

City of Biddeford

Planning Board

October 21, 2020 6:00 PM When: Oct 21, 2020 06:00 PM Eastern Time (US and Canada)

Topic: Planning Board Workshop

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1. DECLARATION OF QUORUM/VOTING MEMBERS

2. ADJUSTMENTS TO THE AGENDA

3. PLANNER'S BUSINESS

4. UNFINISHED BUSINESS

5. NEW BUSINESS

5.A. VMU Zoning Update

[VMU Zone Draft 092520 \(002\).pdf](#)

5.B. 2. I-3 and B-2 Residential Uses Update

[I-3 B-2 Residential Amendment 100920.pdf](#)

[Rough Setbacks I-3 B-2.pdf](#)

[I-3 Map.pdf](#)

5.C. 3. Marijuana Ordinance

[10-06-2020_Marijuana_Zoning_Amendment_Referral-MEMO.pdf](#)

[10-06-2020_Marijuana_Zoning_Amendment_Referral-ORDER.pdf](#)

6. OTHER BUSINESS

7. 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.

Article V. Establishment of Zones

Section 11. Village Mixed Use (VMU) Zone

A. Purpose.

The purpose of the Village Mixed Use (VMU) Zone is to create new opportunities within the City to provide for a compatible mix of land uses, including but not limited to, residential, retail, and offices. The VMU Zone is intended to allow new development adjacent to Interstate 95 providing a mix of housing opportunities and commercial development in a walkable environment, integrating transportation options, utilizing existing and future infrastructure such as public water and sewer, enhancing and complementing existing employment and services in Biddeford, and providing a range of open space options with recreational and ecological benefits.

B. Permitted uses. The following Permitted Uses in the VMU Zone:

1. Accessory Structures
2. Bed and Breakfasts
3. Duplex/2-Family Residential
4. Home Occupation
5. Multi-family Residential
6. Single-family Residential
7. Art Galleries and Studios, Museums, and Libraries
8. Commercial Gardening/Greenhouses
9. Commercial Recreation
10. Commercial School
11. Gasoline Service Stations and Carwashes
12. Hotels and Motels
13. Veterinary Clinic
14. Offices
15. Restaurant
16. Retail, including Drugstores
17. Services, including Financial Institutions
18. Church
19. Community Centers and Clubs
20. Day-care Center, Adult and Children's
21. Day-care Home, Adult and Children's
22. Essential Services, including Water Supply Systems
23. Municipal Use, including Parks and Recreation, Fire and Police Stations, and other Public Facilities
24. Light Industrial
25. Solar Energy System

C. Prohibited uses.

Any use not specifically permitted in this section is prohibited.

D. Dimensional Standards.

- | | |
|---|---|
| 1. Minimum lot size: | With Public Sewer: 4,000 SF
Without Public Sewer: None,
subject to State of Maine approval. |
| 2. Maximum Lot Sizes: | |
| a. Single-family Residential: | 20,000 Square Feet. |
| b. Duplex/2-family: | 20,000 Square Feet. |
| c. Multi-family: | 5,000 Square Feet/Unit. |
| d. Non-residential uses: | None. |
| 3. Minimum frontage: | 50' |
| 4. Minimum front setback: | 0' |
| 5. Maximum front setback (principal structure): | 15' |
| 6. Minimum side setback: | 10' |
| 7. Minimum rear setback: | 10' |
| 8. Maximum Impervious Coverage: | 75% |
| 9. Maximum Height: | 35' |
| 10. Maximum footprint: | 30,000 Square Feet (larger with
Planning Board Approval) |

E. VMU Zone and Mixed-use Buildings Floor Area Requirements:

1. A minimum of thirty percent (30%) of a Mixed-use building's floor area must be developed and maintained as residential use.
2. A minimum of twenty percent (20%) of a Mixed-use building's floor area must be developed and maintained as non-residential use.

F. Net Lot Acreage Requirements:

1. All lots created after subtracting the following areas shall comply with the lot size standards established above:
 - a. Portions of the lot shown to be within the one-hundred-year floodplain as identified by the Federal Flood Boundary and Floodway Maps or Federal Flood Insurance Rate Maps.
 - b. Portions of the lot identified as "wetlands of special significance" as defined by the State of Maine as wetlands that have one or more of the following characteristics:

- i. The freshwater wetland contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the Maine Natural Areas Program.
- ii. The freshwater wetland contains significant wildlife habitat as defined by 38 M.R.S.A. § 480-B(10).
- iii. The freshwater wetland area is located within 250 feet of a coastal wetland by 38 M.R.S.A. § 480-B(2).
- iv. The freshwater wetland area is located within 250 feet of the normal high water line, and within the same watershed, of any lake or pond classified as GPA under 38 M.R.S.A. § 465-A.
- v. The freshwater wetland contains under normal circumstances at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, unless the 20,000 or more square foot area is the result of an artificial ponds or impoundment.
- vi. The freshwater wetland area is inundated with floodwater during a 100-year flood event based on flood insurance maps produced by the Federal Emergency Management Agency or other site-specific information.
- vii. The freshwater wetland is or contains peatlands, except that the department may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance.
- viii. The freshwater wetland area is located within 25 feet of a river, stream or brook as defined by 38 M.R.S.A. § 480-B(9).
- c. Land subject to the characteristics identified in Section F.1.b. shall be subtracted at 100% of its land area unless that land is preserved through a perpetual conservation easement, in which case, that land shall only be subtracted in an amount equal to 50% of the land area having said characteristics. The terms of the perpetual conservation easement shall be reviewed and approved by the Planning Board to receive the 50% reduction benefit.

