

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:05 p.m. on Wednesday, December 10, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members: Chairman Beric Deane, David Caliendo, Dawn Thomas, Mike Avery, Richard Peer, Mort Syversen, Steve Dubai.

Also in attendance: Town Planner Robert Osborne, Recording secretary Rosemary Bezanson, and Applicants.

1. APPROVAL OF MINUTES - November 12, 2003.

Member Caliendo moved that the minutes be accepted as written, this was second by Member Peer.

The minutes were accepted unanimously.

2. OLD BUSINESS

A. Major Subdivision, Final Plan Approval - Onsite Developers, Inc. - Request Approval for Phase I, a Proposed 7 lot, 24.69 Acre Subdivision with No Public Improvements - Located on the Southwest Corner of Western Avenue and Patterson Road in a Rural District (Tax Map 8, Lot 33) - Public Hearing, continued.

Chairman Deane asked for a motion to take this item off the table, and continued the Public Hearing, and final approval phase. A motion was made by Member Peer, second by member Caliendo. Voted 7/0 in favor of the motion.

Aaron Shaw, P.E., James Sewall Company spoke representing Onsite Developers in their application, and he indicated that Louis LaChance were present tonight as well. They are asking for final subdivision approval for phase I.

Public Hearing was closed by Chairman Deane.

A Motion was made by Member Caliendo, that the application meets final subdivision approval with the following conditions are: the Town is to receive the fee in lieu of \$4,938.00 prior to release of the mylar. 2) all individual deeds for lots 1, and 3 through 7, shall include a drainage easement as indicated on the plat plan, 3) That all driveways be constructed per the plan only, 4) right of way and buffer zone maintenance plan be followed as submitted with the agreement date November 25, 2003, between the abutter, McAllister's and On-Site Developers Inc. This motion was second by Member Thomas. The vote was Member Caliendo in favor, Member Thomas in favor, Member

Avery in favor, Member Peer voted not in favor, Chairman Deane voted in favor. The vote was 4 in favor and one against the motion to approve Phase 1 of the Hampden Center Estates subdivision for 7 lots with the noted conditions. The other two Members present were not eligible to vote, due to not being present for the public hearing (Members Dubai and Syversen).

3. NEW BUSINESS

A. Minor Subdivision Plan - Adam and Mary Piccirillo - 1 lot, 7.05 Acre Expansion to the Fowler Road Estates Subdivision with No Public Improvements Located on the Northerly Side of Fowler Road in a Rural District (Tax Map 7, Lot 83F). - Public Hearing

Chairman Deane opened the public hearing.

Adam Piccirillo, developer of Fowler Road Estates spoke in favor of the application. Fowler Road Estates was approved as a minor subdivision two years ago. The original land parcel was 40 acres, divided into 8 lots. He gifted two to his children, built a home on one, and sold one home since then. The Fowler Road Estates constituted 4 house lots and 7 acres of remaining land. Mr. Piccirillo started to build a house on the remaining land, got a building permit, put the well and septic in. When they submitted their application to put power in they discovered that this lot was not part of the subdivision, and would need to amend the subdivision to add a lot in order to proceed with the building.

As no one else wished to speak Chairman Deane closed the public hearing and asked for staff comments.

Mr. Osborne stated that this lot is well drained and it has an approved septic design. The Town would require a fee in lieu of open space of \$1, 410.00. The plan is complete and ready for approval.

None of the property lines from the original Fowler Road Estates have changed. We have a copy of the signed subdivision, which Member Avery asked to see.

Adam Piccirillo stated to the Board that none of the lot lines have changed since the original subdivision was approved.

Member Avery asked about the definition between minor and major subdivision.

Chairman Deane stated that the Board looks at public improvements, number of lots, acreage.

Member Avery stated that the definition of a minor subdivision is less than 5 lots. If a subdivision adds a fifth lot (or more) is the amendment a major subdivision?

Mr. Osborne indicated that he had evaluated that question but reasoned that this is a minor subdivision, there are no public improvements. It is one more lot, that was

retained by owner. There was no attempt to circumvent the subdivision ordinance.

Member Caliendo made a motion that plan submitted meets the requirements for a minor subdivision with the condition that the Town received the fee in lieu of open space in the amount of \$ 1,410.00. This was second by Member Peer. Member Caliendo voted yes, Member Peer, voted yes, Member Syversen voted yes, Member Thomas voted yes, Member Dubay voted yes, Member Avery voted yes, and Chairman Deane voted yes to approved this subdivision lot. The vote was 7 in favor and none against the motion to approve a one lot amendment to the Fowler Road Estates subdivision with the condition or receipt of fee-in-lieu of \$1,410,00.

B. Minor Subdivision Plan - Application of W. & M. Investment Co. - 1 Lot, 5.7 acre Expansion to the Penobscot Meadow Industrial Subdivision with no Public Improvements Located on the Southwest corner of the Intersection of Route 202 and Penobscot meadow Drive in an Industrial Park District (Tax Map 10, Lot 39).- Public Hearing

Chairman Deane opened the public hearing.

Jim Kiser, P.E. of Kiser and Kiser, represented the applicant and spoke in favor of the application. Mr. Kiser stated that this proposal is to amend the Penobscot Meadows subdivision by seeking approval of this is a corner lot indicated on the plan as lot D. The history Penobscot Meadows subdivision dates back to early 1992, and was originally conceived as a 5-lot subdivision. However the fifth lot would have required DEP (Site Location of Development Act) approval / permit. Pending sales were time sensitive at the time. Therefore. Lot D was withdrawn at that time, and the condition of approval was that Lot D would require Planning Board approval.

The restrictive convents do apply to this lot, the wetlands and soils were done on this lot with the original approval in 1992, and are on file. Mr. Kiser also stated that a septic system is feasible as evidenced by the soils test, or sewer service is also possible. However, the extension of sewer, would mean a pump station. The cost would be over \$60,000.00 difference just to extend the sewer to the gravity fed. Added costs could include a lift station from the site. Mr. Kiser explained that the business going into this location could be the factor that decides whether it is sewer or on site septic at this site.

As on one else wished to speak Chairman Deane closed the public hearing and asked for staff comments.

Mr. Osborne stated that there only one thing that the Board needs to deal with on this application, the requirement found in the State Subdivision Statute stipulating that all plans bear the seal of a professional land surveyor, and this one does not.

Mr. Osborne noted the written condition of the original approved subdivision, Penobscot Meadows. The written condition on the plan says that lot D, to become a developed lot must be approved by the Planning Board.

Mr. Kiser stated that this issue has been pointed out. He does not share in the same

opinion as others on this issue, as in what the State Statute requires. If the Board does desire to have a land surveyor sign and seal the plan he would respect that and make it as a condition of approval. He indicated that there is clearly a division of labor between surveyors and engineers and that engineers could not, for example, set property pins, but he felt that in this instance where no property lines were to be moved and no pins to be set that to simply bring the plan before the Board was certainly permitted under the statute.

Member Avery indicated that he had done some research on this question seeking opinions from experts and indicated that the Board can not, in his opinion, permit a plan that does not bear a PLS to be recorded.

Chairman Deane stated that the Board must be consistent with regard to this question, and inquired if other plans with only an engineering seal had been granted subdivision approval. Mr. Osborne indicated that he knew of none in recent history. He determined that the issue of a professional land surveyor's seal being present on subdivision plans should be reviewed by the Town's attorney, for future consideration. He confirmed with Mr. Kiser that having this plan approved with a condition to have a professional land surveyor seal is not a hardship for the applicant.

A motion was made by Member Caliendo that the plan submitted meets the requirements of a minor subdivision, with the condition that the plan reflect a licensed land surveyor's seal, this motion was second by Member Peer. Member Caliendo voted yes, Member Peer voted yes, Member Syversen voted yes, Member Thomas voted yes, Member Dubay voted yes, Member Avery voted yes, and Chairman Deane voted yes. The voted was seven in favor and none against the motion to approve the one-lot amendment to Penobscot Meadows subdivision.

C. Subdivision Sketch Plan - David Sleeper - Request Review of a 35.2 Acre Subdivision by 18 Dwelling Units in a Planned Unit Development Located at the End of Main Trail in a Residential A District (Tax Map 9, Lot 24 & 25)

Jim Kiser, P.E. of Kiser and Kiser spoke, representing David Sleeper. Mr. Sleeper is present at tonight meeting.

Member Caliendo asked if the issue of Residential A, two-family dwelling could be addressed first.

Chairman Deane stated that in his experience the Residential A District restricted the two family dwelling to mother-in-law apartments. That is how the ordinance has been interpreted right along.

Jim Kiser raised a point that this is being developed right along the same lines as Avalon Village, which is in a Residential A District. Mr. Kiser stated that this is the same kind of proposal, except it is not congregate care with single family attached dwelling.

Member Thomas asked if it was two units with a common wall.

Mr. Kiser stated that is correct utilizing exterior entrances. Mr. Kiser compared this proposal with Orchard Hills in Bangor, Maine located off Broadway.

Mr. Osborne discussed the Residential A District special district regulations pertaining to two family dwelling. It appears to regulate only the second unit both with regard to its absolute maximum size of 1,500 sq. ft. and its size relative to the first dwelling unit not to exceed 25 percent. He noted however that the language is vague. He also discussed the definitions of family and dwelling and noted that two-family dwelling and duplex are not defined in the zoning ordinance.

Several Board members openly questioned what relationship congregate care (such as Avalon Village) has to this sketch plan before the Board.

Mr. Kiser stated that the wetlands have been mapped for this site. Approximately half of the area is wetlands, but has some nice development area next to Main Trail development. It will be served by public water and sewer.

Member Syversen asked if these were not considered multi-family structures.

Multi-family structures attached, definitions was discussed.

Some of the Board Members expressed concern over the intent two-family dwelling in the Residential A District.

Chairman Deane stated for the audience present for this item, that the Board will hear their concerns tonight, but this is sketch plan and not a public hearing. They should, to make sure to be part of the public record, be present at preliminary and final subdivision plan and site plan. Chairman Deane asked that those in the audience wishing to speak keep their comments brief, and identify yourself, as there are a lot of people present tonight for this item.

Jeff Mylen, 121 Main Trail, indicated that he would serve as a spokesman for the Main Trail residents. Mr. Mylen spoke of the special district regulation 3.7.6 of the Hampden Zoning Ordinance and indicated that he did not feel that the proposed dwellings was consistent with the standard. He indicated that 4.2.3 states that the conditional use must not significantly devalue abutting properties and indicated that the residents fear that their properties will, in fact, be devalued by the proposal. Mr. Mylen also stated the residents concerns over the increase in traffic.

Dave Sleeper, Coldbrook Road in Hermon, real estate business owner and developer spoke in defense of the project.

Mr. Sleeper stated that the residences of Main Trail could have come to him and addressed their concerns directly. He does not want to impact the neighborhood in any detrimental way. He encouraged anyone having questions on this proposed development, please feel free to call him as he lives in Hermon,

Rob Reese, 92 Main Trail, stated his concerns. The of families living in this area are a

welcoming neighborhood, however they wish to protect their investments.

The Board indicated that this item could not reasonably go forward until it could be determined what form of two-family dwelling the district would allow.

A motion was made by Member Caliendo to table, second by member Thomas. Member Caliendo voted yes, member Thomas voted yes, Member Peer voted yes, Member Dubay voted yes, Member Syversen voted yes, Member Avery voted yes, and Chairman Deane voted yes to table this application until the Town Attorney reviews and gives an opinion on what form two-family dwellings may take in this district. The vote was 7 in favor and none against.

Chairman Deane stated to the audience that when appearing at the public hearing that comments do pertain to the ordinance.

It was also suggested that the minutes of the approval of Avalon Village be checked to see if any groundbreaking determinations were made with regard to two-family dwellings in the Residential A District.

D. Major Subdivision Final Plan - Cushing Family, Corp. - Second Phase of the Colonial Heights Subdivision by Dividing 29.6 Acres (of a 47 acre parcel) into 30 Lots Located at Constitution Avenue and Independence Avenue in a Residential B District (Tax Map 6, Lot 44)

Chairman Deane opened the Public Hearing and asked for proponents, opponents and questions and comments.

Jim Kiser, P.E. spoke as the engineer representing the Cushing Family Corp, on the second phase of Colonial Heights subdivision. Andre Cushing is also present tonight . Mr. Kiser reviewed for the Board the changes made due to the recommendations and conditions placed on the Preliminary Plan approval at a previous meeting. Stop signs have been added. Lot lines have been adjusted, the deeds and open spaces have been conveyed. The improvement guarantee is in the form of a letter of credit has been reviewed by the Town Planner and the Town Manager. The Alexander's concerns over the drainage of the lot next to their property has been addressed satisfactory. They are seeking final approval for Phase II of Colonial Heights.

