

*City of Biddeford*  
**Planning Board**  
**February 06, 2019 6:00 PM City Hall**  
**Council Chambers,**

**1. PLEDGE OF ALLEGIANCE**

**2. DECLARATION OF QUORUM/VOTING MEMBERS**

**3. ADJUSTMENTS TO THE AGENDA**

**4. PLANNER'S BUSINESS**

**5. CONSENT AGENDA**

- 5.A. A. Consideration of Minutes: January 16, 2019  
[January 16, 2019.doc](#)

**6. UNFINISHED BUSINESS**

**7. NEW BUSINESS**

- 7.A. A. 2017.41 Public Hearing, take comments, and make recommendations to the City Council regarding a proposed amendment to the Zoning Ordinance as follows to provide density bonuses in the MSRD-2 District for infill redevelopment multi-family projects and condominium redevelopment/conversions projects.  
[MSRD 2 Density for PH 020619.docx](#)
- 7.B. B. 2019.05 Public Hearing, take comments, and make recommendations to the City Council regarding a proposed amendment to the Zoning Ordinance as follows to allow "Art gallery" and "art Studio" as Permitted (P) Uses in the B-1 Zone.  
[B1 Art Amendment for PH 020619.docx](#)
- 7.C. C. 2019.03 Public Hearing, take comments, and make recommendations to the city Council regarding a proposed amendment to the Zoning Ordinance as follows to eliminate and clarify certain newspaper advertisement requirements for Planning Board, Historic Preservation Commission, and Zoning Board of Appeals related meetings.  
[Newspaper Notifications Amendment for 011619.docx](#)
- 7.D. D. 2019.06 Public Hearing, take comments, and make recommendations to the City Council regarding a proposed amendment to the Zoning Ordinance as follows to allow street-level residential uses in the Downtown Area where non-residential street level uses remain fronting on public streets and public spaces.  
[Street Level Residential Amendment for PH 020619.docx](#)
- 7.E. E. 2019.09 Concept Review: Repeal of Downtown Parking Waivers. In considering the repeal of the downtown parking waiver, the city council asks the Planning Board to consider an ordinance change that structures the way in which parking is provided for downtown properties (see attachment, number 3). The existing parking moratorium is on the council agenda for February 5, to be extended retroactive to January 16, so that the Planning Board can provide input to the city Council regarding this change in parking waivers.

[Parking Waivers Memo to PB 020619.docx](#)

- 7.F. F. 2019.08 Conceptual Subdivision/Site Plan Review for Biddeford Housing Authority to construct a three story, five unit residential building on a vacant lot located on 25 Green Street (Tax Map 38, Lot 263) in the MSRD-2 zone.

[2019.08 BHA 25 Green Street Concept SR 020619.docx](#)

**8. OTHER BUSINESS**

**9. 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 DEPARTMENT

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### Planning Board Minutes

Date: Wednesday, January 16, 2019  
Time: 6:00 PM  
Location: Council Chambers, City Hall

1. Pledge of Allegiance
2. Declaration of Quorum/Voting Members

Quorum Present: Roch Anger (Vice Chair), Larry Patoine, Bruce Benway, Sean Tarpey, Spiros Droggitis (Alt-voting member). Absent William Southwick (Chair).

3. Adjustments to the Agenda

Larry Patoine: The first thing we need to do is elect a Vice Chair and Secretary.

4. Planner's Business

Greg Tansley, City Planner: I want to thank Clem Fleurent for his service on the Board. Bill Southwick was appointed Chair for the next term and Bruce Benway is now a full member. First order of business is to elect a Vice Chair and Secretary.

#### MOTION:

Benway- Motion: to Elect Roch Angers as Vice Chair.

Patoine: Second.

Call for Vote- Unanimous Approval (4-0) Patoine, Benway, Tarpey and Droggitis are all in favor.

#### MOTION:

Patoine- Motion: to Elect Bruce Benway as Secretary.

Tarpey- Second.

Vice Chair, Angers- Call for Vote- Unanimous Approval (4-0) Patoine, Angers, Tarpey and Droggitis are all in favor.

5. Consent Agenda
  - A. Consideration of Minutes: December 5, 2018

#### MOTION:

Benway – Motion: to Approve Consent Agenda.

Patoine- Second.

Vice Chair, Angers- Call for Vote – Two abstained motion passed.

6. Unfinished Business

7. New Business

- A. 2019.01 Conceptual Site Plan Review for Landmatters, LLC to construct three (3) buildings to accommodate 11 commercial uses located at 23 Marcel Avenue (Tax Map 74, Lot 11) in the I-2 zone.

Greg Tansley, City Planner: Gave a brief statement.

Tom Giles, Landmatters, LLC: likes the area, has heard there is a need for a contractors yard in Biddeford. Do know of some blueberry bogs and have started a wetland study. Looking for feedback.

Ronald Hebert, 25 Marcel Ave: Has there been a wetland study yet? What about the natural runoff from the boat yard? Is it going to be gated? Parking?