G. Master Planning Required.

1. Purpose.

The purposes of the master planning process are:

- a. To promote the efficient use of land to facilitate a more economic arrangement of buildings and land uses in the district;

- b. To promote orderly development of selected mixed uses in a village living and working environment; and
- c. To encourage the preservation of open space in a manner consistent with the goal of selected mixed land use development.

2. Applicability.

Any use in the Village Mixed Use (VMU) Zone shall be consistent with an overall VMU Zone Master Plan approved by the Planning Board in accordance with this section.

A master plan shall be required where the site proposed for development is three (3) acres or more in size or the applicant owns a contiguous lot or lots which, together with the site proposed for development approval, is three (3) or more acres in size.

3. Coordination with Development Review.

A Master Plan for the overall development of a site (including any contiguous property owned by the applicant) must be submitted to the Planning Board prior to submission of any application for development review (e.g., subdivision, site plan, conditional use permit, etc.). The Planning Board's review of a master plan shall take place before its approval of any application for development review.

All projects in the VMU Zone that require development review (E.g., subdivision, site plan, conditional use permit, shoreland zoning) shall continue to require development review and approval. In reviewing development review applications the Planning Board shall consider the conformance of the proposed uses/developments with the approved VMU Zone Master Plan and shall approve the project only if it finds that the uses are consistent with the VMU Zone Master Plan.

In its review of projects in the VMU Zone the Planning Board shall be guided by the approved Master Plan and shall not impose conditions or requirements on an applicant that are in conflict with the approved Master Plan. In those areas where the Master Plan addresses issues that are also covered by development review, the Planning Board shall be guided by the overall direction provided in the approved Master Plan and shall limit the scope of its review under the development review provisions to how those projects are designed and constructed. The following chart outlines the respective areas of concern for the

review of a VMU Zone Master Plan and Development Review for individual projects contained in the Master Plan for those areas covered in both reviews.

Review Topic:	VMU Zone Master Plan Focus	Development Review Focus
Buildings and Structures	The general locations, sizes (footprint and floor area), heights, and architectural styles based on the Conceptual Development Program.	The buildings and/or facilities conform to the approved Master Plan standards and meet other specific zoning and site plan review standards
Transportation Network and Traffic	The primary road network providing access to the campus and within the campus will be adequate to handle the anticipated increase in traffic safely and efficiently while minimizing the impact on other users as a result of the identified improvements	Any road or traffic improvements that are identified in the overall traffic management program in the Master Plan that are needed to support the specific development project will be built and will meet the technical standards set out in the ordinance
Parking	The amount of parking and general parking locations will be adequate to accommodate the anticipated increase in parking demand resulting from the growth and changes anticipated in the Master Plan	Any parking improvements that are identified in the overall parking program in the Master Plan that are needed to support the specific development project will be built and will meet the technical standards set out in the ordinance
Water and sewer	The water and sewer systems will be adequate to accommodate the anticipated increase in	The location and design of the water and sewer facilities associated with the specific development proposal

	demand resulting from the growth and changes anticipated in the Master Plan	are consistent with the Master Plan and meet the technical standards set out in the ordinance
Natural Resources and Significant Wildlife Habitat	The master plan will include a Natural Resource Inventory and Assessment (NRIA): a compilation of data, descriptions, and maps to document the natural resources in the Master Plan area. Special attention shall be given to identifying significant habitat areas and corridor connections internal and adjacent to the Master Plan area.	The development plan shall incorporate measures to mitigate impacts identified in the NRIA as part of the final approval process.
Climate Change	The master plan shall address ways in which the proposed project will mitigate (minimize) its impact on climate change. Examples of long term sustainability can include energy efficiency, including alternative energy sources, smart street design, transit availability, unique landscape design, and other actions to reduce the carbon footprint of the proposed project.	The development plan shall implement design actions that directly affect the long term sustainability of the master plan by reducing impacts related to climate change.
Landscaping, lighting, signs, noise, scenic views	The Master Plan establishes appropriate standards	The location and design of these elements are

	for the design of these elements and to minimize the impact on surrounding neighborhoods	consistent with the standards set out in the Master Plan and meet any other applicable technical standards set out in the ordinance
Pedestrian and bicycle facilities	The pedestrian and bicycle facilities will be adequate to accommodate the anticipated increase in demand resulting from the growth and changes anticipated in the Master Plan and standards are established for the design of these elements	The location and design of these elements are consistent with the Master Plan, meet the standards set out in the master plan, and any other technical standards set out in the ordinance

