

City of Biddeford
Planning Board
July 05, 2023 6:00 PM City Hall
Council Chambers, & Zoom
<https://biddeford.zoom.us/j/91621088534?pwd=Tk5yRGtlblZ0eHEzTElScdGhKb3VuQT09>
Webinar ID 916 2108 8534; Passcode 276637

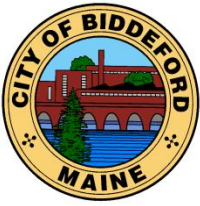
STATUS: Planning Board Meeting, Wednesday, July 5, 2023, City Council Chambers & Zoom

- 1. PLEDGE OF ALLEGIANCE**
- 2. DECLARATION OF QUORUM/VOTING MEMBERS**
- 3. ADJUSTMENTS TO THE AGENDA**
- 4. PLANNER'S BUSINESS**
 - 4.A. Remaining signatures for Rules of Procedures and Code of Ethics and taking Oath.
 - 4.B. Review Minor Amendment for Ginger Hill Development, Windward Ridge
[2021.31 Ginger Hill Design - 918 Pool Street Minor Amendment Request PB Report 6-29-2023 PDF REPORT .pdf](#)
[Windward Ridge Minor Amendment 7-3-2023.pdf](#)
- 5. UNFINISHED BUSINESS**
- 6. NEW BUSINESS**
 - 6.A. 2023.36 Review and discuss at the request of the City Council, a proposed Contract Zone for Bryce Avallone and Peter Valcourt. The property is a 30-acre parcel located at 608 New County Road (Tax Map 6, Lot 35-2) in the RF Zone.
[2023.36 608-610 New County Road CONTRACT ZONE Preliminary PB memo 6-27-2023 PDF.pdf](#)
[Contract and conditional zoning.pdf](#)
[BI3074-Va Table A.pdf](#)
[Campgrounds and tenting grounds.pdf](#)
[City Council Determination Letter 6-27-2023.pdf](#)
[2023-36 608 New County Road Contract Zone Council Transmittal Sheet PDF.pdf](#)
[City of Biddeford Contract Zone Application.pdf](#)
[1 - Zoning map with property marker copy.jpg](#)
[2 - Proposed barn and parking copy.jpg](#)
[3 - Monitor Barn.jpg](#)
[4 - Saco River overlay.jpg](#)
 - 6.B. Review and discuss at the request of the City Council proposed Ordinance on Inclusionary Zoning to send to City Council for approval.
[Inclusionary Zoning Planning Board Workshop Memo 7-5-2023 PDF .pdf](#)
[2023.25 \(a\) - Attest.pdf](#)
[2023.25 \(b\) Attest.pdf](#)
[2023.25_Inclusionary_Zoning_Transmittal_Memo \(1\).pdf](#)
[2023.25 IZ Ordinance Regulations.pdf](#)

7. OTHER BUSINESS

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

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 MEMORANDUM

TO: Chair Patoine and Members of the Biddeford Planning Board

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

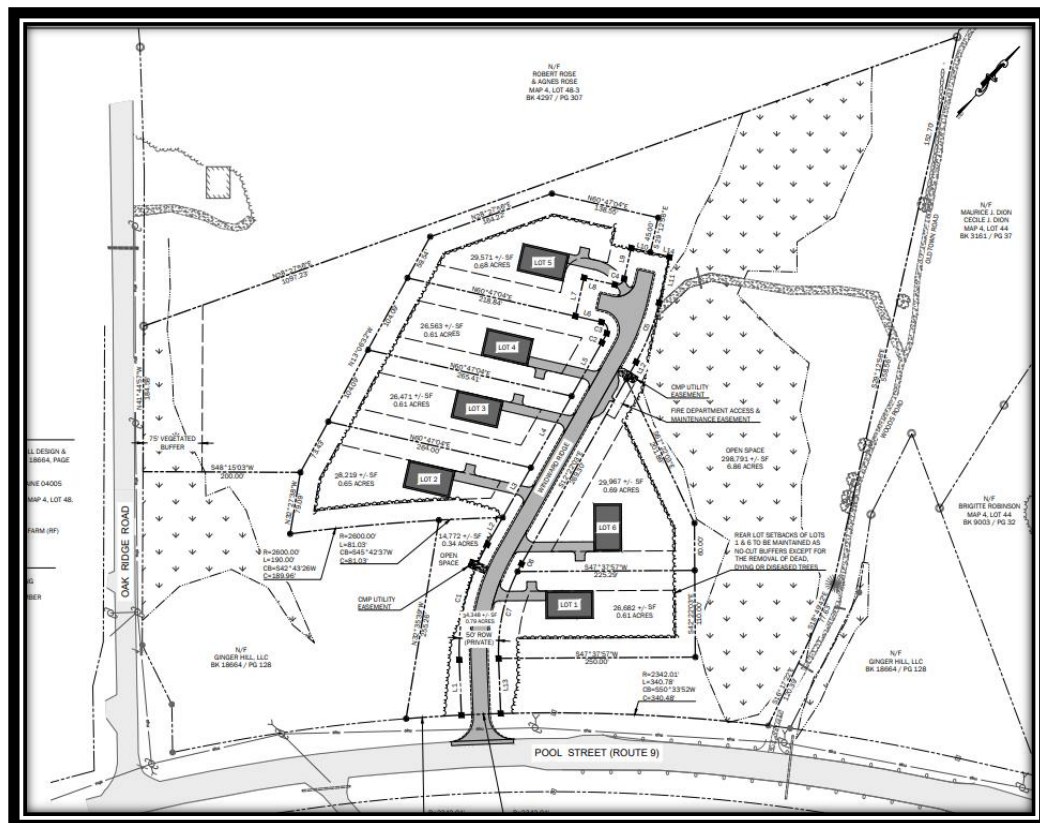
DATE: June 29, 2023

RE: **2021.31 Subdivision Plan Minor Amendment Request for Ginger Hill Design + Build, LLC for the Windward Ridge Subdivision at 918 Pool Street (Tax Map 4, Lot 48) / "Minor Modification" to Lot # 2 (9 Windward Ridge PID# Map 4 Lot 48 Sub-lot 11).**

MEETING DATE: July 5, 2023 at 6:00 PM

1. INTRODUCTION:

On February 2, 2022 the Planning Board granted approval of Windward Ridge, a six (6) lot residential cluster subdivision located at 918 Pool Street (Case# 2021.31), for Ginger Hill Design + Build, LLC.

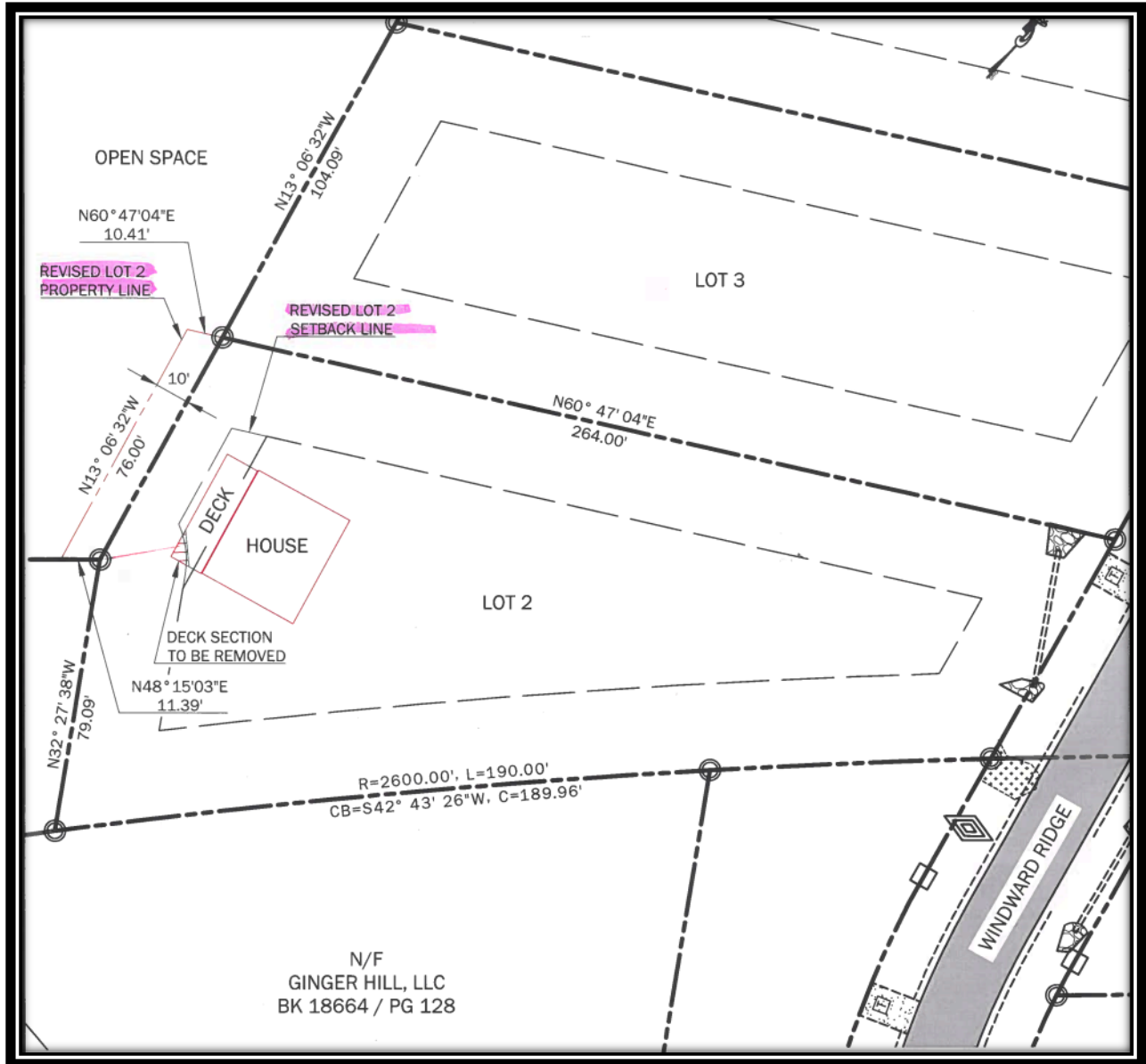


Windward Ridge Subdivision

2021.31 Subdivision Plan Minor Amendment Request for Ginger Hill Design + Build, LLC for the Windward Ridge Subdivision at 918 Pool Street (Tax Map 4, Lot 48) / "Minor Modification" to Lot # 2 (9 Windward Ridge PID# Map 4 Lot 48 Sub-lot 11).

