

## **ARTICLE 16: CONTRACT ZONING DISTRICTS**

### **SECTION 16.01 CAHILL TIRE DISTRICT**

#### **A. District Designation**

The property designated for contract zoning amendment consists of the Charles H. Cahill, Jr. property located on Witch Spring Road, being identified as Lot 64, on City of Bath Tax Map 31 (also designated as Lot 55, on Tax Map 27 under the previous set of Maps in affect through 1994).

#### **B. Findings**

The City Council finds that the unusual configuration of this property together with the combination of steep slopes and its proximity to the right-of-way in connection with the location of its gas pumps, justifies the relaxation of the front yard setback requirement in order to permit construction of a canopy over existing fuel pumps. The owner has made other significant improvements on the property and the canopy, which would otherwise violate setback requirements, represents a significant betterment project.

#### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the setback requirements pursuant to Section 8.09(D)(4) which requires a front setback in the C IV Highway Commercial District of 50 feet.

#### **D. Conditions of Approval**

1. Shrubs and tree plantings on the property's west border, the number and type dependent on the advice of a professional consultant and, if desired, the Forestry Committee;
2. That the graded portion will be seeded and stabilized;
3. That a minimum of 20 feet will be maintained for site distance at the entrance and exits and that no plantings be placed within any of the property owned by DOT;
4. Maintain identification of the work/service areas adjacent to the pumps; and
5. The lighting plan, including foot-candle spread to the property lines shall remain consistent with the design criteria.

## **SECTION 16.02 CUMBERLAND FARMS DISTRICT**

### **A. District Designation**

The property designated for contract zoning amendment consists of the Cumberland Farms property located on Leeman Highway, being identified as Lot 12, on City of Bath Tax Map 28 (also designated as Lot 207, on Tax Map 30 under the previous set of Maps in affect through 1994).

### **B. Findings**

The City Council finds the following: (1) that the property has an unusual configuration; (2) that the design of the building is consistent with existing structures around it; (3) that the project is consistent with the Comprehensive Plan and other Code issues; (4) that the screening and viewshed areas reach out 500 feet around the site; (5) that action to landscape the south and eastern borders will provide protection and transition that does not now exist; (6) that present refrigeration equipment will be moved inside; (7) that all exterior storage will now be screened; and (8) that investigation into extending the northwestern berm will, if possible, result in improved traffic safety. For all of these reasons Council feels justified in relaxing the setback requirements on the east, south and north of the property, in order to permit construction of a canopy and building expansion. The owner has made other significant improvements on the property and the canopy and building expansion, which would otherwise violate setback requirements, together with the proposed screening program, represent a significant betterment project.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the setback requirements pursuant to Section 8.09(D)(4) which requires setbacks in the C IV Highway Commercial District of 50 feet for front setbacks and 25 feet for side and rear setbacks.

### **D. Conditions of Approval**

1. That arborvitae be the chosen evergreen plant to be planted as the border screen for the property, at the specification described in the plan;
2. That because the rear fill lines partially cover an existing sewer line easement, Cumberland Farms, as part of this approval, agrees to allow the City access to the lines for maintenance and repair of the lines and to hold harmless the City should it need to go in and access those lines for repair; and
3. That the City Planner is directed to investigate the possible extension of the berm at the northwest corner of up to 15 feet to control traffic flow at the corner, subject to tanker supply trucks being able to maneuver through that section, and to implement the berm extension if supply truck traffic can be accommodated.

## **SECTION 16.03 GLOBAL FILLING STATION DISTRICT**

### **A. District Designation**

The property designated for contract zoning amendment consists of the Global Filling Station lot located on the South side of Leeman Highway, being identified as Lot 48, on City of Bath Tax Map 28.

### **B. Findings**

The City Council finds the following: (1) the property is of limited size and is abutted by Quimby Street to the East of the Property; (2) the design of the building and new canopy is consistent with the existing structures in the area; (3) the project is consistent with the Comprehensive Plan and other Code issues; (4) abutters to the South are well screened; the abutter to the West, Bodwell Motors, has indicated no objection to the reduced setbacks contemplated; (5) the purpose of the canopy is to cover an existing pump island, making a safer and more attractive location; and (6) the Police Department, Fire Department and Public Works Department have indicated their appropriate approvals of the project. For all of these reasons Council feels justified in relaxing the setback requirements on the rear and side of the property to permit erection of a 24 foot by 24 foot canopy over the existing gas pump island. The canopy, which would otherwise violate setbacks requirements, for the reasons noted, represents a significant betterment of the property.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the setback requirements pursuant to Section 8.09(D)(4) which requires setbacks in the C IV Highway Commercial District of 50 feet for front setbacks and 25 feet for side and rear setbacks.

### **D. Conditions of Approval**

None applied.

## **SECTION 16.04 CAHILL TIRE DISTRICT – II**

### **A. District Designation**

The property designated for contract zoning amendment consists of the Charles H. Cahill, Jr. property located on Witch Spring Road, being identified as Lot 64, on City of Bath Tax Map 31 (also designated as Lot 55, on Tax Map 27 under the previous set of Maps in affect through 1994).

### **B. Findings**

The project is consistent with the conditions of Section 8.18 of the Land Use Code. The existing structure, formerly a restaurant, is in a dilapidated condition. The project will result in facade improvement along the Route 1 corridor. The proposed use of the structure is a permitted use in the zone and is consistent with the Comprehensive Plan. The building replacement is consistent with and in addition to significant improvements made on the property by the owner. The replacement will result in a structure 4 feet wider than the original structure but away from the setback violation. The replacement, however, will cause the structure to continue to exist that is in violation of the front and side setbacks.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the front and side setback requirements pursuant to Section 8.09(D)(4) which requires a front setback of 50 feet and a side setback of 25 feet, as well as side yard requirements of 15 feet, in the C IV Highway Commercial District.

### **D. Conditions of Approval**

1. That there will be no new curb cut for the property.

## **SECTION 16.05 M. W. SEWALL CO. DISTRICT**

### **A. District Designation**

The property designated for contract zoning amendment consists of the M. W. Sewall Co. property located at 135-141 Leeman Highway, being identified as Lots 53 and 54 on City of Bath Tax Map 28.

### **B. Findings**

The proposal is to remove the existing car wash and lube buildings, to construct a new car wash and lube building on the westerly end of the site. The property is in a Highway Commercial - C IV District where the types of commercial uses proposed in this project are permitted. The City Council makes the following additional specific findings:

1. The property is of limited size, is unusual in shape in being long and narrow, and is abutted on all four sides by traveled ways.
2. The design of the replacement structures and improvements to the existing structures are consistent with structures generally in the area.
3. The project is consistent with the City's Comprehensive Plan and in compliance with other Code issues. Specifically, the approval criteria under Section 12.10 of the Code have been met and site plan approval has been issued by the Planning Board. [amended May 16, 2001]
4. Existing structures on the property violate setback and lot coverage requirements of the Code for the Highway Commercial - C IV Zone.
5. The project represents a benefit to the City of Bath by reducing the number of curb cuts onto U.S. Route #1 southbound, providing for additional landscape in the area to the extent that it is possible to do so, and represents in general an upgrade of the area in terms of improved visual appearance and enhanced safety with regard to easier traffic flow.
6. The Police, Fire and Public Works Departments have indicated approval of the project.

For all these reasons, the City Council feels justified in relaxing the setback requirements with respect to proposed new structures on the property, lot coverage requirements, and parking space requirements for retail facilities.

### **C. Zoning Provisions Affected.**

This contract zoning amendment is intended to relax the setbacks requirements pursuant to Section 8.09(D)(4) which requires setbacks in the C IV Highway Commercial District of 50 feet for front setbacks and 25 feet for side and rear setbacks, and the yard requirements pursuant to Section 8.09(D)(S) which requires front yards of 20 feet and side and rear yards of 15 feet. Additionally, it is intended to relax the requirements of Section 8.09(D)(7) which limits maximum lot coverage to 25% of the total lot area, and the requirements of Section 8.09(D)(8) which limits the maximum floor area ratio to .5. This amendment is further intended to relax the requirements of Section 12.08(F)(3) requiring a parking space for every 250 square feet of gross floor area.