Discussion between Board, Staff and Applicant.

Susan Stevens, 22 Marcel Ave: Please take into consideration the families that live there when you're looking for businesses to go in.

- B. 2019.02 Shoreland Zone Permit/Site Plan Review for Caleb Johnson to replace the foundation on an existing home located at 258 Hills Beach Road (Tax Map 56, Lot 36) in the CR and LR zones.

Greg Tansley, City Planner: Brief report.

Spiros Droggitis: What are the height requirements?

Caleb Johnson, Owner: Putting in a new foundation and looking to improve drainage.

Discussion between Board and Staff.

MOTION:

Benway- Motion: to approve the Determination of Greatest Practical Extent for Caleb Johnson based on the approved plans for 258 Hills Beach Road (Tax Map 56, Lot 36), approve the findings of fact, and sign the plans based on the conditions recommended by Staff in its report dated January 9, 2019.

Tarpey- Second.

Vice Chair Angers- Call for Vote – Unanimous Approval (4-0) all in favor.

8. Other Business – Zoning Amendment Discussions and Public Hearing Scheduling

- A. 2019.03 Newspaper Notifications Amendment.

Greg Tansley, City Planner: Gave a brief report.

Philip Burns: Is all for getting the information from the website.

Discussion between the Board and Staff:

All in favor to move forward for a Public Hearing.

- B. 2017.41 MSRD-2 District Density for higher quality housing redevelopments, condominium redevelopment/conversion projects, and/or affordable housing projects.

Greg Tansley, City Planner: Gave a brief report.  
Discussion between Board and Staff.  
All in favor of moving forward for a Public Hearing.

- C. 2019.05 MSRD-2 Expansion – 5 Properties North of Main Street.

Greg Tansley, City Planner: Gave a brief report.  
Seth Harkness, Abutter: Is in favor.  
Discussion between Board and Staff.  
All in favor of moving forward for a Public hearing.

- D. 2019.06 Street Level Residential Uses in Downtown Biddeford.

Greg Tansley, City Planner: Gave a brief report.  
Seth Harkness, Owner: Spoke about keeping Main Street a commercial use and putting apartments in the back.  
Discussion between Board and Staff.  
All in favor of moving forward for a Public Hearing.

Greg Tansley, City Planner: Our next Comprehension Plan meeting will take place on February 20<sup>th</sup>. At that time I should have a schedule and timeline for you.

9. Adjourn

MOTION:

Patoine- Motion: to Adjourn.

Benway- Second.

Vice Chair, Angers- Call for Vote- Unanimous Approval (4-0) all in favor.

o \_\_\_\_\_  
o **Planning Board Chair**

\_\_\_\_\_ **Date**

o **These minutes are summary and are not intended to be verbatim.**  
o **Archived meetings are viewable on the City's website:**  
[www.biddefordmaine.org](http://www.biddefordmaine.org).

ITEM # 2017.41: MSRD-2 Density Bonuses

FOR PUBLIC HEARING: FEBRUARY 6, 2019

Preamble:

Part III (Land Development Regulations), Article V (Establishment of Zones), Table B (Dimensional Requirements):

| Zoning District | Minimum Lot Size, Square Feet Per Unit A |                 |                 |                         |
|-----------------|------------------------------------------|-----------------|-----------------|-------------------------|
|                 | Water and Sewer                          | Water, No Sewer | Sewer, No Water | Neither Water Nor Sewer |
| MSRD-2          | 2,000<br><u>B</u>                        | N/A             | N/A             | N/A                     |

- B. ~~(Reserved)~~ In order to promote higher quality housing facilities, condominium forms of housing, and affordable housing in the MSRD-2 Zoning District the minimum density requirements may be relaxed as follows:
1. Redevelopment of existing rental structures:
    - a. The Planning Board, or other appropriate approval authority, shall consider granting a density bonus of one (1) residential unit for every six hundred and fifty (650) square feet of living space within an existing structure, provided the applicant present redevelopment/renovation plans to the Code Enforcement Officer demonstrating how the redevelopment project will result in the number of residential units with two (2) or more bedrooms being at least, if not more than, the number of units with two (2) or more bedrooms before the density bonus was granted.
    - b. If the project is provided a density bonus the Code Enforcement Officer shall document the allowable density and number of units in writing for the Code Enforcement Office files.
    - c. An applicant provided a density bonus for rental housing shall enter into a contractual agreement with the City of Biddeford obligating them to complete the project in accordance with Maine Housing Quality standards and that those units are certified as such prior to granting an occupancy permit. The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which provided to the Code Enforcement Office, prior to the issuance of any building permits.