4. Master Plan Requirements:

- a. A VMU Zone Master Plan shall provide the City and abutting areas with a clear outline of the anticipated growth and changes within the zone anticipated over the next seven (7) years. The Master Plan shall provide an assessment of the potential impacts, negative and positive, of those changes on the City and areas surrounding the VMU Zone. The Master Plan shall analyze the potential negative impacts of the anticipated changes in land use and to the surrounding area and provide recommended actions that may be proposed to mitigate any adverse impacts resulting from the anticipated changes.
- b. The Master Plan shall include a description of the proposed development or use of the entire property owned by the applicant, and shall identify the location of proposed streets and utilities, land uses, lots, building sites, open space, existing and preserved natural features, and the design principles for proposed buildings.

- c. The Master Plan shall include a description of the proposed mix of uses explaining the proposed mix. If more than fifty (50) percent of the gross land area is proposed to be devoted to one type of use, the master plan must explain the proposed mix on the basis of marketability, compatibility of the use(s) with surrounding uses on or off the property, anticipated traffic flow patterns, or other similar impacts.
- d. Demographics and market analysis.
 - i. A demographic assessment of the market to be served by the anticipated development program over the seven (7) year period including, but not necessarily limited to, household type, household size, household income, and average and median household age.
- e. Existing physical conditions and analysis.
 - i. A scaled plan at a scale of not more than one inch equals 200 feet showing the location of all existing buildings, structures, parks, parking, walkways, service areas, and other impervious surfaces and the height of all buildings and structures referenced to the National Geodetic Vertical Datum (NGVD). Topography shall be included with at a minimum of 2' contours from Lidar.
 - ii. A scaled plan at the same scale as the existing conditions plan showing the location of all existing utilities, sewer and water systems, and stormwater drainage facilities.
 - iii. A natural resources inventory and assessment showing the location of all significant natural resources within the VMU Zone. The analysis shall assess the significance of these resources and the issues they raise with respect to the Master Plan. This shall include a plan at the same scale as the existing conditions plan showing the locations of the significant resources. This plan shall include all known wildlife habitat documented by the Maine Department of Inland Fisheries and Wildlife.
 - iv. A climate change assessment that identifies specific design actions incorporated into the master plan that will minimize impact on climate change.

- v. An assessment of existing scenic views on the property to be considered in the master planning process.
- vi. An historic and archeological resources inventory and analysis showing the location of any known historic or archeological resources and any area with potential as an area of historic or archeological significance in the VMU Zone. This shall include a plan at the same scale as the existing conditions plan.
- vii. Data on the existing lot coverage and lot coverage ratio.
- viii. Parking and traffic.
 - a. Information on current traffic volumes and conditions including levels of service on the principal public streets and intersections of public streets within the zone and which are principal transportation routes to and from the area, including South Street, May Street, Alfred Street (Route 111), including the Turnpike Interchange. Future connections to Alfred Street from South Street shall also be shown if constructed.
 - b. A description of anticipated changes in traffic volumes over the next seven (7) years resulting from the changes in development anticipated in the Master Plan.
 - c. An analysis of the impact of these changes on traffic flow and vehicular and pedestrian safety on public streets within the VMU Zone and that provide access to the VMU Zone, including South Street and Alfred Street (Route 111).
 - d. A proposed program of improvements to address any unacceptable impacts resulting from changes in traffic volumes including activities that will be undertaken to mitigate any adverse impacts on adjacent residential neighborhoods.
 - e. Information on the number and location of existing parking spaces.
 - f. An analysis of the adequacy of the existing parking to meet anticipated changes in programs and facilities over the next five years.
 - g. An assessment of pedestrian and bicycle movements and safety related to the parking supply and locations.
 - h. A proposed program of parking improvements to meet any identified deficiencies.

- ix. Water and sewer service.
 - a. A description of current provisions for water supply and sewage disposal including capacities, current utilization rates, and conformance with any permit or other legal standards.
 - b. An analysis of the change in demand for water supply and sewage disposal resulting from anticipated changes in programs and facilities over the next five years and the adequacy of the existing systems to meet this demand.
 - c. A proposed program of improvements to address any identified deficiencies.
 - d. A statement as to how water supply and sewer disposal improvements are or will be coordinated with City programs and the needs of neighboring residential areas.
- x. Municipal and community services.
 - a. A description of all municipal and community services (police, fire, rescue, recreation, etc.) currently utilized by the institution and data on the current level of usage.
 - b. An analysis of the change in demand for municipal and community services and the adequacy of the existing services to meet this demand.
 - c. A proposed program of improvements to meet the identified deficiencies including proposed funding mechanisms.
 - d. Neighborhood impacts.
- f. Conceptual development program.
 - i. A Conceptual Master Plan at the same scale as the existing conditions plan showing the approximate size and location of proposed changes to buildings, structures, parking lots, pedestrian facilities, bicycle facilities, parks and recreation, trails, roads, and similar facilities proposed in the Master Plan. This should show new facilities, modifications or enlargements of existing facilities, and the planned removal of facilities.
 - ii. An accompanying narrative or tables detailing the scale or size of the proposed improvements including the approximate height of buildings, the approximate peak elevation of buildings and structures referenced to NGVD, approximate floor area, If

