

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



B-7 Bank Drive Through Text Amendment
20 Marginal Way
Bangor Savings Bank, Applicant
Project #: #2015-015

Submitted to: Portland City Council	Prepared by: Jean Fraser, Planner
From: Portland Planning Board	Date: May 6 th , 2015
Second City Council Reading: June 1, 2015	CBL: 113 A025001

I. INTRODUCTION

David Latulippe, agent, is requesting a text amendment on behalf of Bangor Savings Bank, applicant, in order to develop a small lot at 20 Marginal Way, within the B-7 zone, as a three story bank with drive through (Attachment A; Plans P1. to P4.). The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)1(c)). These include the requirement that bank drive-throughs must be within a building of at least 20,000 sq ft.

The B-7 text amendment is requested to create an exception to this requirement as a building of this size is not feasible to build on a small lot of 17,352 sq ft. (currently the site of Northern Pride Autowash). The proposed text amendment would allow bank drive-throughs in smaller buildings that are located on small lots in existence at the time B-7 was first enacted, March 9, 2005.

The Planning Board held a public workshop on March 24, 2014 and a public hearing on April 14, 2015 regarding the proposed text amendments. The Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

1. *Commercial use:*

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that **for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.**
 - iii. **The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.**

- iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
- v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
- vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
- viii. The drive-up shall be limited to two vehicle drive-up lanes; and
- ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

II. PUBLIC COMMENT

A notice of the City Council Hearing will be sent to the 43 property owners within 500 feet and interested citizens, and the legal advertisement will appear in *Portland Press-Herald* in accordance with the city's noticing requirements. A Neighborhood Meeting is not required for this project and the Planning Division has received two written comments of support, one from a local solar business, and one from the owner of nearby property (PC1&2).

III. BACKGROUND RE ZONING

Bank drive-throughs are the only type of drive-through allowed in the B-7 zone. They are only allowed in the northern portion of the B-7 zone between Somerset/Kennebec Streets and I-295 (red outline on aerial below) and must meet the seven conditions set out in §14-296(a)1(c).

The second condition currently states:

The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and

The applicant is able to meet all of the other conditions in this section but has requested a text amendment to the second condition in order to develop this small lot.



(Staff plan based on 2012 GIS data)

The applicant has stated that the lot size of 17,352 sq ft prevents the construction of a building of 20,000 sq ft and thus the proposal could not meet the second condition that limits a bank drive-through to being attached or included within a building with a minimum floor area of twenty thousand (20,000) square feet. For example, a 20,000 sq ft office would require 50 parking spaces, which would require a lot area of approximately 7,000 sq ft for the building footprint plus at least 15,000 square feet for parking if provided totally on-site, for a total of 22,000 square feet. The applicant has stated that their proposal would be able to meet the other six (6) standards for a conditional use.

The text amendment is proposed to allow bank drive-throughs in buildings with a smaller floor area than 20,000 sq ft. The trade-off proposed would enable redevelopment of the car wash site, a one-story grandfathered use, to construct a three story building facing on Marginal Way, which is more in keeping with the pattern of development envisioned in the Bayside Plan.

The Planning Board members considered the following issues on this project:

- Whether there is a need for bank drive-throughs given the increase in internet banking? Bangor Savings Bank clarified at the PB Hearing that customers expect this facility and it is an important component of the development;

- What levels of traffic generation would be associated with the bank drive-through? The applicant has submitted additional traffic information that supported the case that trip levels are relatively low (Attachment D) (discussed further below);
- To what extent should the text amendment be narrowed to an exception for existing small sites and buildings of less than 20,000 sq ft in order to limit the scope for additional bank drive-throughs? Staff recommended a narrow exception (just for small lots existing as of March 9, 2005) and the Planning Board supports this approach.
- The importance of supporting the Bayside Plan goals for building height and pedestrian oriented development as priorities. The amendment includes new provisions that reinforce these goals.

IV. PROJECT DATA

Existing Zoning	B-7 Bayside
Proposed Zoning	B-7 Text amendments only
Existing Use	Car wash (not considered a drive-through)
Proposed use	Bank (1500 sq ft), bank drive-through and offices (5784 sq ft)
Parcel Size	17,352 sq ft
Building footprint	2100 sq ft
Building Floor area	7284 sq ft
Proposed parking	24

V. SUMMARY OF APPLICANT’S ASSOCIATED DEVELOPMENT PROPOSAL

The applicant is proposing to build a three story bank building of approximately 7000 sq ft, with a two lane drive-through located at the rear of the building, on the site of the existing car wash building at 20 Marginal Way. The bank drive through use requires a conditional use permit to be approved by the Planning Board, so the project would go to the Planning Board at the Site Plan review stage.

