

City of Biddeford
Planning Board
November 15, 2023 6:00 PM City Hall
Council Chambers, & Zoom
<https://biddeford.zoom.us/j/94983531202?pwd=Q3ZyejcyUVpBaUVVMHduYXJhSzB4UT09>
Webinar ID 949 8353 1202; Passcode 223739

STATUS: Planning Board Meeting, Wednesday, November 15, 2023, 6:00 PM, City Council Chambers & Zoom

- 1. PLEDGE OF ALLEGIANCE**
- 2. DECLARATION OF QUORUM/VOTING MEMBERS**
- 3. ADJUSTMENTS TO THE AGENDA**
- 4. PLANNER'S BUSINESS**
- 5. CONSENT AGENDA**
 - 5.A. Approval of Meeting Minutes from 11-1-23 & 11-8-23
[PB Minutes 110123-DRAFT.pdf](#)
[PB Minutes 110823-DRAFT.pdf](#)
- 6. OPEN PUBLIC HEARING**
 - 6.A. 2023.52 SECOND READING Public Hearing: Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI-Performance Standards, Section 78-Accessory Dwelling Units (ADUs). This Ordinance amendment is being proposed to comply with LD 2003.
[ADU Ordinance Amendment 11-15-23 PB MEMO.pdf](#)
[Section 78 Accessory Dwelling Units TEXT AMENDMENT 11-15-23.pdf](#)
[Copy of BI3074-Va Table A.xlsx](#)
 - 6.B. 2023.48 SECOND READING Public Hearing: Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations, Article VI-Performance Standards Section 77-Marijuana Establishments: This proposed amendment seeks to establish additional performance standards related to odor complaints and enforcement of such, including penalties/procedures for noncompliance.
[Marijuana Amendments 11-15-23 PB MEMO.pdf](#)
[Marijuana Establishments Article VI Section 77 Ordinance Amendments 11-15-2023.pdf](#)
[Marijuana_Land_Use_Table_A_9-2023.pdf](#)
[Policy_Brief_Art._V_Table_of_Landuses.pdf](#)
[PPH 11-15-23.pdf](#)
 - 6.C. 2023.51 SECOND READING Public Hearing: Density Bonus Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V-Establishment of Zones, Section II, Notes for Table B. Amendments for Table B. This Ordinance amended would allow higher densities for low to moderate income housing.
[Density Bonus Ordinance BIDDEFORD CODE NOTES for Table B Planning Board Public Hearing 11-1-23.pdf](#)
[Density Bonus Ordinance BIDDEFORD CODE NOTES for Table B Planning Board](#)

[Public Hearing 11-15-23 FINAL.pdf](#)

[Density Bonus Ordinance Planning Board Memo 11-15-2023.pdf](#)

7. CLOSE PUBLIC HEARING

8. UNFINISHED BUSINESS

9. NEW BUSINESS

- 9.A. 2023.45 Public Meeting to review additional information regarding a Shoreland Zoning Application for the University of New England (which was tabled on 10-18-23) to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

[StaffReview_2023.45- UNE Dock_11_08.pdf](#)

[10-25-23 SITE PLAN \(1\).pdf](#)

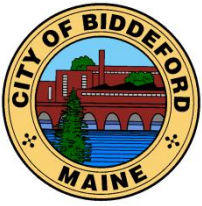
[10-25-23 VICINITY PLAN \(1\).pdf](#)

[SAC_PM_2019_V-001.pdf](#)

10. OTHER BUSINESS

11. ADJOURN

The Board reserves the right to halt official business at 9:30 p.m. Items not heard at tonight's meeting shall be rescheduled to the next meeting of the Board. All materials pertaining to items on the agenda are available for public review at the Biddeford Planning Department, second floor, Biddeford City Hall during normal business hours.



CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

Planning Board Meeting Minutes

DRAFT

Date: November 1, 2023
Time: 6:00 PM
Location: Council Chambers & Zoom

1. Pledge of Allegiance
2. Declaration of Quorum/Voting Members
Quorum Present: Larry Patoine, Chair, Susan Deschambault, Roch Angers, Sean Tarpey, Alexa Plotkin, Steve Beaudette, Alternate Member
Staff Present: David Galbraith, City Planner, Nan Whitten & Roby Fecteau, Codes Enforcement Officer
3. Adjustments to the Agenda-None
4. Planner's Business
2023.51 Introduction of the proposal to Re-Zone some of the R-2 & R1A lots to MSRD-2
Galbraith introduced this proposed change.
Tarpey clarified what changes this would encompass
Galbraith-no this is just a zoning map amendment
Tarpey-reason?
Galbraith-to increase densities of these lots for housing
Fecteau-areas currently MSRD-2 and those being converted, are similar neighborhoods, so this makes perfect sense. MSRD-2 is more of a mixed zone and this is why they opted to expand MSRD-2 by converting these lots.
Deschambault-what is the remainder of the lots
Fecteau-Lafayette to West Brook
Angers-give the public a general idea of the area
Fecteau-(West) MSRD-2 stopped along the RR when you cross the bridge, R2-MSRD-2, Middle, Oak, Oak to Granite & Ivy Streets, these areas are densely populated, Pike St, Tibbets, Freeman, Gove, Miller, Cleave Streets, South side of Rte. 9 along Clifford Park, this would be correcting the zoning in some areas where there are multi and single families.
Plotkin-We passed 2023 Comp Plan, Growth areas like these were mentioned, and this is exactly as a community what we are going for. This will provide more housing, she is happy to see this.
Galbraith-this will come back 2 more times.
The Board is willing to send a favorable recommendation to Council.

5. Consent Agenda

Approval of Meeting Minutes from 10-18-23

MOTIONS: 6:15 PM

Deschambault-Motion-To approve Minutes as submitted

Angers-Section Motion passed unanimously

6. Open Public Hearing

7. Unfinished Business

8. New Business

8. A 2023.42: Public Hearing: Street Frontage Reduction Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V - Establishment of Zones, Section 11, Notes for Table B. The amendment would, as proposed, allow for the reduction of the City's frontage requirements from 100-feet to 90 feet / 90%, in certain areas of the City, for increased lot creation and housing stock

- Galbraith introduced this amendment for the second time, he is looking for a recommendation to send to the Council
- Tarpey what happens in the area of the Saco River Corridor has jurisdiction
- Galbraith they would still be consulted for approval
- Fecteau, amendment is strictly for road frontage this will not affect the river. This is strictly for frontage on road.
- Tarpey, he's not sure that it doesn't affect SRCC he reread the Ordinance for SRCC and believes there are frontage requirements for SRCC.
- Tarpey wants to re-look at this because of SRCC
- Fecteau-everything you see tonight will have implications with SRCC we have different rules than them, City trying to build something better. We have to look at the entire City, SRCC has a smaller purview.
- Tarpey- this discussion needs to take place.
- SRCC has within 500 feet of the river.
- Plotkin-this does not apply to MSRD-2 and are we loosing prospective housing because they are being changed.
- Patoine-this is to increase the housing stock-yes at the end of the day this is what we want.
- PUBLIC:
 - Guy Gagnon-Biddeford Housing Authority How many lots will this impact? In favor of going to 75% of frontage. We may be able to create lots by being more liberal.
- The Board would like to know how many places this would impact to make sure it is worth going through with it.
- Tarpey-does not take into consideration if they have sewer & water so rural could do this too?
- Galbraith-yes but they have to fit all setbacks this is just reducing the frontage requirement.
- Deschambault-this started in the Policy Committee, Counselors and City Manager worked on it. She feels we should go forward.
- Beaudette-In calculating the number of net effect would be if street frontage would be a field so that we can get a number of lots this would affect.

- Galbraith-we would also have to put other items in the query, he does not have the capability to complete this not sure about GPS department.
- Fecteau-9,000 people in Biddeford if we can help 2 people that's 2 people who was helped.
- Angers will pass this along but make sure to pass along the points that have been brought up. It's not worth it if we spend all this time and no one qualifies.
- Plotkin would like to make it 75% when we send in the recommendation.
- Deschambault-would they still have to come to Planning Board-No

MOTION: 6:43 PM

Beaudette-Motion-PB forwards recommendation to Council

Deschambault-Second

Angers-Point of Order-Needs to be a voting member to make a motion

Angers-Motion-Forward to Council Favorable recommendation

Deschambault-Second Motion Passed 3-1 Deschambault, Angers, Tarpey in Favor; Plotkin against

8. B 2023.52 Public Hearing: Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs). This Ordinance amendment is being proposed to comply with LD 2003.

- Galbraith introduced proposed change. ADU permitted in any zone where residential homes are permitted. Multi family would be a Conditional use.
- CR zone will change, ADUs are not allowed in the RP zone we still must comply with Shoreland overlay district.
- Fecteau gave an overview of changes made to comply with LD2003. Shoreland zoning is a Federal mandate RP zone in Biddeford does not allow single-family homes therefore no ADUs.
- Not sure how SRCC is going to address these law changes

PUBLIC

Guy Gagnon-Biddeford Housing Authority concerned about short-term rentals going into the ADUs in the CR zone.

Fecteau-ADUs must be owner occupied; they will also have to comply with Shoreland zoning rules.

- Deschambault-clarification on staff recommendation

MOTION: 6:59 PM

Plotkin-Motion-to approve Table A

Deschambault-Second

Motion passed unanimously

Plotkin-Motion-to approve B

Angers-Second

Motion passed unanimously

8. C Public Hearing: Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations, Article VI - Performance Standards, Section 77 - Marijuana Establishments: This proposed amendment seeks to establish additional performance standards related to odor complaints and enforcement of such, including penalties / procedures for non-compliance.

- Galbraith introduced proposed changes-2 parts of the Ordinance to amend: 1) amend for odor issues, conditions of approval added; we would like to add them to the Ordinance. 2) Allow adult sales in the same zones where medicinal marijuana is sold.
- Fecteau-500' foot setback from each other which limits facilities. His office has gotten 0 complaints about adult use. Many communities change from medical to adult use. Odor complaint process previously had no process to deal with complaints. They would like to add the process in writing to the ordinance. They have gotten 0 complaints for odor from stores.
- Public comments
Glenn Peterson runs Canuvo Medical Marijuana-adult use cannabis is tested for chemicals far more than medical marijuana is. If someone lights up in the parking lot, call the store and the operators will go out and speak to this person, they do not want this to be happening either.
- Deschambault-Clarification
- Fecteau-deals with odor complaints or operations that are happening that is not allowed. If they light up in the parking lot that is not his department but possibly the Police Department would deal with it.

MOTION: 7:12 PM

Deschambault-Motion- Approve the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A "Table of Land Uses" allow adult use marijuana retail sales within the City's I-1, I-2 and I-3 zoning districts, as a "Conditional Use", as written.

Plotkin-Second

Motion passed unanimously

- #2 Angers-concerned that the timeliness of violation gives them 90 days to comply feels it is too long. That section should be tightened up
- Deschambault-Talked about the rules of smoking at her building. She feels like you have to start somewhere. You have 30 days to find the issue then 60 days to get it fixed. She feels they should work with codes and there is no way to perfect it.
- Plotkin-are there other codes where they have steps for fixing complaints.
- Fecteau-several such as the disorderly house-timeline is similar, they need to allow time to order parts and repair. They need to start with something and if they continue to have issues then they may come back to the Board to shorten the timeline

MOTION: 7:20 PM

Deschambault- Approve the proposed Amendments to the City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City's Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, as written and proposed.