2. Condominium conversions/development:

- a. A property may be proposed for redevelopment/renovation from apartments into condominiums in accordance with 1. above.
- b. An applicant provided a density bonus for condominiums shall enter into a contractual agreement with the City of Biddeford obligating them to complete the project as condominiums to be offered for sale upon or before completion of the project in return for receiving the density bonus. The contractual agreement shall be recorded at the York County Registry of Deeds, a copy of which provided to the Code Enforcement Office, prior to the issuance of any building permits.
- c. The applicant agrees that if the project is converted to condominiums said units shall not be sold for a price that exceeds 125% of the York county median home price affordable to median income households as set annually by HUD for the City of Biddeford.

ITEM # 2019.05: B-1 “Art gallery” and “Art studio” as Permitted (P) Uses

FOR PUBLIC HEARING: FEBRUARY 6, 2019

Preamble:

There is some expressed interest from a property owner at 366 Main Street (Tax Map 37, Lot 36 – See Below) in moving their existing art studio from 2 Main Street (North Dam Mill) to this location. It is currently zoned B-1 where Art Studios are not permitted. 366 Main Street is located along the west part of Main Street, close to the train tracks.

The Planning Board was presented with two options for consideration on January 16, 2019. Of the two options presented (the other being rezoning this and 4 other properties resulting in some non-conforming situations), the Planning Board and the public preferred Option 2:

Option 2: Allow Art Studios as a Permitted Use in the B-1 Zone is another option. This could also include Art Galleries.

Under this scenario, the B-1 District, which already allows a variety of different non-residential uses including retail, boat building, car washes and gas stations, etc., would then also allow Art Galleries and Studios.

Amendment:

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

|                 | Article VI<br>Section <sup>1</sup> | B-1      |
|-----------------|------------------------------------|----------|
| Commercial uses |                                    |          |
| Art gallery     |                                    | <u>P</u> |
| Art studio      |                                    | <u>P</u> |



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ITEM # 2019.03: NEWSPAPER NOTIFICATIONS

FOR PUBLIC HEARING: FEBRUARY 6, 2019

### Preamble:

Over several years, the role of print media appears to have been declining in informing people of what is occurring. The Internet (and social media) has really taken center stage in this area. The Biddeford Zoning Ordinance is outdated in that it often requires that meetings and other notices be advertised in a newspaper of general circulation prior to the meeting (usually with a date requirement such as the number of days prior to the meeting).

These amendments attempt to remove the burdensome and seemingly unnecessary requirements of newspaper notifications in cases unless Federal, State and/or other local laws require such notifications.

### Amendment:

Part III (Land Development Regulations), Article V (Establishment of Zones), Section 11 (Institutional Master Plan), G (Submission and review procedures):

5. A copy of any approved institutional master plan or an amendment to a master plan shall be filed with the City Clerk ~~and notice of the approval shall be advertised in a newspaper of general circulation in the City.~~

Part III (Land Development Regulations), Article VI (Performance Standards), Section 71 (Telecommunications facilities), D (Review process and hearing requirements):

2. The Planning Board shall schedule a public hearing within 30 days of determining that it has a complete application. Notification of the hearing shall be provided as follows:
  - a. In writing, at least 10 days prior to the hearing, to all owners of property that directly abut or are located within 1,000 feet (typically 250 feet) of any property line of the property for which the conditional use permit is requested. (Notice to the owners within the first 500 feet shall be by certified mail, the remaining notice shall be by first class mail.) Notice

shall also be given to any town located within 1,000 feet of the proposed telecommunications facility. The applicant shall provide this notification and shall present proof of such notification to the City Planner. The notification shall include: the name of the applicant, location of the property, a brief description of the project, and a plot plan identifying the proposed site layout in relation to nearby streets and properties.

- b. By the City posting notice of such hearing in City Hall a minimum of 10 days in advance of the hearing.
- c. ~~By the City advertising in a newspaper of general circulation notice of the hearing a minimum of 10 days in advance of the hearing.~~

Part III (Land Development Regulations), Article IX (Board of Appeals), Section 5 (Appeals to the Board of Appeals), B (Procedure on appeal):

- 1. At least 10 days prior to the date of the hearing the Board shall cause written notice be provided to (a) all property owners of record whose properties lie within 200 feet of the affected property, and/or immediate abutters and property owners across the street or stream; (b) the person making the appeal; and (c) the Planning Board and any other parties of record. Such written notice shall include:
  - (a) The name of the person appealing;
  - (b) A brief description of the property involved.;
  - (c) A brief description of the decision under appeal, or the nature of the variance appeal; and
  - (d) The time and place of the Board's hearing.

The failure of a property owner to receive notice of the hearing shall not invalidate the hearing or the decision of the Board of Appeals.