#### **D. Conditions of Approval.**

This contract zone is approved subject to the following specific conditions:

1. Directional arrows shall be painted and maintained on the pavement, which directs traffic to Court Street upon exiting the car wash area.
2. Stop signs shall be installed and maintained on exits from the property to Court Street and Leeman Highway.
3. The applicant is required to return to the Planning Board within eight (8) months of the date of issuance of the site plan approval for the purpose of discussing future plans for the site. If the applicant has no plans to erect additional buildings on site, then the area where the existing building is to be demolished shall be reclaimed and greened over.
4. The car pit operation will comply with all applicable fire regulations and requirements of the Bath Fire Department.
5. The owner shall be responsible for off-site removal of snow within a reasonable amount of time after any snow event, from the Court Street loading zone area.
6. All wall-mounted lights shall have cutoffs to prevent glare extending beyond the property lines.
7. The water reuse system shall have the specific written approval of the Bath Wastewater Treatment Plant Superintendent.
8. The convenience store drive through shall be subject to subsequent approval of the Planning Board. No approval of this facility is implied or granted herein.

**SECTION 16.06 FORMER BATH HOSPITAL AND 2 DAVENPORT CIRCLE** [Section amended February 6, 2002, & September 4, 2002]

**A. District Designation**

The properties designated for contract rezoning amendment are the properties located at 1356 Washington Street and the accessory parking lot located on Park Street; being identified as lots 96-00, 96-3, and 96-4 on tax map 14; and lots 93, 112, and 113 on tax map 20; tax maps dated April 1, 2001. These properties are known as the former Bath Hospital and the hospital parking lot. And the property located at 2 Davenport Circle; being identified as lots 96-1 and 96-2 on tax map 14; tax maps dated April 1, 2001.

**B. Findings**

1. The former Bath Hospital and parking lot are in the Special Purpose Commercial Contract Overlay District. The City Council makes the following additional specific findings:
  - a. The building was built as a hospital.
  - b. Midcoast Health Services no longer operates a hospital at this location.
  - c. The City Council desires to convert some or all of the building into a post-secondary education facility and to continue the existing lease to the Midcoast Medical Group.
  - d. Such office and educational uses would be appropriate in the building and would be compatible with the neighborhood.
  - e. Use of the parking lot on Park Street as an accessory use to the uses in the former hospital building would be appropriate.
  - f. All of the C1 uses allowed by the Special Commercial Contract Overlay District, however, would not be appropriate and compatible in the building or in the neighborhood.
  - g. The incidental use of accessory uses such as the school cafeteria, coffee shop, or bookstore by non-students is accessory to the educational use.
  - h. The City, as owner of the property, has voluntarily offered to limit the number and type of permitted uses of the property as allowed by Land Use Code Section 8.20, D, 2, a, and has voluntarily offered to have any changes of use in the building and on the lots, which would require Site Plan Approval, be subject to Site Plan Approval from the Planning Board.
  - i. Signs needed to identify the former hospital as a post secondary school exceed the number and area that is allowed in the underlying R2 zone.
  - j. The City is proposing to make façade improvements at what had been the back door of the hospital, creating an inviting front entrance to the school.
  - k. The City is proposing to add landscaping at the new front entrance to soften the view of the building from neighboring residential properties.
  - l. The City is proposing to make street safety improvements by eliminating the unsafe intersection of Winship and Park streets and dead-ending Winship Street.

- 2 The building at 2 Davenport Circle is in the Special Purpose Commercial Contract Overlay District. The present use of the building is medical office, which the Zoning Board of Appeals has determined is allowed as an accessory use to the Mid Coast Hospital. The City Council makes the following additional specific findings:
  - a. The building was built as a medical office building associated with the Mid Coast Hospital.
  - b. Medical office use would not be allowed if not accessory to the hospital.
  - c. The building was specifically constructed for offices and has only limited utility for uses found in the R2 Zone.
  - d. General office uses would be appropriate in the building and would be as compatible with the surrounding neighborhood as the medical office use. However, not all of the C1 uses, which would generally be allowed in the Special Purpose Commercial Overlay District, would be appropriate.
  - e. The owner of the property has voluntarily offered to limit the number and type of authorized uses of the property as allowed in Land Use Code Article 8, Section 8.20, D, 2, a.

### **C. Zoning Provisions Affected**

This contract zoning amendment is intended to limit the number and type of authorized uses of the properties as would otherwise be permitted under C1 designation under a Special Purpose Commercial Contract Overlay District, but which would be inappropriate on these sites given the residential character of the neighborhood in which they are located. And, to require that any change of use of the former Bath Hospital building or lots be subject to Site Plan Approval from the Planning Board.

### **D. Conditions of Approval**

This contract zone is approved subject to the following conditions: [amended November 28, 2012]

1. The only uses allowed are the uses presently allowed by the Land Use Code in the underlying district, plus the following C1 use categories:
  - a. 3.1.1 – Office, clerical, research, or service operations designed to attract and serve numerous clients on the premises.
  - b. 3.1.2 – Office, clerical, research, or service operations designed to attract little or no client traffic.
  - c. 6.1.1 – Public or private elementary or secondary schools.
  - d. 6.1.2 – Public or private post-secondary schools.
  - e. 6.1.3 – Special-purpose schools.
  - f. 6.3 – Libraries and museums.
  - g. 13.3 – Shared parking
2. Any change of use in the former Bath Hospital building or on the former Bath Hospital lots, which would require Site Plan Approval, be subject to Site Plan



Approval from the Planning Board in accordance with Land Use Code Article 12.

The number and area of signs allowed on the lots identified as Tax Map 14 Lots 96-00, 96-3, and 96-4 is that which is allowed in the C1 Zone.

**SECTION 16.07 BATH SHOPPING CENTER** [Section added February 7, 2001, and amended June 20, 2001]

**A. District Designation**

The property designated for this contract zoning amendment is the property located at 1 Chandler Drive being identified as lots 51 and 52 on City of Bath Tax Map 28, dated April 1, 2000.

**B. Findings**

The City Council finds that: (1) the project consists of renovating and expanding the existing Shaw's portion of the Bath Shopping Center, and the construction of a 3,250 square foot bank building and a 10,200 square foot retail building; (2) the project is consistent with the mandatory conditions set forth in Land Use Code Section 18.19 paragraph D, 1; (3) the applicant is proposing to make improvements to both Chandler Drive and Congress Avenue so that the project will not result in unreasonable traffic congestion; (4) the facades of the expanded Shaw's building, the bank building and the retail building are proposed to be red brick with white and/or tan clapboards and these improvements are compatible with the neighborhood; (5) the project will have appropriate screening and landscaping in addition to that normally required by Article 10; (6) the applicant will install decorative street lighting, like that on the Sagadahoc Bridge, along Chandler Drive; (7) the applicant will to construct a sidewalk on the north side of Chandler Drive.; and (8) the applicant will construct landscaped islands at the ends of all of the rows of parking, including those associated with that portion of the shopping center not being renovated.

**C. Zoning Provisions Affected**

This contract zoning amendment is intended to relax the setback requirement pursuant to Section 8.09 that requires a setback in the C4-Route 1 Commercial Contract District of 50 feet from a lot line abutting a residential zone, to the extent allowed in accordance with the setbacks as approved in the Site Plan Approval granted to Eastern Development, LLC by the Bath Planning Board on January 2, 2001, and as amended June 5, 2001.

**D. Conditions of Approval**

The approval is subject to all conditions of approval which are part of the Site Plan Approval, granted to Eastern Development, LLC, by the Planning Board on January 2, 2001, and as amended June 5, 2001.

## **SECTION 16.08 - Plant Memorial Home** [Section added June 19, 2002]

### **A. District Designation**

The property designated for contract rezoning amendment are the properties located at 1 Washington Street; being identified as a portion of lot 21 on tax map 43; tax maps dated April 1, 2001. The property is known as the Plant Home.

### **B. Findings**

1. The Plant Memorial Home is located in the Special Purpose Commercial Contract Overlay District. The City Council makes the following additional specific findings:
  - a. The building was built as a home for the elderly in 1917.
  - b. The building is in a residential neighborhood and in an R6 zoning district.
  - c. The present use is classified as a Residential Care Facility.
  - d. The owners propose to expand the facility and convert it to a Congregate Care Facility.
  - e. Expanding the building, provided the expansion meets the Site Plan Approval criteria in Section 12.09 and certain additional design standards, would not be a detriment to the neighborhood.
  - f. Such Residential Care Facility and Congregate Care Facility uses would be appropriate in the building and would be compatible with the neighborhood.
  - g. Use of the parking lot that is accessory to the Plant Home could be appropriately shared with the residential uses at the adjacent garden apartments.
  - h. All of the C1 uses allowed by the Special Commercial Contract Overlay District, however, would not be appropriate and compatible in the building or in the neighborhood.
  - i. The incidental use of any Plant Home meeting facility by non-Plant Home residents is not a separate, principal use.
  - j. The owner of the Plant Home has voluntarily offered to limit the number and type of permitted uses of the property as allowed by Land Use Code Section 8.20, D, 2, a; has voluntarily offered to have any changes of use in the building be subject to Site Plan Approval from the Planning Board; and has voluntarily offered to have the construction of any new buildings or the additions to buildings subject to certain design standards.