Plotkin-second

Motion passed 3-1 Deschambault, Tarpey, Plotkin in favor, Angers against.

8. D Public Hearing: Density Bonus Ordinance: City Code of Ordinances, Part III: Land Development Regulations, Article V - Establishment of Zones, Section 11, Notes for Table B. Amendments to Table B. This Ordinance amended would to allow higher densities for low to moderate-income housing.

- Galbraith introduced proposed changes. He passed around document with additional changes to comply with LD2003. He appreciates Fecteau's assistance in writing this ordinance.
- Fecteau gave a history of the density bonus ordinance. Two approaches 1) gross living area of building, take living area and divide by 650 SF. They felt 500 SF as a minimum of square feet is workable. 2) Gone from 80% FMV to 70% FMV. Everything of this ordinance ties back to LD2003. They took language straight from LD2003 for vacant land. Two ways to accomplish more affordable housing by calculating for bonus density. In both cases, they have to comply with the remainder of the ordinance. The 30-year timeline is required by LD2003. This is giving developers and homeowners a chance to add more housing.
- Deschambault-is management agreeing with 70%
- Fecteau 70% was approved by the Policy Committee
- Patoine-this has been simplified for the homeowner.
- Fecteau we are affording more housing for more people.

PUBLIC COMMENTS

Guy Gagnon-Biddeford Housing applauds the Board for looking into this, ordinance is erroneous in calculations and he told us how to correct that issue. Income levels in the ordinance is confusing to the average person. It would be easier to tie it to MSHA, which is changed annually. It would create affordable units for the average person by using a 2-tier process. This will be an administrative nightmare for the City. Make sure we are not squeezing buildings so that we are not eliminating 3 and 4 bedroom units. We are squeezing out families. Make sure there are not unintended consequences.

- Tarpey-what is this new thing (paperwork) we just got
- Galbraith-explained it is an updated version of the amendment to include changes made this morning to be in compliance with LD2003
- Tarpey-this is not good to do, he cannot vote to approve something he has not read. He is not happy about this and he wants Planner to know this.
- Galbraith-no vote needed tonight, this will be coming again for second reading November 15, 2023.
- Patoine-there is no action on this tonight so this gives us more time to digest this information.
- Angers-Are the items Mr. Gagnon brought up are going to be considered?
- Galbraith-He will talk to block grant department to see about the changes.
- Angers-agrees with items Mr. Gagnon brought up and would like them considered.
- Beaudette-Needed to leave 7:46 PM

8. E Public Hearing: Inclusionary Zoning Ordinance – New Ordinance: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards,

Section 40 – Inclusionary Zoning. This Ordinance is being proposed to create additional housing opportunities for lower income housing.

- Galbraith explained the ordinance changes. Page 63 is the definitions of affordable housing from the state; he is recommending A, B & C.
- Only works in the MSRD 1 & 3 Zones
- Seeking a recommendation for the City Council for this amendment

PUBLIC

Guy Gagnon-Biddeford Housing, Page 63-how are you going to police this especially item C. We should say that the program follows the same guidelines of the MSHA First Time Homebuyers Program. Would like to see the sunset provision be removed, he doesn't see the need for that. Page 61 he does see the need for paragraph 5 he can see that being abused. Paragraph 4 should add the % of units that are affordable and market rates should be more alike.

- Tarpey-Large Headers has a typographical error.
- Tarpey needs more time he needs more time.
- Angers has a problem with the sunset provision as Mr. Gagnon brought up.

MOTION: 7:56 PM

Motion 1)

Plotkin-Motion-To approve text in Section 40 as written

Deschambault-Second

Motion passes 2-1-1, Deschambault, Plotkin

in favor, Angers against, Tarpey abstained with the reasoning he did not get the information in time to make an educated decision

Motion 2)

Plotkin-Motion- To approve definitions as presented

Deschambault-Second

Motion passed 3-0-1 Deschambault, Angers &

Plotkin in favor, Tarpey abstained due to receiving information late.

9. Close Public Hearing 8:04 PM

10. Other Business

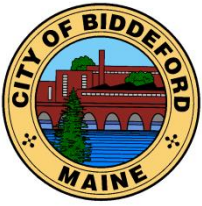
11. Adjourn

Meeting adjourned at 8:05 PM

Planning Board Chair/Vice Chair

Date

These minutes are summary and are not intended to be verbatim. Archived meetings are viewable on the City's website: www.biddefordmaine.org.



CITY OF BIDDEFORD

Planning and Development Department

205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

Planning Board-Workshop Meeting Minutes

DRAFT

Date: November 8, 2023
Time: 6:30 PM
Location: Council Chambers & Zoom

Declaration of Quorum/Voting Members

Quorum Present: Larry Patoine (Chair), Michael Cantara, Roch Angers, Sean Tarpey, & Susan Deschambault

Staff Present: David Galbraith, Eric Freeman & Nan Whitten

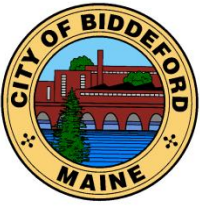
Chair Patoine opened the meeting at 6:00 PM

The Planning Board discussed the soils ordinance and proposed changes to such ordinances. Procedures for notifications and proposed changes were discussed.

Planning Board Chair/Vice Chair

Date

These minutes are summary and are not intended to be verbatim. Archived meetings are viewable on the City's website: www.biddefordmaine.org.



CITY OF BIDDEFORD

Planning and Development Department

David C.M. Galbraith
Deputy Director/City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

David.Galbraith@biddefordmaine.org

Planning Board – Staff Report

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Deputy Director / City Planner

DATE: November 8, 2023

RE: **Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) and Table A “Table of Land Uses” – Second Hearing.**

MEETING DATE: November 15, 2023

1. Overview:

This item was last discussed with the Planning Board at the 11-1-2023 regular Board meeting. At that time the Board was in favor of forwarding a positive recommendation to the City Council to adopt the proposed Ordinance Amendment. At this time Staff is seeking the Board approve the second reading of the amendment with a positive recommendation for Council adoption. The City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs), and “Table A – Table of Land Uses” both currently prohibit accessory structures from locating within the Coastal Residential (CR) Zoning District. To comply with State Law LD 2003, Staff is proposing the following Ordinance Amendments:

- A. Modify Table of Land Uses to add “P” which stands for “Permitted” within the Coastal Residential (CR) column, for Accessory Dwelling Unit row.
- B. Amend the City's Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) to modify Section B.1.a. Text deletions are illustrated in ~~Red strike thru~~ and text additions are shown in Blue Underline.

B. Procedural requirements.

1. Review procedure:

a. One ADU is permitted per residentially zoned parcel (See Article V, Table A, Table of Land Uses.), except within the ~~Coastal Residential (CR) Zone, including the RP and LR~~ overlay districts ~~within the CR Zone, where ADUs are not permitted~~... ADUs are also permitted on nonresidentially zoned parcels containing a single nonconforming (as to use) dwelling unit which was in existence as of

Accessory Dwelling Unit (ADU) Ordinance Amendment: City Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) and Table A “Table of Land Uses”.

Planning Board Hearing Date: November 15, 2023 – Second Hearing

January 1, 2017. All ADUs shall comply with standards contained within Article XIV – Shoreland Zoning Ordinance. A permit for an ADU may be issued by the Code Enforcement Office so long as all of the standards in this section are met.

Below is a link to the City’s existing Accessory Dwelling Unit (ADU) Ordinance.

<https://ecode360.com/32261933#32261933>

Attached proposed amendment to Table A, to list ADU’s as a “Permitted” use. Also attached is Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) illustrating the proposed Ordinance modifications to Section B.1.a. within the context of the entire Ordinance. Text deletions are illustrated in ~~Red strike-thru~~ and text additions are shown in Blue Underline.

Staff Recommendation:

Staff requests that the Planning Board forward a positive recommendation for adoption of this amendment to the City Council to bring this Ordinance into compliance with LD2003.

ATTACHMENTS

1. Attachment # 1: Amendment to Table A, to list ADU’s as a “Permitted” use in the Coastal residential (CR) zoning district and to allow duplexes as a “Conditional Use” within the Coastal Residential (CR) zoning district.
2. Attachment #2: Article VI – Performance Standards, Section 78 – Accessory Dwelling Units (ADUs) with proposed Ordinance modifications to Section B.1.a. within the context of the entire Ordinance.

Section 78 **Accessory dwelling units (ADUs).**

[Added 3-7-2017 by Ord. No. 2017.16]

A. Purpose and intent. The intent of permitting ADUs is to:

1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
3. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
4. Provide housing units for persons with disabilities;
5. Protect stability, property values, and the residential character of a neighborhood.

B. Procedural requirements.

1. Review procedure:

- a. One ADU is permitted per residentially zoned parcel (See Article V, Table A, Table of Land Uses.), except within the ~~Coastal Residential (CR) Zone, including the RP and LR~~ overlay districts ~~s within the CR Zone, where ADUs are not permitted.~~ ADUs are also permitted on nonresidentially zoned parcels containing a single nonconforming (as to use) dwelling unit which was in existence as of January 1, 2017. [All ADUs shall comply with standards contained within Article XIV – Shoreland Zoning Ordinance.](#) A permit for an ADU may be issued by the Code Enforcement Office so long as all of the standards in this section are met.

[Amended 6-20-2017 by Ord. No. 2017.57]

- b. The Code Enforcement Office shall conduct the administrative review of all applications for an ADU. All findings and decisions of the Code Enforcement Office shall be final except where subject to appeal to the Zoning Board of Appeals as provided in Article IX of the Biddeford Land Development Regulations.

2. Application fee required:

- a. In addition to all applicable building, electrical, plumbing, etc., permit fees, ADU applications shall cost a nonrefundable fee of \$200.

C. Use and dimensional regulations.

1. The Code Enforcement Office may issue a building permit authorizing the installation and use of an ADU within an existing or new owner-occupied, single-family dwelling, attached to an

existing or new owner-occupied, single-family dwelling, or in a detached structure on a single-family home lot only when the following conditions are met:

- a.** The unit will be a complete, separate housekeeping unit containing both kitchen and bath.
- b.** Only one ADU may be created within a single-family house or house lot.
- c.** ADUs may be created on lots meeting the minimum lot size for a single-family dwelling in the zoning district or on legally nonconforming lots as of January 1, 2017.
- d.** ADUs shall not be intended for sale and shall remain in common ownership with the principal dwelling unit.
- e.** All ADUs shall have a gross floor area of at least 300 square feet.
- f.** The gross floor area of an ADU (including any additions) shall not be greater than 35% of the gross floor area of the principal dwelling unit or 900 square feet, whichever is greater.
- g.** Once an ADU has been added to a single-family residence or lot, the ADU shall never be enlarged beyond the 35% of the gross floor area of the principal dwelling unit or the 900 square feet allowed by this ordinance.
- h.** Rooftop decks are not permitted.
- i.** Balconies shall not face interior side lot lines.
- j.** An ADU may not have more than two bedrooms.
- k.** The construction of any ADU must be in conformity with all applicable federal, state and local laws, ordinances and regulations.
- l.** One off-street parking space is required for an ADU unless legal on-street parking or publicly supplied off-street parking is located within 1,000 feet. Tandem parking is permitted.
- m.** Internal ADUs shall also comply with the following:
 - i.** Internal ADUs shall not result in additional entrances facing a public street on the primary structure.
 - ii.** Any stairways leading to the internal ADU shall be enclosed.
- n.** Attached ADUs shall also comply with the following:
 - i.** Attached ADUs shall not result in additional entrances facing a public street on the primary structure.