- residential, the approximate number of units and number of bedrooms per unit.
- iii. A description of all development and design standards or provisions that will apply to the proposed improvements.
 - iv. A schedule setting out when the improvements included in the conceptual development program are anticipated to be completed.
- g. Performance Standards. The VMU Zone is a Performance-based Zone that established the permitted uses within the zone, the requirements for Master Planning future development to occur within the zone, and the identification of certain performance standards that must be met to comply with the intent of the Zone. These development and design standards will apply to individual projects that are submitted for development review. These standards shall foster the development of a visually and architecturally integrated community that is safe, environmentally sensitive, and that minimizes the adverse impact of the VMU Zone on adjacent areas and the community as a whole.
- i. Housing Mix. Over the seven (7) year period of the Master Plan the applicant shall demonstrate how, through development, the Master Plan will result in at least thirty percent (30%) of the housing units created shall meet the needs of households having between eighty percent (80%) and one-hundred and twenty percent (120%) of the Household Income for York County.
 - ii. Fuel storage tanks. All above-ground fuel storage tanks shall be effectively screened from view from all streets and abutting properties with either vegetation or fencing, or a combination of vegetation and fencing. No above-ground fuel storage tank shall be located in front of any building or within the required front setback for any lot.
 - iii. Residential Garages. To ensure garages do not dominate the neighborhood streetscape, garages shall meet the following standards:
 - a. Garages shall meet all required lot setbacks.
 - b. Except for J-swing garages (a garage that faces 90 degrees to a street or alley and requires a 90-degree turning maneuver to enter the garage from the street or alley), garages shall be setback a minimum of twenty feet (20') from the front building line or porch line, which ever is closest to the street right-of-way.

- c. Except for J-swing driveways, driveways shall be no greater than twelve feet (12') wide from the street right-of-way to the front façade of the primary structure. Where a driveway passes by the entire length of the primary structure to access a garage, the driveway shall be no greater than twelve feet (12') wide from the street right-of-way until past the primary structure.
 - d. J-swing garages shall be clustered in pairs with garages facing each other and shall be separated by a shared planting strip along the shared property line to screen the garage doors from the street.
 - e. Garage doors shall be single door units with a minimum 18-inch column separation. Doors shall be inset from the face of the garage by a minimum of 12-inches.
 - f. Corner lots may have a garage on the side street so long as it is attached to the residential structure it serves, or is connected to the residential structure it serves by a walkway a minimum of a 5' wide walkway.
- iv. Municipal/Community Services.
 - a. Police
 - b. Fire/EMS
- v. Landscaping. Landscaping including the typical size and type of plantings and shall detail how the landscaping will be used to enhance the visual environment of the area, shield and soften service and parking areas, and minimize impacts on surrounding existing and future residential areas and the users of streets throughout the zone.
- vi. Parks and Recreation.
 - a. Pocket Parks.
 - b. Centralized Parks
- vii. Exterior Lighting. The standards shall establish a general lighting theme for the campus and shall identify the appropriate maximum, average, or minimum illumination levels and uniformity ratios for various areas and facilities, the typical type of lighting fixtures and poles that will be used, and shall detail how night-time sky glow and light intrusion on neighboring residential areas will be minimized.
- viii. Signage. The standards shall establish a consistent design theme for all campus signs that enhances the visual environment of the campus and shall identify the general design, sizes, and locations for various types of campus signs.

- ix. Parking.
- x. Vehicular Traffic.
 - a. Road dimensional standards: A Complete Streets approach will be utilized for a hierarchy of street types outlined in the Master Plan and coordinated with City Departments such as Public Works, Fire and Public Safety. This will allow for streets that are sized for the character of the neighborhood while accommodating all users.
 - b. A grid pattern of streets shall be provided that avoids cul-de-sacs/deadends.
 - c. Temporary cul-de-sacs/deadends may be permitted where they will connect to future phases of development and be removed at such a time as the future development occurs.
 - d. Where cul-de-sacs or dead ends are permitted due to environmental constraints, public connections and access to open space from the cul-de-sacs/deadends shall be encouraged wherever feasible.
 - e. Design speeds and traffic calming.
- xi. Pedestrian and Bicycle Facilities. The standards shall establish an integrated program for accommodating pedestrians and bicyclists safely while promoting a campus environment that is pedestrian focused. The standards shall identify the types, general location, and typical design of various pedestrian and bicycle facilities.
- xii. Noise. The standards shall establish an overall program for minimizing the impact of campus noise on adjacent residential areas. The standards shall identify measures that will be employed to control noise at the source as well as to mitigate the impacts of noise on adjacent property.
- xiii. Subsurface Wastewater.
- xiv. Natural Resources.
 - a. Significant Wildlife Habitat and Habitat Corridors.
 - b. Thatcher Brook stream frontage. Proposals for development or use of properties which have Thatcher Brook's shoreline or stream-front frontage shall contain in their Master Plan clearly designated provisions for any public access to and along the water body and for associated open space prior to Planning Board approval of the application, and shall indicate the manner in which these facilities will be made available for public use.
 - c. Connections between the subject and abutting properties.
- xv. Actions taken to minimize impact on climate change.