Planning Board Date: July 5, 2023

The Windward Ridge Subdivision is located on 11. acres +/- with and was approved for a six (6) lot residential cluster subdivision located at 918 Pool Street within the Coastal Residential (CR) and Rural Farm (RF) zoning districts. The subdivision contained approximately 270,305 square feet or 6.20-acres of openspace when 146,935 (3.37-acres) is required by ordinance.



Deck Encroachment - Lot # 2 - 9 Windward Ridge (Map 4 Lot 48 Sub-lot 11).

At this time, Emily Ingwersen the Owner of Ginger Hill Design + Build, LLC, is seeking a Minor Amendment Subdivision Plan Minor Amendment to lot # 2 of the subdivision. Following Planning Board approval, the Applicant pulled building permits for the construction of a single-family home with a deck located at the rear of the home. Following construction it was determined that a portion of the constructed deck had been built within the required rear yard setback. Ms. Ingwersen was the developer of the subdivision and still retains ownership of the subdivision and lots within, including the designated openspace. The subject property's deck was constructed off the back of the home within the

2021.31 Subdivision Plan Minor Amendment Request for Ginger Hill Design + Build, LLC for the Windward Ridge Subdivision at 918 Pool Street (Tax Map 4, Lot 48) / “Minor Modification” to Lot # 2 (9 Windward Ridge PID# Map 4 Lot 48 Sub-lot 11).

Planning Board Date: July 5, 2023

rear yard setback. To eliminate the non-conformity Ms. Ingwersen is proposing to transfer a small portion of the openspace, approximately ten feet (10') in depth, the length of the rear property line, which abuts the openspace, which would relocate the rear property line and would eliminate the majority of the setback encroachment. The small portion of the lot, which does not abut the openspace, would remain non-conforming and said portion of the deck will need to be removed. Ms. Ingwersen is aware of this requirement and has agreed to remove the encroaching portion of the deck if the lot line adjustment is approved. The area proposed to be removed from the openspace is ten feet (10') in depth and approximately 75 feet in width or a total area of 750 square feet. If the requested amendment is not approved the entire existing deck will need to be removed and the house would not be allowed to construct / keep the deck in this location. A number of attachments have been provided to the Board as part of this request.

2. PROJECT INFORMATION:

1.	Applicant and Owner	Emily Ingwersen Ginger Hill, LLC 18 Early Way, Arundel, ME 04046
2.	Agent:	William R. Walsh III, PE, Walsh Engineering Associates, Inc. 1 Karen Drive, Westbrook, ME 04092
3.	Surveyor:	Titcomb Associates 133 Gray Road, Falmouth, ME 04105
4.	Project Location:	918 Pool Street
5.	Project Tax Map #/Lot #:	Tax Map 4 Lot 48
6.	Lot Size:	11.8 AC +/-
7.	Existing Zoning:	Coastal Residential / Rural Farm
8.	Overlay Zoning:	None
10.	Existing Use:	Vacant
11.	Proposed Use:	Six Lot Single Family Clustered Subdivision
12.	Floodplain Status:	None
13.	Approvals Required:	Subdivision Plan Review
14.	Uses in the Vicinity:	Residential
15.	Dimensional Requirements:	
	Min. Setback from Major R.O.W: 40FT/ Other R.O.W: 25 FT	Min. Lot Size: 20,000 SF/ Unit* *Clustered development
	Minimum Side/Rear Setback: 25 FT	Maximum Height: 3 stories / 35 FT
16.	Waivers Needed:	
	a. None	
17.	Waivers Granted:	None
18.	Variances Needed for Approval:	None.
19.	Other Approvals Required:	Building Permits from the Biddeford Code Enforcement Office.
20.	Other Permits Obtained:	None.
21.	Other Non-City Permits Required:	MDEP
22.	LDR Attachment A: Fees Paid:	Yes
23.	Planning Board Review History:	

2021.31 Subdivision Plan Minor Amendment Request for Ginger Hill Design + Build, LLC for the Windward Ridge Subdivision at 918 Pool Street (Tax Map 4, Lot 48) / “Minor Modification” to Lot # 2 (9 Windward Ridge PID# Map 4 Lot 48 Sub-lot 11).

Planning Board Date: July 5, 2023

	A. Conceptual Review	Meeting on July 7, 2021
	B. Preliminary Review	Meeting on November 3, 2021
	C. Final Review	Meeting on February 2, 2022

3. CITY PLANNER DETERMINATION:

The area proposed to be removed from the openspace is ten feet (10') in depth and approximately 75 feet in width or a total area of 750 square feet. As previously mentioned, the subdivision is 11-acres +/- and the subdivision contained approximately 270,305 square feet or 6.20-acres of openspace. The openspace required by Ordinance is 146,935 (3.37-acres) and the removal of 750 square feet from the openspace to be added to Lot # 2 (9 Windward Ridge PID# Map 4 Lot 48 Sub-lot 11). As such, upon my review I consider the requested amendment to be minor in nature, especially as both the openspace and the subject lot are still owned by Ginger Hill Design + Build, LLC, therefore no other property owners are involved with the requested action.

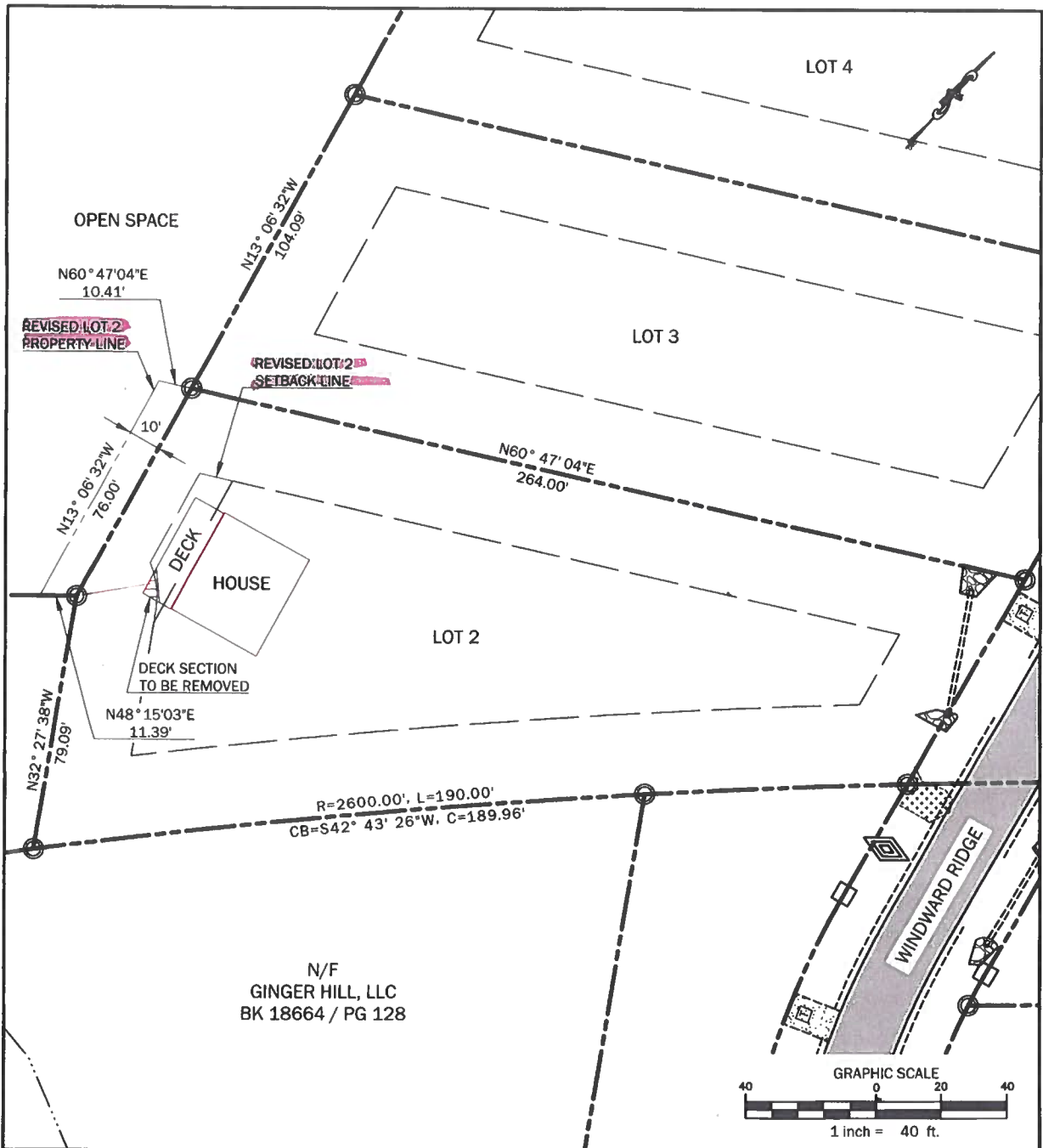
As the Board is aware, the City’s Land Use Ordinance grants the City Planner authority to approve minor plan amendments including subdivision lot line adjustments. I consider the proposed amendment to be minor in nature and am supportive of the Applicant’s request. However, as has become established practice since my assuming the role of City Planner, this item is being brought before the Board to seek input related to the request, prior to my granting the plan amendment.

If the request is granted the Applicant will be required to provide the City a revised copy of the subdivision plan illustrating the proposed change / amendment including a City Planner signature block and date.

Respectfully submitted,

David C.M. Galbraith

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



WALSH
ENGINEERING ASSOCIATES, INC.

One Karen Dr., Suite 2A | Westbrook, Maine 04092
ph: 207.553.9896 | www.walsh-eng.com

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Windward Ridge

Ginger Hill, LLC
918 Pool Street
Biddeford, Maine 04005

Sheet Title:

**CSK-3
LOT 2 REVISION**

Job No.: 737

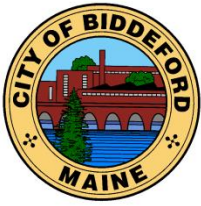
Date: June 2023

Scale: 1" = 40'

Drawn: CAR

Checked: WRW

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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 MEMORANDUM

TO: Chair Patoine and Members of the Biddeford Planning Board

EC: Bryce Avallone: bryce.avallone@gmail.com
Peter Valcourt: peter.valcourt@yahoo.com

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

DATE: June 27, 2023

RE: **2023.36 Contract Zone # 22 / Homestead By The River Campground / Bryce Avallone and Peter Valcourt / 608 New County Road (PID# Map 6, Lot 35-2) / Wedding Barn - Event Center / Preliminary Discussion.**

MEETING DATE: July 5, 2023 at 6:00 PM

1. INTRODUCTION:

In late April 2023 the City's Code Office and Planning Department were contacted by business partners Bryce Avallone and Peter Valcourt who are in negotiations to purchase the "Homestead By The River" family campground, which is located at 608-610 New County Road (Property ID# Map 6, Lot 35, Sub-lot 2). The subject property is 29.47-acres in area and is located within the Rural Farm (RF) zoning district and shoreland zoning overlay district. The subject property is currently being utilized as a campground and the applicants are seeking to construct a new 44' x 72' (3,168 sq. ft.) event barn for the use of the camping clients but also to be opened to the public for weddings, parties and similar "event center" type uses, during the summer and fall months. During the property's off-season the applicants would also be seeking approval for winter storage of recreational vehicles (RVs) within the proposed barn.