- ii. Any stairways associated with an attached ADU shall be enclosed.
- iii. The primary exterior materials of an attached ADU shall match the primary exterior materials of the principal structure.

o. Detached ADUs shall also comply with the following:

- i. Not less than 10% of the total area of the facade of a detached accessory dwelling unit facing an alley or public street shall be windows.
- ii. Exterior stairways shall be allowed, provided that the finish of the railing matches the finish or trim of the detached accessory dwelling unit. Raw or unfinished lumber shall not be permitted on an exterior stairway.

- 2.** In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the Code Enforcement Office may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

D. Occupancy requirements.

- 1.** The owner(s) of the residence in which the ADU is created must continue to occupy either the ADU or the principal dwelling unit.
- 2.** If an owner is unable or unwilling to fulfill the requirement to occupy either the ADU or the principal dwelling unit, the owner shall remove those features of the ADU that make it a dwelling unit.
- 3.** An ADU may not be occupied by more than three people.

E. Administration and enforcement.

- 1.** It shall be the duty of the Code Enforcement Office to administer and enforce the provisions of this ordinance.
- 2.** No building shall be constructed or changed in use or configuration until the Code Enforcement Officer has issued a permit. ADUs shall not be occupied until a certificate of occupancy has been issued by the Code Enforcement Office.

V Attachment 1 City of Biddeford Table A

Table of Land Uses

[Amended 2-2-2010 by Ord. No. 2009.98; 8-3-2010 by Ord. No. 2010.70; 9-21-2010 by Ord. No. 2010.93; 6-21-2011 by Ord. No. 2011.37; 4-3-2012 by Ord. No. 2012.24; 4-16-2013 by Ord. No. 2013.24; 3-18-2014 by Ord. No. 2014.16; 1-16-2018 by Ord. No. 2018.3; 1-16-2018 by Ord. No. 2018.5; 6-5-2018 by Ord. No. 2018.44; 10-2-2018 by Ord. No. 2018.45]

KEY:
 * Subject to Article VI, Performance Standards, of this ordinance. P Permitted use.
 Not permitted.
 C Conditional use. See Article VII for specific standards. A Accessory use.

	Article VI Section ^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Residential uses:								
Accessory dwelling units* 27	78	P	<u>P</u>	P	P	P	P	
Accessory structure*	2	P3	P3	P3	P3	P3	P3	P
Boarding, rooming house*	10					C	C	
Bed-and-breakfast*	9		C			C		
Cluster development*	18	C	C	C	C	C	C	
Congregate housing*	19					C	C	
Duplex/2-family	24	C	<u>C</u>			P	P	
Home occupation*	38	C	C	C	C	C	C	C
Manufactured housing*								
Mobile home park*								
Multifamily dwelling*	47					P	P	P
Planned unit development*	73					C	C	
Single-family dwelling 11	2	P	P	P	P	P	P	
Commercial uses:								
Adult business	3							
Amusement center*	5							C
Art gallery			C					P
Art studio			C					P
Auto body shops								
Automobile graveyard, automobile recycling business, junkyard*	7							
Automobile repair, sales								
Boat building, repair, marine services, sales, boat livery, marina, yacht club								P

	Article VI Section ^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Building materials retail sales								P
Carwash*	14							C
Commercial gardening, commercial greenhouse*	17	C	C	C	C			
Commercial recreation*	18							C
Commercial school*	53							P
Drugstore/medical supply								P
Financial institution								P
Firewood processing*	33							
Fisheries processing, storage*	34							
Funeral parlor								P
Gasoline service station*	36							P
Hotel/motel*	40							P
Indoor theater								P
Kennel, veterinary hospital*	42							
Medical marijuana dispensaries								
Medical marijuana growing facilities								
Neighborhood convenience store/service		C4	C4	C4	C4	P	P	P
Off-street loading and parking lot and facilities, commercial parking garage	49					C	P	P
Offices, business and professional*	52							P
Planned unit developments*	73							C
Publishing, printing								P
Restaurant*	56							P
Retail store								P
Sawmill*	33							
Services								P
Shopping center								C
Telecommunications facilities	71							
Wholesale business								
Industrial uses:								
Air transportation related use								
	Article VI Section ^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Air transportation dependent use*								
Airport	4							
Bulk oil terminal*	41							
Contractor's storage yard								

Demolition disposal*	23							
Experimental research and testing laboratory	29							
Light manufacturing*	41							
Light trucking dependent industry*	41							
Manufacturing*	41							
Planned unit developments*	73							
Resource recovery facility								
Recycling facilities	76							
Redemption centers								
Storage of bulk gaseous fuels*	41							
Transportation facilities								
Trucking, distribution terminal*								
Warehousing and storage*	60							
Self-storage facilities*	60							C16
Educational, institutional public uses:								
Addiction treatment facility 22								
Church, synagogue*		C	C	C	C	C	C	
Civic, convention centers								C
Community centers, clubs						C	C	C
Day-care center, adult	22	C	C	C	C	C	C	C
Day-care home, adult	22	C	C	C	C	C	C	
Day-care home, children's	22	C	C	C	C	C	C	
Day-care center, children s	22	C	C	C	C	C	C	C
Essential services	27	C	C	C	C	C	C	C
Fire, police station						C	C	P
Group homes, hospice	19	C	C	C	C	P	P	P
Hospital*	39							
Municipal use	47.1	C	C	C	C	C	C	P
Museum, library			C					P
Nursing home*	39	C				P	P	
Public and private schools*	53			C	C	P	P	
Public facility		C	C	C	C	C	C	P
	Article VI Section^a	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1
Rehabilitation facility								
University/college*		C	C					
University uses*		C						
Water supply system	27	C	C	C	C	C	C	C
Outdoor, resource-based uses:								
Agriculture*	3, 31							
Agricultural products processing and storage*	3, 31							
Animal breeding or care	42							
Campground*	13							

Cemetery	14.1	C	C	C	C	C	C	
Extractive industry*	30							
Farm stands* 13	31							
Timber harvesting	64		C					
Golf course excluding miniature golf		P	P	P	P			
Parks and recreation*		P	P	P	P	P	P	P

NOTES:

^a This column has been provided to serve as an aid in finding specific performance standards, but does not address all standards that may apply. Please consult the following:

1. Multifamily use shall not exceed 10 units per structure.
2. Requires Planning Board approval.
3. Accessory structures shall be limited to:
 - (a) Private detached garages for the storage of no more than three automobiles.
 - (b) Private greenhouses less than 200 square feet in floor area.
 - (c) Private swimming pools.
 - (d) Storage sheds, provided that they are uninhabitable and less than 200 square feet in area.
 - (e) Decks, porches, patios, gazebos, summerhouses, and other structures intended for outdoor use, provided they are uninhabitable.
4. No closer than 1,000 feet to another similar facility.
5. (Reserved)
6. (Reserved)
7. Drive-through establishments (except as provided in Note 8) and street level residential uses are prohibited in the MSRD-1 Commercial Core District in
 - (a) Along both sides of Main Street between the intersection of Elm Street (Route 1) and Main Street through to the Saco City Line north of Water Street;
 - (b) On both sides of Adams Street from Main Street to Jefferson Street;
 - (c) On the north side of Jefferson Street from Main Street to Alfred Street;
 - (d) On both sides of Washington Street from Main Street to Jefferson Street;
 - (e) On both sides of Federal Street between Washington Street and Franklin Street;
 - (f) On both sides of Franklin Street; and
 - (g) On both sides of Alfred Street from Jefferson Street/Pool Street to Main Street.
8. Financial institutions are permitted drive-throughs limited to two lanes, are a conditional review by the Planning Board, and must adhere to the following
 - (a) Located on the side or rear of the building and never between the building and the Main Street.
 - (b) Access drive located to minimize impact on pedestrians:

Not between building and the street;

Entrance from a side street where possible;

Sidewalk material carried across any driveways.

- (c) Adequate queuing land preferably separate from the parking lot.
 - (d) Architectural treatment compatible with main building.
 - (e) Controlled lighting that does not glare onto neighboring property.
9. Review by the Board of Appeals required for all truck loading facilities for new buildings and for changes in tenancy.
 10. Limited to offices for medical professionals and associated fields.
 11. Unless otherwise stated or allowed within the provisions of this ordinance, no more than one dwelling unit shall be allowed per lot.
 12. (Reserved)
 13. Shall be considered as a home occupation; only products grown on the premises may be sold, unless the stand is recognized as a commercial operation.
 14. Transportation facilities here shall be limited to facilities associated with firms or businesses serving passenger transport, such as bus terminals, taxi stands.
 15. (Reserved)
 16. Shall be limited to internal storage in existing buildings that require no external structural changes. No loading bays shall be constructed. Off-street parking shall be limited to internal storage in existing buildings that require no external structural changes. No loading bays shall be constructed. Off-street parking shall be limited to internal storage in existing buildings that require no external structural changes.
 17. Adult businesses are restricted to that portion of the B-2 District between Dartmouth Street and Landry Street. No adult business shall be located on any other portion of the B-2 District.
 18. All subdivisions in the Rural Farm Zoning District shall be clustered, and developed in accordance with Article VI, Section 16, Cluster Developments, or other applicable zoning regulations.
 19. This use does not include facilities, activities, or programs conducted by or hosted by a college or university that meet the definition of university uses.
 20. Within that portion of the Institutional (IN) Zone subject to a Shoreland Zoning District, existing buildings, structures, and roads may be maintained, modified, or replaced, provided they meet the requirements of applicable local, state, or federal codes or regulations, the existing sewage treatment plant may be expanded or replaced, and the existing sewage treatment plant may be expanded or replaced.
 21. See Article V, Section 7, Main Street Revitalization Districts for land uses.
 22. All addiction treatment facilities shall meet all applicable federal, state, and local laws and regulations. No occupancy permits shall be issued until evidence of compliance is provided.
 23. All medical marijuana dispensaries and growing facilities shall be governed by and subject to the Maine Department of Health and Human Services, Division of Public Health.
 24. (Reserved)
 25. Internal storage fully enclosed within buildings only. Loading bays shall be located on the side or rear of buildings and shall be screened from view from the street.
 26. Self-storage facilities in the B-2 Zone shall not be permitted northeast of the Route 1/Dartmouth Street intersection.
 27. Accessory dwelling units may also be permitted in nonresidential zones where there exists a nonconforming (as to use) single-family dwelling on a lot that is zoned for residential use.

l-2011 by Ord. No. 2011.36;

Ord. No. 2014.16; 9-6-2016 by Ord. No. 2016.74; 1-17-2017 by Ord. No. 2016.87; 6-20-2017 by Ord. No. 2017.110; 3-5-2019 by Ord. No. 2019.15; 3-5-2019 by Ord. No. 2019.16]

B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
-----	-----	-----	-----	-----	-----	-----	-----	------	---

				P		P	P		
P	P	P	P	P	P	P	P		
				C			C		
							C17		
							C		
						P	C		
					C	C	C		

See Article VI, Section 45.

See Article VI, Section 45.

