CITY OF BIDDEFORD

Planning and Development Department

Greg Tansley, A.I.C.P.
City Planner
205 Main Street
P.O. Box 586
Biddeford, ME 04005
(207) 282-7119 or (207) 284-9115
Greg.Tansley@biddefordmaine.org

Planning Board
Meeting Minutes

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

1. **Declaration of Quorum/Voting Members**
   Quorum Present: Chair William Southwick, Sean Tarpey, Bruce Benway, Spiros Droggitis, Roch Angers.
2. **Adjustments to the Agenda**
3. **Planner's Business**
   - **City Planner Greg Tansley announced that the Zoning Amendment the Planning Board sent to the Council for 5 Star was not approved by Council. The applicant will most likely come back to Planning Board for approval of different uses.**
4. **Unfinished Business**
5. **New Business**
   5.A 2021.12 Public Hearing, take comments and make recommendations to the City Council regarding a proposed amendment to the Zoning Ordinance that would alter the fees for certain applications.
   - **Planner Tansley talked about the need to adjust some of the Planning Board fees, as they have remained the same since 2005. He reiterated the reason for the fees are to cover costs, not to make a profit.**
   - **Chair Southwick mentioned to the Board that in the last paragraph of the letter Planner Tansley sent the Board he asked for additional input from the Board. He asked the Board members to make some notes and send them to the Planner.**
   - **Planner Tansley spoke about his recommendations to the Council. He said his memos to the Council need to provide enough information to enlighten the Council about the Board's rational for moving the item onto Council and recommending approval. This is when the input from the Board becomes crucial. The more information they provide to the Planner the more he can incorporate into his memo to the Council without feeling that he is putting words in the Board's mouth.**
   - **Mr. Droggitis brought up that not enough information was the problem with 5 Star Holdings. He said he usually sends a briefing memo to the Board before the meeting and said there was no memo for that item. The Board felt like they were on their own to ask questions and probe for issues. Mr. Droggitis remembers he**

asked about changing zones, if this was a common practice and the only thing told to the Board was that the staff was concerned about odor. He would like to know what the Council is looking for. He wants to know if the Board should come to a position as to why they are making the decision. Answer: No. He mentioned the bullet points indicating why the staff feels the fees need to be raised. He said it looked like it could go to the Council now and wondered if he is missing something.

- **Planner Tansley answered this is generally what he does to send items onto the Council. If there is additional, information that someone from the Board wants to add for the Council's information that is what should be sent to Planner Tansley. In the case of 5 Star, Planner Tansley feels he did not add enough information to the Council to give them proper guidance.**
- **Mr. Droggitis stated that they are all available to give additional information.**
- **Chair Southwick asked for comments from the public.**
- **Amy Clearwater, City Counselor, said she was the Councilor who asked for more information. Sometimes the Council gets too much info and other times not enough. She asked for bullet points for recommendations.**
- **Richard Rhames noted the fees had not been addressed in 15 years. Inflation and other towns and cities were mentioned, he would have liked to have seen the fees for the other municipalities. He feels it is well past times to raise rates. He spoke about a cemetery that was lowest in rates. He wants to know if the Planning Board members would like to see the fees for the other cities as he thinks it would be interesting. He did not see impact fees and thinks that should be looked at.**
- **With no other public comments, Public Hearing is closed; Chair Southwick brings the meeting back to Board for discussion.**
- **Mr. Droggitis asked how the proposal for Biddeford compares to other towns.**
- **Planner Tansley answered that it varies, not all charge fees the same way. He talked about the formula used to determine proposed fees. He talked about pre application fees in other towns charging $300 fees just to meet with staff and get a feel for the project. He does not feel a charge like that is prudent for Biddeford.**
- **Mr. Droggitis asked about Page 9 #1 site plan review new #D plan review for $2700 2,000-2,999, and then the next tier is lower in fee but larger lot?**
- **Planner Tansley answered that is a typo, great catch.**
- **Mr. Droggitis noted he understands if there is money left over (from the escrows) after staff work it gets returned, but asked what happens if the staff work goes beyond the money collected and is there a way to get the money from the developer or does it get passed on to the taxpayers?**
- **Planner Tansley said we do not order third party work until we have cash on hand. If the applicant does not provide additional money needed for projects the work stops, so extra money is rarely the case.**
- **Mr. Droggitis asked about setting up accounts for affordable housing and he has not seen that on the proposal.**