Andre Cushing , 4 Independence Ave., stated that Bob Stubbs, Chairman of the Snowmobile Association of Hampden has accepted the proposed snowmobile trail.

Ben Johnson, Code Enforcement Officer for the Town of Hampden stated he saw no problems with this proposal.

Public hearing was closed by Chairman Deane.

Member Peer made a motion that this application meet final subdivision approval with the addition of a turn sign at the end of Constitution Ave. Member Thomas second the motion.

Member Peer amended his motion without the addition of the turn sign at the end of Constitution Ave. This amended motion was second my Member Thomas.

Member Avery had several questions as to the property lines not being at right angles.

Member Avery questioned the lines between 40 and 45, 50 and 52, 33 and 37, 35 and 36, 30 and 36.

Lot 33 has been sold and a one-family dwelling built. The pipeline easement on lot 46 cannot be moved and it was suggested by Mr.Kiser that the lot line should be aligned with the pipeline easement..

The Board discussed the requirement that side lot lines be at a right angle to the street line.

Member Peer amended his motion to correct the right angle lot lines. Member Thomas second the motion.

More discussion between the Board Members and Mr. Kiser as to the lot lines on a number of lots not being at right angles.

Member Peer withdrew his prior motion, Member Thomas withdrew her second.

Member Peer made a motion to grant a waiver from the right angle requirement for lot 46 to follow the pipeline and the lot lines between lot 33 (which was previously conveyed) and lot 23 and lot 37 lot lines to follow the conveyed lot. Member Avery second the motion. The motion was voted 7 in favor and none against the motion to grant a waiver.

Member Peer made a motion to approve the final subdivision plan as submitted with the exception that the lot lines be corrected to make them at right angles or radius. This motion was second by Member Thomas. Member Peer voted yes, Member Thomas voted yes, Member Caliendo voted yes, Member Dubay voted yes, Member Avery voted yes, Member Syversen voted yes, and Chairman Deane voted yes. The motion passed 7 in favor and none against.

4. STAFF REPORT

Steve Holt resigned from the Planning Board as of the last meeting due to work commitments.

The open space meeting was also discussed.

5. BOARD MEMBERS CONCERNS

6. ADJOURNMENT

The Planning Board meeting adjourned at 10:05 p.m.

Respectfully Submitted,

David Caliendo, Acting Secretary

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The meeting of the Hampden Planning Board was called to order at 7:05 p.m. on Wednesday, November 12, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members: Chairman Beric Deane, David Caliendo, Dawn Thomas, Mike Avery, Steve Holt, Richard Peer.

Also in attendance: Town Planner Robert Osborne and Applicants.

1. APPROVAL OF MINUTES - October 8, 2003.

Member Caliendo moved that the minutes be accepted as written, this was second by Member Thomas.

The minutes were accepted unanimously.

Chairman Deane moved item C & D to the end of the Agenda.

2. NEW BUSINESS

A. Site Plan Review - Gregory L. Higgins - Retail Sales of Automobiles Located at 812 Main Road North in a Commercial Service District (Tax Map 21, Lot 29) - Public Hearing.

Public Hearing was opened by Chairman Deane.

Gregory Higgins, and Dale Acorn stated that they are proposing to establish used car sales facility at 812 Main Road North, beside their Higgins Electrical business. The site plan has been submitted to the Town Planner, Bob Osborne, and should be included in your packets.

Janet Minson, Verona Island - used to live in Hampden at Calkins Farm Market. She had a question of how many cars will be on site?

Mr. Higgins stated that they are looking at a maximum of 10 cars at one time.

As no one else wished to speak Chairman Deane closed the Public Hearing and asked for staff comments.

Mr. Osborne stated that this is a reuse of an existing building in the commercial service district. The applicant plans to keep vehicle display out of the driveway area. The parking requirement for auto sales is 3 parking spaces for the building and one parking space for every five thousand feet of display area. This nets out to 4 spaces. The existing site development can accommodate about 28 regular parking spaces on this

site. The parking requirement can be satisfied. No free standing sign is proposed. If they were to have a sign it would be attached to the building. The State requires that car lots are identified with signage, so they will have a sign attached to the building. It appears to meet the standards for site plan approval. Staff would recommend approval.

Chairman Deane had some questions for Mr. Osborne, about the lot and how it was depicted in the various site plan submittals.

The Board discussed the fact that the plan did not identify individual parking spaces, and the plan did not indicate what parking is associated with each building on the lot.

The Board discussed the fact that the plan did not clearly identify where the auto display area was on the site and that it did not strictly limit display to a certain area.

The Board questioned the lot lines of the two lots, between Higgins Electric and the proposed used car lot.

The Planning Board Members had concerns over reading the proposed site plan.

Member Peer made a motion to table this application, until they receive plans that can be read, and lot lines are defined further. This motion was second by Member Avery. The motion was voted 5 in favor and none against.

The Board made suggestions to the applicant, over the identification of individual parking spaces, identification of the auto display area, and the depiction of the two parcels on the site plan.

B. Major Subdivision, Final Plan Approval - Onsite Developers, Inc. - Request Approval for Phase I, a Proposed 7 lot, 24.69 Acre Subdivision with No Public Improvements - Located on the Southwest Corner of Western Avenue and Patterson Road in a Rural District (Tax Map 8, Lot 33) - Public Hearing.

Chairman Deane opened the Public Hearing and asked for proponents and opponents.

Aaron Shaw, P.E., James Sewall Company spoke representing Onsite Developers in their application, and he indicated that Don Pellitier and Louis LaChance were present tonite as well. They are asking for final subdivision approval for phase I. The preliminary plan which showed the entire 20-lot subdivision received approval at the prior meeting. They now propose approval of phase I which is a 7-lot subdivision along Patterson Road. We have provided additional soils results which show passing soils for all the lots. DEP has received their Freshwater Wetland Alteration Permit application, and has let them know it is complete, and are presently still reviewing that application. The snowmobile trail easement has been worked out, with the owners, and have offered to grub and clear that for the snowmobile association.

Charlie Gilbert, Esq., an attorney in Bangor, 82 Columbia St., Bangor, spoke in representation of Dan and Sallie McAllister, who own the abutting Patterson Road

residence. Mr. Gilbert stated that for record that the legal description between the proposed subdivision lot one (1) and the McAllister's property, is an ancient description, bounded by trees, and old fences that are not there anymore. Mr. Gilbert stated that the professional land surveyor for Sewall, that did the boundary survey for the development parcel has come up with a meets and bounds description. Mr. & Mrs. McAllister have reviewed and accept the common property line as determined by that survey. A boundary line agreement has been drawn up, the only problem was a linear distance that was stated in that agreement was incorrect. A revised agreement has not been signed at this time and he would like that to happen prior to the Board approving the subdivision. The second issue is the snowmobile trail that will pass between to two properties. The other issue of the buffer zone that was mentioned in previous Planning Board meetings. The buffer zoning is an uncleared area at the boundary line of the proposed subdivision, and going back thirty feet. The buffer zone needs to be extended to phase II, and to the other lots that abutts the McAllister's property. Along with the Town, the McAllister's also would like the right to be able to enforce the buffer zone.

Member Caliendo asked Mr. Gilbert, about the errors in the lot line, on the plan?

Mr. Gilbert indicated that the final subdivision plan correctly indicates the lot line between the McAlister and On-Site Developers parcels but that the property line agreement had not been corrected or signed at this time. The buffer zone is 20 foot wooded buffer, and 10 foot snowmobile trail. The Town has the authority to enforce the buffer zone, and the McAllister's are asking to have the right to monitor and enforce the buffer zone, as well.

The meets and bounds were discussed with Mr. Gilbert.

Public Hearing was closed by Chairman Deane.

Aaron Shaw stated that the boundary survey was prepared by a surveyor, but the interior lot line were prepared by Sewall Company.

Member Avery had concern that the final plan recording document meet State law as well as the Town ordinance. He indicated that the final subdivision plan must be signed and sealed by a Professional Land Surveyor to meet State regulation despite the fact that the Town ordinance allows either a PLS or a PE to sign and seal the plan.

Chairman Deane asked the Town Planner if this issue had been overlooked on other subdivision plans that had come before the Planning Board? Mr. Osborne stated that recent subdivision plans have the PLS seal and signature although he could not vouch for what has been done years ago.

Aaron Shaw stated that the buffer zone will be called out on the deeds and the subdivision plan.

The parcel line agreement has not yet been signed between the two parcel owners.

Louis LaChance, one of the owners of On-Site Developers, stated that they do not have

a problem with the 30 foot buffer. He is not sure how the land abutter would enforce this buffer zone. He thinks that the town officials and the other lot owners of the subdivision could enforce such conditions.

Mr. Gilbert stated that there is a draft agreement stating the buffer zone and the meets and bounds of the parcels. The agreement has not been signed.

Member Peer stated that he took issue with the wetland crossings of the driveways off Patterson Road. He indicated that he was not at preliminary plan approval but that he had clearly indicated at sketch plan that he was opposed to the proposed crossings and on that basis indicated that he could not support the current design for final plan approval.

Mr. Osborne stated that the design incorporated shared driveways in order to minimize wetland impacts, four of the seven lots are serviced through two (2) shared - driveways.

Chairman Deane asked for clarification if the Freshwater Wetland Alteration Permit had been issued as of tonight's meeting and it was confirmed that in fact it had not been.

Member Avery questioned if the lot lines had all been adjusted to a right angle from the front property line, and if a lot line is not at a right angle to the road does the Board have a close enough standard? He indicated that lots 3, 4, 6, and 7 do not meet the lot line standards as far as he could tell.

Aaron Shaw stated that lot lines had been discussed at a earlier time with the Town Planner, and that they had revised the plan to change some of the lot lines but had made a judgement that others were close enough.

Some of the Planner Board Members were having some trouble make sense of the lot lines on the subdivision plan submitted because the shared driveway easements were obscuring some of the property lines. Chairman Deane indicated that the lot lines are required to be 90 degrees to the road, and he agreed that lots 3, 4, 6, and 7 do not meet that requirement.

Member Holt made a motion to table the application so that the applicant has the opportunity to complete the application and correct the issues that have been brought up before the Planning Board in terms of the lot alignment, surveyors stamp, easement location and distances, and any other issues that may be on the public record, for final subdivision plan approval. The motion was second by Member Thomas.

Mr. Osborne asked for some discussion before voting on the motion.

He indicated that he wished to discuss the driveway locations as indicated on the subdivision plan. He hoped that the Board would make clear in the public record that these driveways could only be constructed in the described areas, and the Board was not interested in having to revise this plan each time an individual purchased a lot. He also indicated that he hoped that the Board would clearly indicate that the drainage easements and the culverts would be private and not the responsibility of the town to

maintain or repair. He noted that if the driveways were to be placed other than where they are depicted on the plan there would be DEP permits required where the wetlands are, and other factors come in play. He also asked the Board if they wished to add any clarification to the wooded buffer term to establish a baseline for that means in the future, that is, untouched, clearing deadwood, or no more than 40% in any ten year period?

The Planning Board Members had problems with the boundaries, and lot lines and the wetlands permit, and shared driveways. The wooded buffer needs further description.

Mr. Osborne indicated that no deeds or easements are required by the Town for this phase of the subdivision thus the Town Attorney has not had any deeds or documents to look at in regard to this subdivision. All easements are part of neighboring deeds.

Aaron Shaw expressed concern that all these conditions, mentioned along with the DEP permit has been submitted, and the applicant would have to wait another month to come in front of the Planning Board with the changes. He requested they be added to the plan as conditions of approval.

Member Holt made a suggestion that Town's Engineer look over the subdivision plan before final submittal to the Planning Board, and Member Holt stated that his motion to table the item stands as stated. The review by the Town Engineer was a recommendation.

Chairman Deane indicated that the motion in front of the Board is to table the application.

Member Caliendo indicated that he was voting no in tabling the plan, because he would like to vote no on the plan as submitted. Member Caliendo stated that there are wetland issues. One quarter to a third is wetlands and accessing the property across the wetlands is a concern. Member Peer voted no, for the same reasons as stated by Member Caliendo. The motion to table the application passed four in favor and two against, to table the application.

Chairman Deane reiterated the problems with the subdivision for the benefit of the applicant and Mr. Shaw.

C. Zoning Ordinance Text Amendment - Town of Hampden - Amend 1.5.2., 4.1.3., 4.2.2., 4.3.4., 4.9.3., 4.9.4., 4.13.3., 5.3.1.7., and 6.3.5. to Delete Specific fees and/or Include Reference to the Town of Hampden Fees Ordinance - Public Hearing.

Chairman Deane opened the public hearing and as no one wished to speak closed the hearing and asked for Staff comments.