Article V, Establishment of Zones of the City's Land Use Ordinance (Zoning Ordinance), Table A - Table of Land Uses, does not include Event Centers, Wedding Barns, or similar uses as Permitted or Conditional Uses. The closest defined Use in Table A is "restaurants" which are an allowed in the Rural Farm (RF) zoning district as a Conditional Use. Therefore, the proposed Use is not allowed within any of the City's zoning districts nor have any specific performance standards for this type of Use been adopted. As such, the Applicants only have two (2) options to achieve their goal which are 1) Propose "Event Centers" / "Wedding Barns" to Article V Establishment of Zones, Table A "Table of Land Uses", which would require an Ordinance Amendment and the development of specific performance standards OR 2) Apply for a Contract Zone (CZ). The Applicants opted for the latter, and are seeking concept approval of a Contract Zone to allow the establishment of an event center / wedding barn at the subject location. It should be noted that the City's Table of Land Uses, does not list Event Centers, Wedding Barns, or similar Uses as being permitted in any of the City's zoning districts, nor does it include any specific performance standards for this type of Use.

On June 20, 2023 the City Council reviewed the proposed Contract Zone and Staff memorandum (Agenda Item No: 15. Other Business 15a) and forwarded the item to the Planning Board for the development of Contract Zone language for the proposal and also review the associated development plans. At the end of the Planning Board review, the Board would be sending the draft Contract Zone language to the City Council who will have the ultimate approval on this action.

Applications for Contract Zones require a \$75 dollar non-refundable application fee, at this stage of the development, which has been collected. As the City Council has now forwarded the CZ request to the Planning Board, the Applicant is required to submit a \$1,300. non-refundable processing fee regardless of if the project / Contract Zone receives city Council approval or not. Further, as required under Article V establishment of Zones, Section 9 H states "Any costs, including reasonable fees, incurred by the City, for drafting and enforcing the contract provisions shall be paid by the applicant whether or not the project/contract receives approval". The task assigned to the Planning Board from the City Council, is reviewing the plans / proposal "under the provisions of either subdivision or site review, whichever apply. These provisions may be modified to the extent warranted by the draft contract developed by the Board and the developer".

2. REVIEW PROCESS

Per City ordinance, this particular Application will require the following:

- A. Site Plan (Land Development Regulations, Article XI) review and approval by the Planning Board.
- B. Development of specific Contract Zone language and recommended Conditions of Approval (COA) which will ultimately be forwarded to the City Council for review and approval. It should be noted that regardless of the Planning Board's support of the proposal, or not, the Board needs to develop CZ language and recommended conditions of Approval (COA) in the event that the Council adopts the Contract Zone and COA.
- C. Article XIII Amendments, Section 2 Procedure on Amendments requires compliance of the following: If either the municipal officers or the Planning Board desire to propose any changes to this ordinance, or if a citizen petition as set forth herein is brought, the following procedure shall be followed:
 - 1) As soon as the amendment procedure is initiated by any of the above methods, the Board shall cause the City Clerk to give public notice of a public hearing on the proposed changes, which notice shall be made in a newspaper of general circulation in the City, and be published in one issue of such paper, at least 15 days prior to the date of hearing. The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content and import. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the City Clerk's office, shall be adequate notice, provided that in fact sufficient copies of the text are made available.
 - 2) The public hearing shall be held by the Planning Board.
 - 3) As soon as possible after such public hearing and in any event within 30 days, the Planning Board shall make a written recommendation, for or against the proposed changes to the municipal officers. (Emphasis added).
 - 4) The municipal officers (i.e.: City Council) shall not act on a proposed change until the recommendation of the Planning Board is before them. A proposed change which has been

Case # 2023.36: Contract Zone # 22 / Bryce Avallone and Peter Valcourt / 608 New County Road (PID# Map 6, Lot 35-2) / Wedding Barn - Event Center / Preliminary Discussion Planning Board
Hearing date: July 5, 2023.

disapproved by the Planning Board may be enacted by a majority vote of the municipal officers.

- D. If approved, the proposed Contract Zone will require a Zoning Map Amendment identifying the property as Contract Zone #22. This will also require the update of Article XIII Amendments, Section 3 Contract and Conditional Zoning.
- E. The proposed use will require Site Plan approval by the Planning Board, which can be run concurrently with the Contract Zone development.
- F. Staff would recommend the Contract Zone include the adoption of plans and narratives that specify all activities proposed to take place on the property and the locations of each; limits hours of operation; mitigates negative impacts to surrounding property owners as it relates to traffic, noise, public safety and parking to name a few.

5. STAFF RECOMMENDATION:

1. This Contract Zone was forwarded to the Planning Board on June 20, 2023. The Planning Office was unable to provide the required fifteen (15) day public notice prior to the Planning Board meeting of July 5, 2023. Therefore, this discussion before the Board is not an official public hearing so the 30 day "clock", for developing the Contract Zone language has not started. The Planning Office will be providing public notice to abutters and posting required newspaper notifications for this item to be discussed at the July 19, 2023 Planning Board meeting. At that meeting Staff will provide the Board a draft Contract Zone document for the Board's review, discussion and amendment.
2. Due to the limited time afforded to the Board and Staff to develop specific Contract Zone language, this item is being brought before the Board as a preliminary discussion item to allow Staff to provide the Board an overview of the various Ordinances that the Applicants will need to comply with, and to begin discussions related to specific concerns or items the Board would like to see submitted / addressed with preliminary site plan application.
3. As outlined above, the Application will also require Site Plan review and approval in addition to the Contract Zone. The applicant may be willing to extend the 30 day Board development of the Contract Zone language so the projects may be run concurrently. The items are not required to run concurrently, however the Site Plan approval would include all of the specified Conditions of Approval (COA) within the Contract Zone in addition to any additional COA the Board desires to impose on the site plan approval. The Application requires approval of both the Contract Zone and Site Plan for the proposal to move forward with their project.
4. As proposed, there are no planned improvements within the portion of the property which is subject to the review and approval of the Saco River Corridor Commission (SRCC) the Site Plan should be review by the Commission who may provide recommendations to the Board.

Respectfully submitted,

David C.M. Galbraith

David C.M. Galbraith
Deputy Director/City Planner

Case # 2023.36: Contract Zone # 22 / Bryce Avallone and Peter Valcourt / 608 New County Road (PID# Map 6, Lot 35-2) / Wedding Barn - Event Center / Preliminary Discussion Planning Board Hearing date: July 5, 2023.

Attachments:

1. Article V Establishment of Zones, Section 9 Contract and Conditional Zoning.
2. Article V Establishment of Zones, Table A "Table of Land Uses".
3. Article VI - Performance Standards, Section 13 Campgrounds and tenting grounds.
4. City Council Transmission Memorandum of June 20, 2023.
5. City Council Determination Letter 6-27-2023
6. Contract Zone request submitted by Avallone and Valcourt including:
 - i. A two (2) page narrative, including aerial photo of property.
 - ii. Zoning Map with Subject property highlighted.
 - iii. Aerial photo illustrating proposed barn and parking areas.
 - iv. Image of 42' x 48' post and beam barn.
 - v. E. Diagram 4 – Saco River Corridor Commission (SRCC) review area.

Section 9. Contract and conditional zoning.

A. Purpose.

1. In 1982, the Maine Legislature enacted legislation entitled "An Act to Permit Municipalities to Adopt Contract Zoning" (LD 1809) which essentially allows the rezoning of a particular piece of property subject to conditions as long as the proposed use:
 - a. Is consistent with an enacted municipal comprehensive plan;
 - b. Is consistent with existing or permitted uses within the existing original zone(s);
 - c. Is the result of a contract with the municipality that includes only conditions and restrictions which relate to the physical development or operation of the property.
2. The City of Biddeford finds that this legislation is a valuable tool to promote the orderly growth of the municipality while protecting the integrity of existing neighborhoods.
3. Occasionally, competing and incompatible uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change. In consideration of a change in zoning classification for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that provisions be made to impose certain limitations or restrictions on the use or development of the property. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the neighborhood, all other property owners and citizens of the City, and to secure appropriate development consistent with the City's Comprehensive Plan.
4. The provisions of this section shall not exempt the use or development of any property from other minimum standards or requirements otherwise provided in this ordinance, or as otherwise provided by the law.

B. Enabling legislation. The enabling legislation for this section can be found in 30-A M.R.S.A. § 4352.

C. Definitions.

1. Conditional zoning: A zoning process by which the municipal legislative body may rezone a particular piece of property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned.
2. Contract zoning: A zoning process by which the property owner, in consideration of the rezoning of his property, agrees to the imposition of certain conditions or restrictions not imposed on similarly zoned properties.

D. Mandatory conditions. Any zone change adopted pursuant to this section shall:

1. Be consistent with the Comprehensive Plan of the City of Biddeford;
2. Be consistent with the existing or permitted uses within the original zone;
3. Only include conditions and restrictions which relate to the physical development or operation of the property;

Section 9

Section 9

4. Be subject to an agreement executed by authorized representatives of both the property owner and the City of Biddeford for the implementation and enforcement of all terms and conditions imposed and agreed to by the parties pursuant to this section. Said agreement shall be recorded at the York County Registry of Deeds and a copy placed on file in the municipal offices.
- E. Discretionary conditions. Any zone change adopted pursuant to this section may include reasonable conditions or restrictions relating to one or more of the following:
1. Limitations on the number and type of authorized uses of the property;
 2. Limitations on the height and lot coverage of any structure or structures built on the property;
 3. Increased setbacks and side yards for any structure or structures built on the property;
 4. The installation, operation and maintenance of physical improvements for the convenience of the general public, including but not limited to, off-street parking lots, traffic control devices, fencing, shrubbery, screening, and landscaping;
 5. The creation, operation and maintenance of open space areas or buffer zones;
 6. The dedication or conveyance of property for public purposes, including but not limited to, streets, scenic and conservation easements, parks and utility systems;
 7. The maintenance and preservation of architecture and land deemed by the Biddeford Planning Board to have historical, environmental, or esthetic significance or value to the community.
- F. Application for consideration under these provisions.
1. Persons requesting consideration under the provisions of this section shall submit a letter of request to the City Council, through the City Planner's office, outlining in adequate detail the proposed project. The City Planner shall forward this letter with a recommendation (City Planner shall consult with the Code Enforcement Officer to determine if the proposed project meets the conditions outlined in Subsection D above) to the Council for their consideration at a regular City Council meeting under the heading of "other business."
 2. The Council shall consider the merits of the proposal and the Planner's/Code Enforcement Officer's recommendation. After consideration the Council shall provide the applicant a written determination of whether or not to continue with the process.
 3. If the Council endorses the concept, the applicant shall coordinate with the City Planner for scheduling meetings with the Planning Board.
 4. The Planning Board shall review plans for the proposal under the provisions of either subdivision or site review, whichever apply. These provisions may be modified to the extent warranted by the draft contract developed by the board and the developer.
- F.1. Findings of fact. When reviewing any proposal for contract zoning, the Planning Board shall consider the following criteria in making its written recommendation to the City Council. Before granting approval, the City Council shall determine that the proposed contract zoning meets these criteria as well as the mandatory conditions.
1. That the proposed zone change shall meet all the area, front yard, side yard, rear yard, and height requirements of the proposed zone; any of the discretionary conditions of this article as applied shall be in addition to the district's minimum requirements.

