

City of Biddeford
Planning Board
August 04, 2021 6:00 PM City Hall
Council Chambers & via ZOOM
Aug 4, 2021 06:00 PM Eastern Time (US and Canada)
Topic: Planning Board

Please click the link below to join the webinar:

<https://biddeford.zoom.us/j/94305799628?pwd=Vkw4Q1NTSjJESlIxN3A3aVlIVlBXdz09>

Passcode: 086405

Or One tap mobile :

US: +13126266799,,94305799628#,,, *086405# or

+16465588656,,94305799628#,,, *086405#

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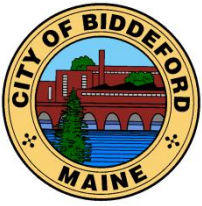
1. **DECLARATION OF QUORUM/VOTING MEMBERS**
2. **ADJUSTMENTS TO THE AGENDA**
3. **PLANNER'S BUSINESS**
4. **CONSENT AGENDA**
 - 4.A. Approval of Meeting Minutes from 7-21-21
[PB Minutes 072121-DRAFT.pdf](#)
5. **UNFINISHED BUSINESS**
6. **NEW BUSINESS**
 - 6.A. 2021.37 Public Hearing, Discussion & Ratification of the Remote Public Meeting Policy
[20210721 Remote Public Meeting Guidance Memo - Planning Board.pdf](#)
[20210720 Biddeford Remote Public Meeting Participation Policy-Planning Board Ratification.pdf](#)
 - 6.B. 2021.36 Discussion and Schedule a Public Hearing - Article VI (Performance Standards), Section 30 (Extractive Industry), Section 9.I. - Amendment to allow the extractive industries to begin operations at 6 AM so long as they can demonstrate they will remain compliant with the City's Noise Ordinance.
[Extractive Industry Request MEMO to City Council.pdf](#)
[7-06-2021 Waiver of Noise Ordinance-PB Directive-ORDER.pdf](#)
 - 6.C. 2021.35 Discussion and/or Schedule a Public Hearing for an amendment to the General Development-1 (GD-1) to remove residential density limits for all structures (new, altered, and existing) in the GD-1 Shoreland Zone.

7. OTHER BUSINESS

7.A. Review Comprehensive Plan Schedule and Process

8. 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

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Planning Board Meeting Minutes (DRAFT)

Date: July 21, 2021
Time: 6:00 PM
Location: City Hall Council Chambers & REMOTE ACCESS MEETING (1MRSA § 403-A permits public proceedings through remote access during the declaration of state of emergency due to COVID-19).

1. Declaration of Quorum/Voting Members
Quorum Present: Bill Southwick (Chair), Sean Tarpey (via ZOOM), Bruce Benway, & Michael Cantara.
Chair Southwick opened the meeting at 6:00 PM
2. Adjustments to the Agenda
3. Planner's Business
 - Planner Tansley reported that the Planning Board would be discussing the Public Meeting Policy at the next meeting. The policy went into effect July 31, 2021 and will need ratification by the Planning Board.
4. Consent Agenda
 4. A. Approval of Planning Board Meeting Minutes from July 7, 2021
MOTIONS: 6:01 PM
Benway-Motion- Motion to approve the Consent Agenda for July 7, 2021.
Cantara-Second
Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous, 4-0 (Southwick, Tarpey, Benway & Cantara)
5. Unfinished Business
6. New Business
 - 6.A. 2021.17 - Public Hearing and Preliminary Subdivision/Site Plan Review for a proposed Contract Zone for Adams Point, LP and Southern Maine Affordable Housing at 69 Adam's Street (Tax Map 38, Lot 296) to allow for 39 units of multi-family housing in a 5-storey, 60 foot tall building (plus additional height for utility and elevator structures at a reduced parking provision 0.75 parking spaces per unit.
 - Planner Tansley announced that this item was supposed to be a Public Hearing but no longer fits the criteria so is an item for Preliminary Approval.
 - Consulting Planner Chris Di Matteo updated the Board on the project.
 - The applicants were represented by the following:
Guy Gagnon-Southern Maine Affordable Housing

Jack Gagnon-Oak Point Associates
Jordan Stickles-CHA Consulting
Shane Dunn-CHA Consulting

- There were no comments from the public.
- The Board discussed the project with the applicants making clarifications.
- The Board asked questions about stormwater, parking & evacuation areas among other topics.

MOTIONS: 7:21 PM

Benway-Motion- Motion to approve the Preliminary Subdivision/Site Plan for Adam's Point, LP and Southern Maine Affordable Housing conditioned on addressing all remaining Planning Board and Staff Comments with the final Subdivision/Site Plan Application.

