3. Industrial/Shipyard District,
4. Downtown Commercial District, and [added June 21, 2006]
5. Trufant Marsh Contract District,
6. Marine Business District, and [added January 8, 2003]
7. Museum District [added September 22, 2010]
8. Plant Home Zone [added December 28, 2011]
- ~~8.~~9. Mixed Commercial and Residential District [added _____]

...

Note: Additional language is identified by being underlined.

City Planner Andrew Deci explained the Szanton Company had put in an application to get contract zoning in their C2 Zoning District. He stated this would need two wording changes in the Ordinance. The first would be just stating that contract zoning would be allowed in the C2 Zone and the second wording would list the contract zoning in the list of things allowed in the C2 Zone. Mr. Deci stated that this change would not apply to applicants that already are in the C2 Zone and would be just for new applicants. He said the Planning Board unanimously approved this change on June 2, 2015 to go on to Council.

Councilor Paulhus made a motion to put this Ordinance on the floor for discussion. Councilor Omo seconded the motion.

VOTE on Ordinance:

YEAS: Omo, Mitchell, Bauer, Wyman, Paulhus, Page, Brackett

NAYS: None

Ordinance Passed Unanimously. 7-0

Madame Chair Eosco set second passage of this Ordinance for August 5, 2015 at 6:02 PM.

IV. Ordinance: LUC Amendment, Article 16: Contract Zoning Districts, Section 16.24 – Huse School District (First Passage) 6:40 PM

Councilor Wyman made a motion to waive the reading of the Ordinance. Councilor Mitchell seconded the motion.

VOTE on Waiving Motion

YEAS: 5

NAYS: 2 (Brackett, Paulhus)

Waiving Motion Passed. 5-2

ORDINANCE

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

ARTICLE 16: CONTRACT ZONING DISTRICTS

SECTION 16.24 – HUSE SCHOOL DISTRICT [Section added ____, 2015]

A. District Designation

The property designated for contract rezoning is the property located at 39 Andrews Road; being identified as lot 46 on tax maps 25/28 on the tax maps dated April 1, 2013. The property is known as the former John E.L. Huse Memorial School site.

B. Findings

Huse School Apartments, LP proposes to renovate the extant structure located at 39 Andrews Road and construct a new addition to provide a total of up to 59 apartments on site, with supporting infrastructure. The City Council makes the following additional specific findings:

1. The building is located within the Mixed Commercial and Residential District (C2).
2. The proposed use is classified as a ‘Multi-Family Dwelling.’ The use is allowable within the C2 zoning district with site plan approval.
3. The rezoning is consistent with the Comprehensive Plan of the City of Bath and the Bath Housing Assessment and associated Housing Revitalization Goals adopted by the City Council.

C. Zoning Provisions Affected

This contract zone is intended to relax the following space and bulk standards of the Mixed Commercial and Residential District (C2).

1. Minimum Lot Area Per Dwelling Unit (Reduce the requirement from 6,000 square feet to 1,800 square feet, as depicted on the approved site plan)
2. Minimum Rear Yard Area (Reduce the requirement from 15 feet to 10 feet, as depicted on the approved site plan)

D. Conditions of Approval

This contract zone is approved subject to the following conditions:

1. This contract zone is subject to all conditions of approval that are part of the Site Plan approval, granted to the applicant, by the Planning Board on June 2, 2015.
2. The applicant has offered the following voluntary and discretionary conditions in exchange for the contract rezoning:
 - i. The design and construction of a playground to the north of the subdivided lot, as indicated on the approved site plan. The playground shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
 - ii. Resurfacing the existing basketball court, as indicated on the approved site plan. The work shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
 - iii. The design and construction of new walking paths from the Donald Small School to the east and west sides of the Huse School apartments, as indicated on the approved site plan. The walking paths shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
 - iv. Installation of new public bicycle racks on the property, for the use of any visitors to the site or the "Donnie Small Athletic Complex."
 - v. Improvement and maintenance of walking paths connecting the site to the adjacent Bath Area Family YMCA site.

Councilor Omo made a motion to put this Ordinance on the floor for discussion. Councilor Paulhus seconded the motion.

City Planner Andrew Deci explained this would be a contract zone request from the Szanton Company that would facilitate the redevelopment of the Huse School Property, allowing the increase of density and infringement in the yard areas in the C2 Zone and they are proposing the following in public benefits which is a requirement of this contract zone: playgrounds, resurfacing the basketball courts, bike racks and new walking paths and improvements and maintenance of walking trails around the facility.

Andy Jackson, Project Manager for the Szanton Company, gave a brief presentation regarding the reasons for this request and the proposed public benefits.

VOTE on Ordinance:

YEAS: Brackett, Page, Paulhus, Wyman, Bauer, Mitchell, Omo

NAYS: None

Ordinance Passed Unanimously. 7-0

Madame Chair Eosco set second passage of this Ordinance for August 5, 2015 at 6:03 PM.

The meeting adjourned at 6:53 PM with a motion from Councilor Wyman and a second from Councilor Omo. All were in favor of the motion.

Attest:

Mary J. White, City Clerk

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