					P1	P			
				P		P	P		

C17									
C									
						C	C		
						C	C		
	C		C						
	C							C	
P	P		C						
P			C	P	P	P			

B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
P	P		P				C		
C	C		A						
P							P		
C	C		C				C		
P			P						
P			P						P
P	C		P						
							P	P	
				P					
P	P		P						
P	P		C				C		
P	P		P		P				
P	P		P						
P	P		P				P		
			C23						
	C23	C23							
P			P				P		
P9	P		A	P	P	P	C		
P	P	P	P		P	P			P10
C									
P	P	P	P						
P	P		P	P	P	P	C		C
P	P		P	P	P	P	C		C
							C	C	
P	P		P	P	P	P	C		C
C	C		C						
			C				C	C	
P	P	P	P						

		C							
B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
	C	C							
	C	C							
	C								
	C	C					C	C	

								C	
C	C	C	C						C
C	P	P	P						
C	P	P	C						
	C	C	C						
	C	C	C						
	C	C							
C	P							P	
	P	P	P						
	P		C14	P		P			
C	P	P	C						
P	P	P	A						
C25, 26	P		C						

									C
C							C		C
C			C						
C			C						
P	P	P	P				C		C
C					C	C	C	C	C
C							C	C	C
C	C	C	C				C		C
C	C	C	C	C	C	C	C	C	C
P			P				C		
P							C		
									P
P	P	P	P	P	P	P	C	C	P
P			C				C		P
							C		C
C							P		C
P	C	C	P	C	C		C	C	C
B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M
									P
			C				C		C
			C				C		C
C	C	C	C	C	C	C	C	C	C

							P		
	P						P		
							P		
							C		

							P	C	
P2	P2						P2	P2	
							P		
							P	P	
							P		
P	P	P	P	P	P	P	P	P	

ilt Article VI for subsequent standards that may apply to a particular project. All uses cited above are subject to specific lot and setback, height, and performa

the following areas:

standards:

tions, passenger rail stations, etc.

ing shall be available with no fewer than one space per 20 storage units. A copy of the contract that will be offered to prospective tenants shall be submitted for each lot or parcel of land with road frontage on Elm Street.

f this ordinance.

Such uses shall be considered as university uses and shall be permitted in the institutional zone subject to the requirements of the zone and the additional provisions of this ordinance. No new buildings shall be built or located and no existing buildings shall be enlarged (including the replacement of existing buildings) on the Marine Science Center site. The existing Marine Science Center may be expanded through the construction of one additional building, provided that such changes meet all shoreland requirements.

Proof of state certification has been presented to the Code Enforcement Office.

Division of Licensing and Regulatory Services, 10-144 CMR Chapter 122 (as amended).

public streets and any abutting residential uses.

as it was in existence as of January 1, 2017. See Article VI, Section 78.

7.57; 1-

IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
	P		P	
P	P	P	P	P
			C	C
	C	P	C	P
			C	
	C	P	C	P
	P		P	
	C	C	C	C
	C	P	P	P
	C	C	C	C
	P		P	
		C		C
	C	P	C	P
	C	P	P	P
				C
		C		

IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
		C		P
				C
		P		P
		P		P
		P		P
C19		P		P
				P
		P		P
		P		P
		P	C	
		P	C	P
	C	P	C	P
		C		C
	C	P		P
		P		P
		P		P
	C	P		P
		C		P
				P

IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3

C19				C
				P
				P
				P
				C
				C
				P
				C
		C	C	C

		C	C	C
		C		C
		C	C	C
		C	C	C
		C	C	C
			C	C
		C	C	C
C	C	C	C	C
C19		P	C	
		C	C	P
				P
	C	P	C	P
C19		P	C	P
		C	C	C
		C	C	C
C	C	P	C	P
IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
				C
P		C		P
P		C		P
C	C	C	C	C

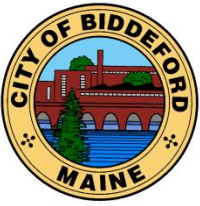
C19				
C19				
P19		P	P	P

nce requirements, as well as specific notes below:

or review.

formance standards for colleges/universities.

except as follows: The existing buildings and roads may be modified to the extent necessary to
s and the performance standards of Article XIV.



CITY OF BIDDEFORD

Planning and Development Department

David C.M. Galbraith
Deputy Director/City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115

David.Galbraith@biddefordmaine.org

Planning Board – Staff Report

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Deputy Director / City Planner

DATE: November 8, 2023

RE: Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments Odor Complaints and Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts – SECOND READING

MEETING DATE: November 15, 2023

Overview:

This item was last discussed with the Planning Board at the 11-1-2023 regular Board meeting. At that time the Board was in favor of forwarding a positive recommendation to the City Council to adopt the proposed Ordinance Amendment. At this time Staff is seeking the Board approve the second reading of the amendment with a positive recommendation for Council adoption.

This issue involves two (2) Zoning Ordinance text amendments, namely:

1. An amendment to Table A “Table of Land Uses” to allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts. Table A currently lists “Marijuana store, adult use” within Table A, however the Table does not permit the use within any zoning District.
2. Zoning Ordinance text amendments to Article VI – Performance Standards, Section 77 – Marijuana Establishments which would establish formal procedures related to odor complaints with the operations of marijuana related businesses.

The issue of adult use marijuana retail sales was discussed at the City’s Policy Committee September 25, 2023, and subsequent forwarded, by the Council to the Planning Board for review. The detailed review provided to the Policy Committee is below:

Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations

1. Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.
2. Article VI – Performance Standards, Section 77 – Marijuana Establishments - Odor Complaints and Enforcement.

Planning Board Meeting: November 15, 2023 – SECOND READING

Detailed Review:

Maine law allows the delivery of adult use marijuana in Biddeford. This amendment would allow adult use stores in in zones where medical use stores are currently allowed. Biddeford does have a 500’ setback for new establishments. Existing establishments may transition to adult use and this setback would not apply.

Permitting adult use storefronts in these zones made sense to staff because we have had zero issues with medical marijuana sales and existing marijuana businesses have not expressed concerns with the locations.

Expanding the sale of adult use sales to other zones, may create economical differences in the price per square foot for rental space or the sale of property. In the very beginning of Marijuana operations in Maine, many communities saw a spike in the rental price for space because, operators were paying over the average price to set up locations. Permitting adult use to existing zones where medical marijuana is currently allowed, would not reintroduce the economic differences in other zoning districts.

This amendment will require Planning Board approval prior to council action

This issue relates to the State law which allows adult use marijuana to be delivered within the City limits. Although other marijuana related uses are allowed within the city, they are all limited to the City’s I-1, I-2 and I-3 zoning districts. Adult use retail sales are currently not permitted in any zoning district. However, Table A of the City’s “Table of Land Uses” lists “Marijuana store, adult use” although it is currently not permitted within any district as the Table row does not list the use as permitted, as shown with a “P” or even as a “Conditional Use” as identified within the Table by a “C”.

As discussed above, the proposal to allow adult use marijuana retail sales would be limited to the City’s I-1, I-2 and I-3 zoning districts only, and the proposal is to amend Table A “Table of Land Uses” to make the use “Conditional” which would require Planning Board review and approval. Each proposal would be evaluated on the merits of such and impacts to the community and surrounding neighborhoods. Attached is Table A “Table of Land Uses” including the use as “C” for “Conditional Use”.

The second marijuana related Zoning Ordinance text amendment relates to Article VI – Performance Standards, Section 77 – Marijuana Establishments. This text amendment would establish formal performance standards related to odor complaints, of all marijuana related businesses. Past practice has been that the Planning Board has adopted the same, or similar, Conditions of Approval (COA) on most marijuana related businesses. However, the below text amendment would formally adopt the regulations into the City’s Land Use Ordinance to standardize the rules for enforcing odor complaints. The proposed text a new section on the ordinance and would be added to the end of the existing ordinance. The new text is shown below and is highlighted in blue and underlined. There are no proposed text deletions.

Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations

1. Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.
2. Article VI – Performance Standards, Section 77 – Marijuana Establishments - Odor Complaints and Enforcement.

Planning Board Meeting: November 15, 2023 – SECOND READING

D. Odor Disobedience Process. Any licensed operator who receives multiple, legitimate complaints for the cannabis odor emitted by their business, may be unable to renew their business license, and therefore also may become unable to operate within the City of Biddeford.

- a) First complaint - The office of code enforcement will review the complaint, and current odor abatement plan. The Operator will have 30 days to address the problem and come up with a solution. After which they will have another 60 days to fix the issue(s).
- b) After these initial 90 days the business should stay complaint free. If another complaint is made they will have another 90 days to address and fix the issue.
- c) If three complaints are made throughout the licensed year, the operator will need to update their odor abatement plan, go through the site plan review process, and may not be granted a renewed license.
- d) If the operator's license is up for renewal within the 90 days of a complaint the city may offer an extension or temporary license to allow for proper reconditioning of the odor abatement system.

Below is a link to the City’s existing Marijuana Establishments Ordinance.

<https://ecode360.com/31970024#31970024>

Staff Recommendations:

These amendments need to be voted upon independently as they relate to two (2) separate marijuana amendments, namely, “Adult Use” retail sales and the regulation of odor complaints and enforcement actions. Staff requests that the Planning Board forward a positive recommendation for adoption of both of the proposed amendments to the City Council to formally adopt:

SAMPLE MOTION #1 – Table A:

- A. Motion to Approve: I motion to APPROVE the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I-3 zoning districts, as a “Conditional Use”, as written.
- B. Motion to Deny I motion to DENY the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I-3 zoning districts, as a “Conditional Use”, for the following reasons:
 - 1) _____.
 - 2) _____.
 - 3) _____.
- C. Motion to Table: I motion to TABLE the proposed Amendments to Code of Ordinances, Part III: Land Development Regulations, Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I-3 zoning districts, as a “Conditional Use”, for the following reasons:
 - 1) _____.
 - 2) _____.
 - 3) _____.

Zoning Ordinance Amendment: Code of Ordinances, Part III: Land Development Regulations

- 1. Amendment to Table A “Table of Land Uses” allow adult use marijuana retail sales within the City’s I-1, I-2 and I3 zoning districts.**
- 2. Article VI – Performance Standards, Section 77 – Marijuana Establishments - Odor Complaints and Enforcement.**

Planning Board Meeting: November 15, 2023 – SECOND READING

SAMPLE MOTION #2 – Marijuana Odor Complaints:

Amendments to Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City.

A. Motion to Approve: I motion to APPROVE the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, as written and proposed.

B. Motion to Deny: I motion to DENY the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, for the following reasons:

- 1) _____.
- 2) _____.
- 3) _____.

C. Motion to Table: I motion to TABLE the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments, to adopt odor complaint regulations into the City’s Land Use Ordinance to standardize the rules and enforcement of odor complaints at marijuana related business operating within the City, for the following reasons

- 1) _____.
- 2) _____.
- 3) _____.

ATTACHMENTS

1. Attachment # 1: Table A “Table of Land Uses” including “Marijuana store, adult use” as Conditional Uses (“C”) within the City’s I-1, I-2 and I-3 zoning districts, including the Use as “C” for “Conditional Use”.
2. Attachment #2: Code of Ordinances, Part III: Land Development Regulations, Article VI – Performance Standards, Section 77 – Marijuana Establishments including proposed amendments.

Article VI. Performance Standards

Section 77. Marijuana establishments.