Mr. Osborne stated to the Board that these items C and D on the agenda are housekeeping items. He noted that some of the zoning ordinance fees had previously been removed to the fees ordinance but for some reason others had not. This would

simply move all of the fees to the fees ordinance. He also noted that the amendments help to clarify which charge applies to a conditional use, conditional lot and other approvals that had not been altogether clear despite the fact that the Town had traditionally charged a site plan fee for all of them.

Member Peer made a motion that the Board return this item to the Town Council with a recommendation for an "ought to pass", Member Thomas second the motion. The Board voted five in favor and none against the motion.

D. Subdivision Ordinance Text Amendment - Town of Hampden - Amend Section 330 and 340 to Delete Specific Fees and/or Include Reference to the Town of Hampden Fees Ordinance - Public Hearing.

Chairman Deane opened the public hearing and as no one wished to speak closed the hearing and asked for Staff comments.

Mr. Osborne indicated that this item was also a proposal to remove the fees from the ordinance and reference the fees ordinance. He noted that the fees for a final plan had been increased.

Member Peer made a motion that the Board return this item to the Town Council with a recommendation for an "ought to pass", Member Thomas second the motion. The Board voted five in favor and none against the motion.

E. Subdivision Sketch Plan - Highland Ridge, LLC - Request Review of an 18 Lot Cluster Subdivision with 36 Dwelling Units with Public Street and Water - Located on Main Road South (Roberta Marsh Property) in a Rural District (Tax Map 3, Lot 18)

Jim Tower, PE from Engineering Dynamics, he stated that he lives in Glenburn and is representing Northland Ridge, LLC. The proposed name of the subdivision is Highland Ridge. The proposal is for 18 lots on a 9.69 acre portion of the parcel. Each lot would contain one, two-dwelling unit building, and each dwelling unit would have two bedrooms. A total of 36 dwelling units is proposed. The proposed street right-of-way occupies 2.09 acres. A common area of 13 acres is proposed. This common area connects to the pipe line which itself is an active recreational right-of-way. The total subdivision acreage is 25 acres. This is proposal is in keeping with the Zoning Ordinance rural cluster subdivision standards for multi-family housing in the rural district. Public water is proposed, as well as on-site septic.

The amount of acreage was discussed, whether it was 37 acres, or 25 acres.

Jim Tower stated that the 12 acre difference is intended to be retained for a short time by the land owner. Mr. Tower stated that by preliminary plan the 12 acres will be depicted on the plan.

Mr. Osborne stated that applicant is proposing 18 lots, 36 dwelling units, all duplexes. On public water, with on-site septic, and they plan to extend a public road in about 1400

feet. The front half of the parcel is depicted as upland area, and the rear portion is generally wetland area. Soils are mixed bag with some that would not lend themselves to intensive development and as such a soil survey would be an important component of a preliminary plan submission. This is a cluster subdivision that reduces the requisite lot size in exchange for a larger common open space. However such developments are not necessarily appropriate if in fact they are on poor soils.

Chairman Deane stated to the applicant that they would need to provide adequate area for a cluster subdivision with duplexes.

Member Peer stated they would need to see that adequate soils to support septic would need to be submitted by the applicant.

Member Caliendo asked if these units are all to be duplexes, are the units going to be retained by one owner, for the whole project, are the units going to sold to private individuals ?

Mr. Tower stated that it could be a combination of both, private ownership and rental/leased units.

Member Caliendo stated his concerns over septic systems in the event of leased/rental units.

Mr. Tower stated that in regard to the soils with subsurface waste water disposal, they have a certified soil scientist working on this, with test pits, will make certain that the soils meet the state plumbing code.

Member Holt stated that it is an incredible use for this parcel of land.

Lot lines were discussed and the roadway location, as it exits the property.

Member Holt made a motion to classify as a major subdivision, second by Member Caliendo, and the Board voted six in favor and none against.

Member Holt made a motion to classify the street as a minor street, this was second by Member Caliendo, and the Board voted six in favor none against.

This was not public hearing but Mr. Osborne stated that there may be some people in the audience that would like to speak with regards to this application.

Chairman Deane asked if any members of the audience would like to speak or make comments, or have concerns over this application. Chairman Deane asked them to come to the podium.

Member Holt asked to be excused from the meeting at this time, 9:00 p.m.

Brian Leonard, spoke indicating that he was the southerly abutting land owner to the proposal at 284 Main Road South. Mr. Leonard expressed concerns over the wetland

area. The additional drainage of this wetland would go directly onto his property. He stated that he has water issues he has to deal with now, and this development could make it worse.

Access to the pipeline was discussed. The pipeline location was discussed, in conjunction with the proposed development.

John Stanhope, 269 Main Road South, stated that he is familiar with the property. Mr. Stanhope and Chairman Deane had a discussion where the pipeline and the wetlands on the proposed development are located.

Janet Minson, Verona Island stated that she is part owner of land abutting this property (formerly Calkin). She indicated that there are boundary issues between the two properties, their deed does not agree with the subdivision plan. Ms. Minson showed Mr. Tower where the lines should be. She stated that this is a wood lot.

Charlie Gilbert, 254 Main Road South, spoke as a nearby land owner. He stated that the character of the neighborhood is in danger. He has a couple of issues, the back portion of this property is un-buildable due to the pond, and wetlands and he indicated that the wetland area should not be accepted as common open space but rather it should be upland area.

Kim Slininger, 462 Main Road South, expressed concerns with the development as a burden on the schools, that it encroached on the wildlife habitat, and impacts on the utilities. The schools, wildlife and utilities should be considered.

Chairman Deane stated that some of these issues were not within the Planning Board's jurisdiction. Public comments must be addressed at the public hearing dealing within the Town's ordinances.

Charlie Gilbert asked what role the comprehensive plan plays in the development of the Town?

Chairman Deane stated that it is the bedrock that all the Planning Board decisions flow from. When the Board approves any development or subdivision they have to square it with the comprehensive plan.

Mr. Gilbert stated that the number one goal of the comprehensive plan is to protect the rural character of the Town.

Chairman Deane and the Board had further discussion regarding development in the Town.

Mr. Osborne stated to the audience that the Town does have a web site that contains both the zoning and subdivision ordinances.

Member Holt excused himself after this item was voted on, 9:00 p.m.

3. STAFF REPORT

4.

Mr. Osborne stated that the meeting that was referenced to earlier, (the Main Road South neighborhood meeting) was the one Mayor Briggs called due to the concerns over the developments in rural area. This is a discussion meeting only.

It was noted that multi-family, was restricted in the rural district a few years earlier.

Mr. Osborne stated that the language needs to be looked at about the development in the rural district as it relates to open space and cluster development.

Member Peer stated his concerns over the septic system and well water, in a cluster development in the rural district. The shared cost issue in multi-family, with separate ownerships. Whether you own the land under the dwelling, or septic systems and shared driveways.

The Board Members had further discussions over the applications presented at this evening meeting.

5. BOARD MEMBERS CONCERNS

6. ADJOURNMENT

The Planning Board meeting adjourned at 9:45 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:05 p.m. on Wednesday, October 8, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members: Chairman Beric Deane, David Caliendo, Dawn Thomas, Mike Avery, Mort Syversen.

Also in attendance: Town Planner Robert Osborne, Recording Secretary Rosemary Bezanson and Applicants.

1. APPROVAL OF MINUTES - September 10 , 2003.

Member Caliendo moved that the minutes be accepted as written, this was second by Member Thomas.

The minutes were accepted unanimously.

2. NEW BUSINESS

A. Home Occupation, Conditional Use and Site Plan Review - Donna Neill - Establish a Beauty Shop Within the Residence Located at 203 Kennebec Road in a Residential B District- (Map 38, Lot 4) - Public Hearing.

Chairman Deane opened the public hearing.

Donna Neill, 203 Kennebec Road spoke about the beauty shop she wishes to establish in her new home. She stated that they have moved from across the street, where she operated a beauty shop as a home occupation, and want to continue serving customers at her new home located at 203 Kennebec Road. She stated that the hours of operation would continue to be between 8:30 a.m. and approx. 3:30 p.m. three days a week. She employs no outside employees, and she would not be seeking a permit for a sign.

Town Planner, Bob Osborne read a letter into the record from Jennifer and Robert Stevens, stating their support of Mrs. Neill's application for a beauty salon in her home. (Letter attached to minutes)

As no one else wished to speak Chairman Deane closed the public hearing and asked for staff comments.

Bob Osborne indicated that the application was complete and meets the standards governing home occupation, conditional use and site plan approval. He noted that the house had quite recently been built on the site.

Member Caliendo made a motion that the application meets conditional use standards, Member Thomas seconded the motion. The Board voted five in favor and none against the motion that the application meets the standards governing conditional use permits.

Member Thomas made a motion that the application meets site plan standards as presented, Member Caliendo seconded the motion. The Board voted five in favor and none against the motion to grant site plan approval for a home occupation, beauty shop in a single family residence located at 203 Kennebec Road in a Residential B District.

B. Zoning Ordinance Text amendment - Town of Hampden - Amend 4.5.5. non-conforming lots to establish standards for alteration of non-conforming lots and amend article 2, establishment of zones by providing guidance to interpret the implications of zoning map district lines that split buildings and land parcels. Please note that the Planning Board will review these amendments under Article 1.5 of the Hampden Zoning Ordinance - Public Hearing.

Chairman Deane moved this item to the end of the agenda as no one at the meeting wished to speak about this item and proceeded to item 2C.

Following item 2D Chairman Deane opened public hearing for item 2B and as no one wished to speak regarding this item the public hearing was closed.

Chairman Deane called on Member Caliendo to report on the Ordinance Committee's review of this item.

Member Caliendo, Ordinance Committee Chairman reported that these are housekeeping changes designed to make the Zoning Ordinance more useful. The Committee reviewed the amendments line by line and recommend that both amendments be recommended to the Town Council for approval. He noted that the Town Attorney Tom Russell had proposed a few recommendations that have been incorporated into the draft amendments currently under consideration.

Chairman Deane asked for staff comments.

Mr. Osborne noted that currently there is no legal mechanism to alter a non-conforming lot because a non-conforming lot fails to meet some dimensional standard and a portion of such a lot will always be a new non-conforming lot. The definition of lot specifically prohibits the creation of a lot that does not meet the current dimensional standards of the district.

What 4.5.5. would do is create a mechanism to allow the alteration of a non-conforming lot. The Code Enforcement Officer would have to make a written determination that the proposed alteration of the lot would not increase the non-conformity of the lot and that the lot otherwise meets the dimensional standards of the district.

Mr. Osborne explained that the amendments to Article 2 explain how to interpret split zone parcels and buildings. It provides that buildings are to be regarded as solely in a

single district even if the map appears to put the building in two districts. It provides examples of how use, lot area and density should be applied to split zone situations.

The Board agreed that an ought to pass should be sent to Council, which incorporates the recommendations of Mr. Russell and the Ordinance Committee, on both items.

Member Caliendo moved that the amendment to 4.5.5 be sent back to Council with an "ought to pass" recommendation. Member Thomas second this motion. The Board voted five in favor and none against the motion to send the Zoning Ordinance Text Amendment to 4.5.5. that incorporates the Town Attorney's recommendations back to the Town Council with an "ought to pass" recommendation.

Member Caliendo moved that the amendments to Article 2 on zoning map districts be sent back to Council with an "ought to pass" recommendation. Member Thomas seconded the motion. The Board voted five in favor and none against the motion to send the Zoning Ordinance Text Amendment to Article 2 that incorporates the Town Attorney's recommendations back to the Town Council with an "ought to pass" recommendation.

C. Conditional Use/Site Plan Approval - Hampden Highlands United Methodist Church - Revision of the previously approved site plan to expand the Parking lot for the existing church - 44 Kennebec road in Residential B District - (Map 43, Lot 28) Public Hearing.

Phillip Jones, Chairman of the trustee, asked if the item for the Methodist church could be moved further down the agenda, until his engineer was available to speak for the application.

After the Maine Sport Complex item was heard, Chairman Deane moved to item C, Hampden Highlands United Methodist Church.

Chairman Deane opened the public hearing.

Art Coffin, PE of Coffin Engineering spoke in favor of the application. Mr. Coffin stated that this site plan revision is in conjunction with the church's recent site plan revision that approved the building addition. This is an addition to the parking lot. 9000 square feet of pavement will be added. Parking will be added on existing compacted gravel and also on a meadow type field. The overall drainage pattern will not change, natural run off is towards the field and is a natural slope. The field then drains into Reeds Brook. The proposed parking lot addition collects the stormwater at the rear of the parking lot along a curb and directs the water to a level lip spreader in the field. This design has a slight net increase in the rate of runoff but a detention pond is not recommended. Existing storm drains (that are connected to catch basins serving limited portions of the existing parking lot) will have to be extended to the edge of the new parking area.

Public Hearing was closed.