### **C. Zoning Provisions Affected**

This contract zoning amendment is intended to limit the number and type of authorized uses of the property as would otherwise be permitted under C1 designation under a Special Purpose Commercial Contract Overlay District, but which would be inappropriate on this site given the residential character of the neighborhood in which the building is located. And, to require that any change of use of the building be subject to Site Plan Approval from the Planning Board and to require that the construction of any new buildings or the additions to buildings be subject to certain design standards.

### **D. Conditions of Approval**

This contract zone is approved subject to the following conditions:

1. The only uses allowed are the uses presently allowed by the Land Use Code in the underlying district, plus the following C1 use categories:
  - a. Use 9.2 -- Nursing home, child-care facility, or residential care facility.
  - b. Use 9.3 -- Congregate-care facility.
  - c. Use 13.3 -- Shared parking
  - d. Use 7.3 -- Community activity center
2. Any change of use, which would require Site Plan Approval, is subject to Site Plan Approval from the Planning Board in accordance with Land Use Code Article 12.
3. The construction of any new buildings and the additions to buildings require Site Plan Approval from the Planning Board and must meet the following additional approval criteria:

The construction of any building or the addition to any building must be generally of such design, form, proportion, mass, configuration, building material, texture, color, and location on the lot so as to be compatible other buildings and with streets and open spaces to which it is visually related.

## **SECTION 16.09 - Maine Maritime Museum Contract Zone** [Section added February 19, 2003]

### **A. District Designation**

The property designated for this contract zoning amendment is the property located at 243 Washington Street being identified as lots 8, 9, 10, 11, 16, and 17 on City of Bath tax map 38, dated April 1, 2002.

### **B. Findings**

The City Council finds that: (1) the project consists of construction of a full-scale representation of the *Wyoming*, the 6-masted schooner originally constructed by the Percy and Small Shipyard on this site; (2) the project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20, paragraph D, 1; (3) the applicant is proposing to make circulation and aesthetic improvements to the area between the so-called Donnell House and the Mill-Joiner Shop on the museum campus. The improvements will consist of reducing the existing parking area from 10 spaces to 4 spaces, the access drive will be relocated, and there will be more green space along Washington Street. These improvements will reduce the potential for traffic conflicts. Also, the existing stockade fence and wooden gate will be replaced with a wooden picket fence that will be more transparent, thus allowing views by the public of the *Wyoming* sculpture and the museum grounds without entering the property. And, an interpretive sign will be installed on the outside of the fence describing the shipyard, the *Wyoming* sculpture, and other information of interest to the public.

### **C. Zoning Provisions Affected**

This contract zoning amendment is intended to relax the front Yard Area requirement pursuant to Section 8.11 -- C5-Marine Business District -- that requires a 20-foot Yard Area setback from a property line abutting a residential zone, to the extent that the jib-boom of the *Wyoming* replica may be located as shown on the site plan approved by the Bath Planning Board on February 4, 2003.

### **D. Conditions of Approval**

The approval is subject to all conditions of approval that are part of the Site Plan Approval, granted to the Maine Maritime Museum, by the Planning Board on February 4, 2003. These conditions are:

1. That the Planning Office receive notification of satisfactory approval from the Maine Historic Preservation Commission relative to Land Use Code Section 10.28.
2. That the Planning Office receive a letter indicating satisfactory approval of the project from the Maine Department of Environmental Protection.

3. That the Planning Office receive a letter from the Federal Aviation Administration that aircraft warning lights are not required on the masts.
4. That the applicant submit, for the Planning Director's review and approval, an amended landscaping plan for the parking lot at the bow of the *Wyoming* sculpture.
5. That this parking lot be graded to prevent erosion and that reclaimed asphalt be used as a surface material.
6. That the additional erosion control measures outlined in the memorandum to Jim Upham from Patrick Carroll, dated January 31, 2003, be incorporated as part of the plan, and
7. That a photometrics plan be presented to the Planning Office that indicates that the lighting for the masts will have a light level at the property lines no greater than .2 footcandles.

**SECTION 16.10 C.N. BROWN – ROUTE 1 – CONTRACT ZONE** [Section added February 4, 2004]

**A. District Designation**

The property designated for this contract zoning amendment is the property located at 150 Leeman Highway (Route 1) being identified as Lots 48 and 49 on City of Bath Tax Map 28, dated April 1, 2003.

**B. Findings**

The City Council finds that: (1) the project consists of demolishing the existing building on lot 49 and removing the fuel pumps and tanks on lot 48, constructing a 5,000 square foot building for restaurant and/or retail use(s), a detached 4,050 square foot canopy with 6 fuel pump islands and 12 fueling stations, and a 1,000 square foot car wash; (2) the project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1; (3) the applicant is proposing to reduce the number of curb cuts onto Leeman Highway (Route 1) and Western Avenue so that the project will result in improved traffic safety; (4) the facades of the buildings proposed to be compatible with the neighborhood and will help to create an improved Gateway image for Bath; (5) the project will have appropriate screening and landscaping in addition to that normally required by Article 10; (6) the applicant will install decorative lighting, like that on the Sagadahoc Bridge, at the Leeman Highway edge of the site; and (7) the applicant will construct a sidewalk and grassed esplanade with street trees along a portion of Western Avenue.

**C. Zoning Provisions Affected**

This contract zoning amendment is intended to change the Setback and Yard Area requirements pursuant to Section 8.10 to the Setbacks and Yard Areas as approved in the Site Plan Approval granted to C. N. Brown, Company, by the Bath Planning Board on December 16, 2003.

**D. Conditions of Approval**

The approval is subject to all conditions of approval, which are part of the Site Plan Approval, granted to C. N. Brown, Company, by the Planning Board on December 16, 2003.

**SECTION 16.11 – TEXAS STEAMSHIP CONTRACT ZONE** [section added September 1, 2004]

**A. District Designation**

The property designated for this contract zoning amendment is the property located on Bowery and Front Streets being identified as Lot 227 on City of Bath Tax Map 21, dated April 1, 2004.

**B. Findings**

The City Council finds that: (1) The project consists of 12 dwelling units in a total of 5 residential buildings plus other accessory buildings and structures, an access drive, and parking for the residents. (2) The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D, 1. (3) The applicant is proposing to make design and safety improvements to the site and off-site that are not normally required by the Bath Land Use Code. These include: installation of curbing and a pedestrian walkway along that portion of the western property line along Front Street; construction of stormwater drainage improvements on portions of Bowery and Front Streets; and landscaping and hillside slope maintenance around the sides and back of the sewage pumping station on Front Street.

**C. Zoning Provisions Affected**

This contract zoning amendment is intended to change the Setback, Yard Area, and Building Height requirements pursuant to Section 8.11 to the Setbacks, Yard Areas, and Building Height as approved in the Site Plan Approval granted to SSC Ventures, Inc., by the Bath Planning Board on August 3, 2004.

**D. Conditions of Approval**

The approval is subject to all conditions of approval, which are part of the Site Plan Approval, granted to SSC Ventures, Inc., by the Planning Board on August 3, 2004.



**SECTION 16.12 – 99 COMMERCIAL STREET CONTRACT ZONE** [zone approved by City Council on May 24, 2006, then by referendum on November 7, 2006]

**A. District Designation**

The property designated for this Contract Rezoning is the property located on Commercial Street being identified as Lot 272 on City of Bath Tax Map 26, dated April 1, 2005.