- ~~1. At least 15 days prior to the date of the hearing on such appeal, the Board shall cause to be published in one issue in a newspaper of general circulation in the City a notice which includes:~~
  - ~~(a) The name of the person appealing.~~
  - ~~(b) A brief description of the property involved.~~
  - ~~(c) A brief description of the decision under appeal, or the nature of the variance appeal.~~
  - ~~(d) The time and place of the Board's hearing.~~
- ~~2. At least 10 days prior to the date set for hearing, the Board shall also cause the City Clerk to give similar written notice to:~~

- ~~(a) All property owners of record whose properties lie within 200 feet of the affected property, and/or immediate abutters and property owners across the street or stream;~~
- ~~(b) The person making the appeal; and~~
- ~~(c) The Planning Board and any other parties of record.~~

~~The failure of a property owner to receive notice of the hearing shall not invalidate the hearing or the decision of the Board of Appeals.~~

Part III (Land Development Regulations), Article X (Planning Board), Section (Planning Board), H (Meetings):

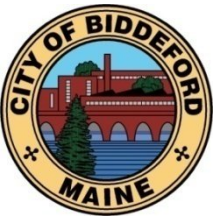
1. The Board shall conduct monthly meetings, or at least regular meetings during a calendar year. Meetings shall convene on the first Wednesday of each month, unless prior arrangement and public (as described elsewhere in the Code) announcement has been made by the Board. ~~An annual schedule of regular meetings shall be published in the local newspaper of general circulation prior to the first meeting in January. Copies of this schedule shall be kept on file in the offices of the City Clerk, Building Inspector, and the City Planner. The City Planner shall provide copies to the general public upon request.~~
2. Upon motion by the Board the Chairman may call for special meetings and workshops as needed.
3. All meetings of the Board shall be open to the public ~~and shall be announced in a newspaper of general circulation within the community at least seven days prior to the scheduled meeting.~~ Materials and records of the meetings shall be maintained and available for public inspection.

Part III (Land Development Regulations), Article XV (Historic Preservation Ordinance), Section 6 (Historic Preservation Commission membership; meetings), F (Meetings):

3. All meetings of the Commission shall be open to the public. All meeting agendas shall be posted at the same location in City Hall as Planning Board agendas no less than seven days prior to the hearing. ~~Other than where hearings are to be conducted (see Section 10), ordinary meetings of the Commission need not be posted in a newspaper.~~ Materials and records of the meetings shall be maintained and available for public inspection in the Planning Department.

Part III (Land Development Regulations), Article XV (Historic Preservation Ordinance), Section 10 (Hearings and action on applications for certificates of appropriateness), B (Notice requirements):

- 3 ~~All meetings within which a hearing is to be held shall be announced in a newspaper of general circulation within the community at least seven days prior to the scheduled meeting.~~



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ITEM # 2019.06: STREET LEVEL RESIDENTIAL USES IN DOWNTOWN AMENDMENT

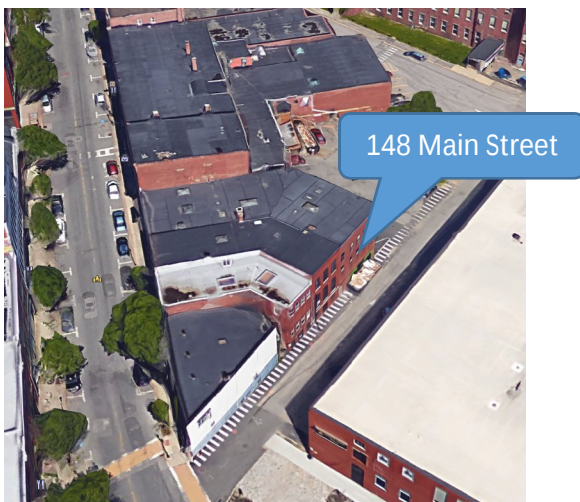
FOR PUBLIC HEARING: FEBRUARY 6, 2019

### Preamble:

A property owner has approached the City with an interest in developing the rear portion of their building for residential uses. At first glance, the “Polakewich Block” at 148 Main Street looks like a standard Main Street commercial property with apartments above it:



It is different, however, than many downtown street-front property's. Due to the shape of the building and the grade of the adjacent private street (Laconia Street) what is “street-level” on Main Street is actually the 2<sup>nd</sup> Floor on Laconia Street:



In response to this request, Staff have developed a DRAFT exclusion clause in the Zoning Ordinance. This exclusion would allow, in certain circumstances, “street-level” residential uses so long as they are set back at least forty (4) feet from a defined public street or public right-of-way or public space (see below) and that a minimum of twelve-hundred (1,200) square feet of non-residential space is preserved on the defined public street or public right-of-way or public space.

Amendment:

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

NOTES:

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.

Street level residential uses are defined as those residential uses located no closer than forty (40) feet of the right-of-way of Main Street, Adams Street, Jefferson Street, Washington Street, Federal Street, Franklin Street, and Alfred Street in those areas defined above, or within any existing or proposed structure within those areas defined above at the same grade as which it fronts where such a use would gain access from, or be located no closer than forty (40) feet of, any public right-of-way or space (e.g., street, walkway, or park). Further, no street level residential use shall result in less than twelve-hundred (1,200) square feet of non-residential space contiguous to those defined public right-of-way or space above.