Bob Osborne indicated that the plan meets ordinance and submittal standards and that staff recommends approval of the site plan revision. Chairman Deane asked if the drainage analysis had been reviewed by the Town's engineering consultant. Mr. Osborne indicated that it had not but that the 9,000 sq ft. of new paved area was relatively small, that much of this was on non-revegetated gravel area or excavation from the building addition and that the net increase in runoff was small. None of the parking lot addition drains toward the street. The 9,000 sq. ft. lot addition drains to the field which drains directly into Reeds Brook. (None of the parking lot addition drains toward the street). The location of a detention pond adjacent to a parking lot where children are present is not desirable. He noted that Greg Nash, Public Works Director had seen the plan and had not expressed concern with the drainage plan for this extended parking lot.

Member Syversen had questions about sheet flow for Mr. Coffin. Mr. Coffin explained his calculations for the sheet flow.

Member Caliendo moved that it meets conditional use, Member Thomas seconded the motion. The Board voted five favor and none against the motion that the application meets the standards governing conditional use.

Member Caliendo moved that the application meets site plan approval, Member Thomas seconded the motion. The Board voted five in favor and none against the motion to grant site plan approval for a revision of the previously approved site plan to expand the parking lot for the Methodist Church located at 44 Kennebec Road in Residential B District.

D. Site Plan Approval - Maine Sports Complex, LLC - Revision of the previously approved site plan to construct a 4,600 sq. ft. expansion to the existing indoor sports facility located at 330 Coldbrook Road in an Interchange District. (Tax Map 9, Lot 35A) Public Hearing

Chairman Deane opened the public Hearing.

Pete Madigan, CEO of the Maine Sports Complex, spoke to the Planning Board about his application. Mr. Madigan stated that two modular classrooms are being acquired which would house the public restrooms, as well as offices and concession stand. The proposed building is 28 feet in depth, not the 26 feet that was previously approved, and the proposed building footprint was about 400 sq. ft. larger in total. The overall coverage of the lot would be well within the 25% allowable in this district.

Chairman Deane closed the public hearing and asked for staff comments.

Mr. Osborne explained the proposed addition incorporates two 2 modular buildings, they are two feet wider than the proposed stick built proposal. The modular buildings will also be at a higher finished floor elevation than a stick built building would have been, which will necessitate wheel chair ramps. This proposal is similar to the previously approved site plan, 440 square feet larger, and would also require moving some of the planting that were proposed directly in front of the approved addition. Staff

would recommend approval.

The proposed lot coverage was discussed, and it was determined that the overall project would be about 10 percent, well under the 25% allowable in that district as the overall building area would be 39,600 sq. ft. and the lot is 9 acres.

Chairman Deane asked Mr. Madigan about the consent agreement that was put in place for those items that were to be completed.

The Board Members had some discussion with Mr. Madigan on his financial capacity to fund the project.

Mr. Madigan explained to the Planning Board some of the financial difficulties he has encountered in getting the project completed. He indicated that he hopes to have all of the funding in place in the next week or so.

Chairman Deane asked the Town Planner to give an overview about the required improvements that are not yet complete and what documentation might be available in that regard.

Mr Osborne indicated that two primary documents were in the file. There is a letter from the Code Enforcement Officer and there is the Consent Agreement that is currently in place between the Town and the Sports Complex. The letter from the Code Enforcement Office to Tom Russell listing the required improvements that remain incomplete at this time was read into the public record. The list of incomplete items contained in the Consent Agreement was also read into the public record.

Board Members stated that they are concerned over the failure to complete the items the consent agreement, and the project as a whole. (These have been attached to the minutes.)

The Board discussed a deadline to have the items completed on his site plan, a date of December 1st, 2003 was given and agreed upon by both the Board Members and Mr. Madigan.

Member Caliendo moved that the application meets site plan approval with the conditions that the incomplete items listed in both the Consent Agreement as well as the letter to Tom Russell (from Code Enforcement Officer Ben Johnson) dated August 3rd 2003, are completed by December 1st, 2003. This motion was second by Member Avery. The Board voted five in favor and none against the motion to grant site plan approval for a revised site plan for a 4,600 sq. ft. addition to the Maine Sports Complex located at 330 Coldbrook Road in an Interchange District with the condition that the incomplete items listed in the Consent Agreement as well as the letter to Tom Russell (from Code Enforcement Officer Ben Johnson) dated August 3rd 2003, are completed by December 1st, 2003.

E. Major Subdivision, Preliminary Plan - Onsite Developers, Inc. - Construction of a 20-lot, 50 acre subdivision with public improvements including a town road located on the southwest corner of Patterson Road and Western Avenue in Rural District - (Map 8, Lot 33) Public Hearing.

Aaron Shaw of James W. Sewall Company, spoke representing the applicant and noted that also with him tonight is Lou LaChance and Don Pellitier (On-Site Developers). Mr. Shaw stated they are seeking preliminary approval tonight, then at final they would like to phase the project, in order to stay under the DEP permit process (the combination of 30 acres and 15 lots requires a Maine Department of Environmental Protection Site Location of Development Act Subdivision Approval). They propose to do Phase II with the proposed road at a later date. They have applied for wetlands alteration permit, and have designed shared driveways for lots 4 & 5 and 6 & 7. Lot 1, there is a proposed relocation of the existing snowmobile trail parallel to the southerly property line which has been discussed with the Mr. Stubbs of the snowmobile club and the McAllisters. An easement has been set aside along the property line for the snowmobiles. The Developers have had discussions with the abutting property owners, about a 30 foot buffer along the side to buffer them from the development.

The Board had asked the developer to addressing the proposed road coming off of Western Avenue with Maine Department of Transportation. DOT has indicated that the Access Management Law rule requiring double frontage lots to take access from the local street rather than the Major Collector street has been proposed to be done away with in the near future. Nevertheless, the developer has provided for an entrance off of Patterson if needed. They have left a 66 foot wide parcel of land (retained by owner) on Patterson Road extending to Phase II for a future right of way on Patterson Road if needed.

Albert Bishop, Western Ave, and land abutter spoke about his concerns over the drainage. He indicated that there is a natural drainage way (adjacent to Lot 10) that runs across his property on to the subject property and he wished to make certain that the water is not empounded back onto his property.

The drainage maps were shown to Mr. Bishop, answering his concerns.

Dan McAllister, Patterson Road, and land abutter, spoke about the pins/lot lines. Mr. McAllister stated that the southerly line of the proposed subdivision starts on the Patterson Road, at a metal pin, and continues to a red wooden stake on the southeaster corner of Mr. Bishop. He would be willing to share in the expense of having this line surveyed and marked so it is not in question at any future time. Mr. McAllister also spoke about the 30 foot buffer that he and the developers have agreed upon between to two parcels. Mr. McAllister also stated his concerns over the drainage, due to the wetness of his property, additional runoff from the development would impact the field, and flood it. He also stated that they would work with the snowmobile club to keep the trails open to them. The detention pond and fencing around it was also mentioned.

Mr. Shaw explained some of the drainage plans, and the snow mobile trail, along with

the buffer between the McAlister property and the subject property.

Chairman Deane closed the public hearing and asked for staff comments.

Mr. Osborne noted that the line that divides Lots 9 and 10 is not perpendicular to the street and must be corrected. Also Lot 20 does not appear to have enough street frontage. He stated that a solution to the snow mobile trail appears to have been found by re-alignment of the trail to the southerly property line and the concession of the wooded buffer along that property line. Shared driveways have been proposed on Patterson Road which should help limit wetland alteration. The proposed 66 foot wide right of way should be retained by the Developer as part of the Phase II un-lotted subdivision parcel, should it be necessary to put a road in, have been shown on the revised plans. He noted that the subdivision ordinance provides for phasing reading from 332.1.1 which states that "However the subdivider may submit a final plan for only part of the subdivision approved in the preliminary plan..."

The Board discussed the phasing of the project with the applicant. At final subdivision approval the Developer will be asking for approval on lots that have frontage on the Patterson Road.

The snowmobile crossing was discussed. Cash in lieu of open space is being offered. The phasing of the subdivision was discussed, along with what the developer is seeking between preliminary and final approval of the subdivision.

Member Avery made a motion that the application meets preliminary plan approval with the revised lot line for lots 9 and 10 they need to be perpendicular to the road, also lot 20 need to have the proper frontage required, and the adjustments for the snowmobile trail, as close to perpendicular crossing the Patterson Road. Member Caliendo second the motion. The Board voted five in favor and none against the motion to approve the preliminary plan for the Hampden Center Subdivision located on the corner of Western Avenue and Patterson Road in a Rural District with the conditions that the revised lot line for lots 9 and 10 be perpendicular to the road, also lot 20 must have 200 feet minimum and the adjustments for the snowmobile trail, as close to perpendicular crossing the Patterson Road.

3. STAFF REPORT

4.

A. Discuss of Tom Russell's letter regarding non-conforming lots and conditional use/site plan criteria.

Mr. Osborne stated that Mr. Russell's view is a grandfathered non-conforming lots trumps a conditional use standard. It was created before the standard was created.

The ordinance recognizes non-conforming lots of record. This addresses the lot not the use. The fact that the lot does not have any frontage on a town way, does not in itself violate standard one of the conditional use standards.

Ms. Ellsworth can pursue her application for a kennel, on that particular lot, because the

Town Attorney tells the Board, that the frontage issue does not violate conditional use standard 1.

The Board had a discussion with Ms. Ellsworth on whether she could proceed with her application for a kennel on her parcel. It is a non-conforming lot, with a single family dwelling. Ms. Ellsworth has a legal right of way to her parcel.

Ms. Ellsworth asked the Board if she could proceed with her application for a kennel, she was told to make an appointment with the Town Planner, to be put on the agenda for a Planning Board. Mr. Osborne stated to Ms. Ellsworth what he would be looking for a proper site plan.

See attached letter from Tom Russell.

B. Other Business

5. BOARD MEMBERS CONCERNS

6. ADJOURNMENT

The Planning Board meeting adjourned at 9:00 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:05 p.m. on Wednesday, September 10, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members: Chairman Beric Deane, Steve Holt, Richard Peer, Steve Dubay, David Caliendo, Dawn Thomas, Mike Avery, Mort Syversen.

Also in attendance: Town Planner Robert Osborne, Recording Secretary Rosemary Bezanson and Applicants.

1. APPROVAL OF MINUTES - August 13 , 2003.

Member Thomas moved that the minutes be accepted as written, this was second by Member Dubay.

The minutes were accepted unanimously.

Before any new business was heard, Chairman Deane announced (for the benefit of the audience) that two requests had been received to table agenda items on tonight's Planning Board agenda. Under New Business, Item B , Cushing Family Corp., request for Major subdivision, final plan was requested to be tabled because they were not able to complete the application. Under New Business, Item D, Dysart's Realty Inc, request for sketch plan was requested to be tabled because they wanted additional time to investigate some questions. Chairman Deane told the audience that anyone waiting to be heard in reference to these items, they need not sit through the meeting, these item would be tabled until the next regularly scheduled Planning Board meeting.

2. NEW BUSINESS

- A. Major Subdivision , Final Subdivision Approval - Libby Brothers, Inc. - Preliminary Approval of a 9-lot residential subdivision with public improvements located near the corner of Shaw Hill Road and Western Avenue in a Rural District and Resource Protection District - (Map 7, Lot 58) - Public Hearing.**

Chairman Deane opened the public hearing

Stevenson Sheppard, PLS of Garster & Sheppard spoke as the representative of the applicant (Libby Brothers Inc, and Jon F. Dawson). Mr. Sheppard stated that at the last meeting they received preliminary approval. He noted that some minor changes have been made to the plat plan (copies of the revised plat plan were handed out to the Planning Board). The first change is Jon F. Dawson's name was inadvertently left off the plat plan. There are a few graphical changes that have been made, added a

location map to the plan, the legend has been boxed, labels to the deer wintering area have been added. Several iron pin are to be set on the limit of the deer wintering area, the line will also be blazed and painted. The drainage easements are all shown, a note has been added to lot 8, that indicates that the owner is not to erect any structure in the drainage easement on this lot. The improvement guarantee in place. Mr. Sheppard stated that they are seeking final approval at this time.

Signed deeds for the road will be part of the condition of approval, along with the open space.

Public hearing was closed by Chairman Deane.

Mr. Osborne explained the packet of material handed out to the Planning Board included the following documents: A letter from the Town Manager indicating the improvement guarantee is complete with an attached budget summary. A letter from the Public Safety Director indicating that the layout of the road is adequate with regard to public safety. Finally, letters from the electric and telephone providers stating that adequate services are available. He noted that Staff has reviewed the draft deeds for the road but those deeds cannot be executed until the land purchase is consummated. Signed deeds for the subdivision's road and easements should be made a condition of final plan approval. The fee in lieu of open space (\$5940.00) needs to be paid prior to the release of the signed Mylar. Staff would recommend approval of the final plan with conditions.