DRAFT ORDINANCE AMENDMENTS

Planning Board Review: November 15, 2023 – SECOND READING

Article VI. Performance Standards

Section 77. Marijuana establishments.

[Added 1-17-2017 by Ord. No. 2016.88; amended 1-19-2021 by Ord. No. 2021.1]

- A. All marijuana establishments shall be located indoors. Any common areas, including, but not limited to, storage areas and building facilities, shared with another marijuana establishment shall be clearly identified as such on the site plan or conditional use application.
- B. Odor management. For all marijuana establishments, the odor of marijuana shall not be detectable off-premises, meaning not detectable on any property that is not under the control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:
 - 1. A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.
 - 2. A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.
 - 3. For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.
 - a. Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.
 - b. Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

Marijuana establishments shall implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

Article VI. Performance Standards

Section 77. Marijuana establishments.

DRAFT ORDINANCE AMENDMENTS

Planning Board Review: November 15, 2023 – SECOND READING

- c. Noxious gases and fumes. Marijuana establishments shall have appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the establishment. Gases or fumes shall not extend beyond the premises of any establishment, meaning not detectable on any property that is not under the control of the establishment.
 - d. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment shall be provided at all times.
 - e. All marijuana and marijuana by-products intended for disposal shall be stored indoors in a self-contained room that is intended solely for this purpose and in accordance with all applicable federal, state and local laws and regulations. When moving material from the self-contained storage room for disposal, marijuana and marijuana by-products shall be moved only in receptacles with a cover or lid. Security cameras shall be installed to record activities in the area of the storage room as well the areas between the storage room and where said material is loaded onto vehicle(s) for disposal.
- C. Separation of marijuana establishments. No new marijuana establishment may be located within any building that is located within 500 feet of any other building containing a marijuana establishment.
- D. Odor Disobedience Process. Any licensed operator who receives multiple, legitimate complaints for the cannabis odor emitted by their business, may be unable to renew their business license, and therefore also may become unable to operate within the City of Biddeford.
- a) First complaint - The office of code enforcement will review the complaint, and current odor abatement plan. The Operator will have 30 days to address the problem and come up with a solution. After which they will have another 60 days to fix the issue(s).
 - b) After these initial 90 days the business should stay complaint free. If another complaint is made they will have another 90 days to address and fix the issue.
 - c) If three complaints are made throughout the licensed year, the operator will need to update their odor abatement plan, go through the site plan review process, and may not be granted a renewed license.
 - d) If the operator's license is up for renewal within the 90 days of a complaint the city may offer an extension or temporary license to allow for proper reconditioning of the odor abatement system.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X
1	MARIJUANA USE CLASSIFICATIONS	Table A - Table of Land Uses																						
2		Article 5 Section	SR-1	CR	R-1-A	R-1-B	R-2	R-3	B-1	B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M	IN	OR	MSRD-1	MSRD-2	MSRD-3
3	Marijuana Caregiver Retail Store	77									C	C	C											
4	Marijuana Store, Adult Use	77									C	C	C											
5	Marijuana Cultivation Facility	77									C	C	C											
6	Marijuana Testing Facility	77									C	C	C											
7	Marijuana Products Manufacturing Facility	77									C	C	C											



Policy Committee

Meeting Date: September 25, 2023

Meeting Time: 6:00 PM

Agenda Item No:

Item Description: Article V Establishment of Zones; Table A: Table of Land uses

Submitted by: Roby Fecteau, Director of Code Enforcement/ David Galbraith, City Planner

Supporting Information/Documentation:

Key Terms:

N/A

Executive Summary:

Staff is recommending adult use marijuana sales be added to the table of land uses as a conditional use permit in the following zones, I1, I2 and I3 zones

Detailed Review:

Maine law allows the delivery of adult use marijuana in Biddeford. This amendment would allow adult use stores in in zones where medical use stores are currently allowed. Biddeford does have a 500' setback for new establishments. Existing establishments may transition to adult use and this setback would not apply.

Permitting adult use storefronts in these zones made sense to staff because we have had zero issues with medical marijuana sales and existing marijuana businesses have not expressed concerns with the locations.

Expanding the sale of adult use sales to other zones, may create economical differences in the price per square foot for rental space or the sale of property. In the very beginning of Marijuana operations in Maine, many communities saw a spike in the rental price for space because, operators were paying over the average price to set up locations. Permitting adult use to existing zones where medical marijuana is currently allowed, would not reintroduce the economic differences in other zoning districts.

This amendment will require Planning Board approval prior to council action

Funding Source:

N/A

Staff Recommendation:

ESTABLISHMENT OF ZONES
V Attachment 2
City of Biddeford
Table B

DRAFT Amendments – Density Bonus Ordinance
Planning Board Public Hearing: November 1, 2023

BIDDEFORD CODE NOTES for Table B:

N/A: Not allowed.

* A new structure may be permitted to be built with less than the required setback, provided that the following are met:

1. The setback will be equal to the average front yard setback of the existing houses on the immediately adjacent lots; and
2. The setback shall be at least 15 feet; and
3. These provisions shall apply only along existing residential streets which were developed prior to the enactment of the present front yard setback requirements.

** The Building Inspector may allow a lessening of setback requirement for access structures, as necessary, to facilitate reasonable handicapped accessibility. This provision shall apply to existing structures only. Any access structure built under this provision shall be temporary to facilitate the handicapped or disabled occupant and shall be removed when no longer needed.

+ Maximum height is exclusive of chimneys, antennae, and roof-mounted, building-integrated, building-mounted or architectural wind systems when attached to a structure. Chimneys and antennae shall not be higher than 12 feet above the structure. Roof-mounted, building-integrated, building-mounted or architectural wind systems shall not be higher than 15 feet above the maximum allowed building height in the zone.

A. Minimum land area per dwelling unit.

B. In order to promote condominium forms of housing and affordable housing in close proximity to downtown and services, in the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, the density requirements may be relaxed as follows:

1. Redevelopment of existing structures:

- a. The Planning Board, or other appropriate approval authority, shall consider granting a density bonus of one residential unit for every ~~650~~ 500 square feet of living space within an existing structure, excluding unfinished basement areas, provided the applicant presents redevelopment/renovation plans to the Code Enforcement Officer demonstrating how the redevelopment project will result in the number of residential units with two or more bedrooms being at least, if not more than, the number of units with two or more bedrooms before the density bonus was granted.
- b. If the project is provided a density bonus, the Code Enforcement Officer shall document the allowable density and number of units, in writing, for the Code Enforcement Office files.

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Planning Board Public Hearing: November 1, 2023

- c. An applicant provided a density bonus for rental housing shall enter into a thirty (30) year contractual agreement with the City of Biddeford requiring that at least 30% of the additional units created shall be leased such that they do not exceed ~~80%~~ 70% of the fair market rent (FMR) per bedroom size, as established annually by the U.S. Department of Housing and Urban Development (HUD). The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits. Rent-restricted units will be annually monitored by the Planning and Development Department for contract compliance.
- 2. Density Bonus Review Process: Expansions of low/moderate income (LMI) projects shall be reviewed as followed:
 - a. Where expansions of affordable housing units under this provision are being utilized, up to a maximum of ~~(10?)~~ eight (8) or less units being created, shall be reviewed and approved by the City's Staff Review Committee (SRC). Projects exceeding eight (8) ~~(10?)~~ units shall be reviewed by the Planning Board for Site Plan and Subdivision review.
 - b. Parking standards for affordable housing projects of this nature, shall provide a minimum of one parking space for every two (2) low/moderate income (LMI) housing units created. For units exceeding the low/moderate income (LMI) threshold, parking shall be provided as required within the City's parking standards.
- 3. Vacant Land Development: For vacant lots located within the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, utilizing the density bonus standards within Section B, for low/moderate income (LMI) housing developments, may increase the base density by 2.5% of the particular zoning district where the lot is located.
- ~~2.~~ 4. Condominium conversions/development:
 - a. A property may be proposed for redevelopment/renovation from apartments into condominiums in accordance with 1 above.
 - b. An applicant provided a density bonus for condominiums shall enter into a contractual agreement with the City of Biddeford obligating them to complete the project as condominiums to be offered for sale upon or before completion of the project in return for receiving the density bonus. The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits.
 - c. The applicant agrees that if the project is converted to condominiums, said units shall not be sold for a price that exceeds 125% of the York County median home price affordable to median-income households as set annually by HUD for the City of Biddeford.
- C. Applies only to dwelling units. All other uses shall have a minimum of 10,000 square feet.
- D. (Reserved)

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- E. All buildings and structures shall be set back at least 50 feet from any zone in which residential dwellings are an allowed use, except as otherwise provided in this table.
- F. (Reserved)
- G. (Reserved)
- H. Roadside stands may be 10 feet from the major access road.
- I. This is the density limit for the expansion of existing residential dwelling units.
- J. Applies to all uses.
- K. Hospital height limit shall be 110 feet.
- L. Does not apply to cluster development.
- M. The number of accessory structures shall meet setback requirements; and shall be limited to no more than three per lot; and shall not exceed the height of the primary structure; and any plumbing, if necessary, shall be limited to a utility sink. Structures associated with bona fide working agricultural uses are not subject to these limits.
- N. Any use not serviced by a public water supply must show evidence that it is serviced by a potable water supply meeting minimum state standards for safe drinking water.
- O. Any residential structures in existence prior to December 20, 1990, may be expanded or added to as long as they meet minimum setbacks (from major access, 40 feet; from other streets, 25 feet; from side and rear property lines, 10 feet).
- P. The location of new or expanded buildings and structures including the replacement of existing buildings in the Institutional Zone shall conform to the approved Institutional Master Plan and the following dimensional standards:
 - 1. Maximum height. The maximum height of buildings in the Institutional Zone shall be 35 feet, 50 feet, or 65 feet depending upon in which building height subdistrict the building is located. The building height subdistricts and maximum building heights are shown on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance. Notwithstanding the maximum building height provision, the tallest point of any building or structure, including appurtenant structures, in the Institutional Zone shall not exceed 115 feet above sea level based upon the national geodetic vertical datum (NGVD), unless a higher elevation is mandated as part of a state or federal environmental approval or permit.
 - 2. Minimum building setbacks from public streets. All buildings in the Institutional Zone shall conform to the following minimum setbacks from public streets:

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- South side of Hills Beach Road from intersection with Old Pool Road east to a point 250 feet west of the zone boundary/property line: 25 feet.
- South side of Hills Beach Road from a point 250 feet west of the zone boundary/property line east to the zone boundary: 50 feet with a provision that it can be reduced to 25 feet if replacement buildings at the housing park are located further from the wetland.
- North side of Hills Beach Road from intersection with Old Pool Road east to the zone boundary: 50 feet.
- Both sides of Hills Beach Road from intersection with Old Pool Road west to the zone boundary at Route 9: 50 feet with a provision that it can be reduced to 25 feet when a Hills Beach bypass is built that conforms to the following standards and is approved as part of the Institutional Master Plan.
- Both sides of Old Pool Road: 50 feet.
- Both sides of Pool Road (Route 9): 50 feet.
- Both sides of Newtown Road: 40 feet.
- Both sides of the Hills Beach bypass road when built: 50 feet.