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### MEMORANDUM

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

FROM: Greg Tansley, A.I.C.P., City Planner

A handwritten signature in black ink, appearing to read "Greg Tansley", is written over the "FROM:" line.

DATE: January 30, 2019

RE: NEW BUSINESS ITEM #E – 2019.09 Concept Review: Repeal of Downtown Parking Waivers. In considering the repeal of the downtown parking waiver, the City Council asks the Planning Board to consider an ordinance change that structures the way in which parking is provided for downtown properties (see attachment, number 3). The existing parking moratorium is on the Council agenda for February 5, to be begin a new 180-day moratorium, so that the Planning Board can provide input to the city Council regarding this change in parking waivers.

MEETING DATE: February 6, 2019 @ 6:00 PM

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#### 1. INTRODUCTION:

The City Council passed a moratorium in July (effective June 19, 2018) that is attached regarding a prohibition on the Planning Board's ability to review and consider granting waivers for parking in the Downtown Area. According to the original Moratorium language the moratorium was to take effect until the City adopted a Parking Management Plan (PMP) or until 180 days expired, whichever came first.

The City council is poised to enact a new moratorium on the ability for the Planning Board to approve parking waivers based on a view that the Zoning Ordinance needs to be changed with respect to waivers.

According to Mat Eddy, Economic Development Director, the City Council reviewed Staff prepared thoughts on how the Ordinance could be amended to address waivers in the future. Below are the recommendations presented to the City Council, which I have been told were received favorably by the Council. Comments for thought and discussion are provided below in **highlights**.

### *Repeal of the Downtown Parking Waiver Moratorium*

*Proposal. During a study of parking issues in the downtown, the City Council adopted a moratorium preventing the waiver of parking requirements for the creation of residential apartments. The City Council then enacted a number of parking changes in the downtown, but remained concerned about residential parking and the waiver provision in the Biddeford zoning ordinance. The following addresses those concerns so that the moratorium may be removed:*

- 1. Night parking on Main Street will be eliminated for the purposes of cleaning and maintenance. Night parking by residents in the downtown will be available in surface lots or on other side streets.*

*No comment. Enacted.*

- 2. The Downtown Committee will monitor the “creep” of all-day business parking into residential neighborhoods (where parking remains free) and may consider a free, residential parking permit system if residential parking becomes displaced.*

*No comment. Presume on-going monitoring by the Downtown committee.*

- 3. Given the transition in downtown parking demand and supply anticipated over the next several years, the waiver for residential parking will no longer be available. For new parking demand created by the use of new, vacant, or modified space for new residential units in the downtown area, the developer of said units will have the following options:*

- a. Provide for parking on site;*

*No comment - goes without saying.*

- b. Lease parking from another source:*

- i. Lease time in existing surface lots or the City Parking Garage to meet demand; said purchase demonstrated to be in place during planning board review. This purchase can be transferred within existing or future parking lots.*
- ii. Lease parking from other parking providers; said lease to be shown as a legal agreement at the time of Planning Board Review.*

- iii. Pay, to the community, a \$22,000<sup>1</sup> fee per parking space in lieu of the required residential use, to be paid into an impact fee program to capitalize the development of publicly owned parking supply;
1. Within this choice, the developer may provide for a mix of parking on or near site and a payment in lieu of, subject to the downtown parking standards.<sup>2</sup>

No comment on 3.b.i. and ii. These provisions are already in the Ordinance as alternatives for property owners to meet the parking requirements without seeking a waiver (i.e., a waiver is not necessary in these cases).

Comment on 3.b.iii: In doing the mathematics, at \$26,000 (the most recent quote provided by Mr. Bennett regarding the cost of a garage at 3 Lincoln street) per space, if a parking space for lease was on average \$50/month (\$600/year), a property owner could choose to lease a parking space for forty-three (43) years rather than pay a one-time cash outlay of \$26,000. Even if the cost was \$100/month, that would equate to 22 years of lease payments.

I suggest that this option can be in the Ordinance but the following should be considered:

- Will people actually opt for a one-time payment versus a long-term monthly payment arrangement with the City or other entity?
- This number, be it \$22,000 or \$26,000 (a number that has changed in a matter of months), is static in time and is based on new the most recent pricing construction estimates of a parking space in a City-garage at 3 Lincoln Street. Is it an accurate number or a realistic number that should be put in an Ordinance?
- If this is in fact an impact fee, there needs to be a fund established with clear tracking requirements regarding the expenditure of the funds. Typically the requirements for impact fee exaction and usage includes the following:
  - o The money collected must be proportionate to the impact created by the development (i.e.,

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<sup>1</sup> Fee to be fixed when final parking costs per space for the parking garage are established.

<sup>2</sup> This assumption also assumes a fresh look at the parking demand for downtown spaces, based on updated parking standards being experienced in similar Maine and New England Communities. As parking and transit/downtown living alternatives begin to blend parking demand, these parking requirements may be reduced or eliminated.

does not providing a parking space through other available means really equate to an impact of \$26,000 to the City?