Chairman Deane questioned the note on the plat plan indicating that the deer wintering area states see covenants, but they are not on the plat plan.

Shep Sheppard provided a draft copy of the proposed covenant that addresses the deer wintering yard to distribute to the Planning Board.

Chairman Deane stated that covenants should be a permanent record, recorded with the subdivision plan.

Shep Sheppard stated that they have been working with Maine Department of Inland Fishery and Wildlife to develop covenants for the deer wintering area. (Lots 4 and 5 contain the deer wintering area)

Member Avery had questions on why the corner pins are not being set down near the Souadabscook Stream, on lots 4 & 5.

Shep Sheppard stated that the terrain is such that the pins would not last. The area is wet, and he did not feel that the expense in setting pins in that area, where nothing can be built, was necessary to his client (applicant).

Member Avery stated that the reason for setting those pins is to align the lot line for lot 4 and lot 5, and tie lines.

Mr. Sheppard stated that he would be willing to set the pins in that area, and add tie

lines to the plan, if the Board required it.

Chairman Deane asked Mr. Osborne what the ordinance required with regard to the setting of pins in a subdivision.

Mr. Osborne stated that yes, the ordinance requires that pins be set in each corner of a subdivision lot.

The Board discussed the lot lines and the setting of the pins and establishment of tie lines.

A motion was made by Member Avery to approve the final subdivision with the following conditions; receipt of a signed deed for the road, receipt of \$5,940.00 for cash in lieu of open space, revision of the plat plan indicating the setting of three (3) more pins near the high water line of stream and defining the lot lines of lots 4 and 5 with tie lines between those pins, adoption of the proposed deer wintering area covenants as the final permanent record (recorded at the registry of deeds) with the subdivision plat plan. The motion was second by Member Peer. The Board voted six in favor and one against the motion to approval the final subdivision plan with the noted conditions, Member Caliendo being the Member voting against the motion to approve.

B. Major Subdivision Final Approval - Cushing Family Corp. (2293 Union Street, Hermon, ME 04401) - Second phase of the Colonial Heights Subdivision by dividing 29.6 acres (of 47 acre parcel) into 33 lots located at Constitution Avenue and Independence Avenue in a Residential B District. The proposal would extend road, sewer, water and storm sewer to 33 new house lots (Maps 6, Lott 44) - Public Hearing.

Mr. Osborne noted that the Board had received a written request from Jim Kiser, PE to table this item.

Chairman Deane heard a request to table this item to the next regularly scheduled planning board meeting.

Member Holt made a motion to table this item, and this was second by Member Thomas. Seven voted in favor of tabling the item, and none against the motion to table.

C. Subdivision Sketch Plan - Marston Heirs - Sketch Plan of a 5-lot, 18 acre residential subdivision with no public improvements located on Meadow Road in Rural District - (Map 5, Lot 12)

Jim Kiser, PE of Kiser and Kiser spoke representing Daryl Couillard and the Marston heirs, (applicant). He noted that also present tonight is Dennis Whitcomb who is also working with Daryl Couillard. Mr Kiser stated that they propose a five-lot subdivision with no public improvements, and individual lots would be sized at 3 acres and have 200 feet of road frontage. He noted that a USGS map and soils mapping was submitted with the application. The pipe line crosses the rear of this parcel.

Chairman Deane observed that the lot lines are not perpendicular to the road.

Mr. Kiser stated that they recognize that problem, and once they get a little further into the project the lot lines will be clearly defined and perpendicular to the road.

Member Holt made a motion to classify the subdivision as a major subdivision this motion, the motion was second by Member Thomas. The Board voted seven in favor and none against the motion to classify the subdivision as a major subdivision.

Mr. Kiser stated that there will be test pits so they are verify that the soils are acceptable for septic.

A land abutter had a some concerns as to this proposed subdivision. Michael Gliden, 34 Meadow Road, stated his concerns over the wildlife in this area. The woods are in a very rural area, and he believes this project would promote urban sprawl.

D. Subdivision Sketch Plan - Dysart's Realty, Inc. - Sketch Plan of a 37-lot, 88 acre residential subdivision with public improvements located on Manning Mill Road in Rural District - (Map 8, Lot 45A and 56)

Mr. Osborne noted that the Board had received a written request from Scott Brailey, PE to table this item.

Member Holt made a motion to table this item to the next regularly scheduled planning board meeting, Member Thomas second this motion, seven voted in favor of tabling the item and none against the motion to table.

E. Subdivision Sketch Plan - Onsite Developers, Inc. - Sketch Plan of a 20-lot, 50 acre residential subdivision with public improvements located on the corner of Patterson Road and Western Avenue in Rural District - (Map 8, Lot 33)

Aaron Shaw of J.W. Sewall Company, spoke representing the applicant and noted that also with him tonight is Lou LaChance and Don Pellitier (On-Site Developers).

Mr. Shaw stated that this is a 55 acre parcel. They would like to phase the subdivision, in phase I they are proposing 7 lots that they would like to start out with along the established road frontage on Patterson Road and Western Avenue. In phase II they would complete the road and divide the remaining lots. The wetland areas are mapped and the SCS soils done. Cash in lieu of open space is being offered. The proposed alignment location of the road (in phase II) would be on Western Avenue off-set from Emerson Mill Road 200 feet.

The phasing of this project was discussed with the Mr. Shaw. The plan that the Board had originally received included 20 lots and public improvements. It was noted that if the project is phased that preliminary plan should include the entire project and that final plan could include the separate phases.

Chairman Deane clarified what the applicant was asking for this evening. Which was sketch plan for a 7 lot subdivision, with no roads.

Mr. Osborne explained that the Town would need a warrantee deed for the proposed road not a right of way across private land. The need to establish an acceptable location on Western Avenue (Route 9) with the Maine Department of Transportation was also emphasized particularly if the lots on Western Avenue are sold as part of phase I.

Mr. Shaw stated that the plan submitted to the Board shows a 20 lot subdivision, although the owners plans to sell 2 of the lots (lots 1 and 2) to re-coup some of the costs, in the first phase. It was their understanding that 2 lots could be sold without subdivision approval.

Chairman Deane advised Mr. Shaw that maybe they should come back in front of the Board with the hold part of the first phase, so there would be less problems in the future.

Member Holt asked Mr. Shaw if they would like to revisit the plan.

Mr. Osborne pointed out that the lot lines needs to be perpendicular to the road, and the snow mobile trail was discussed, along with open space.

Driveways, wetland and test pits for septic was also discussed with the applicant.

The phasing aspect was discussed as well and a complete picture of the project. Member Holt moved that the subdivision be classified as a major subdivision, this motion was second by Member Peer. Seven Members voted in favor and none against this motion to classify the subdivision as a major subdivision.

F. Pre-application of Site Plan/Conditional Use - Roxanne and Leslie Ellsworth - Dog and Cat Kennel - 1381 Kennebec Road in Rural District (Map 1, Lot 17A)

Mr. Osborne explained the pre-application. This is located on a discontinued road, the lot does not have road frontage on a town approved road. How does the board look at a lot with no frontage on a town road, with regard to conditional use standard 4.2.3.1. which states that "The proposed use is designed and sited so as to comply with all provisions of this Ordinance..."?

The existing lot is a legally constituted non-conforming lot of record that was created before the road was discontinued and currently contains a single family dwelling.

Roxanne Ellsworth spoke regarding her application to have a dog and cat kennel at 1381 Kennebec Road. She noted that her residence is actually on a private drive and she provided the Board with a copy of the easement across Ruby Grace's land. She does not have any road frontage on a town way. Her lot was a grandfathered lot of record, therefore a single family dwelling was permitted on this parcel.

The Planning Board had questions as to her lot not having road frontage on a town way, if in fact she could have a conditional use in the form of a dog and cat kennel. Would it be permissible.

The Town Planner was asked by the Planning Board to seek the Town Attorney, Tom Russell's legal opinion on this question.

Alicia Grace 1367 Kennebec Road, lives in front of the Ellsworth's. She and her husband Terry Grace, spoke together at the podium on behalf of Ruby Grace. Ruby Grace's property is located on both sides of (discontinued) road, and Mrs. Grace owns the right of way that Ms. Ellsworth alluded to owning. Alicia Grace asked if there is anything they could do to insure that Ms. Ellsworth's puts something on the road to control the dust (produced by added traffic)?

Chairman Deane stated that there could be all kinds of conditions that the Planning Board could ask for.

Terry Grace spoke for his mother (Ruby Grace) he asked; would his mother have to permit the travel for the business?

Chairman Deane indicated that the easement is for traffic it does not seem to limit the kind of traffic. However, that question can be posed to the Town's attorney when Mr. Osborne is speaking with him.

The right of way is maintained by a Fred Merchant's family who live on the right of way. He pays for all the sanding to be done as well. In the winter time it is a very bad road, adding business traffic without upgrading the right of way does not seem sensible.

Chairman Deane stated that this item will be referred to the Town's Attorney.

3. STAFF REPORT

Mr. Osborne stated that at the last Town Council meeting they referred to the Planning Board, a couple of zoning ordinance amendments. A meeting of the Ordinance Committee was set for September 24, 2003 at 6 p.m. for review and discussion of these Zoning text amendment items. The members of the Ordinance Committee, were named: Chairman Caliendo, Member Thomas and Member Avery.

Mr. Osborne also noted that the Mayor Briggs has appointed a committee to review open space.

The committee includes: Chairman of the Planning Board Beric Deane, Town Planner Bob Osborne, Recreation Director Kurt Mathies, Chairman of the Recreation Committee, Chairman of the Conservation Committee, Councilor Brann and Mayor Briggs. The Town Planner asked for some available dates to set a meeting of this committee.

Mr. Osborne also spoke about the need to review the open space issue. He noted that the subdivision ordinance requirement for open space is driven by land area although

the actual need for recreation land is driven by dwelling units. The current open space regulation is punitive for large lots regardless of the number of dwelling units. Land suitable for active organized recreation has requirements similar to quality development parcels, street frontage and generally level well drained land areas. Other important open spaces are not necessarily favorable for active organized recreation. The fee in lieu of open space needs to be reviewed. The open space was discussed by the Board Members.

4. BOARD MEMBERS CONCERNS

Member Holt asked Bob Osborne about the current stage of rewriting of the land use ordinances. Mr. Osborne indicated that much good work has been accomplished with the many amendments that have been made to the Zoning and Subdivision Ordinances in the last couple of years but that the actual re-working of the zoning districts has yet to be accomplished.

Member Peer reported on the Economic Development Committee, stating that there are about 10 businesses who have shown interest in the business park. Some of the companies interested want parcels in the second phase of the park. They are looking into development of phase II of the park, if purchase agreements could be put in place, to proceed with phase II.

5. ADJOURNMENT

The Planning Board meeting adjourned at 9:20 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:15 p.m. on Wednesday, August 13, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members Chairman Beric Deane, Steve Dubay, Mike Avery, Mort Syversen.

Also in attendance: Town Planner Robert Osborne, Recording Secretary Rosemary Bezanson and Applicants.

1. APPROVAL OF MINUTES - July 9, 2003.

The minutes were accepted unanimously.

2. NEW BUSINESS

A. Major Subdivision , Preliminary Plan - Libby Brothers, Inc. - Preliminary Approval of a 9-lot residential subdivision with public improvements located near the corner of Shaw Hill Road and Western Avenue in a Rural District and Resource Protection District - (Map 7, Lot 58) - Public Hearing.

The Planning Board Members had a site visit to the proposed subdivision, prior to tonight's meeting.

Chairman Deane opened the public hearing and asked for comments from proponents of the project.

Stevenson Sheppard, of Sheppard & Garster Land Surveyors spoke representing the applicants, Libby Brothers. Mr. Sheppard stated that there are 9 lots proposed. They are seeking preliminary approval of the subdivision.

No one had questions for the Representative of the applicant.

As no one else wished to speak Chairman Deane closed the public hearing and asked for staff comments.

Town Planner Bob Osborne stated that the wetlands have been mapped and lots are configured with at least two acres of upland area. The test pits have been mapped and septic designs have been done. The town's engineering firm, J.W. Sewall Corp. reviewed the plans and have made favorable comments on it's acceptance. The storm water plan calls for sheet flow only and will not require detention ponds. Mr. Osborne indicated that the proposed plan did a good job of meeting minimum upland requirement

per lot and minimizing wetland impacts of the road location. He indicated that the preliminary plan was complete and ready for Board approval.

Member Dubay made a motion to approve preliminary subdivision plan, and this motion was second by Member Avery. The Board voted four in favor and none against the motion to grant Major Subdivision , Preliminary Plan approval to Libby Brothers, Inc. for a 9-lot residential subdivision with public improvements located near the corner of Shaw Hill Road and Western Avenue in a Rural District and Resource Protection District - (Map 7, Lot 58) .