Section 9

Section 9

2. That the proposed use will not create unreasonable traffic congestion on contiguous or adjacent streets. The proponent of the zone change shall submit the following evidence:
 - (a) The estimated peak-hour traffic to be generated by the proposed zone change;
 - (b) Existing traffic counts on surrounding streets and roads;
 - (c) Traffic accident data covering the most recent four-year period. Such data shall be by date, and indicate both personal and property damage by accident;
 - (d) The capacity of surrounding roads and streets and any improvements necessary to accommodate anticipated traffic generation, including traffic signals, signs, and other directional markers as well as geometric street/road changes.
3. That the proposed zone change and use(s) authorized shall be insured by providing and maintaining adequate and appropriate utilities, sewage disposal, drainage, solid waste disposal, access, parking and loading and other necessary site improvements. The proponent shall submit materials, documents and plans which employ standard engineering methods to the City Engineer for review not less than 15 workdays prior to the public hearing. The City Engineer shall provide a written commentary on the adequacy of same. Copies of the City Engineer's commentary shall be made available to the applicant, Planning Board and City Council not less than five working days prior to the public hearing.
4. That the proposed use(s) will conform to the general character of the neighborhood. In making such determination the following shall be considered:
 - (a) Building and structures.
 - (1) Do the color and materials match or complement those used on nearby structures?
 - (2) Is there similarity or successful transition in scale, building form and proportion between the proposed expansion and existing structures located within 400 feet thereof?
 - (3) Does the proposed structure/use propose to use plant materials, fencing, and walkways which are compatible with the character of the neighborhood in size, scale, material and color?
 - (b) Preservation of landscape. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
 - (c) Setbacks and screening. The proposed use(s) shall be provided with sufficient setbacks and/or screening to provide a visual and sound barrier sufficient to minimize any adverse impact on other land uses in the neighborhood.

Section 9

Section 9

Determination of the adequacy of visual screening shall be based on line of sight observations from existing structures. Upon request of the Planning Board the proponent of the zone change shall present an accurate vertical and horizontal control map depicting existing buildings and structures adjacent to the proposed contract and zone base elevation and proposed improvements in the proposed zone change area.

Determination of the adequacy of setbacks and screening for noise shall be based on procedures and standards of performance found in Chapter 34, Article III of the Biddeford Revised Code of Ordinances, Noise Control.

- (d) Parking/loading. Off-street parking areas for more than three vehicles and loading spaces as may be required shall be totally screened from the view of the adjoining property by trees, shrubs, fences and other landscaping material (such as a stockade fence or a dense evergreen hedge six feet or more in height). Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided.
 - (e) The extent, uses, character and value of existing development in the neighborhood. In making such a determination the Planning Board and the City Council, at the expense of the applicant, may engage the services of qualified professionals such as architects and landscape architects to help them in making their determination. The choice of professionals shall be at the sole discretion of the Planning Board or City Council, whichever is deciding the proposal.
5. That there would be no significant adverse effect resulting from the proposed zone change and use(s) authorized upon the public health, safety and general welfare of the neighborhood.

G. Procedure.

- 1. All proposed amendments to this ordinance being considered under this section shall be processed in accordance with 30-A M.R.S.A. § 4352.
- 2. Further, any contract adopted or approved by the City Council under the terms of these provisions shall be considered an amendment to this ordinance and shall be attached hereto and indicated on the Official Zoning Map of the City of Biddeford.

H. Administration. Application for contract zoning requests shall be presented to the Planning Department and shall be reviewed in accordance with procedures outlined in either the Subdivision Ordinance or the Zoning Ordinance, provided:

- 1. The applicant accepts the Planning Board's conditions of approval.
- 2. A public hearing has been held.
- 3. The conditions of approval are accepted by the City Council.

I. Fees. Any costs, including reasonable fees, incurred by the City, for drafting and enforcing the contract provisions shall be paid by the applicant whether or not the project/contract receives approval.

ESTABLISHMENT OF ZONES

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. 2011.36; 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; 9-6-2016 by Ord. No. 2016.74; 1-17-2017 by Ord. No. 2016.87; 6-20-2017 by Ord. No. 2017.57; 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. 2018.110; 3-5-2019 by Ord. No. 2019.15; 3-5-2019 by Ord. No. 2019.16]

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	B-2	I-1	I-2	I-3	W-1	W-2	W-3	R-F	LR-F	M	IN ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
Residential uses:																							
Accessory dwelling units* 27	78	P		P	P	P	P						P		P	P				P		P	
Accessory structure*	2	P3	P3	P3	P3	P3	P3	P	P	P	P	P	P	P	P	P			P	P	P	P	P
Boarding, rooming house*	10					C	C															C	C
Bed-and-breakfast*	9		C			C							C			C				C	P	C	P
Cluster development*	18	C	C	C	C	C	C									C17						C	
Congregate housing*	19					C	C									C				C	P	C	P
Duplex/2-family	24	C				P	P								P	C				P		P	
Home occupation*	38	C	C	C	C	C	C	C						C	C	C				C	C	C	C
Manufactured housing*	See Article VI, Section 45.																						
Mobile home park*	See Article VI, Section 45.																						
Multifamily dwelling*	47					P	P	P						P1	P					C	P	P	P
Planned unit development*	73					C	C													C	C	C	C
Single-family dwelling 11	2	P	P	P	P	P	P						P		P	P				P		P	
Commercial uses:																							
Adult business	3								C17														
Amusement center*	5							C	C												C		C
Art gallery			C					P							C	C				C	P	C	P
Art studio			C					P							C	C				C	P	P	P
Auto body shops										C		C											
Automobile graveyard, automobile recycling business, junkyard*	7									C							C						
Automobile repair, sales									P	P		C											C
Boat building, repair, marine services, sales, boat livery, marina, yacht club								P	P			C	P	P	P						C		

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	Article VI Section ^a	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 ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
Building materials retail sales								P	P	P		P				C					C		P
Carwash*	14							C	C	C		A											C
Commercial gardening, commercial greenhouse*	17	C	C	C	C				P							P							
Commercial recreation*	18							C	C	C		C				C					P		P
Commercial school*	53							P	P			P									P		P
Drugstore/medical supply								P	P			P						P			P		P
Financial institution								P	P	C		P							C19		P		P
Firewood processing*	33															P	P						
Fisheries processing, storage*	34												P										
Funeral parlor								P	P	P		P											P
Gasoline service station*	36							P	P	P		C				C							
Hotel/motel*	40							P	P	P		P		P							P		P
Indoor theater								P	P	P		P									P		P
Kennel, veterinary hospital*	42								P	P		P				P							
Medical marijuana dispensaries												C23											
Medical marijuana growing facilities										C23	C23												
Neighborhood convenience store/service		C4	C4	C4	C4	P	P	P	P			P				P					P	C	
Off-street loading and parking lot and facilities, commercial parking garage	49					C	P	P	P9	P		A	P	P	P	C					P	C	P
Offices, business and professional*	52							P	P	P	P	P		P	P			P10		C	P	C	P
Planned unit developments*	73							C	C												C		C
Publishing, printing								P	P	P	P	P								C	P		P
Restaurant*	56							P	P	P		P	P	P	P	C		C			P		P
Retail store								P	P	P		P	P	P	P	C		C			P		P
Sawmill*	33															C	C						
Services								P	P	P		P	P	P	P	C		C		C	P		P
Shopping center								C	C	C		C									C		P
Telecommunications facilities	71											C				C	C						
Wholesale business									P	P	P	P											P
Industrial uses:																							
Air transportation related use											C												

ESTABLISHMENT OF ZONES

	Article VI Section ^a	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 ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
Air transportation dependent use*										C	C												
Airport	4									C	C												
Bulk oil terminal*	41									C													
Contractor's storage yard										C	C					C	C						
Demolition disposal*	23																C						
Experimental research and testing laboratory	29								C	C	C	C						C	C19				C
Light manufacturing*	41								C	P	P	P											P
Light trucking dependent industry*	41								C	P	P	C											P
Manufacturing*	41									C	C	C											P
Planned unit developments*	73									C	C	C											C
Resource recovery facility																							
Recycling facilities	76									C	C												
Redemption centers									C	P							P						C
Storage of bulk gaseous fuels*	41									P	P	P											
Transportation facilities										P		C14	P		P								P
Trucking, distribution terminal*									C	P	P	C											
Warehousing and storage*	60								P	P	P	A											C
Self-storage facilities*	60							C16	C25, 26	P		C									C	C	C
Educational, institutional public uses:																							
Addiction treatment facility 22																		C					
Church, synagogue*		C	C	C	C	C	C		C							C		C			C	C	C
Civic, convention centers								C	C			C									C		C
Community centers, clubs						C	C	C	C			C									C	C	C
Day-care center, adult	22	C	C	C	C	C	C	C	P	P	P	P				C		C			C	C	C
Day-care home, adult	22	C	C	C	C	C	C		C					C	C	C	C	C			C	C	C
Day-care home, children's	22	C	C	C	C	C	C		C							C	C	C				C	C
Day-care center, children's	22	C	C	C	C	C	C	C	C	C	C	C				C		C			C	C	C
Essential services	27	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Fire, police station						C	C	P	P			P				C			C19		P	C	
Group homes, hospice	19	C	C	C	C	P	P	P	P							C					C	C	P
Hospital*	39																	P					P
Municipal use	47.1	C	C	C	C	C	C	P	P	P	P	P	P	P	P	C	C	P		C	P	C	P
Museum, library			C					P	P			C				C		P	C19		P	C	P
Nursing home*	39	C				P	P									C		C			C	C	C
Public and private schools*	53			C	C	P	P		C							P		C			C	C	C
Public facility		C	C	C	C	C	C	P	P	C	C	P	C	C		C	C	C	C	C	P	C	P