The proposed bank building and its associated site layout (Concept Plan in Plan P1 and as superimposed on an aerial in Plan P2 and renderings in Plan P4) meets, or could be revised to meet, the applicable standards at the site plan review stage along with the other conditions of the zoning ordinance.

The proposed bank building is shown below:



(from applicant; also in Plan P2. Attached; Site Plan in P1)

The existing site is a busy car wash housed in a single-story building (approx. 2500 sq ft). The owner obtained traffic generation information in mid-2014 (second part of Attachment D) that indicated that this use generates up to 120 trips/hour during the peak hour. The existing site is shown below:



VI. PROPOSED TEXT AMENDMENT TO §14-296(a)1(c) [Conditional Uses; B-7 Zone]

During the review, the Planning Board sought to clarify the amended text language while maintaining the effect of a limited exception to condition ii. The Board supported allowing bank drive-throughs in buildings of less than 20,000 square feet on small lots, but sought to limit the subdividing of lots to obtain this exception. Thus, the Board recommended that the exception be limited to those smaller lots (less than 20,000 sq. ft.) that were in existence at the time the B-7 zone was first enacted, March 9, 2005. The Board also sought to strengthen the conditional use standards to be consistent with the goals of the Bayside Plan to achieve at least 3 stories of building height and to encourage pedestrian orientation for this conditional use.

The Planning Board recommends the additional conditional use standards that require all buildings that include a bank drive-through to meet the minimum height requirements of the zone, with no minimum height exemptions as contained in the ordinance for buildings, historic buildings and additions. Secondly, the Board recommends a condition to require greater pedestrian orientation for the bank buildings that incorporate a drive-through. The amendment of the last standard of the conditional use clarifies the description of the area where bank drive-throughs would be allowed. The proposed B-7 text amendments are as follows (the **TEXT AMENDMENTS** are in **red**):

Sec.14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

2. *Commercial use:*

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that **for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.**
 - iii. **The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.**
 - iv. **The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and**

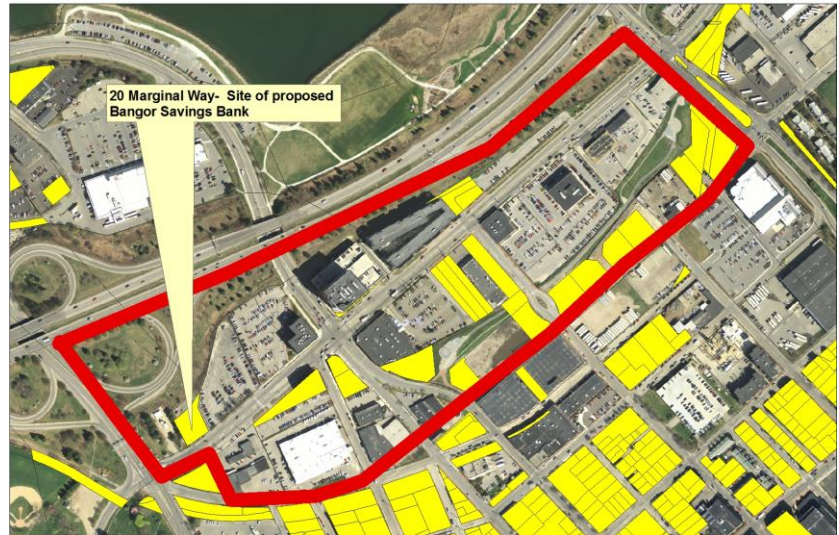
- v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
- vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
- viii. The drive-up shall be limited to two vehicle drive-up lanes; and
- ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

VII. REVIEW AND ANALYSIS

A. Limits on Drive-throughs

When the B-7 Zoning Ordinance was drafted, the aim was to limit drive-through uses to banking facilities only. The intent was to limit the overall number of drive-throughs in the area and to allow only bank facilities which have a low use levels. The drive-throughs for banks were allowed under very defined circumstances, as outlined in the conditions of the conditional use that included the requirement for the 20,000 sq ft building (also see COMPREHENSIVE PLAN ANALYSIS in Section VI below).

The text amendments create an exception to the requirement for the 20,000 sq ft building and the exception would only apply to the limited number of lots in existence as of March 9, 2005 as shown in yellow within the red boundary area on the plan above (and in the submitted map/table in Attachment Ca and Cb).