B. Major Subdivision, Final Plan Approval- Stan MacMillan Company, Inc., - Final Approval of a 5-lot, 17.8 Acre Residential Subdivision with Public Improvements located at Main Road South and Perkins Drive in a Rural and Resource Protection Districts (Map 3, lot 58B, 60A & 62A) - Public Hearing.

Chairman Deane opened the public hearing and asked for comments.

Vinyl Applebee of Ames Corporation spoke representing the applicant. Mr. Applebee reviewed the comments the Planning Board made at the last meeting.

Mr. Applebee stated that the second water hydrant was added, making a total of (2) two fire hydrants. Also evidence that the road was built to town standards and specifications was submitted and accepted. The grading plan was submitted, and he noted it stays outside of the resource protection area .

Mr. Applebee noted that they withdrew their request for a waiver for the plan and profile at the 40 scale profile and now were providing it to the Board. He did however request a waiver from the requirement for cross sections of the road way at each station (fifty foot intervals). He indicated that the requirement in this case would produce pages of cross sections that are essentially identical and thus redundant. The are providing two typical cross sections instead. He also noted that they had previously received a waiver for (no net increase in runoff) having no detention ponds, catch basins or curbs.

Letters have been received from the Hampden Water District, and one from the Town Manager regarding the escrow account established between the Town and Stan MacMillan for the full cost of the public improvements. Joe Rogers the Public Safety Director submitted a letter stating the department's acceptance of the hydrants numbers, size, and location. A letter from Denise Hodsdon, the Town Clerk on the deed for the road and easements being accepted by the Town Council.

Mr. Giles who lives at Main Road South, across from the proposed subdivision had questions of the drainage, and concerns about traffic turning into the subdivision and coming out of the subdivision at peak traffic times. Mr. Giles also expressed concerns over the materials that have been stored on site for a number of years (in the gravel pit) having contaminated the area.

Mr. Applebee answered Mr. Giles questions on the drainage issues (none of the

proposed subdivision drains toward Route 1-A), and addressed the traffic questions (no changes are proposed for Route 1-A).

Chairman Deane stated that during the Board's site visit the debris looked to be just odds and ends of construction materials stored there. It had been agreed at a prior Planning Board meeting that this material would be cleaned up before marketing the lots.

As no one else wished to speak Chairman Deane closed the public hearing and asked for staff comments.

Mr. Osborne explained the hand outs to the Board Members, (attached to minutes) including: A letter from the Town Manager stating her satisfaction with the escrow account for River View Heights subdivision. A letter from the Public Safety Director, accepting the size and location of the hydrants for the subdivision. And a letter from the Town Clerk stating the acceptance of the deed for the road and easements from the Town Council.

He noted that a waiver had been granted for the detention pond and that in the case of the waiver for the cross section at each station he did not personally feel that the additional cross sections would provide much additional information for this particular street because the grades are relatively simple and that much of this information was available from the grading plan. As the overall development did not include curbs, storm drains, sidewalks the added details from the cross sections were not as necessary. However he advised the Board that they should listen to the merits of Mr. Applebee's case and determine if the conditions of this subdivision warrant the waiver.

Member Avery inquired if a traffic study was done or necessary, and discussed his concerns over the request for a waiver of the cross sections indicating that it could set a precedent for other developments.

Mr. Applebee indicated that the overall traffic impact of the subdivision in a peak hour should only be around one auto per house lot based on the ITE manual.

Mr. Osborne stated that a traffic study was not necessary, due to the low volume of traffic the subdivision would generate. The road location of existing Perkins Drive had already been established, and that location should not be revisited now. The site actually has good site distances.

Member Dubay made a motion on granting the waiver of the cross sections, this was second by Member Avery, the voted was none in favor and four against the motion. This motion did not pass.

Member Dubay made a motion to deny the waiver request on the cross sections, this was second by Member Avery, the voted was 4 in favor and none against the denial of the waiver.

The waiver for the cross sections based on special circumstances, along with the

acceptance of the cash in lieu of open space, and the clean up of the construction materials, was discussed.

Member Syversen indicated that he could support the waiver for the cross sections. Although the additional sections could have been provided the simple road design and the topography of this particular site simply do not merit the additional work. No additional useful engineering data would result nor would the Board learn more about the site based on the remaining cross sections.

Member Syversen made a motion to grant the waiver of the cross sections, Member Avery second the motion. The motion was voted 4 in favor and none against.

Member Avery made a motion to approve the final subdivision plan with the condition that no plot plan be release until the cash in lieu of open space is received in the amount of \$3580.00, and this motion was second by Member Dubai. The Board voted four in favor and none against the motion to grant Major Subdivision, Final Plan Approval to Stan MacMillan Company, Inc. for a 5-lot, 17.8 Acre Residential Subdivision with Public Improvements located at Main Road South and Perkins Drive in a Rural and Resource Protection Districts (Map 3, lot 58B, 60A & 62A) with the condition that \$3,580 be received for cash-in-lieu prior to the release of the signed mylar plat plan.

3. STAFF REPORT

4. BOARD MEMBERS CONCERNS

5. ADJOURNMENT

The Planning Board meeting adjourned at 8:20 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, July 9, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members Chairman Beric Deane, David Caliendo, Richard Peer, Steve Holt, Steve Dubay, Mike Avery, Mort Syversen.

Also in attendance: Town Planner Robert Osborne, Recording Secretary Rosemary Bezanson and Applicants.

1. APPROVAL OF MINUTES - May 14, 2003, and June 4, 2003.

The minutes were amended to reflection the correction of Mr. Paul Jacques name in the May 14, 2003 minutes, where it showed Mr. Paul Stevenson. The amended minutes were accepted unanimously.

2. OLD BUSINESS

A. Minor Subdivision Plan Approval - Sam Rogers - approval of a 3-Lot, 39.14 Acre Residential Subdivision with no Public Improvements located at 1022 Kennebec Road in a Rural District (Map 1, Lots 58, 58A and 58B) - Public Hearing.

Chairman Deane opened the public hearing.

This item was continued from the June 4, 2003 meeting.

Jean Jenkins of ERA Dawson Bradford spoke as a representative of the application. Ms. Jenkins apologized for having missed the June 4, 2003 Planning Board meeting, due to a mix-up of the date.

Jean Jenkins stated that the owner of this parcel of land sold off two parcels at separate time, leaving what the Town's records showed as a 42 acre parcel. After it was marketed, a survey showed that the parcel was 34.5 acre lot. A subdivision was created, unknowingly, and without Town approval. This will be a single family home, with 34.5 acres in a 3 lot subdivision. There are no public improvements, and cash in lieu of open space is being offered.

Seth Brooker of 998 Kennebec Road asked for clarification on the subdivision lots.

It was explained to Mr. Brooker the remaining 34.5 acres will be a single lot on which a single family home will be constructed with a drilled well and septic on site. This lot, being the third lot created in a five year period requires subdivision approval in accordance with the town's subdivision ordinance.

Chairman Deane asked to hear from the Town Planner, Bob Osborne.

Mr. Osborne stated that this is a 3 lot subdivision totaling 39.14 acres and the undeveloped lot of 34.5 acres has the requisite two acres of upland area. The application meets all ordinance and submittal requirements and staff would recommend approval. There is the matter of open space, as Mr. Rogers has elected to utilize cash in lieu of open space, (which is \$200.00 an acre) which comes to \$7,828.00.

The signed plat plans would not be released until the Town has received the cash in lieu of open space in the amount of \$7,828.00.

Member Peer stated he was not present at the last Planning Board meeting, so he excused himself from voting on this item.

This left six members to vote on this item.

A Motion was made by Member Caliendo that this application meets subdivision approval, with the condition of the receipt of cash in lieu of the open space. Member Dubai second the motion. The motion was voted six in favor and none against the motion to approve Sam Roger's application for a 39.14 acre, three -lot, minor subdivision located at 1022 Kennebec Road in a Rural District with the condition that the town receive \$7,828.00 in lieu of an open space dedication prior to the release of the signed plat plan.

3. NEW BUSINESS

- A. Major Subdivision Preliminary Plan Approval - Cushing Family Corp. (2293 Union Street, Hermon, ME 04401) - Second phase of the Colonial Heights Subdivision by dividing 29.6 acres (of a 47 acres parcel) into 33 lots located at Constitution Avenue and Independence Avenue in a Residential B District (Tax Map 6, Lot 44). The proposal would extend road, sewer, water and storm sewer to 33 new house lots - Public Hearing.**

The public hearing was opened by Chairman Deane.

Jim Kiser, of Kiser and Kiser, representing the applicant, spoke in favor of the application. Mr. Kiser referred to a colorized subdivision plan that he displayed for the Planning Board and members of the audience of the proposed subdivision. Our proposal is to subdivide 29.6 acres of a 47 acre for 33 house lots. The overall parcel was increased by 2.5 acres (after sketch phase) because the Town exchanged land for a right-of-way (off the end of Constitution Avenue) into Town property that abuts this land. He proposed an open space dedication of 2.5 acres located across Reeds Brook from the proposed subdivision. The proposed lots range in size from 22,000 square feet to 70,000 square feet. Extending the road ways, the temporary cul-de-sacs at the ends of Constitution Avenue and Independence Avenue will be removed and a full loop will be created from Constitution Avenue to Independence Avenue. This will be done

by creating a connector road which will be called Liberty Avenue. The storm drainage plans will use catch basins and subsurface storm sewers like in the storm drainage found in the first phase of the subdivision. One new detention pond is being proposed for this subdivision (located at the easterly end of the development. Overhead electrical, cable and telephone lines are also being proposed. Public water and town sewer would be extended to service the new proposed lots. The water mains will be 12" main on Constitution Avenue, and 8" main on Liberty and Independence Avenue. There were two proposed fire hydrants. The Fire Department has stated that they would like to see one more fire hydrant and that additional hydrant will be added to the plan. The project does have mapped wetlands and construction of the public improvements will alter less than 15,000 square feet, which is a Tier One wetland application with the DEP. The project is below the 30 acres, so a Site Law permit with DEP will not be required.

Cindy and Scott Alexander, 20 Constitution Avenue, stated their concerns over the wetness of their lot and how development of neighboring house lots would aggravate their stormwater issues. Mrs. Alexander stated that there is an existing pond next to their property, and trucks have been dumping fill, causing a water silt, making it closer to their lot line. She stated that this is a very wet area. Mrs. Alexander questioned what is going to happen when the lot next to their's is developed? Wouldn't the water run off going into their back yard be trapped and pond there making their lot more wet? The elevation of the lot next to their's will be higher causing the water to flow onto their property. Mrs. Alexander stated that due to the elevations of the land around them, developing the lot next to their's would create a moat around their property, therefore creating a pond in their back yard. They stated their displeasure in this occurring. Mrs. Alexander stated that she does not believe the storm drains are deep enough in that area to carry off this water. Mrs. Alexander stated that upon purchasing their property, she had looked at the subdivision plan, there was a pie shaped wedge next to their property that looked like a undeveloped piece of land that would remain so.

Chairman Deane closed the Public Hearing and asked for staff comments.

Mr. Osborne stated that there have been some changes since sketch plan back in January. The Planning Board had determined at that time the extension of Constitution and Independence would be collectors not minor roads. What is being proposed here is a collector for Constitution and minor for Liberty. There was discussion as to the trails that are currently in use, and where they would be moved to. The preliminary plan does show the proposed relocation of those trails. There was a land deal made with the Town in order to gain access to Town owned land by Reed's Brook. One more fire hydrant (as mentioned by Mr. Kiser) is needed. There are design details on Liberty where it splits into a boulevard for about 150 feet. This violates three separate street standards that the Town's ordinance set out. Minimum radius on curb, separation between curb openings, angle of intersection between streets. Staff recommendation is to find a different approach, by realigning of streets, and re-working of the lots. Some initial measurements have convinced me that the same number of lots are feasible utilizing a conventional street design.

Jim Kiser addressed Mr. & Mrs. Alexander's concerns. Mr. Kiser discussed the

drainage of the parcel near the Alexander residence. He stated he would take a look at the standing water in question. He also discussed the catch basin/storm drains and how these might alleviate some of the water run-off. He stated that they would try to eliminate as much of the water as possible.

Mr. Alexander stated they have no control over the development of the lot abutting their property and the elevations of the proposed house being built.

Mr. Kiser stated he would walk the property with the Alexanders to try to work with them to resolve the problem.

Member Peer asked on the portion of Constitution Avenue that leads to Town property, does it have to be a Town road in order to have frontage. If so, is it required to have a cul-de-sac?

Mr. Osborne stated that lot 46 does not have enough frontage to satisfy the zoning ordinance.