Cantara-Second

Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Southwick, Tarpey, Benway, & Cantara)

6. B. 2021.23 - Shoreland Zoning Determination for Greatest Practical Extent for 2538970 Ontario, Inc. at 7 Bayberry Road (Tax Map 68, Lot 26) in the Coastal Residential and Limited Residential (Shoreland) Zone.

- Consulting Planner Di Matteo, introduced the item
- Shannon Alther from TMS Architects represented the applicant.
- There were no comments from the public.
- The Board discussed the request with the applicant.

MOTIONS: 7:30 PM

Benway-Motion- Motion to approve the Determination of Greatest Practical Extent for 2538970 Ontario Inc. based on the materials submitted and that Planning Board authorizes the City Planner to sign the final plan on behalf of the Planning Board and declares that the final plan once signed by the City Planner shall be deemed to have been signed by individual members of the Planning Board evidencing approval of the final plan.

Cantara-Second

Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous, 4-0 (Benway, Tarpey, Cantara & Southwick)

7. Other Business

Comprehensive Plan Public Engagement Process Advisory Committee (PEPAC) Meeting

- Members of the PEP Committee who spoke to the Board:
Abigail Smallwood
Cat Bates
Richard Rhames

8. Adjourn

MOTIONS: 9:05 PM

- **Benway-Motion-** to adjourn
- **Cantara-Second**

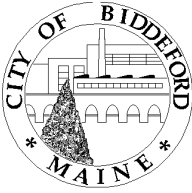
Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Southwick, Tarpey, Benway & Cantara)

Meeting adjourned at 9:05 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, Maine

Chief Operating Officer / ECO / Industrial Pretreatment

P.O. Box 586 • 205 Main Street • Biddeford, ME 04005

Phone: (207) 571-0032

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Via Electronic Transmittal – C/O City Planner

TO: William Southwick, Chair, Planning Board
Greg Tansley, City Planner

FROM: Brian S. Phinney, COO

CC: James A. Bennett, City Manager
Keith Jacques, City Solicitor
Mat Eddy, Economic Development Director

DATE: July 21, 2021

SUBJECT: Remote Public Meeting Policy

The Biddeford City Council (Council) adopted a remote meeting policy at last night's regular council meeting. The policy serves as the framework for all boards/committees/commissions. Due to the quasi-judicial nature of the Planning Board, Keith suggests that the Planning Board hold a public hearing specifically to ratify the policy adopted by the Council. While not specifically required under several interpretations of the law (1 M.R.S. §403-B), a public hearing by the Planning Board is an added measure of compliance to stave off any challenges that may be brought forward should interpretations change over time.

Please note that site walks and on-site meetings, depending on the number of members present may constitute a public meeting. Therefore, the Applicability section notes, "Unless otherwise specified, all public meetings of the city meeting bodies shall be conducted as hybrid meetings." When such meetings occur the agenda would specify the location and would not be a hybrid or remote meeting.

Since the policy has been established by the Council, the action by the Planning Board should be to ratify the policy and have the record reflect "after public hearing the Planning Board ratifies the Remote Meeting Policy adopted by the Biddeford City Council on July 20, 2021."

**City of Biddeford
REMOTE MEETING PARTICIPATION POLICY**

Purpose:

Pursuant to 1 M.R.S. § 403-B, a municipality may continue to allow members of its various boards, committees, commissions, including city council, and the public to participate in public meetings by remote methods upon adoption of a written policy. This policy satisfies the legal and administrative requirements needed to allow remote participation.

Definitions:

Hybrid Public Meeting - means a public meeting consisting of a combination of in-person and remote participation, where there must be at least one member of the public meeting body present at the specified meeting location.

Remote Public Meeting – means a public meeting consisting of remote participation by all members of the meeting body and the public by remote methods.

In-Person Meeting – means a public meeting held in-person with no remote two-way participation option(s) for the public or participating members of the public meeting body.

Remote Methods - means telephonic or video technology allowing simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Public proceedings may not be conducted by text-only means such as e-mail, text messages or chat functions.

Meeting Body - means any of the various City of Biddeford public boards, committees, commissions, including city council.

Applicability:

This policy, as may be amended from time to time, applies to all boards, committees, commissions, including city council (meeting body). Municipal staff and each respective meeting body chairperson or assigned alternate shall ensure compliance with this policy.

Unless otherwise specified, all public meetings of the city meeting bodies shall be conducted as hybrid meetings.

Requirements:

1. All hybrid and remote public meetings must be properly noticed. The notice must include the means by which the public may access the meeting remotely, currently through Zoom, and will provide a method for disabled persons to request necessary accommodation to access the meeting. Notice will also identify a location where the public may attend a hybrid meeting in person. Notice timelines and format shall comply with existing meeting body rules or requirements and any applicable charter, ordinance, policy, or bylaw.
2. The public meeting body will make all documents and materials to be considered by the public meeting body available, electronically or otherwise, to the public who attend remotely for hybrid and remote meetings to the same extent customarily available to the public who attend

in person, provided no additional costs are incurred by the City. This requirement shall be satisfied upon publication of agenda materials on the city website and agenda software, currently Granicus.