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	Article VI Section ^a	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 ²⁰	OR	MSRD-1 ^{7,8}	MSRD-2	MSRD-3
Rehabilitation facility																		P					C
University/college*		C	C									C				C		C	P		C		P
University uses*		C										C				C		C	P		C		P
Water supply system	27	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Outdoor, resource-based uses:																							
Agriculture*	3, 31															P							
Agricultural products processing and storage*	3, 31									P						P							
Animal breeding or care	42															P							
Campground*	13															C							
Cemetery	14.1	C	C	C	C	C	C									P	C		C19				
Extractive industry*	30								P2	P2						P2	P2						
Farm stands* 13	31															P							
Timber harvesting	64		C													P	P		C19				
Golf course excluding miniature golf		P	P	P	P											P							
Parks and recreation*		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P19		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 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 performance requirements, as well as specific notes below:

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 the following areas:

(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 standards:

(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:

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- 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 stations, passenger rail stations, etc.
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 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 review.
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 lot or parcel of land with road frontage on Elm Street.
18. All subdivisions in the Rural Farm Zoning District shall be clustered, and developed in accordance with Article VI, Section 16, Cluster Developments, of this ordinance.
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.” 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 performance standards for colleges/universities.
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 but no new buildings shall be built or located and no existing buildings shall be enlarged (including the replacement of existing buildings) except as follows: The existing buildings and roads may be modified to the extent necessary to 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 Marine Science Center may be expanded through the construction of one additional building, provided that such changes meet all shoreland requirements and the performance standards of Article XIV.
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 state certification has been presented to the Code Enforcement Office.
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 Licensing and Regulatory Services, 10-144 CMR Chapter 122 (as amended).
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 public streets and any abutting residential uses.
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 was in existence as of January 1, 2017. See Article VI, Section 78.

Section 13. Campgrounds and tenting grounds. [Ord. of 9-15-1998(4)]

Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following (in cases of possible conflict, the stricter rules shall apply):

A. General.

1. A campground shall be constructed on at least 10 contiguous acres of land, and all camping units or structures shall be located at least 200 feet from any residence (except residences belonging to the campground owners).
2. Campsites shall be laid out or screened in such a manner that none are within view from public roads, navigable rivers, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard, when campsites would otherwise be visible from the locations described above.
3. The campground management shall be responsible for operating their premises in accordance with all City codes and ordinances and all state laws and regulations. The maintenance of all open space areas, roads, and utilities in a park shall be the responsibility of the park management.
4.
 - a. No camper, tent, or other shelter shall remain in any camp or tenting ground for a period longer than 120 days and one having occupied a space or spaces in any single campground for a consecutive period of 120 days shall not be permitted to return to the campground for at least 30 days.
 - b. Camping trailer and RV units left for storage in a campground over the winter months shall be required to pay local registration and excise and other taxes and fees as applicable. The owner of the campground must maintain a file with documents indicating that these fees have been paid for each unit in storage.
5. No trailers other than recreational vehicles as defined herein shall be permitted within any camper park, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park. That is to mean that no trailer in a campground may be used for offices, or other commercial use.
6. Tent sites and sites for recreational vehicles (RVs) shall be laid out so that the density on each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads): **[Amended 2-2-2010 by Ord. No. 2009.98¹]**

	Non-Shoreland	Shoreland Area
Tent sites	14 per acre	See Article XIV
RV sites	11 per acre	See Article XIV

B. Parking and circulation.

1. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle or tent site. Recreational vehicles shall be so parked in spaces that:

1. Editor's Note: This ordinance also repealed former Subsection A7, which provided for minimum frontage and setback along any shoreline, and former Subsection A8, which provided for minimum site area.

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- (a) There shall be a minimum of 25 feet between vehicles; and
 - (b) There shall be a minimum of 45 feet between all recreational vehicles and tents, and all public rights-of-way located inside the boundaries of the trailer park or campground.
2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the City's subdivision regulations shall be observed in designing all intersections. Roads shall be constructed of at least 12 inches of bank run gravel (no stone larger than four inches), two inches of crushed gravel (one-half-inch chips) and two applications of liquid asphalt (one-half gallon per square yard each application).
 3. The minimum width of roadways shall be 12 feet for one-way roads, and 22 feet for two-way roads. There shall be no on-street parking on such roadways.

C. Health and safety.

1. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table and trash receptacle. Within a maximum of 150 feet from each campsite, there shall be a container capable of storing the amount of refuse that the camping area for which it was designed could generate in one week. The campground management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once a week. Refuse containers shall be of such a type as to keep animals and insects out of the contents, either of metal or heavy gauge plastic, with close-fitting cover.
2. A campground shall provide water and sewage systems, sanitary stations, and convenience facilities in accordance with the regulations of the state plumbing code and the State of Maine department of business regulation. In no case shall less than one toilet, lavatory and shower be provided for each sex for every 10 camping and tent sites.
3. Fire extinguishers capable of dealing with both electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. Twenty-four-hour emergency communication service (e.g. telephones) shall be provided.
4. Each campsite shall be provided with a masonry or metal fireplace, approved in writing by the City Fire Marshal.

D. Planning and review.

1. Roads, parking, campsites and required facilities shall be planned in accordance with the basic principles outlined below, and shall be shown on the proposed plan which shall be submitted for review and approval by the Planning Board. The Planning Board shall review plans for campgrounds in the same manner as subdivisions, but shall abide by these standards as well as the guideline standards established in 30-A M.R.S.A. § 404.
 - (a) A logical sequence of entry and circulation should be created: entrance, administration and storage, parking, campsites, toilets and laundry, playing fields or shoreline.
 - (b) Campsites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of campsite clusters. The purpose is to minimize road length,

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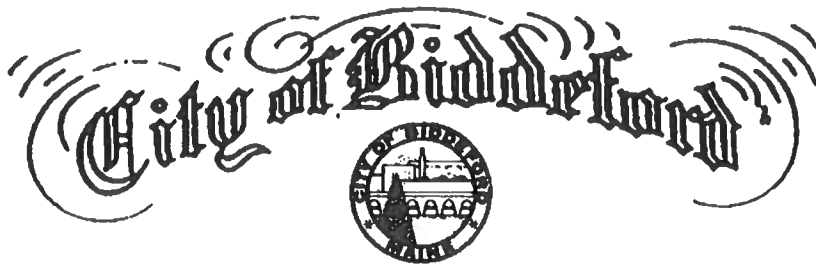
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increase accessibility, and preserve open space.

- (c) Footpaths and roads should follow desired lines of pedestrian and vehicular movement between campsites and all jointly used facilities. Parking areas may be grassed, reinforced with open concrete blocks.
 - (d) Access roads shall be laid out as loops to the greatest extent that is practicable, although culs-de-sac or dead ends may be allowed to serve up to 20 campsites.
2. A soil erosion and sedimentation control plan meeting the standards of the York County Soil and Water Conservation District and the Maine soil and Water Conservation Commission shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required:
 - (a) The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or re-forested).
 - (b) New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatibly with existing natural vegetation.
 - (c) All vegetative clearing should avoid creating straight line edges between open land and surviving stands.
 - (d) Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).
 3. As a prior condition of the Board's final approval the owner or applicant for a campground must have all have in hand all state permits and approvals.

E. (Reserved)²

2. Editor's Note: Former Subsection F, Individual private campsites, which immediately followed this subsection, was repealed 2-2-2010 by Ord. No. 2009.98.



VIA ELECTRONIC TRANSMITTAL

June 27, 2023

Bryce Avallone
Homestead by the River
608 New County Rd
Biddeford, ME 04005
Bryce.avallone@gmail.com

RE: Contract Zone Determination Letter

Dear Bryce,

The process for contract and conditional zoning applications is defined under Part III of Biddeford's Land Development Regulations, Sec. 9.F. – *Contract and Conditional Zoning*. This Article specifies that applications for contract and conditional zoning be initially reviewed by the Biddeford City Council. Once reviewed a letter of determination is sent to the applicant indicating whether it is advisable to continue with contract zone process.

On June 20, 2023 at its regular meeting the Biddeford City Council considered your contract zone request dated May 18, 2023 along with the supporting documentation for the proposed project at 608 New County Road (Property ID# Map 6, Lot 35, Sub-lot 2). The City Planner indicates that the proposed new 44' x 72' (3,168 sq. ft.) wedding barn / event center for the Homestead by the River family campground is not allowed in the current RF zone. In order to proceed the applicant has the ability to propose an amendment to the Table of Land Uses or apply for a Contract Zone (CZ).

Based on the CZ application and the merits of the proposal, the City Council offers a favorable opinion of the project as recorded by a unanimous vote and recommends that you consider proceeding with the CZ process. Please be aware that the CZ application will require a public hearing along with technical and administrative review by the Planning Board. The Planning Board's recommendation(s) will come back to the City Council for final review and adoption as an amendment to the Zoning Ordinance and the Official Zoning Map of the City of Biddeford.

It is recommended that you meet with the city planner to ensure you fully understand the process before proceeding. The city planner is also your primary point of contact for the process.

On behalf of the Biddeford City Council, thank you for your proposal and good luck with your proposed project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Patterson', with a stylized flourish at the end.

Robin Patterson, City Clerk

cc: David Galbraith, City Planner
Greg Mitchell, Economic Development Director



City Council

Meeting Date: June 20, 2023

Meeting Time: 6:00pm

Agenda Item No: 15. Other Business

15a. Consideration of a new Contract Zone

Item Description: 608-610 New County Road – Contract Zone Request for an Event Center

Submitted by: David C.M. Galbraith, City Planner / Deputy Director of Planning and Development

Supporting Information/Documentation:

- A. Contract Zone request two page narrative, submitted by business partners Bryce Avallone and Peter Valcourt, including aerial photo of property.
- B. Zoning Map with Subject property highlighted.
- C. Aerial photo illustrating proposed barn and parking areas.
- D. Image of 42' x 48' post and beam barn.
- E. Diagram 4 – Saco River Corridor Commission (SRCC) review area.
- F. Article V Establishment of Zones, Section 9 Contract and Conditional Zoning.
- G. Article V Establishment of Zones, Table A "Table of Land Uses".