Mr. Kiser explained as far as frontage, this lot would be on the town's right of way. The pavement could be extended to include the lot frontage.

The Council wanted the right of way to be a full 66 feet. The loop does not comply to Town standards at all.

Member Peer stated that he feels that the intersection of Independence and Liberty is a dangerous intersection, with no need to have a corner. He feels it is a confusing traffic pattern. Also the lot line between 41 and 42 does not meet the standard of being perpendicular to the road. (Radial from the center line curb) Lot 65 being wet is also a concern.

Mr. Kiser stated that lot 65 has not been mapped as wetlands, it was an area that has some concerns. He feels that the wetness is man made.

Member Peer wanted to know if the residents will have problems with wet basements?

Mr. Kiser stated that there will be proper drainage to handle this problem.

Mr. Osborne stated that there should be a cul-de sac at the end of the Town road. That is what the subdivision ordinance standards authorizes.

Road Frontage is on a Town approved road and not a right of way.

Andre Cushing stated he has been in contact with Bob Stubbs, in regards to the snowmobile trail. They walked the property and discussed their intention with Mr. Stubbs. The intention is to re-route the trails, to everyone satisfaction.

A motion was made by Member Peer that the roads be classed as collector roads. This motion died due to lack of a second.

A motion was made by Member Caliendo that Independence and Constitution Avenue be classed as collector roads and Liberty Avenue be classed as a minor road. This motion was second by Member Dubay. Member Peer voted no, Member Holt voted no and Chairman Deane voted no to this motion the motion passed with a vote of 4 in favor with 3 against.

The turning radius was discussed on the intersection of Liberty and Independence.

Another stop sign at the intersection of Liberty and Independence was discussed.

A stop sign has been proposed for the intersection of Liberty and Constitution Avenue.

The Board will also be looking for something more on the drainage.

Mr. Osborne stated that the open space needs to be accepted by the Council prior to final plan.

Chairman Deane reviewed the issues that had been raised during the review of preliminary plan.

- 1) Lot 46, as proposed, has inadequate frontage.
- 2) Setting or re-adjustment of side lot lines to be perpendicular to the street line.
- 3) Redesign Liberty Avenue around lot 40 to meet the Town's road standards.
- 4) Redesign Constitution Avenue extension by placing a cul-de-sec at its end and extending the paved area to create frontage on lot 46.
- 5) Installation of stop signs on both ends of Liberty.
- 6) Council acceptance of road deeds and proposed open space dedication.

A motion was made by Member Caliendo approve the application for preliminary subdivision plan with the conditions the noted conditions including that the Town Council accepts the open space, the lot line are realigned and the frontage for lot 46 is sufficient to meet the zoning ordinance, installation of stop signs. This motion was second by Member Avery. The vote was seven in favor and none against the motion.

B. Minor Subdivision Approval / Site Plan / Group Development Approval - Jon Fearon (99 Ohio Street Apartment C, Bangor, ME 04401) - Applicant proposes to construct the second residential duplex on the parcel within a five year period - located at 325 Old County Road in a Residential B District (tax Map 20, lot 35B) - Public Hearing.

Chairman Deane opened the public hearing and asked for comments.

Jim Kiser of Kiser and Kiser, was present representing the applicant. Mr. Fearon was also present at the meeting.

Mr. Kiser stated that this site plan/subdivision application was for a second duplex proposed for the 2.5 acre lot. It would be a single building with 2 units, one of the units would be occupied by the owner Jon Fearon.

Carolyn Dixon, an abutting property owner, had a question on the easement extending from the subject parcel to the Main Road, and how it would impact their property.

It was explained to Mrs. Dixon that Mr. Fearon's existing and proposed access is from Old County Road and that no use of the Main Road easement is proposed.

Chairman Deane closed the public hearing and asked for staff comments.

Mr. Osborne stated that the construction of four units in less than five years, requires minor subdivision approval with no improvements. There are two buildings, a duplex that is already there, this would be the second residential duplex. The dimensional requirements of the Residential B district are met including yards. The plan proposes open space dedication of a common area of the site development and that it remain in the control of the developer.

Member Peer asked if this is being developed under group development.

Mr. Osborne stated that yes this is being developed under Group Development standards. These standards govern the placement of multiple principle use buildings on the property and allows for rearrangement of lotting standards.

The Board noted that the land is single ownership, and the subdivision is being created by ordinance not by dividing the land. The right of way is a recorded deeded easement. There is a book and page reference with this easement.

The Board found that parking is adequate with garages for each unit and driveway parking.

Mr. Osborne stated that the abutter to the north, Mrs. Dunroe stated her support for this project.

Member Peer moved that this subdivision be classed as a minor subdivision. This

motion was second by Member Caliendo. The voted was unanimous.

A motion was made by Member Holt that this application meets minor subdivision approval, with the condition that the final Mylar will be prepared with the appropriate references to abutting property owners and deed references. This motion was second by Member Peer. The Board voted seven in favor and none against the motion to grant minor subdivision plan approval for a one-lot, four-unit subdivision located at 325 Old County Road in a Residential B District, with the condition that the abutting property owners and appropriate deed references are added to the plat plan, .

Member Holt made a motion that the application meets Site Plan approval and that it satisfies the Group Development standards. Member Peer second the motion. The motion was voted seven in favor and none against the motion to approve a site plan for the construction of a duplex residential structure located at 325 Old County Road in a Residential B District.

Chairman Deane asked to excuse himself from the remainder of the meeting. Member Holt took responsibility as chairman of the Board for the remainder of the Planning Board meeting. The Board took a brief recess.

C. Site Plan Approval - D.L. Fox Properties, LP/Town of Hampden - Construction of a 12,000 sq. ft. Business Park distribution facility located on Tax Map 10B, lot 16 of the Hampden Business and Commerce Park on Carey Circle in an Industrial Park District - Public Hearing.

The public hearing was opened by Acting Chairman Holt.

Mr. Osborne provided the Board with a revised application and a revised set of plan sheets for the item.

Fred Marshall of Plymouth Engineering spoke in favor of the application. Mr. Marshall stated that D. L. Fox Properties owner U.S. Blades makes industrial knives and saws for mills and factories. The proposed building would be 28 feet in height. With 2 loading bays and parking on the side of the building. The proposed 11,000 square foot building would be located on lot 16 on the Hampden Business Park. The lot is just over 2 acres. The building 100 x 110. The plan was altered from the original proposal by placing all of the proposed parking to the side of the building (some of the parking was originally proposed in front of the building). He noted that the proposed plan conformed to the drainage plan for the approved subdivision.

Susan Lessard, the Town Manager also spoke in favor of the application. She noted that the Town of Hampden had joined in the application primarily because the sale of the lot was set for next week and that the Council could not act on the purchase and sale agreement until Monday next. Additionally, the Town recognized that the site plan proposes grading on to Town open spaces and street. The Town would subsequent to the sale of the lot grant the developer grading easements. Ms. Lessard stated that this was of first lot to be sold in the Hampden Business Park, and everyone is very excited

about this sale. Ms. Lessard stated that this is an excellent local company, and looks forward to the approval of this application. Chairman Holt closed the Public Hearing and asked for staff comments.

Mr. Osborne stated that this application is for lot 16 in the Hampden Business and Commerce Park. He noted that the subdivision is a master planned subdivision and as such has specific regulations where improvements could be placed on each lot and how stormwater was to be managed on each lot. He noted that the appearance of the proposed building was primarily regulated in the subdivision covenants and that is not part of the Board Review. Mr. Osborne explained that in this location most of the the storm water was planned to drain to the rear of the site toward an open space drainage swale. Storm water and traffic were pre-approved at the subdivision approval process. Mr. Osborne stated that the application meets all submittal requirements including dimensional standards and parking, loading and screening. Staff would recommend approval of this application.

The Board discussed that the master plan of this subdivision has already been approved and that it dictated the general layout of the site development, drainage and traffic considerations. This site plan that needs approval process must conform to the business park master plan as previously approved.

Member Avery asked if grading is on Town property, will they give a grading easement? Mr. Osborne and Ms. Lessard indicated that the Town would grant an easement but that currently the Town had joined the application for this reason.

Acting Chairman Holt went over the standards governing site plan, section 4.1.7.1. The standards were read 1 through 13. The Board did not raise any concerns regarding the standards.

Member Peer made a motion that the application meets site plan approval. This motion was second by Member Syversen. The Board voted six in favor and none against a motion to approve D. L. Fox application site plan approval of a 11,000 sq. ft. business park use, warehouse and distribution facility located on Carey Circle in an Industrial Park District.

1. STAFF REPORT

Mr. Osborne noted that the Council had approved the Zoning Ordinance, Planned Group Development standards and the revised definition of lot at their July 7, 2003 meeting.

2. BOARD MEMBERS CONCERNS

Due to Member Childs moving out of the area and is no longer on the Board, it was discussed which one of the alternate's would be interested in being appointed a full Member. Mr. Osborne noted that the Council Appointments Committee has an applicant for the Planning Board at this time. It would be up to the Council to decide who would be appointed as alternates and full board members.

Ben Johnson the Code Enforcement Officer was introduced to the Planning Board. Mr. Johnson was welcomed by the Board members.

3. ADJOURNMENT

The Planning Board meeting adjourned at 9:20 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, June 4, 2003, at the Hampden Municipal Building by Chairman Beric Deane.

Attendance: Planning Board Members Chairman Beric Deane, David Caliendo, Steve Dubay, Mike Avery, Mort Syversen.

Also in attendance: Town Planner Robert Osborne, Recording secretary Rosemary Bezanson and Applicants.

1. APPROVAL OF MINUTES - No minutes were available

2. OLD BUSINESS

- A. Conditional Use/Site Plan Approval - Roland Hussey - Establish a Commercial School in the existing commercial building located at 621 Main Road in a Commercial Service District (Map 28, Lot 22) - continued.**

There were no persons present to speak for this application. A Motion was made by Member Caliendo to table this item, this was second by Member Syversen. The motion was voted 5 in favor and none against to table this application. Chairman Deane tabled this item indefinitely.

3. NEW BUSINESS

- A. Minor Subdivision Plan Approval - Sam Rogers - approval of a 3-Lot, 39.14 Acre Residential Subdivision with no Public Improvements located at 1022 Kennebec Road in a Rural District (Map 1, Lots 58, 58A and 58B) - Public Hearing.**

This item was table due to a representative not being available at tonight's meeting. A motion was made by Member Caliendo to table this application until the July Planning Board meeting. This motion was second by Member Syversen. The motion was voted 5 in favor and none against. There were interested land abutters present at this meeting.

Member Caliendo withdrew his motion to table this item, and Member Syversen withdrew his second.

Member Caliendo made a motion to continue this application to the next Planning Board Meeting in July. This motion was seconded by Member Syversen. The motion was voted 5 in favor and none against.

There were land abutters in the audience. They were concerns as to what is proposed. Mr. Osborne explained what the applicant is proposing to do with the property. He explained that this subdivision simply approved the lots for the two existing residences and one additional lot on which Mr. Rogers wished to construct a residence.

B. Major Subdivision, Preliminary Plan Approval - Stan MacMillan - Preliminary Approval of a 5-lot, 17.8 acre Residential Subdivision with Public Improvements located at Main Road South and Perkins Drive in Rural and Resource Protection Districts (Map 3, Lots 58B, 60A & 62A) - Public Hearing

Vinyl Applebee represented the applicant, Stan MacMillan. Patricia Quirk was also present and identified herself as a partner of Stan MacMillan in development of this subdivision. Mr. Applebee stated that they have implemented some of the suggestions from the Planning Board's last meeting. They eliminated a lot from the subdivision which freed up land to be divided among the other parcels. Therefore making more upland area in the rural zone.

Additional changes include elimination of the existing cul-de-sac to provide a curved access to the new roadway, which they are now proposing. The two north lots will not change.

They requested a waiver on the storm drainage requirement that no net increase in runoff be created by the project. They designed a small detention pond but the stormwater calculations indicate that it is unnecessary because the site is located at the bottom of the watershed and the limited new stormwater increment goes directly into the Penobscot River. The drainage will be open ditches.

Public water supply feeding off of a new 8" line will service the subdivision lots. The existing water hydrant has been relocated to the mid point. There will be on-site septic.

The existing road's depth of the gravel and pavement was discussed in the context of determination if the Town Council could accept the road. Mr Applebee indicated that they would provide a core sample from the existing street will be made available if need be, but feels that Mr. Nash the Public Works Director is welcome to view a test pit at a later date, so that the Town may accept the road as a Town approved road.

Mr. Applebee noted that the plan indicates on Lot 4 both the existing metal building, and the site plan show a proposed home. This will only be a lot for sale when the metal building is removed and then this lot could be offered for sale.

The Planning Board had a site visit earlier this evening. Some clean up is necessary before these lots will be offered for sale. A lot of construction materials are located on this property. Grading will also be required and done to standards of the Town Ordinance.