- o The expenditure of the impact fee must be through an established "rational nexus" between the payer of the fee and the benefits received by the payer of the fee.
- o Impact fees can only be used for capital expenditures, NOT maintenance and operations.
- o If the collected impact fees are not used (for example, in 5-6 years from collection) in such a way as to meet the above-requirements, it must be returned to the payer (typically plus interest).
- o Maine Statute (Maine Revised Statutes, Title 30-A: Municipalities and Counties, Chapter 187: Planning and Land Use Regulation, §4354. Impact Fees) specifies the following:

"2. Restrictions. Any ordinance that imposes or provides for the imposition of impact fees must meet the following requirements.

A. The amount of the fee must be reasonably related to the development's share of the cost of infrastructure improvements made necessary by the development or, if the improvements were constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the infrastructure used by the development. [1991, c. 18, §3 (AMD).]

B. Funds received from impact fees must be segregated from the municipality's general revenues. The municipality shall expend the funds solely for the purposes for which they were collected. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. The ordinance must establish a reasonable schedule under which the municipality is required to use the funds in a manner consistent with the capital

investment component of the comprehensive plan. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

- D. The ordinance must establish a mechanism by which the municipality shall refund impact fees, or that portion of impact fees, actually paid that exceed the municipality's actual costs or that were not expended according to the schedule under this subsection. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 562, §17 (AMD).]
- E. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 562, §18 (RP).]

- Finally, is the impact fee established in both the Comprehensive Plan and the City's Capital Improvement Program, which are generally pre-requisites for establishing the impact fee system?

- iv. For existing units that are being reconfigured, the same criteria used in site plan review shall address the needed parking for those new/rehabilitated units. The resulting demand may be addressed through the options described above.

No comment.

- v. In the case of i-iii above, failure to pay for or cancellation of leased space will eliminate prior approvals through the site plan approval process, unless the owner, or assignee, can demonstrate an alternative parking source or a reduction in said demand. Such evidence shall be provided to the Planning Department and made a record of the original site plan approval.

No comment.

- c. Purchase property independently, off site, for the purpose of providing parking for the new or modified residential use; said purchase agreement provided at the time of Planning Board approval.

No comment. Already covered in the Ordinance.

- d. *Where the Planning Board deems that an outright waiver is appropriate, said waiver must be approved by City Council (this clause shall remain in place for two years after its approval, its sunset coming at a time when more parking alternatives will be available either through public or private means).*

*If a waiver ultimately needs to be considered, that consideration should appropriately rest with the Planning Board. Recommend that no City council oversight be provided, and that applicants seeking a waiver as a "last means" should be required to provide a case-specific, development-specific analysis justifying why the project will not generate the parking demands required by the Ordinance under the Ordinance in effect. Based on this, no City Council approvals of waivers is recommended here.*

2. STAFF RECOMMENDATION:

- Recommend that the Planning Board treat this as a Concept Review.
- Listen to comments from abutters (if any) and provide feedback to the applicant.
- Schedule a Workshop to further discuss the issue. Staff should investigate the following:
  - o Evaluate the existing off-street parking requirements table to ensure off-street parking requirements, are at their face, realistic in 2019 (the existing standards were probably written in the 1990's based on a suburban model of development based on the day after Thanksgiving approach to parking demand)
  - o Present recommended amendments to the requirements for off-street parking in the City, including provisions for modified requirements specific to the Downtown Area of Biddeford.
  - o Present language that eliminates the need to provide on-site parking in certain circumstances without the need for waiver considerations.
  - o Include language that ensures waiver requests are only available as a "last means" and that site-specific, development-specific, analysis be provided as part of any waiver request presented to the Planning Board.

ATTACHMENTS:

1. City Council Order #2018.62 (Original Moratorium)
2. Parking Management Program (PMP): Not Actually Adopted
3. Records of All Changes to the Adopted PMP to date (January 10, 2019)
4. Proposed February 5, 2019 Moratorium Prohibiting the Planning Board's Ability to Grant Waivers



# CITY OF BIDDEFORD PLANNING DEPARTMENT

2019.08

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## PLANNING BOARD REPORT

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

FROM: Greg Tansley, A.I.C.P., City Planner

A handwritten signature in black ink, appearing to read "Greg Tansley", is written over the "FROM:" line.

DATE: January 29, 2019

RE: NEW BUSINESS ITEM #F – 2019.08 Conceptual Subdivision/Site Plan Review for Biddeford Housing Authority to construct a three story, five unit residential building on a vacant lot located on 25 Green Street (Tax Map 38, Lot 263) in the MSRD-2 zone.

MEETING DATE: February 6, 2019 @ 6:00 PM

### 1. INTRODUCTION:

The applicant proposes to construct a new 5-Unit rental housing project at 25 Green Street. 25 Green Street was the location of a 10-Unit Multi-family that burned down approximately five (5) years ago. Since it burned down so long ago, it is not grandfathered. As such, all requirements such as density, parking, and setbacks must be complied with.