Key Terms:

N/A

Executive Summary:

The Applicants are seeking a Contract Zone, for a wedding barn / event center for the Homestead By The River family campground, which is located at 608-610 New County Road (Property ID# Map 6, Lot 35, Sub-lot 2). The subject property is 29.47-acres in area and is located within the Rural Farm (RF) zoning district and shoreland zoning overlay district. The City's Table of Land Uses, does not list Event Centers, Wedding Barns, or similar Uses as being permitted in any of the City's zoning districts, nor does it include any specific performance standards for this type of Use.

Detailed Review:

In late April 2023 the City's Code Office and Planning Department were contacted by business partners Bryce Avallone and Peter Valcourt who are in negotiations to purchase the "Homestead By The River" family campground, which is located at 608-610 New County Road (Property ID# Map 6, Lot 35, Sub-lot 2). The subject property is 29.47-acres in area and is located within the Rural Farm (RF) zoning district and shoreland zoning overlay district. The subject property is currently being utilized as a campground and the applicants are seeking to construct a new 44' x 72' (3,168 sq. ft.) event barn for the use of the camping clients but also to be opened to the public for weddings, parties and similar "event center" type uses, during the summer and fall months. During the property's off-season the applicants would also be seeking approval for winter storage of recreational vehicles (RVs) within the proposed barn.

Article V, Establishment of Zones of the City's Land Use Ordinance (Zoning Ordinance), Attachment 1: Table A - Table of Land Uses, does not include Event centers, Wedding Barns, or similar uses as Permitted or Conditional Uses. The closest defined Use in Table A is "restaurants" which are an allowed in the Rural Farm (RF) zoning district as a Conditional Use. Therefore, the proposed Use is not allowed within any of the City's zoning districts nor have any

specific performance standards for this type of Use been adopted. As such, the Applicants only have two (2) options to achieve their goal which are 1) Propose “Event Centers” / “Wedding Barns” to Article V Establishment of Zones, Table A “Table of Land Uses”, which would require an Ordinance Amendment and the development of specific performance standards OR 2) Apply for a Contract Zone (CZ).

The Applicants opted for the latter, and are seeking concept approval of a Contract Zone to allow the establishment of an event center / wedding barn at the subject location. If the City Council is supportive of the proposed Contract Zone (CZ), the Applicant is requesting that the Council send a favorable recommendation of the proposed Use to the Planning Board for the development of Contract Zone language for the proposal and also review the associated development plans. At the end of the Planning Board review, if the Council refers the matter to the Board, would be sending the draft Contract Zone language and site plan to the City Council who will have the ultimate approval on this action.

Funding Source:

Applications for Contract Zones require a \$75 dollar non-refundable application fee, at this stage of the development, which has been collected. If / when the City Council agrees to forward the CZ request to the Planning Board, for Contract Zone language development and site plan review, then Planning would collect \$1,300. at that time for the Contract Zone, in addition to all fees associated with Site Plan application.

Staff Recommendation:

The recently adopted 2023 Comprehensive Plan does not specifically discuss event centers or wedding barn type uses within the document. The Comprehensive Plan does classify land located within the Rural Farm (RF) district as “limited growth” areas. If the City Council determines that the proposed Contract Zone has merit, and forwards the request to the Planning Board for review for the contract zone language drafting and review of the proposal, Staff would recommend the Contract Zone include the adoption of plans that specify all activities proposed to take place on the property, limits hours of operation, and mitigates negative impacts to surrounding property owners, traffic, noise, and parking to name a few.

City of Biddeford

Application for Contract Zone

Property Overview

The subject property is located at 608 New County Road in Biddeford. It is a 30-acre parcel on the Saco River that is currently run as a campground. The property is in the far northwestern corner of Biddeford abutting Dayton. Existing structures include a three-bedroom home with attached garage, a campground store, and a Civil War era animal barn.

The campground is open from May to early October each year, and has a combination of long-term and daily RV and tent sites. It currently holds events like barbeques and concerts onsite, but they are run outdoors.

Proposed Barn

Originally, we had considered moving events into the existing barn. However, the barn was built in the mid-1800's, and has been used as an animal barn for many years. Because we would have to invest in a commercial kitchen, a sprinkler system, air conditioning, and significant modifications for bathrooms, etc., it did not seem wise to attach all this new investment to such an old structure.

We are proposing building a new single-story post and beam barn with dimensions of 44 x 72 feet at the site of the existing horse-riding ring, which appears on the ariel view as a large rectangle of sand to the south of the existing home. It appears on Diagram 2 as a blue square.

The barn would be built on a concrete slab foundation, and would include three new bathrooms (one of which would be ADA-compliant), a commercial kitchen, and a bar. We would work with the planning and fire departments to ensure it meets all safety codes.

The barn would be used both for the campground residents and also to host outside events. Campground barbeques and concerts that are currently outdoors would be moved into the barn. In the off-season, the barn would be used for winter storage of RVs. The new barn would also be used to host events like weddings during the summer and fall months. It would accommodate 150 people, with a maximum of approximately 200 people.

This use seems like a good fit to support the campground and also host events. The barn fits in with the existing structures. There is also a similar venue right across the river in Saco.

Managing Potential Issues

This is a 30-acre property with only one neighbor, since it abuts the road on one side and the Saco River on two others. The property is only open for five months of the year. We plan to have a full-time onsite manager to oversee the campground and the barn activities. Noise will be managed by having music inside the barn, and implanting a 10PM curfew. We will

implement rules such as no open fires, no fireworks, no releasing of doves, etc. to minimize the impact of events on our neighbor and the campground residents.

Saco River Corridor

We have already contacted the Saco River Corridor commission when we were considering updating the existing barn. They sent us diagram #4, on which they shaded there are of oversight. The site of the new barn is more than 500 feet from the Saco River, and therefore is outside their jurisdiction.

About Us

Bryce Avallone and Peter Valcourt are business partners who have completed several successful businesses and real estate developments in Portland and southern Maine. We have experience with all phases of real estate development, and also on-going real estate leasing and maintenance. Our most recent project was the creation of a 5-unit subdivision where we built three treehouses and two hobbit houses for vacation rentals. You can see the quality of our work by viewing them at www.purposelylost.com.

Diagrams

- 1 – Biddeford Zoning map with the subject property highlighted.
- 2 – A Google Earth image of the campground with the proposed barn and parking areas highlighted.
- 3 – A screenshot of the monitor style barn we would like to build.
- 4 – The Saco River Corridor map that shows the barn outside of their 500-foot influence zone.

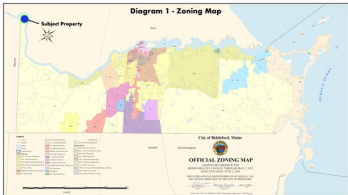




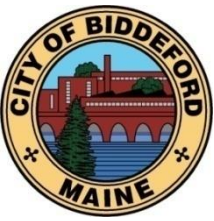
Diagram 3 - Proposed Barn Design



42' × 48' PINEDALE MONITOR BARN

Post & Beam 1½ Story Monitor-Style Barn





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, Deputy Director / City Planner

DATE: June 29, 2023

RE: **Inclusionary Zoning Regulations / Planning Board Discussion Item**

MEETING DATE: July 5, 2023

I. INTRODUCTION:

As the Board is aware, the City has been experiencing unprecedented growth in the creation of new housing units within the City. The vast majority of the residential developments that have been approved by the City, in recent years, have been for market rate apartments. Inclusionary Zoning (IZ) is sometimes known as inclusionary housing, a reference to the desired outcome of the zoning. Simply stated, IZ requires that all new construction of housing units, most especially rentals, must participate in the creation of affordable housing units. Usually, IZ is designed to target community members that are considered to have very low to moderately low incomes. These zoning regulations are mandates without any public financial investment.

The City Council received the Report of the Mayor's Affordable Housing Task Force, which identified that long term residents of the City, most especially long term renters, are more likely to pay a greater percentage of their monthly income today than they did when they started renting, and over fifty percent (50%) of all full time Biddeford residents are renters. The market rents continue to increase at a rate in Biddeford that exceeds cost of living and inflation. The Affordable Housing Task Force (AHTF) identified the current increase in housing costs, particularly among renters, is a hardship for the residents of the City of Biddeford and the Biddeford City Council recognizes this issue and finds that there is currently a lack of affordable housing within the City of Biddeford, and the lack of affordable housing is detrimental to the health, safety and welfare of the inhabitants of the City of Biddeford and said lack of affordable housing constitutes an emergency as set forth in the Charter of the City of Biddeford, Article III, § 8.

The Mayor's Affordable Housing Task Force determined that the City's current Land Use Ordinance regulations and existing Comprehensive Plan are inadequate to prevent serious public harm, namely the continuance of residential development without requiring affordable housing units and as such has recommended that the City adopt an Inclusionary Zoning Ordinance and Inclusionary Zoning Regulations which may include multiple approaches. Based upon the finding that the current lack of affordable housing constitutes an emergency and that the City's current ordinances, land use regulations and existing Comprehensive Plan are inadequate to address the lack of affordable housing, pursuant to 30-A

MEETING: Planning Board Workshop
TOPIC: Inclusionary Zoning Regulations
MEETING DATE: July 5, 2023

M.R.S. § 4356, a moratorium on new residential projects with ten (10) or more units was approved by the City Council on April 4, 2023 to address existing land use ordinance, rules and regulations and adopt new land use ordinances, rules and regulations.

The City Council forward the Inclusionary Zoning issue to the City's Policy Committee who reviewed the draft document on June 12, 2023 who made changes to the original draft which we forwarded to the City Council for their review. The revised Inclusionary Zoning (IZ) Ordinance regulations have been prepared to possibly create a Housing Chapter in the City of Biddeford Code of Ordinances. Also, the City of Biddeford IZ Regulations are based upon City of Portland IZ Regulations. Attached you will find the following documents:

1. Council Order 2023.25 Inclusionary Zoning Memorandum to City Council dated June 20, 2023
2. City Council Inclusionary Zoning Order # 2023.25 dated June 20, 2023
3. Draft Inclusionary Zoning Regulations, dated June 8, 2023 – Amended June 12, 2023 by the Policy Committee.

On June 20, 2023 the City Council reviewed the draft Ordinance and has forwarded the matter to the Planning Board for their review, input and a formal recommendation to the Council. It should be noted that City staff is preparing revisions to the City Code of Ordinances to comply with LD2003 including revisions to the existing City Housing Density Bonus Regulations and will present them as soon as they are ready for public discussion at future Planning Board and City Council meetings.

II. Next Steps:

At this time Staff is seeking input and direction from the Planning Board related to the modified Inclusionary Zoning (IZ) draft ordinance. The most recent changes made by the Policy Committee illustrates deleted text in ~~blue strikethrough~~, and new text shown as blue underlined.