3. All votes taken during a hybrid or remote public meeting will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the meeting body and the public. A member of the meeting body who participates remotely will be considered present for purposes of a quorum and voting.
4. All meeting body members are expected to be physically present for the public meeting except when being physically present is not practical. Reasons for remote attendance may include:
 - a. An Emergency - the existence of an emergency or urgent issue that requires the entire public meeting body to meet by remote methods;
 - b. Illness, Physical Condition, or Distance - illness, other physical condition or temporary absence from the jurisdiction of the meeting body that causes a member of the meeting body to face significant difficulties traveling to and attending in person;
 - c. Geography of the Public Meeting Body's Influence - with respect to a public meeting body with statewide membership or influence, significant distance a member must travel to be physically present; and
 - d. Geography of the Public Meeting Body's Jurisdiction - The area of the public body's jurisdiction includes geographic characteristics that impede or slow travel, including but not limited to islands not connected by bridges.
5. A determination as to a member of a meeting body's ability to participate remotely shall be made by the meeting body's chairperson or assigned alternate in consultation with the assigned staff representative and/or city manager or assigned alternate.
6. A public body member shall provide notice to the respective chairperson as soon as practical if attendance at a scheduled public meeting is impractical.
7. Public attendance at a proceeding will not be limited solely to remote methods except under the conditions in paragraph 4, subparagraph (a).

Limitations:

1 M.R.S. § 403-B, does not allow regional school unit budget meetings held pursuant to Title 20-A, section 482-A to be conducted using remote methods.

This policy will remain in force indefinitely unless amended or rescinded.

Adopted by the Biddeford City Council: July 20, 2021 by Order 2021.82

Planning Board Ratification Date: _____



City Council

Meeting Date: July 6, 2021

Meeting Time: 6:00 p.m.

Agenda Item No: 2021.63

Item Description: Planning Board Directive - Waiver of Noise Ordinance Provisions

Submitted by: Mathew Eddy

Greg Tansley

Key Terms:

Chapter 34: Article III Noise [City of Biddeford, ME NOISE \(ecode360.com\)](https://ecode360.com/cityofbiddefordme)

LDR, Article VI, Section 30 (Extractive Industry), 9 (Performance Standards) [City of Biddeford, ME](https://ecode360.com/cityofbiddefordme)
[Performance Standards Search: Section 30 Extractive industry. \(ecode360.com\)](https://ecode360.com/cityofbiddefordme)

Executive Summary:

Auburn concrete has asked to begin their operations one hour sooner than permitted. Their reason is to get concrete to their construction sites, in the region, in a timely manner. In consideration of this request, we have provided language that would permit, under the land use ordinance, the ability of the planning board to relax the noise standards one hour, provided certain conditions are met.

Detailed Review:

Auburn concrete has asked to begin operations at the Cole Road site at 6 am rather than 7. This requires an ordinance change. Since taking over the site, they have reconfigured the entire operation such that you cannot hear, beyond ambient quality, the mixing machines as you move up the hill to the adjacent residential neighborhood. Joel Cummings, the owner, has also reached out to the neighborhood and met with them. He believes he has support.

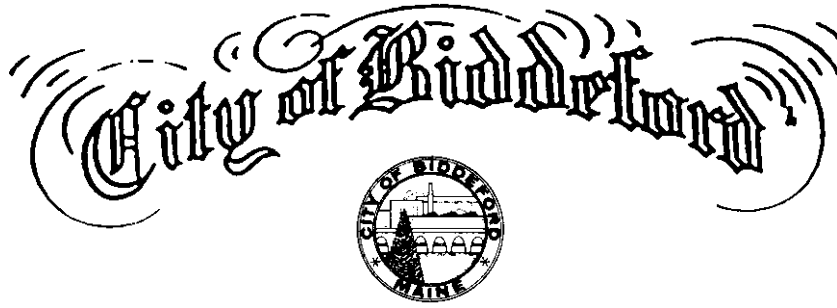
We are not proposing any change in the City's Noise ordinance under the Chapter 34 Environment. Instead, to address Auburn concrete's request, we propose to empower the Planning Board to relax those standards under certain circumstances. The proposed change would be applied to the performance standards of the Land Use Ordinance, Section 30, Extractive Industry. The proposed change, for your consideration, is underlined:

I. Hours of operation shall not exceed 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturdays. No Sunday operation is permitted. The Planning Board may allow for an Extractive Industry to begin operations at 6 AM, Monday-Friday if the applicant can demonstrate that such operation will remain compliant with the City of Biddeford Noise Regulations contained in Chapter 30 (Environment) and LDR, Article VI, Section 48 (Noise). If allowed, the ability to do shall

be conditioned on noise regulation compliance and that the Planning Board may revoke such an allowance upon evidence that the operation is not compliant with the noise regulations for the period of time between 6 AM and 7 AM, Monday through Friday.