- xvi. Protection of identified scenic views. The standards shall establish a standard approach for protecting scenic views identified in the existing conditions plans and analysis provided.

5. Phased Development:

The master planning requirement does not require the applicant to develop all portions of the property covered by the plan concurrently. The VMU Zone covered by the Master Plan may be developed in distinct phases, sections, or stages. The land used in one phase, section, or stage for meeting space and bulk requirements, off-street parking, and performance standards may not be used for any other phase, section, or stage. If such phased development occurs, each application for approval of a site within the total property shall be subject to and meet the terms of the development review ordinances and regulations in effect at the time of the application.

A subsequent application for development review approval of any phase, section, or stage of the development described by the Master Plan shall indicate how the particular phase, section, or stage for which approval is requested is consistent with the VMU Master Plan. The Master Plan shall serve as a general guide to the review and approval of individual phases of development.

If a subsequent application for development review approval deviates from the Master Plan previously filed, review of the application shall not take place until the applicant, or his duly authorized representative, has presented and discussed the amended Master Plan with the Planning Board.

6. Amendment of an approved VMU Master Plan.

A property owners or owners, or others demonstrating a right, title or interest to develop a property or part thereof, may submit a request to amend the approved VMU Master Plan at any time provided that no more than three (3) such amendment requests may be made within the seven (7) year period covered by an approved Master Plan. The process, procedures, and standards for amending a Master Plan shall be the same as for the initial approval, however, the applicant may submit an application containing only those items that have been changed from the prior Master Plan.

7. Submission and Review of a VMU Zone Master Plan.

- a. VMU Zone Master Plan submissions shall be received in accordance with the schedule for the receipt of other Planning Board applications such as subdivision and site plan review.
 - b. Prior to the approval of a VMU Zone Master Plan or an amended VMU Zone Master Plan, the Planning Board shall hold a public meeting to solicit input.
 - c. The Planning Board shall review the institutional master plan at a regularly scheduled meeting of the Board. The Board shall have sixty (60) days following its initial consideration of the plan to approve, approve with conditions, or deny the master plan.
8. Administrative Appeals of a VMU Zone Master Plan.

Administrative appeals of the actions of the Planning Board in reviewing and approving a Master Plan under this section shall be to the City of Biddeford's Zoning Board of Appeals. Appeals shall be made within 30 days of any action of the Planning Board by providing written notice to the Board of Appeals setting forth the action being appealed and the specific basis for the appeal.

Administrative appeals of Planning Board actions in the review of a Master Plan under this section shall be processed in accordance with the procedures set out in Article IX, Section 5 of this Ordinance.

NOTE: For ease, **highlighted** text identifies text that has been changed (underline = added, ~~strikethrough~~ = deleted).

**Part III (Land Development Regulations), Article V (Establishment of Zones),
Section 2 (General description of zones and allowed uses):**

e. Industrial Zones

- I-3: Is a gateway zone for a major entrance to the City, as such, appearance of structures and properties is a major consideration in the Planning Board's review process. Land use proposals in this area must meet more stringent design and landscaping standards; facades of new or rehabilitated structures shall be of brick or stone, other materials may be considered on a case-by-case basis; residential styled structures may be allowed on a case-by-case basis. The general zone allows a mixture of commercial and industrial uses. Exterior storage and display is prohibited except on those parcels of land that abut Pomerleau Street but do not abut either Barra Road or Alfred street (Route 111). **Residential uses are not permitted on the ground floor or first floor of any building or structure. Residential uses are also not permitted above off-street parking lots or facilities.**

Part III (Land Development Regulations), Article V (Establishment of Zones), Table A (Table of Land Uses):

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	I-3	B-2
Residential uses:			
Accessory dwelling unit* 27	78		
Accessory structure*	2	P	P
Boarding, rooming house*	10		
Bed-and-breakfast*	9		
Cluster development*	18		
Congregate housing*	19		
Duplex/2-family	24		
Home occupation*	38	C5	C5
Manufactured housing*			
Mobile home park*			