Red outline is the area where bank drive-throughs are allowed .

The proposed text amendments retain the minimum building-size of 20,000 sq ft, for a drive-through, with the proposed exception that for lots of less than 20,000 sq ft and in existence at the time of enactment of the B-7 zone (March 9, 2005) a bank drive-through could be included in a building of less than 20,000 square feet.

A new condition is proposed that requires the minimum building height to apply to all structures proposed for a bank drive-through and the minimum building height exceptions for additions under 14-298 (h) (see below: (#5), historic structures (#7) and buildings 50 feet from a street line (#8)) shall not be permitted. The Board finds that a multi-story building, even if less than 20,000 sq ft of floor area, is a desirable redevelopment of properties such as the applicant's, compared with allowable alternatives for reuse or expansion of the existing one-story nonconforming building.

The current exceptions contained in the ordinance (Sec. 14-298 (h)) are as follows. By restricting drive-throughs from utilizing provisions #5, #7, and #8 (highlighted below in bold type) the reuse is ensured to comply with the appropriate multi-story requirements.

- (h) *Minimum building height: Newly constructed buildings shall have the required minimum of floors as provided by the bayside height overlay map within fifty (50) feet of any street frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.*

This minimum floor provision shall not apply to:

1. *Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.*
2. *Information kiosks and ticketing booths.*
3. *Parking garages.*

4. *Public transportation facilities.*
5. *Additions to buildings existing as of (March 9, 2005) provided that the cumulative additions since (March 9, 2005) does not exceed fifty percent (50%) of the ground floor building footprint on (March 9, 2005) except that such restriction shall not apply to those portions of the building addition(s) that are constructed closer to the street line than the building footprint existing as of (March 9, 2005).*
6. *Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.*
7. *Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.*
8. *Portions of buildings more than fifty (50) feet from the street line.*

B. Adding text re pedestrian orientation:

The proposed text amendment adds in a new condition that addresses the Board’s desire to strengthen the standard for better pedestrian orientation. This conditional use standard would apply regardless of the size of the building associated with the bank drive-through,

C. Traffic implications:

The Planning Board requested clarification as to how the proposed Bangor Savings Bank would fit in to this part of Bayside. The applicant’s Traffic Engineer provided a Memo in Attachment D covering trip generation and other issues such as the closure of the curb cuts and the adequacy of the queuing area. Although this includes a peak hour trip generation of 140 trips for the bank and offices, it is understood that the bank and bank drive-through lanes account for approximately half of these trips, with the offices accounting for the remainder.

The submitted data regarding the existing car wash (Attachment D, second part- 2014 memo from Sebago Technics) suggest it generates up to 120 trips in the peak hour.

The 2014 Memo from Sebago Technics (second part of Attachment D) also includes data for peak hour trip generation for various drive through uses. Together with research by staff (with assistance from Tom Errico, the City’s Traffic Engineering Reviewer) the following are indicative peak hour levels associated with various drive-throughs based on the ITE Trip Generation Manual/MDOT data:

Use	Range of likely peak hour trips
Dunkin Donuts with drive-through	204-276 (AM)
Generic coffee shop with drive-through	49-92
Bank with drive-through (based on sq ft floor area as 2500 sq ft*)	12-67
Bank with 2 drive-through lanes (based on a per drive-through lane data)	44-60
Bank without a drive-through (“walk-in” bank)	The national ITE data is based on 3 California samples (“walk in” banks are rare) with data that does not agree & not considered reliable as such a small sample. The lowest sample is about half of the above for banks, but in Maine climate there may be fewer walk-ins and more customers would drive.

*Note that the proposed Bangor Savings Bank is likely to be 2100 sq ft

D. Status of the current Bangor Savings Bank proposals

It should be noted that if the City Council adopts the proposed Zoning Text amendments, the Concept Plans (Plan P1 and Plan P2) and renderings (Plan P4) would be subject to Conditional Use and Site Plan review before the Planning Board. Also, these submitted graphics are not binding on the applicant and a different proposal could come forward.

Any proposed building would need to meet the Site Plan ordinance requirements and B-7 Design Standards in addition to the bank drive-through conditions.. A preliminary staff review of the applicant’s specific proposals (in Plans P1, P2 and P4) indicates that the project is along the right lines and no major issues are anticipated to arise during the Site Plan review.