The reduced setback along the westerly portion of Hills Beach Road shall be effective only if a Hills Beach bypass road has been constructed that meets the following standards:

- a. The road shall be designed and located to allow traffic to Hills Beach to travel directly from Route 9 to the approximate vicinity of the intersection of Old Pool Road and Hills Beach Road without using campus roads.
 - b. The intersection with Route 9 will be located at an appropriate location for this use.
 - c. The road shall be designed as a limited access facility with not more than one curb cut on each side providing campus access through internal campus streets. These curb cuts shall be in addition to any intersections with public streets or roads.
 - d. No buildings or parking lots shall have direct access to or from the bypass road.
 - e. A landscaped street buffer shall be established as provided for in Section 43 of Article VI.
3. 5. Minimum building setback from the perimeter of the Institutional Zone. All buildings shall be setback a minimum of 50 feet from the external boundary of the Institutional Zone where such zone boundary abuts a Suburban Residential (SR-1), Coastal Residential (CR), or Rural-Farm (R-F) Zone. The area along the zone boundary shall be maintained as a landscaped buffer in accordance with the provisions of Article VI, Section 12.

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- ~~4.~~6. Maximum lot coverage. The maximum lot coverage shall be as follows:
- a. Within the area south of Route 9 and west of the Newtown Road: 10%.
 - b. Within the area South of Route 9 and east of the Newtown Road: 30%.
 - c. Within the area North of Route 9: No maximum except as provided for in 5, Restricted Development Areas.
- ~~5.~~7. Restricted development areas. Within the areas identified as “No Build Zones” on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance, the following additional requirements shall apply:
- a. No new buildings, parking, roads, or access drives shall be constructed except for the construction of a Hills Beach bypass road and connections to the bypass road from existing public streets.
 - b. Existing buildings, parking, roads, and access drives may be maintained and may be improved with Planning Board approval but may not be relocated or expanded except as provided for in a.
 - c. The existing student housing park located on the south side of the Hills Beach Road may be replaced with new low-impact academic or support facilities. Low impact is defined as meeting the following standards:
 - ~~1.~~1. The replacement has been approved as part of the institutional master plan.
 - ~~2.~~2. The total footprint area of all replacement buildings and structures shall not exceed 14,400 square feet.
 - ~~3.~~3. The amount of nonvegetated area after redevelopment shall be not more than the amount of nonvegetated area existing at the time of adoption of this provision.
 - ~~4.~~4. No buildings, structures, parking, or other impervious surfaces shall be located closer to any adjacent wetland or the external boundary of the Institutional Zone than the existing facilities being replaced and, where possible, the setback from wetlands shall be increased.
 - ~~5.~~5. The architectural design of the low-impact academic or support facilities shall be compatible with the adjacent residential character, consistent with the approved University Master Plan Architectural Design Standards, and shall be limited to a maximum height of 35 feet.
 - ~~6.~~6. The low-impact academic or support facilities shall have no greater impact on the adjacent wetlands, than did the development existing at the time of the approval of the

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2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a wetlands delineation plan and stormwater management plan submitted as part of the application for site plan approval.

- 7). The low-impact academic or support facilities shall have no greater light intrusion, noise or traffic impact (both vehicular and pedestrian) on adjacent residential properties, than did the development existing on the site at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a noise mitigation plan and traffic study submitted as part of the application for site plan approval.

d. No new athletic fields or athletic facilities shall be constructed.

e. Existing athletic fields may be maintained and improved but may not be expanded.

Improvements to the existing fields shall be limited to items such as fencing, buffering, portable grandstands, scoreboards, lighting, temporary rest room facilities, storage sheds with less than 300 square feet of floor area, and similar facilities.

f. The areas not currently used for athletic fields, parking or the student housing park shall be maintained as naturally vegetated areas and shall not be converted to lawns or other improved open space. Existing vegetation shall be maintained subject to sound management practices relative to cutting, thinning, pruning, and similar activities.

- Q. Existing nonconforming lots or structures may be considered for conversion to nonresidential uses allowed in the OR Zone, provided that neither structure nor lot are made more nonconforming as a result of the conversion.
- R. The setback may be reduced to the average of the lots immediately adjacent to the lot, as determined by the Code Enforcement Officer.
- S. The Building Inspector may allow a lessening of setback requirements, to no less than 10 feet, for utility buildings and structures to facilitate utility infrastructure improvements. Any such buildings or structures built under this provision shall be removed when no longer used for such necessary utility infrastructure.

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DRAFT Amendments – Density Bonus Ordinance
Planning Board Public Hearing: November 15, 2023 – SECOND READING

BIDDEFORD CODE NOTES for Table B:

N/A: Not allowed.

* A new structure may be permitted to be built with less than the required setback, provided that the following are met:

1. The setback will be equal to the average front yard setback of the existing houses on the immediately adjacent lots; and
2. The setback shall be at least 15 feet; and
3. These provisions shall apply only along existing residential streets which were developed prior to the enactment of the present front yard setback requirements.

** The Building Inspector may allow a lessening of setback requirement for access structures, as necessary, to facilitate reasonable handicapped accessibility. This provision shall apply to existing structures only. Any access structure built under this provision shall be temporary to facilitate the handicapped or disabled occupant and shall be removed when no longer needed.

+ Maximum height is exclusive of chimneys, antennae, and roof-mounted, building-integrated, building-mounted or architectural wind systems when attached to a structure. Chimneys and antennae shall not be higher than 12 feet above the structure. Roof-mounted, building-integrated, building-mounted or architectural wind systems shall not be higher than 15 feet above the maximum allowed building height in the zone.

A. Minimum land area per dwelling unit.

B. In order to promote condominium forms of housing and affordable housing in close proximity to downtown and services, in the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, the density requirements may be relaxed as follows:

1. Redevelopment of existing structures:

- a. The Planning Board, or other appropriate approval authority, shall consider granting a density bonus of one residential unit for every ~~650~~ 500 square feet of living space within an existing structure, excluding unfinished basement areas, provided the applicant presents redevelopment/renovation plans to the Code Enforcement Officer demonstrating how the redevelopment project will result in the number of residential units with two or more bedrooms being at least, if not more than, the number of units with two or more bedrooms before the density bonus was granted.
- b. If the project is provided a density bonus, the Code Enforcement Officer shall document the allowable density and number of units, in writing, for the Code Enforcement Office files.

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- c. An applicant provided a density bonus for rental housing shall enter into a thirty (30) year contractual agreement with the City of Biddeford requiring that at least 30% of the additional units created shall be leased such that they do not exceed 70% of the fair market rent (FMR) per bedroom size, as established annually by the U.S. Department of Housing and Urban Development (HUD). The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits. Rent-restricted units will be annually monitored by the Planning and Development Department for contract compliance.
2. Density Bonus Review Process: Expansions of low/moderate income (LMI) projects shall be reviewed as followed:
- a. Where expansions of affordable housing units under this provision are being utilized, up to a maximum of eight (8) or less units being created, shall be reviewed and approved by the City's Staff Review Committee (SRC). Projects exceeding eight (8) units shall be reviewed by the Planning Board for Site Plan and Subdivision review.
 - b. Parking standards for affordable housing projects of this nature, shall provide a minimum of one parking space for every two (2) low/moderate income (LMI) housing units created. For units exceeding the low/moderate income (LMI) threshold, parking shall be provided as required within the City's parking standards.
3. Vacant Land Development: For vacant lots located within the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts, utilizing the density bonus standards within Section B, for low/moderate income (LMI) housing developments, may increase the base density by 2.5% of the particular zoning district where the lot is located.
- ~~2.~~ 4. Condominium conversions/development:
- a. A property may be proposed for redevelopment/renovation from apartments into condominiums in accordance with 1 above.
 - b. An applicant provided a density bonus for condominiums shall enter into a contractual agreement with the City of Biddeford obligating them to complete the project as condominiums to be offered for sale upon or before completion of the project in return for receiving the density bonus. The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which shall be provided to the Code Enforcement Office prior to the issuance of any building permits.
 - c. The applicant agrees that if the project is converted to condominiums, said units shall not be sold for a price that exceeds 125% of the York County median home price affordable to median-income households as set annually by HUD for the City of Biddeford.
- C. Applies only to dwelling units. All other uses shall have a minimum of 10,000 square feet.

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- D. (Reserved)
- E. All buildings and structures shall be set back at least 50 feet from any zone in which residential dwellings are an allowed use, except as otherwise provided in this table.
- F. (Reserved)
- G. (Reserved)
- H. Roadside stands may be 10 feet from the major access road.
- I. This is the density limit for the expansion of existing residential dwelling units.
- J. Applies to all uses.
- K. Hospital height limit shall be 110 feet.
- L. Does not apply to cluster development.
- M. The number of accessory structures shall meet setback requirements; and shall be limited to no more than three per lot; and shall not exceed the height of the primary structure; and any plumbing, if necessary, shall be limited to a utility sink. Structures associated with bona fide working agricultural uses are not subject to these limits.
- N. Any use not serviced by a public water supply must show evidence that it is serviced by a potable water supply meeting minimum state standards for safe drinking water.
- O. Any residential structures in existence prior to December 20, 1990, may be expanded or added to as long as they meet minimum setbacks (from major access, 40 feet; from other streets, 25 feet; from side and rear property lines, 10 feet).
- P. The location of new or expanded buildings and structures including the replacement of existing buildings in the Institutional Zone shall conform to the approved Institutional Master Plan and the following dimensional standards:
 - 1. Maximum height. The maximum height of buildings in the Institutional Zone shall be 35 feet, 50 feet, or 65 feet depending upon in which building height subdistrict the building is located. The building height subdistricts and maximum building heights are shown on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance. Notwithstanding the maximum building height provision, the tallest point of any building or structure, including appurtenant structures, in the Institutional Zone shall not exceed 115 feet above sea level based upon the national geodetic vertical datum (NGVD), unless a higher elevation is mandated as part of a state or federal environmental approval or permit.

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2. Minimum building setbacks from public streets. All buildings in the Institutional Zone shall conform to the following minimum setbacks from public streets:

- South side of Hills Beach Road from intersection with Old Pool Road east to a point 250 feet west of the zone boundary/property line: 25 feet.
- South side of Hills Beach Road from a point 250 feet west of the zone boundary/property line east to the zone boundary: 50 feet with a provision that it can be reduced to 25 feet if replacement buildings at the housing park are located further from the wetland.
- North side of Hills Beach Road from intersection with Old Pool Road east to the zone boundary: 50 feet.
- Both sides of Hills Beach Road from intersection with Old Pool Road west to the zone boundary at Route 9: 50 feet with a provision that it can be reduced to 25 feet when a Hills Beach bypass is built that conforms to the following standards and is approved as part of the Institutional Master Plan.
- Both sides of Old Pool Road: 50 feet.
- Both sides of Pool Road (Route 9): 50 feet.
- Both sides of Newtown Road: 40 feet.
- Both sides of the Hills Beach bypass road when built: 50 feet.

The reduced setback along the westerly portion of Hills Beach Road shall be effective only if a Hills Beach bypass road has been constructed that meets the following standards:

- a. The road shall be designed and located to allow traffic to Hills Beach to travel directly from Route 9 to the approximate vicinity of the intersection of Old Pool Road and Hills Beach Road without using campus roads.
 - b. The intersection with Route 9 will be located at an appropriate location for this use.
 - c. The road shall be designed as a limited access facility with not more than one curb cut on each side providing campus access through internal campus streets. These curb cuts shall be in addition to any intersections with public streets or roads.
 - d. No buildings or parking lots shall have direct access to or from the bypass road.
 - e. A landscaped street buffer shall be established as provided for in Section 43 of Article VI.
3. 5. Minimum building setback from the perimeter of the Institutional Zone. All buildings shall be setback a minimum of 50 feet from the external boundary of the Institutional Zone where such

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zone boundary abuts a Suburban Residential (SR-1), Coastal Residential (CR), or Rural-Farm (R-F) Zone. The area along the zone boundary shall be maintained as a landscaped buffer in accordance with the provisions of Article VI, Section 12.