**B. Findings**

The property is located in the Downtown Commercial (C1) and within the Historic Overlay districts. The City Council makes the following additional specific findings:

- The building, presently known as the BathPort, was initially constructed in 1973 for the purpose of mixed use consisting of commercial and residential uses.
- The applicant proposes to demolish the existing structure and replace it with a new structure.
- Without the creation of a contract zone, the maximum height allowed in this portion of the C1 Zone is 35 feet under the provisions of Section 8.07(C) of the Land Use Code.
- Contract Rezoning is allowed on this parcel because it is allowed in the Historic Overlay District under the provisions of Section 8.12(I) of the Land Use Code.
- The developer has offered the following voluntary conditions in exchange for the Contract Rezoning. For the Contract Rezoning the developer will:
  - Pay for the construction of a five-foot wide brick sidewalk, with granite curbing and fourteen downtown-style streetlights (including conduits and wiring) along Commercial Street from the north end of the Bathport lot to the south end of the waterfront park. (These must be to City specifications.)
  - Provide eight street trees with tree grates, as approved by the City Arborist, along Commercial Street in front of the New Bathport building.
  - Provide a public space in the lobby of the New Bathport building. The written agreement of this requirement must be acceptable to the City Solicitor as to its enforceability, and the agreement must be approved by the Planning Board. This condition must be included in the condominium declarations.
  - Pay for the removal of six utility poles from Commercial Street, the burying of the electrical and telecom wires from the north end of Bath Port lot to the south end of the water front park, and the replacement service feeds to affected buildings. Poles to be removed are numbers 5, 6, 7, 8, 9, and 10.
  - Grant an easement to the City for public use of an eight-foot wide pathway along the river (form and sufficiency of the easement must be approved by the City Solicitor), and pay for construction of the pathway. The pathway must include

pavers and 6 park-style lights (including bases, conduits, and wiring) approved by the Planning Board.

- Pay for the relocating and/or remodeling of the existing Waterfront Park restroom building (as approved by the City Council) with a budget not to exceed \$20,000.

### **C. Zoning Provisions Affected**

This Contract Rezoning is intended to only modify the maximum height allowed on this parcel, under Section 8.07(C) of the Land Use Code, by allowing the construction of the building to a height of 60 feet 9 inches with no more than a 4-foot parapet. The building that is allowed is depicted on the Site Plan approved by the Bath Planning Board on April 18, 2006.

### **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, Historic District, and Subdivision approvals, granted to New BathPort, LLC., by the Bath Planning Board on April 18, 2006, and with the voluntary conditions listed in Section B(5) above.

**SECTION 16.13 – 1065 WASHINGTON STREET CONTRACT ZONE** [Section added April 5, 2006]

**A. District Designation**

The property designated for this contract zoning amendment is Lot 197 on City of Bath Tax Map 21, dated April 1, 2005.

**B. Findings**

The property is located in the High Density Residential (R1) District and the Historic Overlay District. The City Council makes the following additional specific findings:

- Contract Rezoning is allowed in the Historic Overlay District.
- The single-family home on the property is less than 10 feet from the north property line. Ten feet is the required Setback in the R1 Zone.
- The applicant desires to make certain improvements and expansions to the exiting home consisting of a second story addition closer than 10 feet from the side property line but within the existing building footprint.
- The project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1.
- The applicant is proposing to make certain aesthetic improvements to the home, which are not normally required of the Land Use Code, but which are consistent with the purposes of the Historic Overlay District, including the following:

Removal of existing aluminum storm windows.

Removal of all vinyl siding.

Repair/replacement of clapboard siding.

Repair of railings at main entry to meet code and be as architecturally correct as possible.

Complete reconstruction of driveway.

**C. Zoning Provisions Affected**

This contract rezoning is intended to allow the modifications to the building as approved by the Planning Board on February 7, 2006, which will increase the volume area of the building, which encroaches into the existing setback area along the northerly line of the property.

**D. Conditions of Approval**

The approval is subject to all conditions of approval, which are part of the Historic District Approval, granted to Albert & Deborah Branca, by the Planning Board on February 7, 2006.

## **SECTION 16.14 – SOUTH PO2 CONTRACT ZONE** [Section added October 18, 2006]

### **A. District Designation**

The property designated for this Contract Rezoning is a portion of the property located on Washington Street being identified as a portion of Lot 142 on City of Bath Tax Map 27, dated April 1, 2005.

### **B. Findings**

The property is located in the Industrial/Shipyard District (I). The City Council makes the following additional specific findings:

- The building, presently known as the Pre-outfit 2 (PO 2) Building was constructed in 1986, underwent a major upgrade in 2004 and is used for industrial purposes.
- The applicant proposes to demolish the two southern bays of the existing building and replacing them with two wider, deeper, and higher bays.
- Without the creation of a contract zone, the maximum height allowed in the Industrial District is 75 feet under the provisions of Section 8.14(C) of the Land Use Code.
- Contract Rezoning is allowed on this parcel per Section 8.14(D) of the Land Use Code.
- The applicant has offered the following voluntary, Discretionary Conditions in exchange for the Contract Rezoning. For the Contract Rezoning the applicant will:
  - Make sidewalk improvements along the east side of Washington Street along the BIW Aluminum Shop.
  - Make enhancements on the east side of Washington Street adjacent to BIW's West Gate.
  - Make certain streetscape improvements, similar to those discussed in the Bath Southend Urban Design Plan, to the east side of Washington Street adjacent to the BIW assembly building.
  - Create a planting area at the corner of Spring and Washington streets.
  - Make pedestrian-safety and streetscape improvements to the east side of Washington Street south of BIW's South Gate.
  - Donate \$25,000 to support the public improvements scheduled for the South End Waterfront Park.
  - Make certain noise reductions to existing and proposed exhaust fans on the PO 2 building to reduce the noise levels below the level required by the Bath Land Use Code.

### **C. Zoning Provisions Affected**

This Contract Rezoning is intended to only modify the maximum height allowed, under Section 8.07(C) of the Land Use Code, by allowing the construction of the building, 106 feet in height, depicted on the Site Plan approved by the Bath Planning Board on September 19, 2006.

### **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 Bath Iron Works, by the Bath Planning Board on September 19, 2006, and with the Discretionary Conditions listed in Section B (5), above.

**SECTION 16.15 – 832 WASHINGTON STREET CONTRACT ZONE** [Section added September 26, 2007]

**A. District Designation**

The property designated for this contract zone is at 832 Washington Street, also designated as Lot 163 on City of Bath Tax Map 27, dated April 1, 2006.

**B. Findings**

The property is located in the Mixed Use Light Commercial (C2) District and the Historic Overlay District. The City Council makes the following additional specific findings:

- Contract Rezoning is allowed in the Historic Overlay District.
- The office building on the property is less than 10 feet from the north property line. The setback in the C2 zone is 10 feet with a Planning Board approved Setback Reduction Plan and 40 feet without one.
- The applicant desires to make certain improvements and expansions to the existing building consisting of removing an existing portion of the structure and exterior entrance down to the foundation and replacing it with an enclosed, two-story addition closer than 10 feet from the side property line but within the existing building footprint.
- The project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1.
- The applicant is proposing to make certain landscaping improvements to the property, which are not normally required of the Land Use Code, but which are consistent with the purposes of the Historic Overlay District.

**C. Zoning Provisions Affected**

This contract rezoning is intended to allow the modifications to the building as approved by the Planning Board on July 24, 2007, which will increase the volume area of the building, which encroaches into the existing setback area along the northerly line of the property.

**D. Conditions of Approval**

The approval is subject to all conditions of approval, which are part of the Historic District Approval, granted to AA Associates, LLC, by the Planning Board on July 24, 2007, including that the shrubs must be planted and maintained according to the shrubbery plan presented to the Planning Board on July 24, 2007, that the garden under the sign will be 6 feet by 3 feet, that the annuals must be planed by May 20<sup>th</sup> each year, and that the shrubbery plan must be approved by the City Arborist.

## **SECTION 16.16 – 11 ELSINORE AVENUE CONTRACT ZONE** [Section added July 9, 2008]

### **A. District Designation**

The property designated for this Contract Rezoning is the property located at 11 Elsinore Avenue being identified as Lot 32 on City of Bath Tax Map 28, dated April 1, 2007.

### **B. Findings**

The property is located in the Route 1 Commercial Contract (C4) District. The City Council makes the following additional specific findings:

- The project consists of the construction of an addition to the existing home at 11 Elsinore Avenue, changing the use of the property from residential to office use, moving the access drive approximately 50 feet to the south, constructing a parking lot, and making other site improvements.
- Without the creation of a contract zone, the Minimum Front Setback is 50 feet, the Minimum Front Yard Area is 20 feet, and the Minimum Side Yard Area is 20 feet.
- Contract Rezoning is allowed on this parcel per Section 8.10 (D) of the Land Use Code.
- The applicant has offered the following voluntary, Discretionary Conditions in exchange for the Contract Rezoning. For the Contract Rezoning the applicant will:
  - Enhance the landscaping along Route 1,
  - Relocate the access drive further away from Route 1,
  - Improve the Route 1 gateway appearance, and
  - Construct a building addition designed to balance the commercial use of the site with the adjacent residential and commercial neighborhoods.

### **C. Zoning Provisions Affected**

This Contract Rezoning is intended to only modify the minimum Setbacks and Yard Areas required under Section 8.10 (C) of the Land Use Code, by allowing the construction of the building addition and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on May 20, 2008.