The 1<sup>st</sup> Floor would be an ADA Accessible Unit along with community space for a laundry. Each of the 2<sup>nd</sup> and 3<sup>rd</sup> Floors would have 2 – 2-3 Bedroom Units. As such, five (5) 2-3 Bedroom Apartments would be constructed under this proposal. The density is 2,000 square feet of lot area in the MSRD-2 Zone. Since the property is .27 acres in size (11,761.2 square feet) up to five (5) units is permitted based on lot area.

The applicant has requested a waiver of the parking requirements (5 spaces requested in the waiver since 5 are provided on-site). **With respect to parking, see below.**

### 2. PROJECT DATA/INFORMATION:

Note: **HIGHLIGHTED** information is pending.

|     | <i>SUBJECT</i>                          | <i>DATA/INFORMATION</i>                                               |
|-----|-----------------------------------------|-----------------------------------------------------------------------|
| 1.  | Applicant:                              | Biddeford Housing Authority<br>22 South Street<br>Biddeford, ME 04005 |
| 2.  | Owner of Property:                      | Housing Options, LLC<br>13 Cross Street<br>Saco, ME 04072             |
| 3.  | Agent:                                  | Self                                                                  |
| 4.  | Engineer/Architect:                     | Paul Gadbois<br>PO Box 327<br>Saco, ME 04072                          |
| 4.  | Project Location:                       | 25 Green Street                                                       |
| 5.  | Project Tax Map #/Lot #:                | Tax Map 38, Lot 263                                                   |
| 6.  | Existing Zoning:                        | MSRD-2                                                                |
| 7.  | Overlay Zoning:                         | None                                                                  |
| 8.  | Existing Use:                           | Vacant (last was a 12 Unit Multi-family –<br>burned down)             |
| 9.  | Proposed Use:                           | 5 Unit Residential, 2-3 Bedroom Each Unit                             |
| 10. | City Approvals Required:                | Site Plan/Subdivision                                                 |
| 11. | Uses in the Vicinity:                   | Residential (Primarily)                                               |
| 12. | Parcel Size:                            | .27 acres                                                             |
| 13. | Number of Lots/Units in<br>Subdivision: | 5-Unit Multi-family                                                   |
| 14. | Minimum Lot Size Required:<br>Provided: | 10,000 SF<br>11,761 SF                                                |
| 15. | Frontage Required:                      | 50' (or existing)                                                     |
| 16. | Front Setback Required:                 | 15'                                                                   |
| 17. | Side Setbacks Required:                 | 10'                                                                   |
| 18. | Rear Setback Requires:                  | 10'                                                                   |
| 19. | Height Requirements:                    | Maximum 3 stories or 35 feet                                          |
| 20. | Water Supply:                           | Maine Water Company                                                   |
| 21. | Sewerage Disposal:                      | City of Biddeford                                                     |
| 22. | <b>Solid Waste Disposal:</b>            | <b>Private</b>                                                        |
| 23. | Fire Protection:                        | City of Biddeford                                                     |
| 24. | Floodplain Status:                      | None                                                                  |
| 25. | Wetland/Surface Water Impacts:          | None                                                                  |
| 26. | Soil Study Provided:                    | N/A                                                                   |
| 29. | Ownership of Road:                      | Green Street is a City Street                                         |
| 32. | Estimated Site Development<br>Costs:    | <b>TBD</b>                                                            |

|     |                                                                            |                                                                                                                                                                                                                                                                          |
|-----|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 33. | Financial Capacity Letter:                                                 | Not yet submitted.                                                                                                                                                                                                                                                       |
| 34. | Waivers Needed:                                                            | <ul style="list-style-type: none"> <li>a. Waiver of 5 Parking Spaces.</li> <li>b. Full Subdivision Review Process to allow simultaneous Preliminary and Final Approval at a subsequent Planning Board Meeting.</li> <li>c. Full Site Plan/Subdivision Review.</li> </ul> |
| 35. | Waivers Granted:                                                           | <ul style="list-style-type: none"> <li>a. Waiver of 5 Parking Spaces.</li> <li>b. Full Subdivision Review Process to allow simultaneous Preliminary and Final Approval at a subsequent Planning Board Meeting.</li> <li>c. Full Site Plan/Subdivision Review.</li> </ul> |
| 36. | Variances Needed for Approval:                                             | None                                                                                                                                                                                                                                                                     |
| 37. | Other Permits Obtained:                                                    | None                                                                                                                                                                                                                                                                     |
| 38. | Other Non-City Permits Required:                                           | None                                                                                                                                                                                                                                                                     |
| 39. | Covenants, By-laws, Restrictions Required by the Planning Board:           | None                                                                                                                                                                                                                                                                     |
| 40. | LDR Attachment A: Fess Paid:                                               | Yes for Concept Review                                                                                                                                                                                                                                                   |
| 41. | Planning Board Review History:<br>Concept Subdivision/Site<br>Plan Review: | February 6, 2019 Meeting Date. Posted in City Hall January 29, 2019; Journal Tribune posting January 29, 2019; Mail Notices to all abutters within 250' sent January 29, 2019 - 41 notices sent.                                                                         |

3. EXISTING CONDITIONS:

The project site is a vacant lot formerly the home of a 12-Unit Multi-family Building. It is now a vacant lot:



4. PROJECT PROPOSAL:

See attached cover letter, application package and Plans for more information. In Staff's opinion, enough information is presented to initiate a Conceptual Review at the Planning Board.