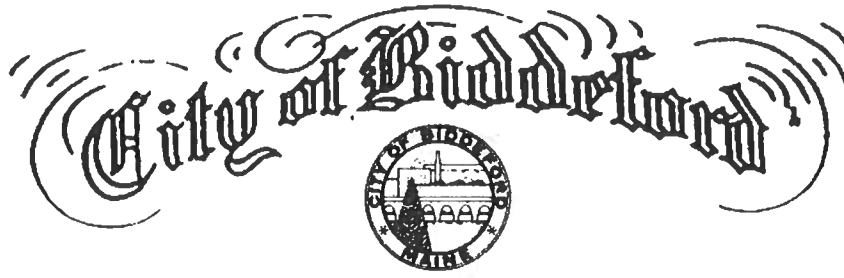
Respectfully submitted,

David C.M. Galbraith

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

ATTACHMENTS:

1. Council Order 2023.25 Inclusionary Zoning Memorandum to City Council dated June 20, 2023
2. City Council Inclusionary Zoning Order # 2023.25 dated June 20, 2023
3. Draft Inclusionary Zoning Regulations, dated June 8, 2023 – Amended June 12, 2023 by the Policy Committee.



2023.25

IN BOARD OF CITY COUNCIL on June 20, 2023

WHEREAS, the Biddeford City Council has received the Report of the Mayor's Affordable Housing Task Force;

WHEREAS, that report identified that long term residents of the City, most especially long term renters, "... are more likely to pay a greater percentage of their monthly income today than they did when they started renting..." and over fifty percent (50%) of all full time Biddeford residents are renters;

WHEREAS, the market rents continue to increase at a rate in Biddeford that exceeds cost of living and inflation, and the history and unique character of Biddeford includes a mix of residents with a range of income levels;

WHEREAS, the current increase in housing costs, particularly among renters is a hardship for the residents of the City of Biddeford and the Biddeford City Council recognizes and finds that there is currently a lack of affordable housing within the City of Biddeford, and the lack of affordable housing is detrimental to the health, safety and welfare of the inhabitants of the City of Biddeford and said lack of affordable housing constitutes an emergency as set forth in the Charter of the City of Biddeford, Article III, § 8.

WHEREAS, the Mayor's Affordable Housing Task Force has recommended that the City adopt an Inclusionary Zoning Ordinance and Inclusionary Zoning Regulations which may include multiple approaches;

WHEREAS, the City's current land use ordinance, regulations and existing comprehensive plan are inadequate to prevent serious public harm, namely the continuance of residential development without requiring affordable housing units;

WHEREAS, based upon a finding that the current lack of affordable housing constitutes an emergency and the City of Biddeford current ordinances, land use regulations and existing comprehensive plan are inadequate to address the lack of affordable housing, pursuant to 30-A M.R.S. § 4356, a moratorium on new residential projects with ten (10) or more units was approved by the City Council on April 4, 2023 to address existing land use ordinance, rules and regulations and adopt new land use ordinances, rules and regulations;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council supports the concept of municipal Inclusionary Zoning Regulations and refers to the Planning Board the responsibility to prepare Inclusionary Zoning Regulations for City Council review and action.

6-20-2023

Motion: Councilor Mills
Second: Councilor LaFountain

Councilor Ortiz – Motion to amend the Inclusionary Zoning Ordinance to change from 100% AMI to 80% AMI.
Second: Councilor Mills

Vote on the amendment: 4 yeas – Councilors Ortiz, LaFountain, Mills and Whiting; 5 nays – Councilors Belanger, Lessard, Emhiser, Grohman, and Schlaver.

Councilor Ortiz – motion to amend the Inclusionary Zoning Ordinance to require all new condominium developments to be included in the Inclusionary Zone unless their by-laws state that short term rentals are prohibited.

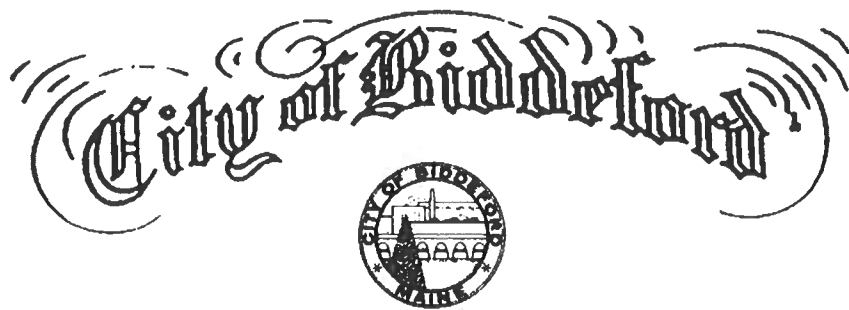
Second – Councilor Mills
Vote on the amendment: 3 yeas – Councilors Ortiz, Mills and LaFountain; 6 nays – Councilors Belanger, Lessard, Emhiser, Whiting, Grohman, and Schlaver

Vote on the original order 2023.25 (A): 2 nay – Councilors Lessard and Belanger; 7 yeas – Councilors Ortiz, Emhiser, Whiting, Grohman, Mills, Schlaver and LaFountain.

Attest by: _____



Robin Patterson, City Clerk



2023.25.b

IN BOARD OF CITY COUNCIL... June 20, 2023

WHEREAS, the Biddeford City Council has received the Report of the Mayor's Affordable Housing Task Force;

WHEREAS, that report identified that long term residents of the City, most especially long term renters, "... are more likely to pay a greater percentage of their monthly income today than they did when they started renting..." and over fifty percent (50%) of all full time Biddeford residents are renters;

WHEREAS, the market rents continue to increase at a rate in Biddeford that exceeds cost of living and inflation, and the history and unique character of Biddeford includes a mix of residents with a range of income levels;

WHEREAS, the current increase in housing costs, particularly among renters is a hardship for the residents of the City of Biddeford and the Biddeford City Council recognizes and finds that there is currently a lack of affordable housing within the City of Biddeford, and the lack of affordable housing is detrimental to the health, safety and welfare of the inhabitants of the City of Biddeford and said lack of affordable housing constitutes an emergency as set forth in the Charter of the City of Biddeford, Article III, § 8.

WHEREAS, the Mayor's Affordable Housing Task Force has recommended that the City adopt an Inclusionary Zoning Ordinance and Inclusionary Zoning Regulations which may include multiple approaches;

WHEREAS, the City's current land use ordinance, regulations and existing comprehensive plan are inadequate to prevent serious public harm, namely the continuance of residential development without requiring affordable housing units;

WHEREAS, the City Council desires to have reasonable time to allow the public to provide input and feedback into any proposed Inclusionary Zoning Regulations and it is expected that several new residential projects may start initial approval process in order to avoid any new Inclusionary Zoning Regulations;

WHEREAS, based upon a finding that the current lack of affordable housing constitutes an emergency and the City of Biddeford current ordinances, land use regulations and existing comprehensive plan are inadequate to address the lack of affordable housing, pursuant to 30-A M.R.S. § 4356, a moratorium on new residential projects with ten (10) or more units is necessary to address existing land use ordinance, rules and regulations and adopt new land use ordinances, rules and regulations;

WHEREAS, the Biddeford City Council desires to make certain that any new project exceeding ten (10) or more new residential units be subject to any new Inclusionary Zoning ordinances, rules and/or regulations that may be adopted;

WHEREAS, the Biddeford City Council appreciates the financial impact that a moratorium has on potential project(s) and the Biddeford City Council desires to balance the impacts of a moratorium;

NOW, THEREFORE, IT IS HEREBY ORDERED that an emergency moratorium on any new residential project with ten (10) or more units shall be effective immediately to ensure that any proposed residential project of ten (10) or more new units shall be subject to Inclusionary Zoning Ordinances, Rules and Regulations to be adopted by the Biddeford City Council by July 7, 2023 and extended by sixty (60) days;

BE IT FURTHER ORDERED, that any new proposed residential projects of ten (10) or more units may, at their discretion, submit a completed application during the moratorium period, subject to, the full understanding and recognition that any such application(s) shall not be approved until the end of the moratorium and further understanding that any such application(s) shall be governed by any Inclusionary Zoning Ordinances, Rules and/or Regulations duly adopted by the City of Biddeford prior to end of the moratorium.

BE IT FINALLY ORDERED, that City staff is allowed to accept, review and consider new completed application(s) for any proposed residential projects of ten (10) or more residential units during said moratorium with the full understanding that any said project(s) shall not be approved until this order has expired;

***NOTE**

This is an Emergency Order pursuant to the City Charter, Art. III, §8. Upon a favorable vote and two-thirds (2/3) of the members present and voting. This Order shall be in full force and effective as of March 31, 2023.

Motion by Councilor Ortiz, seconded by Councilor Lessard to pass the order.

Motion by Councilor Schlaver, seconded by Grohman to amend the motion as follows:

No moratorium but encourage affordable housing by any projects with ten (10) or more units which include ten (10) % of the units with affordability restrictions at 80% Area Median Income for fifteen (15) years.

Vote on Amendment

1/8 Motion Fails (Councilor Emhiser in Favor, remainder opposed)

Motion by Councilor LaFountain, seconded by Mills to amend the motion as follows:

Moratorium is established for 120 days. Exceptions from the moratorium for any projects with ten (10) or more units which include ten (10) % of the units with affordability restrictions at 80% Area Median Income for fifty (50) years.

Vote on Amendment

6/3 Motion passes (Councilors Emhiser, Whiting, Grohman, Mills, LaFountain, and Ortiz in Favor, Councilors Belanger, Schlaver & Lessard against)

Motion by Councilor Belanger, seconded by Mills

Extend moratorium for 120 days, if anyone puts in an application during this time period will not be bound by any change made after the 120 days.

Vote on Amendment

5/4 Motion passes (Councilors Belanger, Emhiser, Whiting, Mills, Schlaver in Favor, Councilors Grohman, LaFountain, Ortiz & Lessard against)

Vote for Original Order

7/2 Motion Passed (Councilors Emhiser, Whiting, Grohman, Mills, Schlaver, LaFountain & Ortiz for, Councilors Belanger & Lessard against)

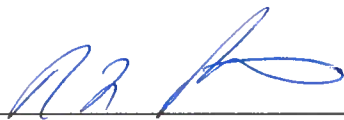
6-20-2023

Motion: Councilor Mills

Second: Councilor Belanger

Vote: 1 nay – Councilor Schlaver; 8 yeas - Councilors Belanger, Lessard, Ortiz, Emhiser, Whiting, Grohman, Mills, and LaFountain.

Attest



Robin Patterson, City Clerk



City Council Meeting

Meeting Date: June 20, 2023

Meeting Time: 6:00 pm

Agenda Item No: 10.e

Item Description: 2023.25 Revised Inclusionary Zoning Regulations/Referral to the Planning Board

Submitted by: Greg Mitchell, Planning & Development Director

Supporting Information/Documentation:

Attached are City of Biddeford Revised Inclusionary Zoning (IZ) Regulations with redline revisions following a June 12, 2023 Policy Committee meeting.