### **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 Glen and Simone Flaming, by the Bath Planning Board on May 20, 2008, and with the Discretionary Conditions listed in Section B (4), above.

**SECTION 16.17 - 619 HIGH STREET CONTRACT ZONE** [Section added March 11, 2009]

**A. District Designation**

The property designated for contract rezoning amendment is the property located at 619 High Street; being identified as lots 118 and 118-1 on tax map 32; tax maps dated April 1, 2008. The property is known as the Captain Merritt House.

**B. Findings**

1. This lot is located in the Special Purpose Commercial Contract Overlay District. The City Council makes the following additional specific findings:
  - a. The building was built as a home for the elderly in 1917.
  - b. The building is in a neighborhood of residential and educational uses and in an R1 zoning district.
  - c. The present use is the administrative offices of The Hyde School.
  - d. The Hyde School proposes to sell the property.
  - e. The size and historic nature of the building makes redevelopment in accordance with the uses allowed in the R1 zone extremely problematic.
  - f. All of the C1 uses allowed by the Special Commercial Contract Overlay District, however, would not be appropriate and compatible in the building or in the neighborhood.
  - g. The owner of the property has voluntarily offered to limit the number and type of permitted uses of the property as allowed by Land Use Code Section 8.20, D, 2, a.

**C. Zoning Provisions Affected**

This contract zoning amendment is intended to limit the number and type of authorized uses of the property as would otherwise be permitted according to C1 designation in a Special Purpose Commercial Contract Overlay District, but which would be inappropriate on this site given the character of the neighborhood in which the building is located.

**D. Conditions of Approval**

This contract zone is approved subject to the following condition: [amended November 28, 2012]

1. The only uses allowed are the use categories:
  - a. Use 1.1.1 - Site-built Single-family dwelling.



- b. Use 1.2 - Two-family dwelling
- c. Use 1.3 - Multi-family dwelling
- d. Use 1.6.1 - Home occupation - A
- e. Use 1.6.2 - Home occupation - B
- f. Use 3.1.1 - Operations designed to attract and serve numerous customers or clients on the premises, however, limited to only attorneys' offices, professional offices, and travel agent offices.
- g. Use 3.1.2 - Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use.
- h. Use 6.1.1 - Public or private elementary or secondary schools.
- i. Use 6.1.2 - Public or private or post-secondary schools.
- j. Use 6.1.3 - Special-purpose schools
- k. Use 6.2 - Libraries and museums, including associated educational and instructional activities.
- l. Use 30.0 - Art studio

**SECTION 16.18 – SOUTH PO2 CONTRACT ZONE, NUMBER 2** [Section added February 24, 2010, amended November 27, 2013]

**A. District Designation**

The property designated for this Contract Rezoning is a portion of the property located on Washington Street being identified as a portion of Lot 142 on City of Bath Tax Map 27 and a portion of Lot 165 on City of Bath Tax Map 32, dated April 1, 2013.

**B. Findings**

The property is located in the Industrial/Shipyard District (I). The City Council makes the following additional specific findings:

1. The building, presently known as the Pre-outfit 2 (PO 2) Building was constructed in 1986, underwent a major upgrade in 2004, and a 66,780 square-foot addition with a height of 106 feet in 2007. The addition in 2007 required the creation of a Contract Zone. This Contract Zone is contained in Land Use Code Section 16.14.
2. The building is used for industrial purposes.
3. The applicant now proposes to construct a 55,417 square-foot addition on the south side of the building. The addition is proposed to be 110 feet in height.
4. Without the creation of a contract zone, the maximum height allowed in the Industrial District is 75 feet under the provisions of Section 8.14(C) of the Land Use Code.
5. Contract Rezoning is allowed on this parcel per Section 8.14(D) of the Land Use Code.
6. The applicant has offered the following voluntary, Discretionary Condition in exchange for the Contract Rezoning.
  - a) The design and construction of streetscape improvements on Washington Street, from its intersection with King Street to the building addressed at 700 Washington Street, including the development of an esplanade/utility strip, relocation of curbing, widening and repaving of the sidewalk, and the installation of trees and bollards—as more particularly described in the application materials amended September 20, 2013 and submitted to the Planning Department.
  - b) The contribution of \$100,000 to the City of Bath for the purpose of enhancing the South End Park as deemed necessary by the City Council.

### **C. Zoning Provisions Affected**

This Contract Rezoning is intended to only modify the maximum height allowed, under Section 8.07(C) of the Land Use Code, by allowing the construction of the building addition 106 feet in height, depicted on the Site Plan approved by the Bath Planning Board on September 3, 2013.

### **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 Bath Iron Works, by the Bath Planning Board on September 3, 2013, including the following:

1. That the Conditions contained in Land Use Code Section 16.14 remain in force unless modified herein;
2. That the large doors of the Ultra Hall building be closed from sunset to sunrise;
3. That the evergreens and the white picket fence along Washington Street, between the street and Bath Iron Works' property south of the South Gate, be maintained;
4. That the approval is contingent upon approval being granted by the Maine Department of Environmental Protection and that a copy of DEP's approval be submitted to the Planning Office; and
5. The Discretionary Condition listed in Section B (6), 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).

**SECTION 16.19 – PLANT HOME CONTRACT ZONE, NUMBER 2** [Section added November 27, 2013.]

**A. District Designation**

The property designated for this Contract Rezoning is a portion of the property located on Washington Street being identified as a portion of Lot 21 on City of Bath Tax Map 43, dated April 1, 2013.

**B. Findings**

The property is located in the Plant Home Zone (PH). The City Council makes the following additional specific findings:

1. The building is used for residential purposes.
2. The applicant now proposes to construct an unattached building to the south of the existing facility.
3. Contract Rezoning is allowed on this parcel per Section 8.22(D) of the Land Use Code.
4. The building is proposed to be 52 feet in height.
5. Without the creation of a contract zone, the maximum height allowed in the Plant Home Zone is 35 feet under the provisions of Section 8.22(C) of the Land Use Code.
6. The building is proposed to be setback 3ft from the property line.
7. Without the creation of a contract zone, the required setback in the Plant Home Zone is 20 feet (front, side, and rear) and 75 feet (from a waterbody) under the provisions of Section 8.22(C) of the Land Use Code.
8. The building is proposed to be within the yard area.
9. Without the creation of a contract zone, the required yard area in the Plant Home Zone is 20 feet under the provisions of Section 8.22(C) of the Land Use Code.
10. The applicant has offered the following voluntary, Discretionary Conditions in exchange for the Contract Rezoning:
  - a) Plant Memorial Home owns and undeveloped 1.30 acre parcel of land between Wing Farm Business Park and Ranger Circle in Bath, shown as Tax Map 24, Lot on the City of Bath Tax Map dated April 1, 2013. Plant Memorial Home will convey this parcel to the City or their designee for recreational and open space purposes.

- b) Plant Memorial Home will construct a bus stop, as depicted on the approved site plan, on Washington Street.
- c) An existing driveway entrance, as depicted on the approved site plan, will be closed.
- d) Plant Memorial Home will replace existing light fixtures on the leased parcel with ordinance-compliant fixtures.

### **C. Zoning Provisions Affected**

This Contract Rezoning is intended to modify:

- 1. The maximum height allowed, under Section 8.22(C) of the Land Use Code, by allowing the construction of the building addition 52 feet in height, depicted on the Site Plan approved by the Bath Planning Board.
- 2. The minimum setbacks, under Section 8.22(C) of the Land Use Code, by allowing the construction of the building, depicted on the Site Plan approved by the Bath Planning Board.
- 3. The minimum yard area, under Section 8.22(C) of the Land Use Code, by allowing the construction of the building, depicted on the Site Plan approved by the Bath Planning Board.

### **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 PMH Real Estate, by the Bath Planning Board on August 20, 2013, including the following:

- 1. The Discretionary Condition listed in Section B (10), 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).

**SECTION 16.20 - WINNEGANCE STORE CONTRACT ZONE** [Section added December 25, 2013.]

**A. District Designation**

The property designated for contract rezoning amendment is the property located at 36 High Street; being identified as lot 20 on tax map 45 as shown on the tax maps dated April 1, 2013, additionally modified by the transfer of adjacent property recorded in September of 2013. The property is known as the Winnegance Store.