5. PUBLIC COMMENT:

Concept Subdivision/Site Plan Review – February 6, 2019:

Posted in City Hall January 29, 2019; Journal Tribune posting January 19, 2019;  
Mail Notices to all abutters within 250' sent January 29, 2019 - 41 notices sent.

No public comments have been received as of the time of this report.

6. STAFF REVIEW:

- a. ZONING: The proposed uses are Permitted Uses in the MSRD-2 Zone.
- b. REVIEW STANDARDS: Performance Standards for Site Plan/Subdivision and Multi-family Dwellings.

c. WAIVERS:

1) 5 Parking Spaces:

Expected February 5 at the City Council Meeting is the adoption of a new moratorium regarding the ability of the Planning Board to grant parking waivers in the Downtown Area. Staff anticipate that the Planning Board will be directed with providing a recommendation back to the City Council regarding Ordinance Amendment language related to parking (waivers) in the Downtown area.

As such, the Board should provide input to the applicant but also begin to think about how the Ordinance could be re-written moving forward. More on this is discussed in the Memorandum from Staff regarding the Parking Waivers provision.

- 2) Per Chapter 66, Section 66-9 - Full Subdivision Review process to allow Preliminary and Final Approval of Subdivision/Site Plan at a subsequent Planning Board meeting.

Waiver Note - The following is the standard by which such a waiver may be granted:

*(a) A waiver or variation in the strict application of this chapter may be permitted when, in the opinion of the Board, any consideration warrants such variation, provided that public convenience, safety, health and welfare will not be affected adversely; and the Board shall record the reasons for such variation in the minutes of the meeting, and the applicant shall be notified in writing of the Board's decision.*

- 3) Full Site Plan/Subdivision Review.

Waiver Note: Granting this waiver acknowledges that the information provided is sufficient to allow the Board to consider the application as complete for review purposes.

d. OUTSTANDING ITEMS TO BE ADDRESSED PRIOR TO APPROVAL:

1. Provide a financial capacity letter from a recognized institution indicating the applicant has sufficient financial resources to complete the project.
2. Provide Ability to Serve letter from the Wastewater Department. Contact Tom Milligan at 284-9118 or [tom.milligan@biddefordmaine.org](mailto:tom.milligan@biddefordmaine.org).
3. Parking Waiver to be determined.

4. City trash and recycling is not available. Applicant must provide private pick-up. Provide location for a dumpster and detail regarding dumpster screening.
5. Provide at least 1 bicycle rack on site (5 bicycle parking spaces).
6. Site Lighting?
7. Landscaping Details? Trees in front.
8. Need parking lot and access drive details.
9. Need pavement/parking striping details.
10. Drainage?
11. Fee Currently Due:
  - A. CONCEPT:
 

|                              |              |
|------------------------------|--------------|
| a. Administration:           | \$40         |
| b. Engineering Review:       | \$1,500      |
| c. <u>Subdivision (40%):</u> | <u>\$400</u> |
| TOTAL NOW DUE:               | \$1,940      |
12. Subsequent Fees Due:
  - B. PRELIMINARY SUBMITTAL:
 

|                       |       |
|-----------------------|-------|
| a. Administration:    | \$40  |
| b. Subdivision (60%): | \$600 |
  - C. FINAL SUBMITTAL:
 

|                            |         |
|----------------------------|---------|
| a. Administration:         | \$40    |
| b. Engineering Inspection: | \$2,500 |
| c. Final Approval:         | \$500   |

Staff will provide additional comments upon review of future submittal(s).

7. STAFF RECOMMENDATION:

- Recommend that the Planning Board treat this as a Concept Review.
- Listen to comments from abutters (if any) and provide feedback to the applicant.

8. NEXT STEPS/SUGGESTED ACTIONS:

Address the above comments and any additional comments from the Planning Board with a subsequent application package.

9. SAMPLE MOTIONS:

*Motion to determine the proposed subdivision is a major subdivision.*

*Motion to waive the full Subdivision Review process to allow subsequent Preliminary and Final Approval of Subdivision/Site Plan given the Board determines that such variation will not adversely affect public convenience, safety, health and welfare.*

ATTACHMENTS:

1. Application and supporting materials.