

Order 26-12/13

Given first reading on 7/16/12

Passage: 5-3 (Anton, Donoghue, Marshall) (Coyne absent)

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER APPROVING THE CREATION OF THE
BAY HOUSE DEVELOPMENT DISTRICT AND TAX INCREMENT
FINANCING DISTRICT, APPROVING THE DEVELOPMENT PROGRAM FOR
THE DISTRICT, AND AUTHORIZING THE EXECUTION OF A CREDIT
ENHANCEMENT AGREEMENT**

WHEREAS, the City of Portland is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, to designate specified areas within the City as a Municipal Development and Tax Increment Financing District, and to adopt a Development Program for such District; and

WHEREAS, The Village at Ocean Gate LLC intends to construct two new buildings that will contain approximately 94 high-end apartments, a parking garage, and approximately 5,700 square feet of commercial space with ground level parking within the proposed Bay House Development and Tax Increment Financing District (the "District"); and

WHEREAS, the project will help to provide continued employment for the citizens of Portland and the surrounding region; improve and broaden the tax base in the City of Portland; and improve the economy of the City of Portland and the State of Maine; and

WHEREAS, there is a need to encourage development within the City of Portland through the establishment of Municipal Development and Tax Increment Financing Districts in accordance with the provisions of Chapter 206 of Title 30-A; and

WHEREAS, the City of Portland has held a public hearing on the question of establishing the District in accordance with the requirements of 30-A M.R.S.A. § 5223, upon at least ten (10) days prior notice published in a newspaper of general circulation within the City; and

WHEREAS, the City of Portland desires to designate the Bay House Development District and Tax Increment Financing District and adopt a Development Program for such District; and

WHEREAS, approval will be sought and obtained from the Maine Department of Economic and Community Development, approving the designation of the District and the adoption of the Municipal Development Program for the District;

NOW THEREFORE BE IT HEREBY ORDERED BY THE CITY COUNCIL AS FOLLOWS:

Section 1. The City of Portland hereby finds and determines that:

- (a) At least 25%, by area, of the real property within the Bay House Development District and Tax Increment Financing District, as hereinafter designated, is acreage suitable for commercial siting as defined in 30-A M.R.S.A. § 5223; and
- (b) The total area of the Bay House Development District and Tax Increment Financing District does not exceed 2% of the total acreage of the City, and the total area of all development districts within the city does not exceed 5% of the total acreage of the City; and
- (c) The original assessed value of equalized taxable property of the Bay House Development District and Tax Increment Financing District as of April 1, 2012 plus the original assessed value of equalized taxable property of all existing tax increment financing districts within the City does not exceed 5% of the total acreage of the City; and
- (d) The aggregate value of indebtedness financed by the proceeds from tax increment financing districts within Cumberland County, including the proposed District, does not exceed \$50 million adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City average, from January 1, 1996 to the date of calculation; and
- (e) The City expects that the acquisition, construction and installment of all real and personal property improvements, buildings, structures, fixtures and equipment within the district contemplated by the Development Program will be completed in accordance with State law; and
- (f) The designation of the Bay House Development District and Tax Increment Financing District and pursuit of the Bay House Development Program as the Municipal Development Program will generate substantial economic benefits for the City and its residents, including employment opportunities, broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose.

Section 2. Pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended, the City hereby designates the Bay House Municipal Development and Tax Increment Financing District, as more particularly set forth in the document

entitled “Bay House Municipal Development and Tax Increment Financing District Development Program” as presented to the City Council substantially in the form attached hereto as Attachment 1 and that document is hereby incorporated by reference into this Order and approved as the Municipal Development Program for the District (the “Development Program”).

Section 3. Pursuant to the provisions of 30-A M.R.S.A. § 5224, the City hereby adopts the statement of the percentage of Assessed Value to be retained by the City set forth as Exhibit E in the Bay House Development and Tax Increment Financing Program (Attachment 1) for purposes of said Section 5224.

Section 4. The City Manager be, and hereby is, authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to the State of Maine Department of Economic and Community Development for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226(2).

Section 5. The City Manager be, and hereby is, authorized to execute and deliver the Credit Enhancement Agreement substantially in the form described in the Development Program and attached as Exhibit H of Attachment 1, and execute such other documents as may be required to fulfill the purpose of this order.

Section 6. The foregoing designation of the District and the adoption of the Development Program for the District shall automatically become final and shall take full force and effect upon receipt by the City of approval of the designation of the District and adoption of the Development Program by the Department of Economic and Community Development, without requirements of further action by the City, the Council or any other party.