**B. Findings**

1. This property is located in the Special Purpose Commercial Contract Overlay District. The City Council makes the following additional specific findings:
  - a. The building was built as a neighborhood store in 1902.
  - b. The building is in a neighborhood of residential uses and in the R2 zoning district.
  - c. The property is currently vacant; it last operated as a store in 2009 as a non-conforming use.
  - d. The size and historic nature of the building make redevelopment in accordance with the uses allowed in the R2 zone problematic.
  - e. In order for the store to return to its historic use, the breadth of uses and reductions in space and bulk standards of the C1 zoning district should be applied to the property.
  - f. All of the C1 uses allowed by the Special Commercial Contract Overlay District, however, would not be appropriate and compatible in the building or in the neighborhood.
  - g. The owner of the property has voluntarily offered to limit the number and type of permitted uses of the property as allowed by Land Use Code Section 8.20, D, 2, a.

**C. Zoning Provisions Affected**

This contract zoning amendment is intended to limit the number and type of authorized uses of the property as would otherwise be permitted according to C1 designation in a Special Purpose Commercial Contract Overlay District, but which would be inappropriate on this site given the character of the neighborhood in which the building is located.

## **D. Conditions of Approval**

This contract zone is approved subject to the following condition:

1. The only uses allowed are the use categories:
  - a. Use 2.1.1.1.1 – Sales or rental of goods, merchandise or equipment with less than 5,000 square feet of floor area.
  - b. Use 2.1.1.2 - Convenience store
  - c. Use 2.1.3.1 – Low volume traffic generation with less than 5,000 square feet of gross floor area
  - d. Use 3.1.1 - Operations designed to attract and serve numerous customers or clients on the premises, however, limited to only attorneys' offices, professional offices, and travel agent offices.
  - e. Use 4.1 – Manufacturing, processing, creating, repairing, renovating or assembling of goods, merchandise, or equipment.
  - f. Use 10.1 – Restaurant with carry out, delivery service and consumption outside fully enclosed structure allowed. Service to customers remaining in vehicles not allowed.
  - g. Use 10.2 – Restaurant, carry out, delivery, and consumption outside fully enclosed structure.
  - h. Uses 11.1.1 & 11.4 – Overnight accommodations, including bed and breakfast.
  - i. Use 21.3 – Farmer's market.
  - j. Use 15.0 – temporary uses.

## **SECTION 16.21 - RESIDENCE INN DISTRICT** [Section added June 25, 2014]

### **A. District Designation**

The property designated for contract rezoning is the property located at 139 Richardson Street; being identified as lot 68 on tax map 31 on the tax maps dated April 1, 2013. The property is known as the former Holiday Inn site.

### **B. Findings**

Bathres, LLC proposes to demolish the extant structures located at 139 Richardson Street and construct a four-story, 103 room long-term stay hotel (“Residence Inn”) 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 ‘Hotel, Motel, Inn, tourist cabins, or similar business providing overnight accommodations.’ 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 Setback (Reduce the requirement from 50 feet to 27 feet, as depicted on the approved site plan)
2. Minimum Front Yard Area (Reduce the requirement from 20 feet to 12 feet, as depicted on the approved site plan)
3. Maximum Building Height (Increase the maximum height from 40 feet to 55 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 20, 2014.
2. The applicant has offered the following voluntary and discretionary conditions in exchange for the contract rezoning:
  - a. A perpetual restriction of signage size and location on the property, so that signage on the site shall be as shown on the revised signage plan, dated May 14, 2014 on file in the Bath Planning Office.
  - b. The design and construction of a sidewalk and esplanade along the Route 1 frontage of the property, as indicated on the approved site plan. Completion of the sidewalk and the granting of a public access easement to the City shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
  - c. The design and construction of a sidewalk and associated improvements along Redlon Road, as indicated on the approved site plan. Completion of the sidewalk shall be completed prior to the issuance of a certificate of occupancy by the Code Enforcement Officer.
  - d. The contribution of \$65,000 to the City of Bath for the purpose of improving the Route 1 Corridor. Payment is to be made prior to the issuance of building permits by the Code Enforcement Officer.

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**SECTION 16.22 - CVS PHARMACY CONTRACT ZONE** [Section added November 26, 2014]

**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 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) 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 Facade – 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 \$70,000 towards the cost of the "Installation of Decelartion/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 \$70,000 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.
4. The screening at the property line of the Mead property, as approved, as part of the Site Plan Review approval shall be reviewed by the developer, the abutter and the City Staff. Any material changes to the Plan shall be referred to the City Staff Review Process or the Planning Board Process for approval.

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).

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## **SECTION 16.23 - SEWALL RETAIL DISTRICT** [Section added August 26, 2015]

### **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:
    - i. The erection of roadside lighting fixtures, compliant with the design that exists along Route 1 and the Sagadahoc Bridge.
    - ii. The construction of sidewalks and erection of bike racks, along and beside Quimby Street and Leeman Highway.
    - iii. 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.

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## **SECTION 16.24 – HUSE SCHOOL DISTRICT** [Section added August 26, 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:

- a. 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.
- b. 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.
- c. 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.
- d. Installation of new public bicycle racks on the property, for the use of any visitors to the site or the “Donnie Small Athletic Complex.”
- e. Improvement and maintenance of walking paths connecting the site to the adjacent Bath Area Family YMCA site.

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**SECTION 16.25 - 8 STATE ROAD DISTRICT** [Section added September 26, 2018 and amended January 23, 2019]

**A. District Designation**

The property designated for contract rezoning is the property located on State Road, being identified as Lot 65, on City of Bath Tax Map 31 dated April 1, 2016.

**B. Findings**

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone.
2. The project consists of one structure along the 1.1 acre parcel. The proposed structure are 9,242 square feet and will consist of a 1,767 square foot laundromat, a 4,130 square foot exercise center, and a 3,345 square foot brewery and tasting room.
3. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking lot is proposed to be constructed in the yard area, necessitating contract zoning.
4. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
5. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D, 1.
6. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
  - a. Work to meet the City's goal of increased pedestrian access to services by installing a sidewalk along the property to connect with future expected development.
  - b. In addition to applicable zoning requirements the applicant will incorporate additional lighting along the front of the property to enhance the site.
  - c. Install a catch basin and related improvements to assist in stormwater management both on and offsite.
  - d. Improve the appearance of the State Road gateway with enhanced lighting and landscaping.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structure and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018 and amended, without conditions, by the Bath Planning Board on November 6, 2018.

### **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 Mark Sewall, by the Bath Planning Board on July 10, 2018 and amended on November 6, 2018.

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**SECTION 16.26 - 137 LEEMAN HIGHWAY CONTRACT ZONE** [Section added October 24, 2018]

**A. District Designation**

The property designated for contract rezoning is the property located on Leeman Highway, being identified as Lot 54-1, on City of Bath Tax Map 28 dated April 1, 2016.

**B. Findings**

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone.
2. The project consists of a proposed 790 square foot structure situated on the 0.35 acre parcel. The proposed structure includes an Aroma Joe's coffee operation with both a drive-through and walk-up window.
3. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. Due to the size of the parcel and configuration of the site the drive through queuing lane as well as the parking area are proposed to be constructed in the yard area, necessitating contract zoning.
4. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
5. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D, 1.
6. The applicant is proposing the following voluntary, discretionary conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
  - a. Increase pedestrian and motor vehicle safety by narrowing Quimby Street and closing off multiple access points from the parcel to Leeman Highway.
  - b. In addition to applicable zoning requirements the applicant will incorporate enhanced streetscape elements including a sidewalk and bike rack to encourage pedestrian activity on the site.
  - c. Improve the appearance of the Route 1 gateway by installing decorative lighting along the Route 1 corridor to match the lighting installed along Leeman Highway.

### **C. Zoning Provision Affected**

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

1. Minimum front setback requirement (Reduced from 50 feet to 10 feet pursuant to Section 8.10 of the Land Use Code as depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018.)
2. Minimum lot line setback requirement (Reduced from 50 feet to 10 feet pursuant to Section 8.10 of the Land Use Code as depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018.)
3. Minimum side setback requirement (Reduced from 30 feet to 10 feet pursuant to Section 8.10 of the Land Use Code as depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018.)
4. Minimum yard area requirement (Reduced from 20 feet to 10 feet pursuant to Section 8.10 of the Land Use Code as depicted on the Site Plan approved, with conditions, by the Bath Planning Board on July 10, 2018)

### **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 Integrity Holdings, LLC, by the Bath Planning Board on July 10, 2018, including the following conditions:

1. The applicant shall complete the purchase of town-owned land to the satisfaction of the City Solicitor
2. The applicant shall submit to the city planner satisfactory state approval for infrastructure improvements upon Route 1.
3. The applicant shall submit for approval and install crosswalk signage to the approval of the chief of police
4. The spotlight will be eliminated
5. The final plans are submitted to the City Planner
6. The proposed public benefits submitted by the applicant be accepted by the City Council.