~~4.~~ 6. Maximum lot coverage. The maximum lot coverage shall be as follows:

- a. Within the area south of Route 9 and west of the Newtown Road: 10%.
- b. Within the area South of Route 9 and east of the Newtown Road: 30%.
- c. Within the area North of Route 9: No maximum except as provided for in 5, Restricted Development Areas.

~~5.~~ 7. Restricted development areas. Within the areas identified as “No Build Zones” on the Institutional Zone Subdistrict Map dated September 6, 2001, and described in boundary descriptions prepared by an independent registered land surveyor licensed to practice in the State of Maine which are made a part of this ordinance, the following additional requirements shall apply:

- a. No new buildings, parking, roads, or access drives shall be constructed except for the construction of a Hills Beach bypass road and connections to the bypass road from existing public streets.
- b. Existing buildings, parking, roads, and access drives may be maintained and may be improved with Planning Board approval but may not be relocated or expanded except as provided for in a.
- c. The existing student housing park located on the south side of the Hills Beach Road may be replaced with new low-impact academic or support facilities. Low impact is defined as meeting the following standards:

◆ ~~1.~~ 1. The replacement has been approved as part of the institutional master plan.

◆ ~~2.~~ 2. The total footprint area of all replacement buildings and structures shall not exceed 14,400 square feet.

◆ ~~3.~~ 3. The amount of nonvegetated area after redevelopment shall be not more than the amount of nonvegetated area existing at the time of adoption of this provision.

◆ ~~4.~~ 4. No buildings, structures, parking, or other impervious surfaces shall be located closer to any adjacent wetland or the external boundary of the Institutional Zone than the existing facilities being replaced and, where possible, the setback from wetlands shall be increased.

◆ ~~5.~~ 5. The architectural design of the low-impact academic or support facilities shall be compatible with the adjacent residential character, consistent with the approved University

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Master Plan Architectural Design Standards, and shall be limited to a maximum height of 35 feet.

- ~~6).~~ The low-impact academic or support facilities shall have no greater impact on the adjacent wetlands, than did the development existing at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a wetlands delineation plan and stormwater management plan submitted as part of the application for site plan approval.
- ~~7).~~ The low-impact academic or support facilities shall have no greater light intrusion, noise or traffic impact (both vehicular and pedestrian) on adjacent residential properties, than did the development existing on the site at the time of the approval of the 2003-2007 Master Plan (approved May 7, 2003), as demonstrated by a noise mitigation plan and traffic study submitted as part of the application for site plan approval.

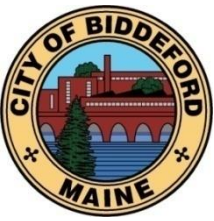
d. No new athletic fields or athletic facilities shall be constructed.

e. Existing athletic fields may be maintained and improved but may not be expanded.

Improvements to the existing fields shall be limited to items such as fencing, buffering, portable grandstands, scoreboards, lighting, temporary rest room facilities, storage sheds with less than 300 square feet of floor area, and similar facilities.

f. The areas not currently used for athletic fields, parking or the student housing park shall be maintained as naturally vegetated areas and shall not be converted to lawns or other improved open space. Existing vegetation shall be maintained subject to sound management practices relative to cutting, thinning, pruning, and similar activities.

- Q. Existing nonconforming lots or structures may be considered for conversion to nonresidential uses allowed in the OR Zone, provided that neither structure nor lot are made more nonconforming as a result of the conversion.
- R. The setback may be reduced to the average of the lots immediately adjacent to the lot, as determined by the Code Enforcement Officer.
- S. The Building Inspector may allow a lessening of setback requirements, to no less than 10 feet, for utility buildings and structures to facilitate utility infrastructure improvements. Any such buildings or structures built under this provision shall be removed when no longer used for such necessary utility infrastructure.



CITY OF BIDDEFORD

PLANNING DEPARTMENT

David C.M. Galbraith
Deputy Director/City Planner
205 Main Street
Biddeford, ME 04005
(207) 284-9115

David.Galbraith@Biddefordmaine.org

Planning Board Memorandum

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: David C.M. Galbraith, Acting Planning Director / City Planner

DATE: November 8, 2023

RE: **Density Bonus Ordinance – Amendments to Table B “Dimensional Requirements”**

MEETING DATE: November 15, 2023

1. Amendment Overview:

This item was last discussed with the Planning Board at the 11-1-2023 regular Board meeting. At that time the Board was in favor of forwarding a positive recommendation to the City Council to adopt the proposed Ordinance Amendment. At this time Staff is seeking the Board approve the second reading of the amendment with a positive recommendation for Council adoption.

The purpose of the proposed Ordinance would allow higher housing densities for Low/Moderate Income housing projects in close proximity to downtown and services, in the R-1-A, R-1-B, R-2, R-3, OR, and MSRD-2 Zoning Districts. A copy of the proposed amendments are attached.

It should be noted that the proposed amendments are located within Table B “Dimensional Requirements” and modifies **only** Item # B, items 1-3, with the exception on modifying original numbering at #4 which was formerly #2, where the numbering progresses in sequential order.

Staff Recommendation:

Staff requests that the Planning Board forward a positive recommendation for adoption of this ordinance amendment to the City Council to bring this Ordinance into compliance with LD2003 and to provide additional incentives for low / moderate Income housing developments. This document includes deleted text in ~~red-strikethrough~~ or new text as blue underlined.

- A. Motion to Approve: I motion to APPROVE the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Amendments to Table B “Dimensional Requirements”, as written and proposed.
- B. Motion to Deny: I motion to DENY the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Amendments to Table B “Dimensional Requirements”, as written and proposed, for the following reasons:

1) _____.

MEETING: Planning Board Meeting
TOPIC: Case # 2023.42 Frontage Reduction Ordinance Amendment / Draft Ordinance Language / Discussion Item
MEETING DATE: September 20, 2023

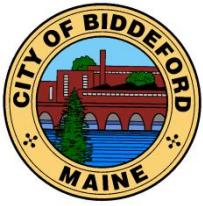
- 2) _____.
- 3) _____.

C. Motion to Table: I motion to TABLE the proposed Amendments to the City’s Code of Ordinances, Part III: Land Development Regulations, Amendments to Table B “Dimensional Requirements”, for the following reasons:

- 1) _____.
- 2) _____.
- 3) _____.

ATTACHMENTS

- 1. Attachment # 1: Proposed – Density Bonus Ordinance - Amendments to Table B



CITY OF BIDDEFORD

Planning and Development Department

Eric Freeman
Assistant City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 284-9115
eric.freeman@biddefordmaine.org

PLANNING BOARD STAFF REPORT

TO: Chair Patoine and Members of the Biddeford Planning Board

FROM: Eric Freeman, Assistant City Planner

DATE: November 9th, 2023

RE: 2023.45 Shoreland Zoning Application for the University of New England to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

MEETING DATE: November 15th, 2023 at 6:00 PM

1. INTRODUCTION

The University of New England has submitted a Shoreland Zoning application to replace a seasonal pier and float system with a permanent pier and float system at 11 Hills Beach Road within the Institutional and Shoreland zone. The pier and floats are intended to provide access to the river for UNE students and service as a launch point for the crew team's 60 ft. sculls. The pier, gangway and float have been in place seasonally at this location since 2016, installed each spring and removed each fall. The seasonal installation was approved by the City, Army Corps of Engineers and the Saco River Corridor Commission (SRCC)

The proposed pier would be approximately 30 feet longer than the existing seasonal pier and would be built in the same location as the existing seasonal pier. The gangway and floats would remain seasonal, being installed in the spring and removed in the fall.

The seasonal pier installation and removal process has presented safety issues in recent years and the process involved moving heavy equipment in and out each season. The seasonal installation and removal was also a concern for the SRCC when they reviewed the project in 2015.

Although a pier and float currently exist adjacent to the main river channel at a distance of roughly 850 ft., the currents in the main channel are not conducive to launching sculls. The proposed location of the float and pier in the cove provide a more sheltered access but still provides full access to navigable waters through all tides, which the current seasonal pier does not provide. The applicant has provided maps from the Army Corps of Engineers to demonstrate that their proposed pier does not interfere with the Federal navigation channel.

There will be no site work associated with this installation and there will be no additional impervious area created. The area surrounding the pier will remain grass and is used by the university for Schill storage. No new paths or points of access would be created.

2023.45 Shoreland Zoning Application for the University of New England to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

The Planning Board reviewed this application at its October 18th, 2023 meeting. The item was tabled pending additional information from the applicant regarding

Planning staff found the application to be substantively complete. Several minor questions were raised pertaining to third party permits.

Additional staff comments are outlined in detail below.



2. PROJECT DATA/INFORMATION

1.	Applicant:	University of New England 11 Hills Beach Rd. Biddeford, ME 04005 602-2365 aphililippe@une.edu
2.	Owner of Property:	Same as Applicant
3.	Agent:	Same as Applicant
4.	Surveyor:	Site Design Associates 23 Whitney Way Topsham, ME 04086 207-449-4275 tsaucier@sitedesignassociates.biz
5.	Project Location:	11 Hills Beach Rd.
6.	Project Tax Map #/Lot #:	Tax Map 52, Lot 4
7.	Lot Size:	49.9 Acres
8.	Base Zoning:	IN
9.	Overlay Zoning:	Shoreland

2023.45 Shoreland Zoning Application for the University of New England to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

10.	Existing Use:	Seasonal Pier
11.	Proposed Use:	Permanent pier with seasonal floats
12.	Approvals Required:	Shoreland Zoning
13.	Uses in the Vicinity:	Institutional, Shoreland, Seasonal Pier
14.	Waivers Needed:	a. None
18.	Waivers Granted:	a. None
22.	Other Non-City Permits Required:	Army Corps of Engineers, Maine Department of Environmental Protection, Saco River Corridor Commission
23.	LDR Attachment A: Fees Paid:	Application Fees Paid, not escrows
25.	Planning Board Review History:	N/A

3. REVIEW PROCESS

Per City ordinance, this application is subject to Shoreland Zoning review and approval by the Planning Board.

4. Departmental Review Comments:

A. Planning:

1. Planning staff found the application to be substantively complete. There are a few minor questions that may need to be addressed by the applicant
 - A. Since a permit from Maine Department of Environmental Protection (DEP) has not been secured, does the applicant anticipate any significant potential changes to the design or location of the pier based on DEP feedback??
 - B. What comments or concerns were brought up by the Saco River Corridor Commission?
 - C. Is there an anticipated annual timeframe for when the floats will be installed and removed?
 - D. Will the floats be fully usable throughout all tidal levels?
 - E. Will any temporary structures or storage racks be placed on the landward side of the new pier?