Key Terms:

Inclusionary Zoning (IZ)

Executive Summary:

Based upon direction from the City Council Policy Committee meeting on June 12, 2023, City Staff has prepared Revised Inclusionary Zoning Regulations for discussion, direction and referral to the Planning Board.

Detailed Review:

Definition. Inclusionary Zoning (IZ) is sometimes known as inclusionary housing, a reference to the desired outcome of the zoning. Simply stated, IZ requires that all new construction of housing units, most especially rentals, must participate in the creation of affordable housing units. Usually, IZ is designed to target community members that are considered to have very low to moderately low incomes. These zoning regulations are mandates without any public financial investment.

The Revised City of Biddeford IZ Regulations have been prepared to possibly create a Housing Chapter in the City of Biddeford Code of Ordinances. Also, the City of Biddeford IZ Regulations are based upon City of Portland IZ Regulations.

Overview of Revised Biddeford Inclusionary Zoning Regulations following a June 12, 2023 Policy Committee meeting along with the following City Staff comments:

- ***Applicable to Rental Projects only including eight (8) or more residential units.***
- ***Affordability Level:*** One hundred (100) percent of Area Medium Income. City staff recommended that the change to 100 percent Area Medium Income due to concerns that the 80 percent level of affordability ***cannot*** be supported by current private sector market conditions. The Policy Committee agreed with staff that the one hundred (100) percent affordability level be combined with other affordable housing financial incentives (i.e. Affordable Housing Tax Increment Financing Districts, Housing Density Bonuses, Reductions in Fees for Affordable Housing Projects, Proposed City Housing Trust Fund) and state (Maine State Affordable Housing Programs) to achieve the 80% affordable housing level.
- ***Percent of Required Affordable Units:*** 10%
- ***Term:*** Thirty (30) years to be consistent with LD 2003.
- ***Opt Out Fees:*** \$100,000 per unit
- ***Exceptions:*** See language in italics and bold on Page 2, which exempts affordable housing projects utilizing **public** financing requiring affordability restrictions, as defined by tax increment financing, US Housing and Urban Development (HUD) funds such as HOME or CDBG, or other federal, state, or local housing programs, or Low-Income Housing Tax Credit Program.

Also, City staff is preparing revisions to the City Code of Ordinances to comply with LD2003 including revisions to the existing City Housing Density Bonus Regulations and will present them as soon as they are ready for public discussion at future Planning Board and City Council meetings.

Funding Source:

Not applicable.

Staff Recommendation:

City staff looks forward to discussion and direction on the Revised Inclusionary Zoning Regulations.

City of Biddeford, Maine
DRAFT Inclusionary Zoning Regulations

As of June 8, 2023

Amended June 12, 2023 acted upon by the City Council Policy Committee

DEFINITIONS

Affordable Housing. Housing for which the percentage of income a household is charged in rent and other housing expenses or must pay in monthly mortgage payments (including condominium/HOA fees, mortgage insurance, other insurance and real estate taxes), does not exceed 30% of a household income, or other amount established in City regulations that does not vary significantly from this amount.

Workforce housing unit for rent for which:

- A. The rent is affordable to a household earning ~~100%~~ or less than of AMI.
- B. The unit is rented to a household earning ~~100%~~ or less than of AMI.
- C. The requirements of (A) and (B) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

HOUSING

AFFORDABLE HOUSING

Purpose

It is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this section therefore is to offer incentives to developers to include units of affordable and workforce housing within development projects, thereby mitigating the impact of market rate housing construction, or the demonstrated increase in affordable housing needs resulting from the creation of new lower-income jobs, on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. The City believes that this section will assist in meeting the City's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety, and welfare of its citizens.

Ensuring Workforce Housing

- A. Purpose.** Based on City Council adopted the 2023 City's Comprehensive Plan and the Mayor Affordable Housing Task Force Report dated December, 2022, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this subsection is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of ~~City of Biddeford~~Portland citizens.
- B. Applicability.** This subsection shall apply to development projects that create eight (8) or more net new dwelling units for rent through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a nonresidential use to residential use, or any combination of these elements. ***This ordinance shall not apply to projects using public financing requiring affordability restrictions, as defined by tax increment financing, U.S. Department of Housing and Urban Development funds such as HOME or CDBG, other federal, state, or local housing program, or the Low-Income Housing Tax Credit Program.***
- C. Standards.** Development projects subject to this subsection shall be subject to the following requirements:
1. Notwithstanding any language to the contrary in this Land Use Code, all developments of eight (8) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this subsection.
 2. At least 10% of the units in the project shall meet the definition of workforce housing units for rent to an eligible household, as defined in Article XXX. The project shall have the option of paying a partial fee-in-lieu as per XX below. Where the required number of units results in a fraction of less than 0.5, the required number of onsite units is rounded down to the nearest whole number. Where the required number of units results in a fraction of 0.5 or more, the development project shall have the option of paying a partial fee-in-lieu for the fractional value or rounding the number of onsite units up to the nearest whole number.

3. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.
4. Workforce units must be integrated with the rest of the development, must use a common entrance, and must provide no indications from common areas that these units are workforce housing units. Exteriors of affordable units shall be consistent with and indistinguishable from the exteriors of other units in the project. Workforce units shall be comparable in materials, interior finishes, amenities, and parking to dwelling units in the neighborhood and in the development in which they are located.
5. Workforce units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be no less than 10 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development, every 400 square feet in each market rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.
6. As an alternative to providing workforce housing units, the project may:
 - ~~a. Create offsite units, which fulfill the purposes of this ordinance if the following conditions are present: located within the same neighborhood; comparable or larger unit bedroom sizes to the average unit created on-site; comparable quality to the units being created on-site; same amenities provided whether in the unit or on the property as those offered for on-site units; same income level served as the on-site units; the term of affordability is the same as would have been provided through on-site compliance; and delivered safe in accordance with all federal, state, and local environmental regulations pertaining to hazardous conditions common to residential structures. The Certificate of Occupancy for any off-site units must be received prior to the Certificate of Occupancy for any on-site units.~~
 - ~~b.a.~~ Pay a fee-in-lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund. The fee for affordable units not provided shall be \$100,000 per unit, adjusted annually in the same way as the fee under Subsection XXX. The payment shall be required in conjunction with a request for a Certificate of Occupancy.
7. If at least 33% of the units in a development are workforce units, the development is eligible for subsidy through an Affordable Housing Tax Increment Financing (TIF) District Credit Enhancement Agreement, subject to City Council approval.
8. The term of affordability for the required % workforce units provided shall be thirty (30) years~~defined as shown in Table XXX.~~

D. Implementing regulations. Regulations to further specify the details of this subsection shall be developed, including, but not limited to:

1. Specific methodology for income verification.
2. Situations where less than permanent affordability might be considered.

3. Guidelines for meeting the requirement that off-site units be “in the same neighborhood.”

E. Reporting to City Council. In conjunction with the annual report on the Housing Trust Fund, the Planning Authority shall annually report on developments subject to this subsection, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this subsection in achieving its stated purpose.

E.F. Sunset Regulations. Municipal Inclusionary Zoning Regulations will sunset within three (3) years following City Council adoption unless extended by the City Council. All Inclusionary Zoning Projects approved by the Planning Board shall remain in effect if the Inclusionary Zoning Regulations Sunset.

HOUSING TRUST FUND

Purpose

The purpose of enacting this section is:

- A. To establish a City of Biddeford Housing Trust Fund for the promotion, retention, and creation of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the city.
- B. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in this article.

Establishment of the Housing Trust Fund

The City Council shall establish a special revenue account under the name “City of Biddeford Housing Trust Fund” (Housing Trust Fund). Deposits into the fund shall include:

- A. In-lieu fees under Subsection XXX.
- B. Funds appropriated to be deposited into the fund by vote of the City Council.
- C. Voluntary contributions of money or other liquid assets to the fund.
- D. Any federal, state, or private grant or loan funds provided to the fund.
- E. Interest from fund deposits and investments.
- F. Repayments of loans made from the fund.

Management of the Trust Fund

The City Manager, or his or her designee, shall serve as the manager of the Housing Trust Fund. The responsibilities of the manager, subject to the orders of the City Council, shall include:

- A. Maintaining the financial and other records of the Housing Trust Fund.
- B. Disbursing and collecting Housing Trust Fund monies in accordance with the Housing Trust Fund Annual Plan.
- C. Monitoring the use of monies distributed to successful applicants for Housing Trust Fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

Housing Trust Fund Annual Plan

- A. Each fiscal year, the City Council shall adopt a Housing Trust Fund Annual Plan. The City Manager shall submit to the City Council a recommended Housing Trust Fund Annual Plan, utilizing the revenues of the Housing Trust Fund as well as any other funds the City Manager may propose as appropriate.
- B. The Housing Trust Fund annual plan shall include:
 - 1. A description of all programs to be funded in part or in full by the Housing Trust Fund.
 - 2. A description of how funds from the Housing Trust Fund will be distributed among very low-income, low-income and moderate-income households.
 - 3. The amount of funds budgeted for programs funded in part or in full from the Housing Trust Fund.
- C. Priority for the expenditure of funds collected pursuant to Section XXX shall be given to the creation of new housing stock, through either new construction or conversion of nonresidential buildings to residential use.

Distribution and use of the Housing Trust Fund's Assets

- A. All distribution of principal, interest, or other assets of the Housing Trust Fund shall be made in furtherance of the public purposes set out in Section XXX.
- B. During each year, the Housing Trust Fund shall disburse as grants or loans so much of the Housing Trust Fund's assets as the City Council in its discretion has approved in the Housing Trust Fund annual plan.
- C. Funds shall not be used for City administrative expenses.
- D. Funds shall not be used for property operating expenses or supporting services.
- E. No grants or loans shall be awarded by the Housing Trust Fund to corporations, partnerships, or individuals who are delinquent at the time of application in the payment of property taxes or other fees to the City of Biddeford, who have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current City electrical, plumbing, building, or housing codes or zoning ordinances.

Term of Affordability

- A. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of an affordable rental or cooperative unit, the City of Biddeford shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of 30 years.
- B. Whenever funds from the Housing Trust Fund are used for the acquisition, construction, or substantial rehabilitation of ownership housing, the City of Biddeford shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining an equitable balance between the interests of the owner and the interests of the City of Biddeford.

- C. The affordability restriction requirements described in this subsection shall run with the land and the City of Biddeford shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation in the York County Registry of Deeds.