Additionally, the applicant is proposing the following voluntary, discretionary conditions in exchange for approval of the Contract Rezoning. For the Contract Rezoning the applicant will:

1. Increase pedestrian and motor vehicle safety by narrowing Quimby Street and closing off multiple access points from the parcel to Leeman Highway.
2. In addition to applicable zoning requirements the applicant will incorporate enhanced streetscape elements including a sidewalk and bike rack to encourage pedestrian activity on the site.
3. Improve the appearance of the Route 1 gateway by installing decorative lighting along the Route 1 corridor to match the lighting installed along Leeman Highway.

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## **SECTION 16.27 ELWELL ENTERPRISE DISTRICT** [Section added May 22, 2019]

### **A. District Designation**

The property designated for contract rezoning is the property located on Centre Street, being identified as Lot 7, on City of Bath Tax Map 29 dated April 1, 2018.

### **B. Findings**

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone.
2. The project consists of an existing structure on a 0.3 acre parcel originally constructed in 1955. The proposed structure, with a minor addition, will be a 1,144 square foot building.
3. The structure is currently used as an office, which is an allowed use in the Route 1 Commercial Contract Zone.
4. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking area is proposed to be constructed in the front yard area, necessitating contract zoning.
5. Without the creation of a contract zone, the minimum setback is 50 feet from the front lot line, and 30 feet from the side and rear lot lines. The parking area and proposed addition to the structure are within the front setback necessitating contract zoning. The contract zone will relax the front setback to 0 feet from the front lot line.
6. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D1.
8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
  - In addition to applicable zoning requirements in section 10.27 of the Land Use Code the applicant will ensure that all lighting on the property does not exceed 0.1 foot-candles at the lot lines to minimize the impact of lighting on adjacent parcels and roadways.

- Improve the appearance of the site with enhanced landscaping along the Centre Street side of the parcel
- The applicant will provide increased buffering and screening in addition to the requirements of Section 10 of the Land Use Code.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the parking area and other site improvements depicted on the Site Plan approved, without conditions, by the Bath Planning Board on February 5, 2019.

### **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 J. Ellwell, LLC, by the Bath Planning Board on February 5, 2019.

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**SECTION 16.28 BATH IRON WORKS CONTRACT ZONE, NUMBER 3** [Section added May 22, 2019]

**A. District Designation**

The property designated for contract rezoning is the property located on Washington Street, being identified as Lot 142, on City of Bath Tax Map 27 and a portion of Lot 165 on City of Bath Tax Map 32 dated April 1, 2018.

**B. Findings**

The property is located in the Industrial / Shipyard(I) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Industrial/ Shipyard Zoning District.
2. The project consists of adding a canopy over the four existing turnstile units located at each of the four main entry gates to Bath Iron Works.
3. The structures are accessory to the industrial use.
4. Without the creation of a contract zone, the minimum yard area is 25 feet from the front, and 5 feet from the side and rear of the parcel. Two of the canopies are proposed to be constructed in the yard area, necessitating contract zoning.
5. Without the creation of a contract zone, the minimum setback is 50 feet from the front lot line, and 25 feet from the side and rear lot lines. The canopy proposed over two of the existing turnstiles is within the front setback necessitating contract zoning. The contract zone will relax the front setback to 0 feet from the front lot line.
6. Contract rezoning is allowed on the parcel per section 8.14 (D) of the Land Use Code.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D1.
8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
  - The applicant will provide \$15,000 worth of pedestrian improvements along Washington Street as outlined in the South End Transportation Study.



### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the canopies and other site improvements depicted on the Site Plan approved, without conditions, by the Bath Planning Board on June 4, 2019.

### **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 Bath Iron Works, by the Bath Planning Board on June 4, 2019.

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**SECTION 16.29 WINNEGANCE STORE CONTRACT ZONE, NUMBER 2** [Section added December 25, 2019]

**A. District Designation**

The property designated for contract rezoning is the property located at 36 High Street, being identified as Lot 20 on City of Bath Tax Map 45 dated April 1, 2018. The property is known as the Winnegance Store.

**B. Findings**

The property is located in the Special Purpose Commercial Contract Overlay District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Special Purpose Commercial Contract Overlay Zoning District per section 8.13 (F) of the Land Use Code.
2. The property has previously been designated for contract rezoning to allow for the creation of the Special Purpose Commercial Contract Zone District designation. This designation allows for the continued use of the site as a retail establishment/ restaurant in an underlying residential zone.
3. Additional buildings located on the lot, other than the principle structure, require contract zoning according to Section 8.13 (D) of the Land Use Code.
4. The project consists of adding an additional structure, an outdoor walk-in cooler, along the rear of the existing building.
5. Without the creation of a contract zone, no additional buildings may be constructed or located on the lot unless they are allowed through a contract rezoning procedure, necessitating contract zoning.
6. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D1.
7. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning. For the Contract Rezoning the applicant will:
  - The applicant will provide enhanced landscaping along the front and rear of the building.

**C. Zoning Provision Affected**

This contract zoning designation is intended to allow for the addition of a secondary structure on the parcel pursuant to Section 8.13 of the Land Use Code, by allowing for the

construction of an outdoor walk-in cooler and other site improvements depicted on the Site Plan approved, without conditions, by the Bath Planning Board on October 1, 2019.

**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 Jennifer Greene, by the Bath Planning Board on October 1, 2019.

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**SECTION 16.30 8 STATE ROAD CONTRACT ZONE, NUMBER 2** [Section added March 24, 2021]

**A. District Designation**

The property designated for contract rezoning is the property located on State Road, being identified as Lot 65, on City of Bath Tax Map 31 dated April 1, 2018.

**B. Findings**

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone
2. The project consists of proposed approximately 3,800 sq. ft. structure along the 1.1 acre parcel. The proposed structure and associated infrastructure will be utilized as a car wash, with drive through bays which is an allowed use in the C-4 Zoning District
3. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
4. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking lot and dumpster enclosure is proposed to be constructed in the yard area, necessitating contract zoning.
5. Without the creation of a contract zone, the minimum rear setback is 30 feet from the rear lot line. The structure is proposed to be constructed within 30 feet from the rear lot line, necessitating contract zoning.
6. The rezoning of the parcel is consistent with the Comprehensive Plan of the City of Bath.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1.
8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning:
  - Work to meet the City's goal of increased pedestrian access to services by installing a sidewalk along the property to connect with future expected development.
  - In addition to applicable zoning requirements the applicant will incorporate additional lighting along the front of the property to enhance the site.

- Install a catch basin and related improvements to assist in stormwater management both on and offsite.
- Improve the appearance of the State Road gateway with enhanced lighting and landscaping.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structures and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on January 5, 2021.

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 Rear Setback (reduce the requirements from 30 feet to 20 feet, as depicted on the approved site plan).
2. Minimum Front, Rear, and Side Yard Areas (reduce the requirement from 20 feet to 10 feet, as depicted on the approved site plan).

### **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 Trademark Properties, LLC, by the Bath Planning Board on January 5, 2021, including the following conditions:

1. The applicant receives City of Bath City Council approval of contract rezoning
2. The applicant obtains an easement for the private sewer line from the City of Bath

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## **SECTION 16.31 55 CONGRESS AVENUE CONTRACT ZONE** [Section added July 21, 2021]

### **A. District Designation**

The property designated for contract rezoning is the property located on Congress Avenue, being identified as Lot 5, on City of Bath Tax Map 29 dated April 1, 2020.

### **B. Findings**

The property is located in the Route 1 Commercial Contract Zone (C-4) Zoning District. The City Council makes the following additional findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract Zone
2. The project consists of a proposed 188 square foot addition to the existing structure on the southeasterly corner of the building. The addition will allow a new entrance to be constructed for the existing branch of First Federal Savings and Loan located in the existing structure.
3. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
4. Without the creation of a contract zone, the minimum yard area is 20 feet from the side, front, and rear of the parcel. The parking lot and existing building as well as the proposed building addition violate the yard area requirement and necessitate.
5. Without the creation of a contract zone, the minimum rear setback is 30 feet from the rear lot line. The structure is proposed to be constructed within 30 feet from the rear lot line, necessitating contract zoning.
6. The rezoning of the parcel is consistent with the Comprehensive Plan of the City of Bath.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 18.20 paragraph D, 1.
8. The applicant is proposing the following voluntary, Discretionary Conditions in exchange for Contract Rezoning:
  - Work to meet the City's goal of increased pedestrian access to services by regrading the parking lot and improving the pedestrian access to the site.
  - Improve the appearance of the Congress Avenue gateway with enhanced landscaping.
  - Contribute \$1,000 to meet the City's goal of pedestrian safety and increased pedestrian access to services for improvements along Congress Avenue.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the minimum setback and yard area requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structures and other site improvements depicted on the Site Plan approved, with conditions, by the Bath Planning Board on May 4, 2021.