VIII. COMPREHENSIVE PLAN ANALYSIS

The Planning Board found the proposed text amendments to be consistent with the Comprehensive Plan. . The Comprehensive Plan includes two policy documents that are relevant:

A. The COMMUNITY COMMERCIAL POLICIES AND LAND USE PLAN – September 1987-1988, which was adopted as part of the Comprehensive Plan and has the following goals:

Development Goals

- Accommodate the City's commercial activity within a range of functionally and physically defined commercial centers.
- Promote preservation and revitalization of its existing commercial centers and maintain a scale within them that is compatible and integrated with other land use.

B. A NEW VISION FOR BAYSIDE (BAYSIDE PLAN) (December, 1999) which was adopted as part of the Comprehensive Plan. It is the underlying land use policy in Bayside and envisions Bayside as a dense urban mixed use district as an extension of the downtown. Several of the Development Principles of the Bayside Plan are listed below along with key words or phrases of the principle.

- **Urban Gateway:** “Bayside will be an attractive urban gateway and extension of the downtown business district”...”this district will create a new front face of the City, and present the character of Portland which will encourage people to stop, visit”...”compact blend of uses”.
- **Economic and Employment Opportunities:** “significant economic and market opportunity to be planned and managed to create the best value for development and quality of life improvements”...”Bayside represents prime real estate development prospect to expand the central business district”.
- **A Walkable District:** ”Bayside will contain housing, work place, services, transportation, recreation, dining and shopping, all within comfortable distance of each other and the downtown”...”sidewalks, bicycle and pedestrian trail linkages will connect these uses, designed for full and maximum accessibility”.
- **Transit-oriented Development:** “Mixed use, compact and intensive land development, and quick and convenient transit service combine to make Bayside a neighborhood that has genuine mobility choice. This model for the peninsula and beyond will be designed from the ground up, free from dependence upon the automobile”.

B-7 Zone: Likewise the purpose section of the B-7 zone utilizes includes such phrases as “distinctly urban form through dense development”; “emphasizes a quality pedestrian experience” and “utilization of transportation, other than automobile is strongly encouraged”.

IX. PLANNING BOARD RECOMMENDATION

The present treatment of regulating drive-up facilities in the B-7 zone is reflective of the underlying land use policies outlined above. The B-7 zoning language was structured to encourage a dense mixed use development pattern advocated in the Bayside Plan. To achieve the goal of a dense urban pattern, the B-7 zoning text includes a number of measures to encourage a certain threshold or scale of development such as minimum building height, placement of buildings near the street, emphasizing building mass over surface parking and no limit on building lot coverage or housing density.

During the initial drafting of the B-7 zoning text, all drive-ups were prohibited because it was felt such uses did not support an urban development pattern nor contribute toward a quality pedestrian experience. Prior to enactment the text was revised to allow drive-ups as a conditional use, but only for banks. This distinction was made because bank buildings are generally more substantial in building mass, floor area and height in contrast to other drive-through uses. The traffic volume generated by a drive-up bank teller is substantially less than a fast food restaurant.

It was felt bank buildings of sufficient size could make a positive contribution toward redeveloping vacant or underutilized properties in Bayside. As a safeguard, bank drive-ups were listed as a conditional use along with certain standards such as floor area to assure a minimum scale of development. The smaller lots do not have the capacity to support the current 20,000 square foot minimum building size, but a new three story building of less than 20,000 square feet will contribute more to the development of the district than would result from reuse and expansion of the one-story non-conforming structure, as might likely be the case without this amendment.

The Planning Board held a public hearing on April 14, 2015 and voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment to § 14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

The specific motion read:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on April 14, 2015 for application #2015-015 (related to 20 Marginal Way proposals) and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to §14-296(a)1(c). (Conditional uses. (B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

Sec.14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

3. *Commercial use:*

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- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that **for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.**
 - iii. **The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.**
 - iv. **The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and**
 - v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - viii. The drive-up shall be limited to two vehicle drive-up lanes; and
 - ix. The location of any drive-up shall be limited to the geographic area between Somerset/**Kennebec** Streets/ I-295/Franklin ~~Arterial~~ **Street**/Forest Avenue.

ATTACHMENTS:

Report Attachments

(None)

Public Comments

PC1. P Coupe
PC2. P Quesada

Applicant's Submittal

- A. Application
- B. Applicants original text amendment
- C. a. B-7 lots less than 20K (map); b. B-7 lots less than 20k (table)
- D. Traffic Memos from Gorrill Palmer and Sebago Technics

Plans

- P1. Concept Plan for Bangor Savings Bank proposal
- P2. Bank concept on aerial
- P3. Previous renderings
- P4. Revised renderings of development proposal