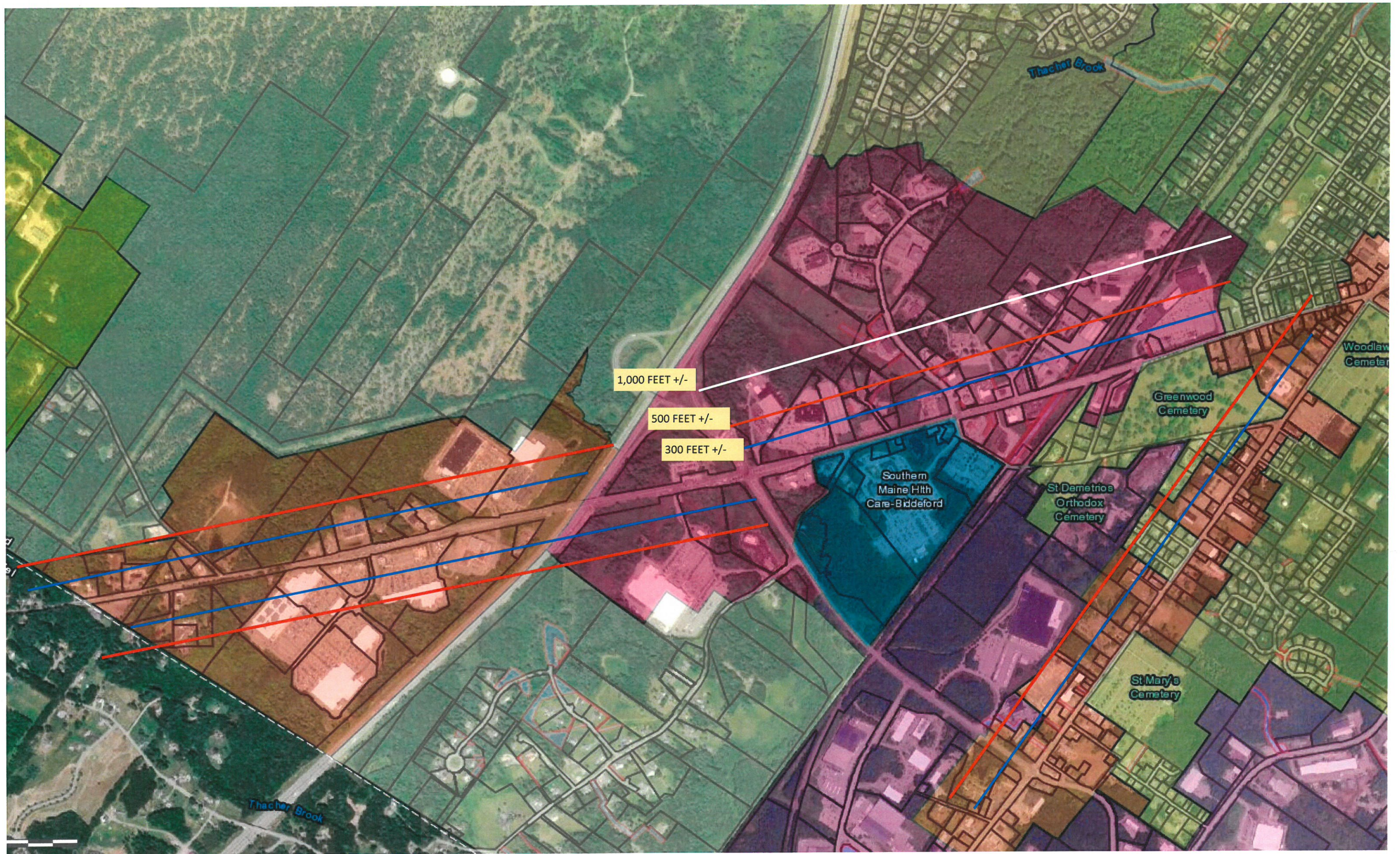
Multifamily dwelling*	47	P5	P5
Planned unit developments*	73		
Single-family dwelling 11	2		
Commercial uses:			
Adult business	3		C17
Amusement center*	5		C
Art gallery			
Art studio			
Auto body shops		C6	
Automobile graveyard, automobile recycling business, junkyard*	7		
Automobile repair, sales		C6	P6
Boat building, repair, marine services, sales, boat livery, marina, yacht club		C6	P6
Building materials retail sales		P	P
Carwash*	14	A6	C6
Commercial gardening, commercial greenhouse*	17		P
Commercial recreation*	18	C	C
Commercial school*	53	P	P
Drugstore/medical supply		P	P
Financial institution		P	P
Firewood processing*	33		
Fisheries processing, storage*	34		
Funeral parlor		P	P
Gasoline service station*	36	C6	P
Hotel/motel*	40	P	P
Indoor theater		P	P
Kennel, veterinary hospital*	42	P	P
Medical marijuana dispensaries		C23,6	
Medical marijuana growing facilities			
Neighborhood convenience store		P	P
Off-street loading and parking lot and facilities, commercial parking garage	49	A6	P9,6
Offices, business and professional*	52	P	P
Planned unit developments*	73		C
Publishing, printing		P	P
Restaurant*	56	P	P
Retail store		P	P