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 Rear Setback (reduce the requirements from 30 feet to 15 feet, as depicted on the approved site plan).
2. Minimum Front, Rear, and Side Yard Areas (reduce the requirement from 20 feet to 10 feet, as depicted on the approved site plan).

### **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 Trademark Properties, LLC, by the Bath Planning Board on May 4, 2021 including the following conditions:

- The applicant receives City of Bath City Council approval of contract rezoning
- The applicant submit a planting plan and landscaping maintenance plan to be reviewed and approved by the City Arborist

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**SECTION 16.32 520 CENTRE STREET CONTRACT ZONE** [Section added September 27, 2023]

**A. District Designation**

The property designated for contract rezoning is located at 520 Centre Street, identified as Lot 8, on City of Bath Tax Map 29 dated April 1, 2021.

**B. Findings**

The property is located in the Route 1 Commercial Contract (C-4) District. The City Council makes the following findings:

1. Contract Rezoning is allowed in the Route 1 Commercial Contract District (C4)
2. The project consists of a proposal to develop a four-story building which will contain 18 two-bedroom apartments and an office. Future phases could contain additional multi-family housing dwelling units.
3. Contract rezoning is allowed on the parcel per section 8.10 (D) of the Land Use Code.
4. Without the creation of a contract zone, the minimum front setback is 50 feet, the minimum yard area is 20 feet, and the maximum building height is 40 feet.
5. The proposed structure would encroach into the minimum front setback and the minimum front and side yard areas, and the maximum building height requirements would be exceeded without contract rezoning.
6. The rezoning of the parcel is consistent with the Comprehensive Plan and there are no other applicable City plans.
7. The project is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D. 1.
8. The applicant states that they feel the project itself is a discretionary enhancement to the City "...as it helps the City move toward its comprehensive plan goals encouraging housing development different than what exists, including housing attractive to young professionals and encouraging and promoting affordable, decent housing opportunities in Bath" offered in exchange for Contract Rezoning.
9. The Planning Board did not require any discretionary enhancements.



### **C. Zoning Provision Affected**

This contract zoning amendment is intended to relax the minimum setback, yard area , and height requirements pursuant to Section 8.10 of the Land Use Code, by allowing the construction of the structures and other site improvements depicted on the Site Plan approved with conditions, by the Bath Planning Board on July 11, 2023.

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 Setback (reduce the requirement from 50 feet to 15 feet as depicted on the approved site plan).
2. Minimum Front Yard Area (reduce the requirement from 20 feet to 15 feet, as depicted on the approved site plan).
3. Minimum Side Yard Area (reduce the requirement from 20 feet to 10 feet as depicted on the approved site plan)
4. Maximum height (increase from 40 feet to 50 feet)

### **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 and Subdivision approval, granted to Bath Housing Development Corporation, by the Bath Planning Board on July 11, 2023 including the following conditions:

- That the crosswalk location be approved by the City Planner with input from the Director of Public Works and the Bike and Pedestrian Committee.
- That the snow storage area be indicated on the Site Plan and the Subdivision Plan.

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**SECTION 16.33 80 CONGRESS AVE CONTRACT ZONE** [Section added August 28, 2024]

**A. District Designation**

The property designated for contract rezoning is located at 80 Congress Ave, identified as Lot 14, on City of Bath Tax Map 29 dated April 1, 2023.

**B. Findings**

The City Council makes the following findings:

1. The property is located in the Mixed Commercial and Residential (C2) District.
2. Contract Rezoning is allowed in the Mixed Commercial and Residential (C2) District.
3. The project consists of a proposal to demolish the existing Bath Housing Development Corporation office building and build a new 4-story structure containing 48 deed-restricted affordable housing units.
4. Without the contract zone, the minimum lot area per dwelling unit would be 2,400 sf (6,000 sf per 8.08, reduced to 2,400 by 8.26)
5. The applicant proposes to develop the project at 2,400 sf as depicted on the Zoning Summary Plan C-3.2, which shows additional land to be placed in conservation on Map 24, Lot 1-1 as part of a master zoning plan also incorporating the parcels at Map 29, Lot 13 and Map 24, Lot 1.
6. Without contract rezoning, the maximum lot coverage would be 60 percent.
7. The applicant proposes maximum lot coverage would be increased to 70 percent, as depicted on the site plan C-3.0.
8. Without contract rezoning the maximum height would be 40 feet.
9. The applicant proposes the maximum height be increased to 50 feet.
10. The rezoning is consistent with the mandatory conditions set forth in Land Use Code Section 8.20 paragraph D. 1., as the applicant is proposing a project that is compliant with the comprehensive plan, and the applicant is not proposing restrictions for the project to adhere to.
11. The applicant is willing to meet certain community objectives contained in the Comprehensive Plan due to additional flexibility being allowed. Specifically,

- a. The project will create up to 48 new, sustainable deed-restricted housing units.
  - b. The project will improve a section of sidewalk along Centre Street.
  - c. The project will provide a new bus/shuttle stop on Centre Street.
  - d. The project will set aside 10.52 acres on a neighboring parcel as permanent open space conservation land with Kennebec Estuary Land Trust. The applicant proposes to make this designation as part of the master plan zoning for the overall 17.24 acres, which encompasses 80 Congress Avenue (Map 29, Lot 14), 100 Congress Avenue (Map 29, Lot 13), 150 Congress Avenue (Map 24, Lot 1), and the back land (Map 24, Lot 1-1) as depicted on the Zoning Summary Plan C-3.2
  - e. The applicant agrees to contribute \$5,000 to study and improve the intersection of Centre Street and Congress Avenue.
12. The rezoning of the parcel is consistent with the Comprehensive Plan and there are no other applicable City plans. The proposed multifamily apartment building is compatible with the neighborhood, which consists of multifamily residential housing to the west and north, a multifamily residential building under construction to the southwest, and residential uses to the west and south. The area is served by public water and sewer, bus service, and includes sidewalk connections to the Bath Shopping Center, schools and recreation facilities, and downtown.

### **C. Zoning Provision Affected**

This contract zoning amendment is intended to accommodate reduced setbacks, additional building height, and lower minimum density requirements pursuant to Section 8.08 of the Land Use Code, allowing the construction of the structure and other site improvements depicted on the Site Plan approved with conditions, by the Bath Planning Board on July 2, 2024.

This contract zone is intended to modify the dimensional standards of the Mixed Commercial and Residential (C2) District):

1. Reduce Minimum Lot Area per dwelling unit to 2,400 sf
2. Increase Maximum Lot Coverage from 60 percent to 70 percent
3. Increase Maximum Height from 40 feet to 50 feet.

### **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 and Subdivision approval, granted to Bath Housing Development Corporation, by the Bath Planning Board on July 2, 2024, including the following conditions:

Standard Conditions:

1. Approval is dependent upon and limited to the proposals and plans contained in the application materials, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals, and supporting documents and representations are subject to review and approval in accordance with the Land Use Ordinance.
2. All work shall be completed in accordance with Best Management Practices for Soil Erosion and Sediment Control. Erosion and sedimentation management measures must be implemented during every phase of construction. The amount of exposed soil throughout construction must be minimized. Any exposed ground area must be temporarily or permanently stabilized within one week from the time it was actively worked by use of riprap, sod, seed, mulch, or other measures.

Additional Conditions (Site Plan):

3. Prior to issuance of building permit, the applicant shall secure easements for utilization of the adjacent parcel to the north for proposed parking, solid waste storage, drive aisle, and vehicle turnaround.
4. Prior to the issuance of a building permit, the applicant shall investigate if the existing sewer service to the private home at #2 Edgett St can be connected to the City sewer main in Edgett Street and propose a resolution satisfactory to the Public Works Director, as determined by the Planning Director.
5. The required discretionary conditions of the proposed contract zone must be approved and adopted into the Land Use Code.

Additional Conditions (Subdivision):

6. Applicant shall provide a letter from MHPC for City of Bath Planning Director review and acceptance prior to building permit issuance. If the Plan requires additional action to ensure appropriate measures for the protection of the historic or prehistoric resources, a plan amendment may be required
7. The lot may not be divided in the future unless the space and bulk regulations of the district in which the lot is located are met (required by 10.05).
8. Prior to issuance of a building permit, the applicant shall pay the required \$16,879.50 sewer impact fee.

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