- **Planner Tansley said he and Director Eddy have talked about it and there are many legalities with that so it has not been recommended yet, those fees and accounts must be legally defensible.**
- **Mr. Benway spoke about impact fees and would not use them in his motions as they take a lot of research so that they are fair and honest.**
- **Mr. Tarpey asked about the top of page 8, B is that supposed to have a value associated with it.**
- **Planner Tansley answered it is a formatting issue and he will correct that.**
- **Mr. Tarpey asked about the bottom of page 10 9B invoice from Legal Fine should be Legal Firm. He asked if it was necessary to limit photocopier costs. He endorses the proposal.**
- **Mr. Angers said the document is going to the Council; it is the Council who will make the determination on the fees. After all the time Planner Tansley has spent on it, he has no problems sending it onto the Council. They can endorse whatever they want but it will be the City Council who will decide. He always worries about the little guy. He would be very interested on being well versed on impact fees. It is time to take a hard look on what else the tax payers can take on, he wants to be fair and honest.**
- **Chair Southwick reminded the Board that they are charged with the responsibilities of the Public Hearing, they cannot just defer the due diligence to the City Council. The Planning Board must do the due diligence and make recommendations on their actions.**
- **Mr. Benway concurs with the Chair, he cannot think of a revenue stream that has gone to the City Council that has not go through some level of recommendations. This includes the property tax, he feels making the recommendations is their job.**
- **Chair Southwick asked about the cap on photocopier fees, if this is to be changed now is the time to do so.**
- **Mr. Benway asked the Planner if the changes need to be higher.**
- **Planner Tansley said he does not feel a cap is needed.**

MOTIONS
Benway: <u>Motion</u>-Motion to recommend zoning amendment 2021.12 be forwarded to the City Council with a recommendation that it ought to pass for the following reasons:
To address inflationary changes that have occurred
To recognize the level of fees charged by other communities
To cover the costs of the Planning Department
To recognize any costs incurred by third party engineering reviews
Angers: <u>Second</u>
Benway: <u>Motion</u>-Amendments Site Review page 8 page 9 Site Plan Review increase $2400 to $2700; Page 10 under 9 there be no cap on photocopier fees.
Angers: <u>Second</u>
Chair Southwick-Roll Call for Vote on Amendments-Motion Passed, Unanimous Approval (4-0) all in favor (Tarpey, Benway, Angers & Droggitis)

Chair Southwick-Roll Call for Vote on Primary Motion-Motion Passed, Unanimous Approval (4-0) all in favor (Tarpey, Benway, Angers & Droggitis)

5. B 2021.14 Shoreland Zoning Permit - Determination of Greatest Practical Extent for Brian Anderson at 49 Mile Stretch Road (Tax Map 62, Lot 29, 30, 31, 32) in the Resource Protection (RP) Shoreland Zone.

- **Consulting Planner Chris DiMatteo introduced the project.**
- **Norm Chamberlain from Walsh Engineering represented the applicant. Mr. Chamberlain showed the plans and spoke about the project.**
- **Mr. Benway commented that he is very familiar with the site and has seen the crack in the foundation.**
- **Mr. Chamberlain added that it is in the back dune area.**
- **Chair Southwick opened the meeting to the public for comments; there were none so the meeting was brought back to the Board for discussion.**
- **Mr. Droggitis asked the age of the septic.**
- **Mr. Chamberlain told him he did not have the specific age but was told by the CEO that it is new. He thinks within the last 5 years for a 4-bedroom house.**
- **Mr. Droggitis asked if the garage will be replaced**
- **Mr. Chamberlain said it will become a bedroom and has a flow through foundation.**
- **Mr. Droggitis asked if the house has to be replaced due to the defective basement**
- **Mr. Chamberlain answered that it is a Code issue due to the defective foundation. It has to be replaced completely.**
- **Mr. DiMatteo said it has to do with the front yard setback.**
- **Mr. Chamberlain agreed.**