Sawmill*	33		
Services		P	P
Shopping center		C	C
Telecommunications facilities	71	C6	
Wholesale business		P	P
Industrial uses:			
Air transportation related use			
Air transportation dependent use*			
Airport	4		
Bulk oil terminal*	41		
Contractor's storage yard			
Demolition disposal*	23		
Experimental research and testing laboratory	29	C	C
Light manufacturing*	41	P6	C6
Light trucking dependent industry*	41	C6	C6
Manufacturing*	41	C6	
Planned unit developments*	73	C	
Resource recovery facility			
Recycling facilities	76		
Redemption centers			C6
Storage of bulk gaseous fuels*	41	P6	
Transportation facilities		C14,6	
Trucking, distribution terminal*		C6	C6
Warehousing and storage*	60	A	P
Self-storage facilities*	60	C	C25,26
Educational, institutional public uses:			
Addiction treatment facility 22			
Church, synagogue*			C
Civic, convention centers		C6	C6
Community centers, clubs		C	C
Day care center, adult	22	P	P
Day care home, adult	22		C
Day care home, children's	22		C
Day care center, children's	22	C	C
Essential services	27	C	C
Fire, police station		P	P
Group homes, hospice	19		P

Hospital*	39		
Municipal use	47.1	P	P
Museum, library		C	P
Nursing home*	39		
Public and private schools*	53		C
Public facility		P	P
Rehabilitation facility			
University/college*		C	
University uses*		C	
Water supply system		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		
Extractive industry*	30		P2,6
Farm stands* 13	31		
Timber harvesting	64		
Golf course excluding miniature golf			
Parks and recreation*		P	P

5. Residential uses are not permitted on the ground floor or first floor of any building or structure. Residential uses are also not permitted above off-street parking lots or facilities or other uses identified by Footnote 6 in Table A.
6. Not permitted below any residential uses.







City Council

Meeting Date: October 6, 2020

Meeting Time: 6:00 p

Agenda Item No: Discussion Item

Item Description: Marijuana zoning Ordinance Referral to Planning Board

Submitted by: Mathew Eddy; Director, Planning and Development

Supporting Information/Documentation:

- February 11 Meeting with City Council
https://docs.google.com/gview?url=https%3A%2F%2Fgranicus_production_attachments.s3.amazonaws.com%2Fbiddeford%2F42ba50743da7b037969ef4ffdaae44310.pdf&embedd=true
- April 18, 2019 Email from Roby Fecteau
https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/375160/6-11-2019_Workshop-Marijuana-Fecteau_Email-April_2019.pdf
- June 11, 2019 – Council Workshop – 1.2 Adult Use Marijuana: State Rule Changes (timestamp 1:16:00) https://biddeford.granicus.com/MediaPlayer.php?view_id=1&clip_id=551
- Zoning Amendment Recommendations and Referral to Planning Board/Adult Use Marijuana White Paper - https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/594989/Marijuana_White_Paper_-_May_2020.pdf

Key Terms:

See above memos, which provide ordinance definitions and some previous discussion.
Please note that we are not addressing personally homegrown marijuana or in-home caregivers in this review.

State Definitions/locations of import:

- o Attachment 1: Odor Control Draft Proposal from Codes Enforcement
- o Marijuana Legalization Act (or Adult Use Marijuana Law) 28-B M.R.S. Ch. 1
 - 18-691 C.M.R. ch. 1 – Adult Use Marijuana Program Rule
<https://legislature.maine.gov/statutes/28-B/title28-Bch1sec0.html>
- o Maine Medical Use of Marijuana Act 22 M.R.S. Ch. 558-C
 - 18-691 C.M.R. ch. 2 - Maine Medical Use of Marijuana Program Rule
<https://www.mainelegislature.org/legis/statutes/22/title22ch558-Csec0.html>
- o Industrial hemp 7 M.R.S. Section 2231
<https://legislature.maine.gov/statutes/7/title7sec2231.html>

- o Marijuana Manufacturing: 18-691 C.M.R. ch. 4 - Marijuana Manufacturing Facilities
<https://www.maine.gov/dafs/omp/medical-use/rules-statutes/18-691-C.M.R.-ch.-4>
- o Adult use statute: <https://www.maine.gov/dafs/omp/adult-use/rules-statutes/18-691-C.M.R.-ch.-1>

Executive Summary:

At the May Policy Committee meeting, staff were directed to further define changes in marijuana land use criteria and bring that information back to the Policy Committee prior to referral to the City Council and Planning Board for a public hearing. Staff addressed changes in state statute related to marijuana, highlighted changes needed in the Biddeford Land Development Regulations, and have reached out to business park neighbors to inform them of impending updates (for City Council, October 6; abutters include everyone within the Industrial districts and those within 300 feet of the zone line). Staff further addressed the issue of odor, an issue experienced in at least two facilities within our business parks. These changes were presented to the Biddeford Policy Committee on September 17. The proposed changes were approved and forwarded to City Council for referral to Planning Board.