B. Code Enforcement:

1. No Comments

C. Public Works:

1. No Comments

D. Engineering:

1. No Comments

E. Police:

1. No Comments

F. Fire:

1. No Comments

G. Traffic Peer Review:

1. No Comments

2023.45 Shoreland Zoning Application for the University of New England to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

H. Engineering Peer Review:

- 1. No comments

2. STAFF REVIEW

- **APPLICATION COMPLETENESS:** The applicant has submitted a complete application, featuring all required elements as specified under Section 66-35 (Required Information for Final Plan Submissions). Additionally, the applicant has clarified aspects of their plan related to permitting from the Army Corps of Engineers. As part of the staff’s review comments, we have identified aspects of the plan submission to be revised or clarified, which we suggest being made a condition of approval.
- **ZONING:** The proposed uses are permitted uses within the Shoreland zone, Similarly, with respect to applicable dimensional requirements, the project would comply with all applicable requirements.

- **REVIEW STANDARDS:**

In general, staff found the application to satisfy Shoreland Zoning requirements. The major site details and relevant third party permits have been secured and locations have been finalized to ensure that the plan being reviewed the Board is what will be constructed on the face of the earth.

Maine DEP Stormwater Permit: The project does not require a Maine DEP Stormwater Permit.

WAIVERS: No waivers requested as part of this project.

3. STAFF RECOMMENDATION

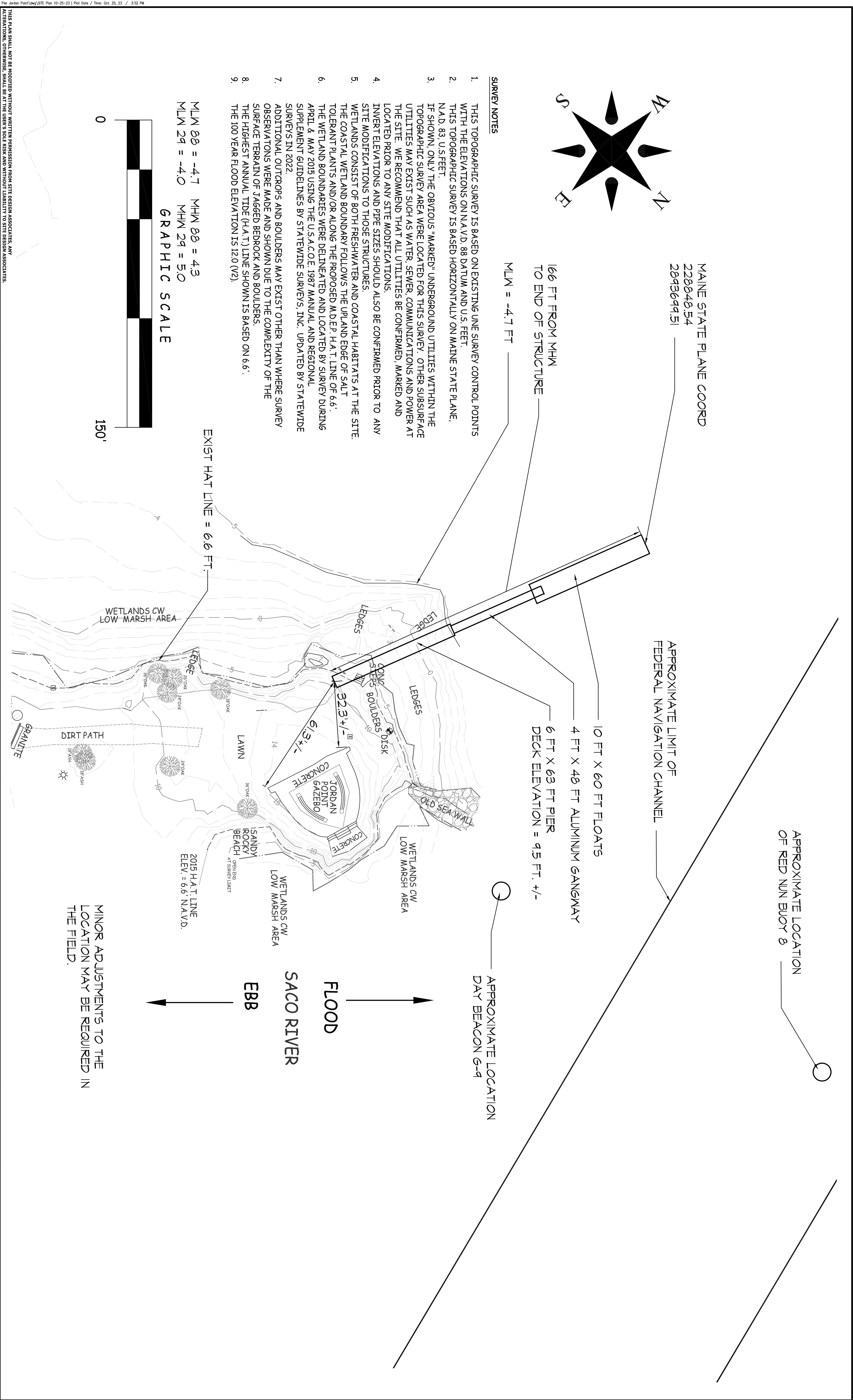
Staff recommends that the Shoreland Zoning application be approved provided the applicant is able to satisfactorily answer questions raised by Board members and staff. Therefore, Staff recommends the Planning Board approve the project plans as presented.

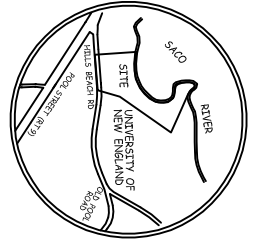
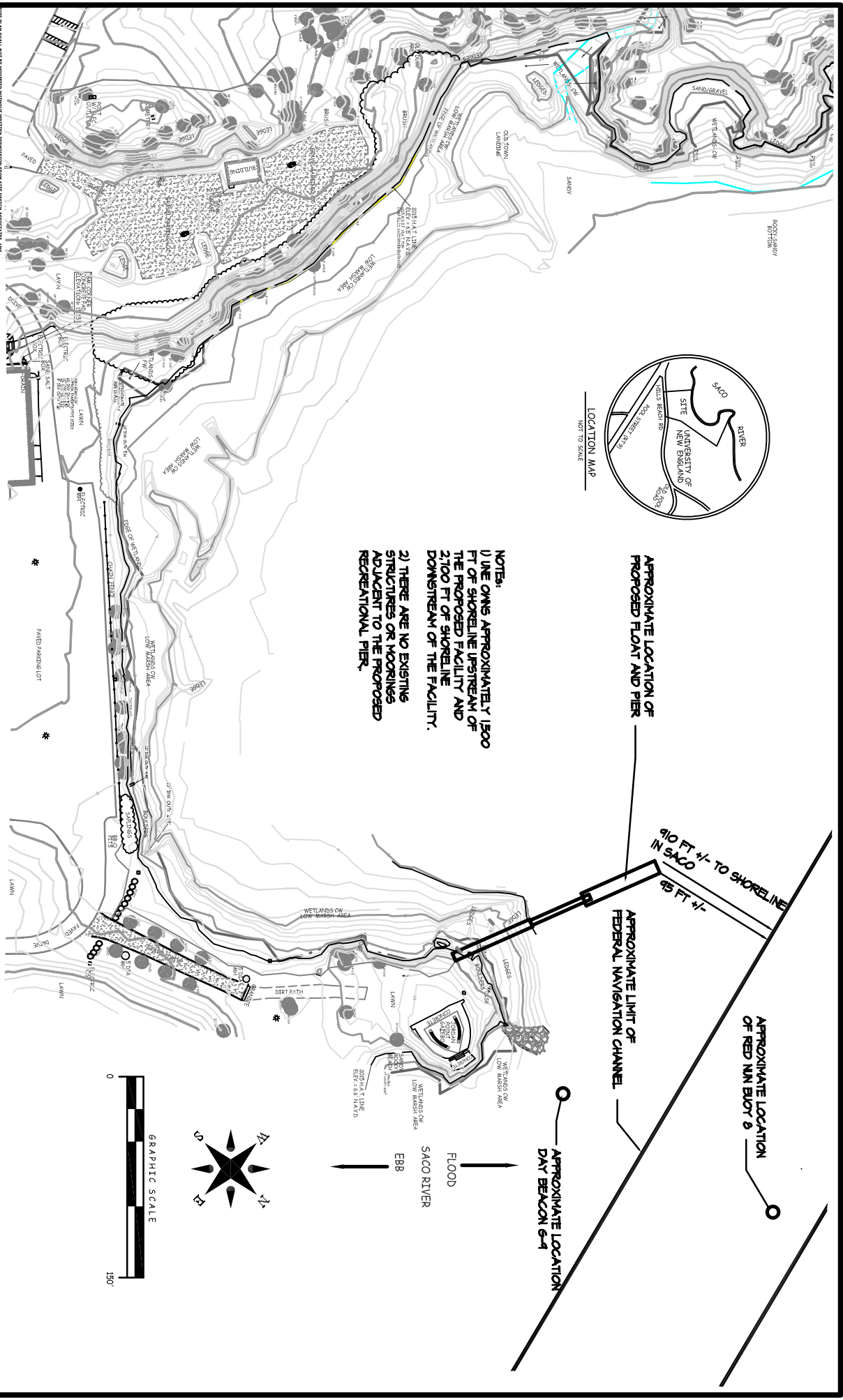
SAMPLE MOTIONS

- A. Motion to Approve: *I motion to APPROVE the Shoreland Zoning application for the proposed permanent float and dock at located at 11 Hills Beach Rd. (Tax Map 52, Lot 4), within the Shoreland zoning district, as presented.*
- B. Motion to Deny *I motion to DENY the Shoreland Zoning application for the proposed permanent float and dock at located at 11 Hills Beach Rd. (Tax Map 52, Lot 4), within the Shoreland zoning district for the following reasons:*
 - 1) _____.
 - 2) _____.
 - 3) _____.
- C. Motion to Table: *I motion to TABLE the Shoreland Zoning application for the proposed permanent float and dock at located at 11 Hills Beach Rd. (Tax Map 52, Lot 4), within the Shoreland zoning district for the following reasons:*

2023.45 Shoreland Zoning Application for the University of New England to construct a permanent pier with floats at 11 Hills Beach Rd. (Tax map 52, Lot 4)

- 1) _____.
- 2) _____.
- 3) _____.





LOCATION MAP
NOT TO SCALE

NOTES:
1) LINE OWNS APPROXIMATELY 1500 FT OF SHORELINE UPSTREAM OF THE PROPOSED FACILITY AND 2,100 FT OF SHORELINE DOWNSTREAM OF THE FACILITY.
2) THERE ARE NO EXISTING STRUCTURES OR MOORINGS ADJACENT TO THE PROPOSED RECREATIONAL PIER.

APPROXIMATE LOCATION OF PROPOSED FLOAT AND PIER

APPROXIMATE LIMIT OF FEDERAL NAVIGATION CHANNEL

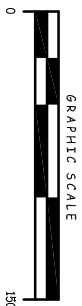
APPROXIMATE LOCATION OF RED NUN BUOY 5

APPROXIMATE LOCATION DAY BEACON 6-4

FLOOD

SACO RIVER

EBB



REVISIONS									
NO.	DATE	BY	CHKD	APPD	REV	DATE	STATUS		
B	10/25/23								
A	06/13/23								
ADDED DAY BEACON AND BUOY FOR DEPT/ACR REVIEW									
STATUS									
</									