MOTIONS

Benway: <u>Motion</u>- Motion to approve the Determination of Greatest Practical Extent for Brian Anderson based on the plans submitted by Walsh Engineering Associates entitled "49 Mile Stretch Road", Sheet C1.0, at Tax Map 62, Lots 29 through 32 and approve the Draft Findings of Fact and Conclusions of Law dated 04/21/2021, with the conditions contained therein, and that due to the coronavirus pandemic and the Governor's declaration of a civil state of emergency the Planning Board authorizes the City Planner to sign the final plan on behalf of the Planning Board and declares that the final plan once signed by the City Planner shall be deemed to have been signed by individual members of the Planning Board evidencing approval of the final plan.

Angers: <u>Second</u>

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

5. C 2021.18 Conditional Use Permit for Hightech Labs, LLC to operate an Adult Use and Medical Marijuana Products Manufacturing Facility at 5 Drapeau Street (Tax Map 12, Lot 22) in the I-1 Zone.

- **Consulting Planner DiMatteo introduced the project.**

- **Bethanie Cardner & Noel Holmes represented the applicant and spoke on the project as well.**
- **Chair Southwick opened the meeting to the public for comments.**
- **Leonard Nemon is an abutter and told the Board he has no objection to the project.**
- **No other comments from the public, therefore the meeting went back to the Board**

MOTIONS
Benway: <u>Motion</u>- Motion to waive Article XI, Section 5 (Full Site Plan Review).
Angers: <u>Second</u>
Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Benway, Droggitis, Angers, & Tarpey)
Benway: <u>Motion</u>- Motion to approve the Conditional Use Permit for Hightech Labs, LLC at 5 Drapeau Street (Tax Map 12, Lot 22) and approve the Findings of Fact based on the conditions recommended by Staff in its Draft Findings of Fact provided for April 21, 2021.
Angers: <u>Second</u>
Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Benway, Droggitis, Angers, & Tarpey)

5. D 2021.22-Conditional Use Permit for Cloud Manufacturing Holdings LLC to operate an Adult Use and Medical Marijuana Products Manufacturing Facility at 5 Drapeau Street (Tax Map 12, Lot 22) in the I-1 Zone.

- **Consulting Planner DiMatteo introduced the project.**
- **Steve Pica represented the applicant**
- **Chair Southwick asked for comments from the public**
- **Mrs. Leonard Nemon asked if there would be retail sales out of the facility. Answer No**
- **Leonard Nemon and his wife said they have no objections to this project.**
- **No other comments from the public, the meeting went back to the Board for discussion.**
- **Mr. Tarpey asked if there are odor issues, who do they call.**
- **Ms. Cardner answered the odors are limited it is a closed system.**
- **Mr. Pica spoke on the kitchen, saying there would be minimal odors.**
- **Mr. Tarpey asked if they were using the same filtration system as the other businesses in the building.**
- **Steve answered that they have their own filtration system.**

MOTIONS
Benway: <u>Motion</u>- Motion to waive Article XI, Section 5 (Full Site Plan Review).
Angers: <u>Second</u>
Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Benway, Droggitis, Angers, & Tarpey)

Benway: Motion- Motion to approve the Conditional Use Permit for Cloud Manufacturing Holdings, LLC at 5 Drapeau Street (Tax Map 12, Lot 22) and approve the Findings of Fact based on the conditions recommended by Staff in its Draft Findings of Fact provided for April 21, 2021.
Angers: Second
Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Benway, Droggitis, Angers, & Tarpey)

6. **Other Business**
7. **Adjourn**

MOTIONS

- **Mr. Benway-Motion-to adjourn**
- **Mr. Angers-Second**
- **Chair Southwick-Roll Call for Vote-Motion Passed, Unanimous Approval 4-0 (Benway, Droggitis, Angers, & Tarpey)**

Meeting adjourned at 7:18 PM

________________________________ ____________________

Planning Board Chair/Vice Chair **Date**

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