We recommend that the proposed amendments to marijuana land use definitions and use restrictions below be considered:

Draft Changes to Marijuana Land Use-8/25/20

1. Changes to Definitions:

- a. **Replace Medical Marijuana Dispensary with:** “Caregiver retail store” means a store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.
- b. **Change the definitions Medical Marijuana and Medical Marijuana Caregiver, and by adding to the end of the last sentence:** “, consistent with Maine State Statute”.
- c. **Eliminate Medical Marijuana Home Production definition,** eliminating it as an accessory use.¹
- d. Cultivation or cultivate means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana. “Cultivation” or “cultivate” does not include manufacturing, testing or marijuana extraction.²
- e. Cultivation facility means a facility licensed under Maine Statute³ to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell

¹ This definition is tied to caregiver status. In state statute, caregivers are allowed to grow up to 30 mature plants and 60 immature plants. Additionally, caregivers with under 6 patients are exempt from department rules; the number of patients above that would seem to be a business inappropriate for residential purposes.

² It is the intent to permit caregiver retail stores in the (I1, I2, and I3). No other marijuana stores are permitted.

³ Title 28-B: ADULT USE MARIJUANA; Chapter 1: MARIJUANA LEGALIZATION ACT; Subchapter 1: GENERAL PROVISIONS

adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities, and immature marijuana plants and seedlings to marijuana stores.

- f. Replace Medical Marijuana Growing Facility with: "Manufacturing" or "manufacture" means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.
 - g. Change the definition for Marijuana: "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined by Maine Statute⁴.
 - h. **Replace Medical Marijuana Land Uses with:** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a caregiver retail store licensed under Maine State Statute. Under this definition, adult use retail stores are prohibited in the City of Biddeford.
 - i. Add: "Marijuana testing facility" means an entity licensed by the Maine Office of Marijuana and certified to test medical use marijuana, including concentrates and products containing marijuana, for research and development purposes and to analyze contaminants in, and the potency and cannabinoid profile of, marijuana samples and products containing marijuana cultivated in accordance with Maine Statute⁵
2. In Table A, Table of Land Uses, make the following changes:
 - a. Change Medical Marijuana Dispensaries to "Caregiver Retail Store"; continue to permit as a conditional use in the I3 zone, add as a conditional use in the I2 and I3 zones⁶.
 - b. Change Medical Marijuana Growing Facilities to "Marijuana Establishment"; continue to permit as a conditional use in the I2 and I3 zones, add to the I1 zone.
 - c. Add Marijuana Testing Facility to Table A, and permit as a conditional use in the I1, I2, I3 zones.
 3. Amend the performance standards, Section 77, Medical Marijuana, by replacing F and addressing odor concerns. Rename to "Marijuana Establishment" and add the following:

(1) All marijuana cultivation, testing, and manufacturing shall be conducted indoors. Said uses are not permitted to conduct outdoor sales or services of any kind. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishment and/or medical marijuana establishment must be clearly identified as such on the site plan or conditional use application.

⁴ in Title 7, section 2231, subsection 1-A, paragraph D or a marijuana product.

⁵ 22 MRS, chapter 558-C.

⁶ We can make this addition associated with a cultivation or manufacturing facility.

(2) Odor management. For all Marijuana Land Uses, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or 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: (a) 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. (b) 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. (c) 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.

(i) 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.

(ii) 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 land uses must 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 and medical 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.

(3) Noxious gases and fumes. Marijuana Cultivating, testing, and processing facilities, in accordance with this ordinance shall include appropriate ventilation systems to mitigate noxious gases or other fumes used or created as part of the production. Gases or fumes shall not extend beyond any boundary line.

(4) Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana land use must be provided at all times.

(5) All marijuana land use facilities shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area kept free of litter and trash. All dumpsters and containers are to be screened from public view. All trash receptacles on

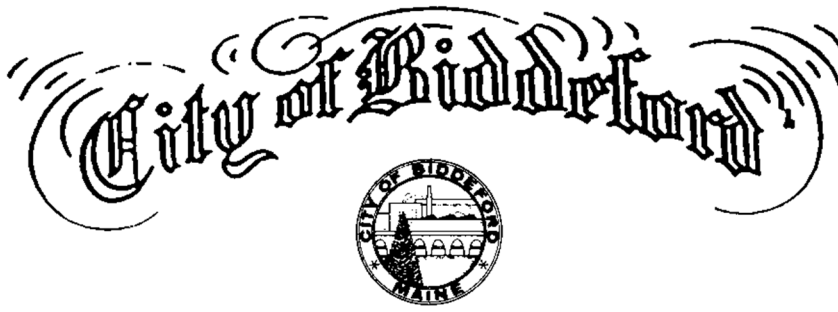
the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

Funding Source:

N/A

Staff Recommendation:

Staff recommends referral to the Planning Board.



2020.90

IN BOARD OF CITY COUNCIL. OCTOBER 6, 2020

BE IT ORDERED that the City Council does hereby request the Planning Board to conduct a Public Hearing and make recommendations to the City Council regarding proposed amendments to the Zoning Ordinance as outlined below.

Amending the Zoning Ordinance to clarify definitions related to marijuana and their consistency with state statute;

Amending the Zoning Ordinance to permit Adult Use Cultivation and Manufacturing in the I1 and I2 zones (in addition to medical marijuana in the same zones); and,

Amending the Zoning Ordinance to permit Adult Use and Medical marijuana Cultivation and Manufacturing in the I3 zone (where only dispensaries are permitted).