At its' June 24 meeting, the Policy Committee referred this ordinance to City Council for further referral to the Planning Board. Should Council move forward with this ordinance amendment, Auburn concrete would be required to return to the Planning Board for an amendment to their original approval. Ambient noise requirements would be established and the abutters informed of the request. Mr. Cummings will be at the meeting to answer any questions.

Staff Recommendation: Recommend referral to the Planning Board.



2021.63

IN BOARD OF CITY COUNCIL...JULY 6, 2021

BE IT ORDERED, that the City Council of the City of Biddeford does hereby direct the Planning Board to review and consider the following amendment to the Land Use Regulations, Art. VI-Performance Standards, Section 30, Extractive Industry, as follows:

I. Hours of operation shall not exceed 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturdays. No Sunday operation is permitted. The Planning Board may allow for an Extractive Industry to begin operations at 6 AM, Monday-Friday if the applicant can demonstrate that such operation will remain compliant with the City of Biddeford Noise Regulations contained in Chapter 30 (Environment) and LDR, Article VI, Section 48 (Noise). If allowed, the ability to do shall be conditioned on noise regulation compliance and that the Planning Board may revoke such an allowance upon evidence that the operation is not compliant with the noise regulations for the period of time between 6 AM and 7 AM, Monday through Friday.

NOTE: The Policy Committee considered this ordinance amendment at their June 24, 2021 meeting and voted unanimously to recommend passage by the City Council.

July 6, 2021

Motion by Councilor McCurry, seconded by Councilor Belanger to grant the order.

Councilor Ready requested that the Council be sent a copy of the notifications and the specific waiver of the noise ordinance provision whenever applicable.

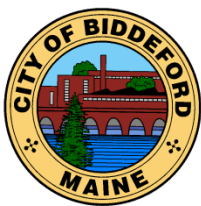
Vote: Unanimous.

Attest by: _____
Carmen J. Morris, City Clerk

Proposed Amendment to the General Development-1 (GD-1) Shoreland Zone:

ARTICLE XIV (Shoreland Zoning), Section 15 (Land Use Standards):

		Minimum Lot Area (square feet)	Minimum Shore Frontage (square feet)
Residential per Dwelling Unit			
A.	Within the Shoreland Zone adjacent to tidal areas	30,000	150
B.	Within the Shoreland Zone adjacent to non-tidal areas	40,000	200
C.	Within the General Development District 1 (within existing structures only)	None	None



CITY OF BIDDEFORD

Planning and Development Department

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Greg.Tansley@biddefordmaine.org

PLANNING BOARD REPORT

TO: William Southwick, Chair & Members of the Biddeford Planning Board

FROM: Greg Tansley, AICP, City Planner

A handwritten signature in black ink, appearing to read "Greg Tansley", is written over the printed name.

DATE: July 29, 2021

RE: **General Developemnt 1 (GD-1) Shoreland Zoning Amendment**

Staff offer this amendment to remove density limits for all structures in the GD-1 District, not just for existing structures. With recent redevelopment efforts in the Mill District following the closure of MERC, there is a need to remove these limits to facilitate redevelopment of both the 3 Lincoln Street (MERC) and 1 Gooch Street properties. Staff see redevelopment of these sites as critical to the overall redevelopment plan for the Mill District.

Chapter 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES establishes the minimum requirements for local Shoreland Zoning. Chapter 1000 establishes the basic minimum lot standard per residential unit based on whether the zone is in tidal areas (30,000 square feet/unit) or non-tidal areas (40,000 square feet/unit). There are provisions in Chapter 1000, however, that allow Maine DEP to approve higher densities in General Development (GD) Districts and districts equivalent to GD Districts:

NOTE: In a district equivalent to a General Development District that is served by municipal water and sewer systems the Department may approve a municipal shoreland zoning ordinance that provides for greater residential densities than set forth in Section 15(A)(1) above.

We have communicated with Maine DEP staff about this proposal and it is currently being reviewed by Maine DEP Staff. We have asked Maine DEP for a "pre-approval" of this amendment as we proceed with the local process; We did not want to wait to hear back from Maine DEP before presenting this to the Planning Board since time is of importance here.

We are asking the Board to schedule a Public Hearing for September 1, 2021 in order to move the process along while Maine DEP continues its review of the proposal.

SAMPLE MOTIONS:

Motion to schedule a Public Hearing for September 1, 2021

ATTACHMENTS

1. Draft Ordinance Revisions