John Pollard of Main Road South had a general question as to the whether the developer plans on putting homes on these lots or selling the lots as is?

Mr. Applebee stated that homes will be built on the lots and sold to potential buyers.

Mr. Pollard asked if there would be subdivision covenants.

Tricia Quirk responded to this query from Mr. Pollard, stating that there would be subdivision covenants including minimum building square footage requirements, and identical to Greenly Farms covenants. Ms. Quirk also suggested that if interested he may wish to drive around the Greenly Farms subdivision, which is the other subdivision in Town that they have developed to see how those covenants work in practice.

Mr. Applebee read some of the proposed covenants, just skimming, but will be made available to any and all interested persons and land abutters.

The exclusion of a lot was discussed with John Pollard. It was a lot that was previously approved subdivision, they will stay as they are on the previous plan, and will be made available for sale. There will be no change to this lot, therefore it was excluded from this subdivision plan.

Lot 58A, and 58 are reversed on the original plan, and will be revised showing the right numbering of these lots.

Mr. Osborne the Town Planner spoke as to this proposed subdivision. He stated that the plan appears to meet the standards governing subdivision. Mr. Osborne stated that the waiver for the no net increase in stormwater runoff requirement to delete the detention pond would be a reasonable request. Staff would recommend approval. The clutter on site was also mentioned.

Mr. Osborne stated that Public Works Director, Greg Nash indicated that he wants the existing cul-de-sac eliminated. Mr. Nash indicated that the drainage ditch should follow the curb of the new road alignment rather than go around the old cul-de-sac.

Mr. Applebee had a drainage plan on the drainage ditches, which he made available to the Planning Board.

The drainage was discussed with the applicant. The drainage ditch will follow the road right of way.

The Board discussed their desire that an overall grading plan be developed because of the extensive disruption of the existing grades. Mr. Applebee indicated that he had not developed such a plan but that they could perhaps develop a plan, maybe grading the front yards of the lots, but not in the resource protection area. A grading plan will be available if need be, but has not been submitted at this point. The Town Planner indicated that If grading is proposed in the resource protection area it will need to come in front of the Planning Board for approval because he noted that this should be reviewed concurrently with the final subdivision plan.

The gravel pit is not a working pit and looks to be used only for storage of construction materials.

Chairman Deane stated that by final subdivision plan the Board would want to see the grading and landscaping of the lots.

The new cul-de-sac will have a center island landscaped with grass and plantings. The radius between the roadway and the outer edge of the cul-de-sac has been increase to take care of school buses, and snow plows.

A motion was made by Member Caliendo to grant the waiver for the detention pond. This motion was seconded by Member Avery. The reason for granting this waiver are given as special circumstances, the locate of the detention pond would be redundant for draining the water into the Penobscot River due to the topography of the area. The Board voted unanimously in favor of the motion to waive the detention pond.

Chairman Deane stated that the requirements the Board would be looking for would be a grading plan, evidence that the roadway is constructed to Town standards. The fee in lieu of open space would be required as part of final subdivision plan. The land, roadway and drainage easements would also need to be deeded to the Town. The Council must accept deeds before Planning Board final plan approval of the subdivision can proceed.

The clean up of the construction materials stored on this property was discussed with the applicant and the Board.

Layne Dixon who lives next door to the proposed subdivision property, they do have concerns as to the materials that are stored on this property.

Member Syversen made a motion that this application meets the standards for preliminary plan approval. This motion was second by Member Dubay. The vote was 5 in favor and non against the motion.

4. STAFF REPORT

Mr. Osborne noted that the zoning ordinance map and text amendments were making their way through the process. The Town Council approved the Shaw Hill Road map amendment and the dimensional variance text amendment on Monday. They sent the group development amendment back to Council Ordinance Committee to review the changes to the text that the Board had offered.

5. BOARD MEMBERS CONCERNS

No member concerns were noted. The Board discussed the fact that Art Childs had sold his home and was no longer on the Planning Board.

6. ADJOURNMENT

The Planning Board meeting adjourned at 9:30 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, May 14, 2003, at the Hampden Municipal Building by Acting Chairman Richard Peer.

Attendance: Planning Board Members Richard Peer, Acting Chairman, David Caliendo, Art Childs, Steve Dubay, Dawn Thomas, Mike Avery, Steve Holt.

Also in attendance: Town Planner Robert Osborne, Recording secretary Rosemary Bezanson and Applicants. Chairman Deane and Mort Syverson were excused from the May 14, 2003 meeting.

1. APPROVAL OF MINUTES - April 9, 2003

Minutes were approved as written on a motion by Member Childs and second by Member Caliendo.

2. OLD BUSINESS

A. Zoning Ordinance Map Amendment - Town of Hampden - Change the zoning of portions of several parcels from Resource Protection District to Rural District. The parcels are located near the corner of Shaw Hill Road and Fowler Road - Public Hearing.

The Public Hearing was opened by the Acting Chairman Peer. There were no comments from the public and no one wished to speak. Mr. Peer closed the Public Hearing and asked for staff comments from the Town Planner.

Mr. Osborne gave a brief summary of the map amendment. The location of the proposed amendment is just south of the corner of Shaw Hill Road and Fowler Road. He characterized it as a housekeeping item, where the Resource Protection District zone line generally would be located about 100 feet from large open wetlands on the zoning map, but in this area it is depicted as extending 800 feet from the stream (above Patten Pond). Upon review of infrared photography depicting wetlands, flood mapping, and USGS mapping staff determined that the wetlands are the defining resource and the zone line should be depicted as extending 100 feet from the open wetland.

Member Holt stated that the Comprehensive Committee met at 6:00 pm before the Planning Board meeting, and unanimously recommended the proposed map amendment finding that the proposal met the intent of the Comprehensive Plan as well as the Resource Protection District. They felt that the proposed map amendment is a correction of an existing zoning boundary line.

Member Holt made a motion that this zoning amendment be returned to the Town Council with an "Ought to Pass" recommendation, with language stating that the resource protection area extend 100 feet from the high water mark of the standing water. This motion was seconded by Member Dubay, and the Board voted 7 in favor and none against the motion. Alternate Board Member Mort Syversen participated in voting on this item.

B. Zoning Ordinance Text Amendment - Town of Hampden - Article 6.2.2 Variance Appeals to better conform to the state statute regulating variances - Public Hearing.

The Public Hearing was opened by Acting Chairman Peer. There were no comments from the public and no one wished to speak. Acting Chairman Peer then closed the Public Hearing and asked for staff comments.

Mr. Osborne stated that part of this item is just some language clean up to make the appeals section of the ordinance more consistent with the state statute. The rest of the amendment deals with dimensional variances and takes advantage of the state statute to allow dimensional variances for both residential and non-residential uses and in addition to setbacks also consider frontage, lot area and lot coverage. Our current dimensional variance standard provides for 25 percent variance on front, side, and rear yard setbacks. What is being proposed is to also provide for 10 percent dimensional variance for frontage, area and lot coverage requirements. The Board's attention was drawn to a chart attached with zones and what the relief would be. The Planning Board's Ordinance Committee reviewed the original proposal and recommended that 10 percent limitation on frontage, area and lot coverage reduced from the 25 percent originally sent for Board consideration. Mr Osborne discussed the differences between a 10 percent and 25 percent variance on frontage.

Member Caliendo stated that the Zoning Board of Appeals would have to consider some standards that must be met, including the requirement that no feasible alternative to the variance was available to the petitioner. For example, this would allow the ZBA to give a dimensional variance for road frontage up to 10%. The Planning Board will see how well it works, and if need be revisit it at a later date.

The Board had some discussion as to the variance percentages and how they affected larger numbers like minimum frontage as compared to smaller numbers such as minimum setback. They looked at the State language (wording). They felt that If an applicant can meet the standard requirements there should be a mechanism for relief of road frontage, area, and lot coverage requirements.

Member Caliendo made a motion to send this back to Council with an "Ought Not to Pass" recommendation, as written, but with an "Ought to Pass" recommendation with the change to 10 percent from the 25 percent on the text amendment for a dimensional variance on road frontage, area and lot coverage. This motion was seconded by Member Holt. The vote was 7 in favor and none against the motion to send the amended item back to Council with an "Ought to Pass" recommendation.

There was some discussion as to the 25% setback for the side and rear lot lines. Some of the Member wondered if it should be 10% across the board for dimensional variances. Member Caliendo stated that they had discussions supporting flexibility, but starting out at the 10% for road frontage dimensional variance.

C. Zoning Ordinance Text Amendment - Town of Hampden - Article 4.17 Lots and Group Development and Article 7.2 Definitions to amend the definition of lot and to make group development standards more flexible - Public Hearing.

The Public Hearing was opened by the Acting Chairman Peer. There were no comments from the public and no one wished to speak. Mr. Peer then closed the Public Hearing and asked for staff comments.

Town Planner, Bob Osborne stated that he spoke with the Town Attorney, Tom Russell about this item. Mr. Russell noted that the zoning ordinance does not technically have "articles" thus suggested that the term ordinance replace the term article in the group development standards amendment. The Board was provided with this language change. He noted that the Planning Board Ordinance Committee had reviewed these amendments and had recommended an number of changes which were also incorporated into the text now before the Board. The committee recommended that the definition of lot be changed by replacing the words "lot of record" with "parcel of land". He noted that the Comprehensive Plan committee also discussed this item and had expressed reservations about the definition measuring lot size "within one zoning district". The planned group development standards also were recommended for a number of changes including a clarification to address accessory use structures how the planned group development section affected them. Those changes were also incorporated into the text currently before the Board.

Member Caliendo stated that this item is straight forward in it's wording. The Ordinance Committee recommended that the amended text be passed to Council with an ought to pass recommendation. If this passes it allows for flexible development of commercial and residential developments.

Member Caliendo made a motion that this amended text be sent to Council with an ought to pass recommendation, this was second by Member Thomas. There was some discussion from Board Members. The definition of lot was discussed as it related to how lot area would be counted in one district designation as compared to how it is currently counted in split zone situations. The consensus of the Board was that this proposed change was not justified. Mr. Osborne suggested that the Board could further amend the definition of lot by removing the words "within one district classification".

Member Caliendo withdrew his motion, and the second was also withdrawn.

Member Caliendo made a motion to send the amended item to the Council with an "Ought to Pass" recommendation with the condition that the words "within one district classification" be removed from the definition of lot. Member Thomas seconded the motion. The Board voted seven in favor and none against the motion to send 7.2

Definition of Lot and Article 4.17 Lots and Group Developments as amended to the Town Council with an "Ought to Pass" recommendation conditioned on removing the words "within one district classification" from the definition of lot.

3. NEW BUSINESS

A. Conditional Use/Site Plan Approval - Roland Hussey - Establish a Commercial School in the existing commercial building located at 621 Main Road North in a Commercial Service District (Map 28, Lot 22) - Public Hearing

The Public Hearing was opened by Acting Chairman Peer.

Edward Kelmenson spoke in favor of the application, he is one of the co-owners of the proposed Commercial School. He indicated that his partner Ron Dennis was also in attendance tonight. Mr. Kelmenson stated the school is comprised of classrooms for teaching medical transcript and medical coding as well as computer repair and Microsoft Certification to work with high-end servers and networking. Other computer program classes will be offered as well. A Transcription service will also be offered from this location. They have been working with doctors in the area, so that transcription will be done out of the workers homes, rather than being sent overseas to India, which is where a lot of the transcription is being done. They expect the total number of students on-site at one time between 25 and 30. There will be day classes as well as evening classes, the evening classes would go as late as 10:00 p.m. The size of the classes would be 4 to 6 students.

The question of parking spaces was raised by the Planning Board. Member Thomas asked if there were only 12 parking spaces?

There were no other general comments or questions in the public hearing, and Acting Chairman Peer closed the public hearing, and asked to hearing from the Town Planner.

Mr. Osborne spoke about the change of use and the parking spaces, along with the number of students that would be attending these classes. Mr. Osborne also stated that he looked at various categories to try and figure out which one would be the closest to this use. Mr. Osborne said he took the gross floor area of the building, and looked at it as a place of assembly and the school meet that standard. He feels that the parking requirement is satisfied with what is provided on the site plan. There are no other proposed site changes, and the use requirement is met.

The Board stated they did not feel that 12 parking spaces were adequate parking for the adult school as described. These students are not being bused to the school, rather they would arrive in separate automobiles. These are adults who would be attending classes, and arriving at a set time for a set duration. With a maximum of 30 to 35 students, the Board did not feel that the parking spaces provided was sufficient.

The Board feels that the store use required less parking than an adult school because classes converge at specific times. The gravel way to the rear of the site is denoted as

a right of way for several dwellings and cannot be blocked with parking. The Board could not permit vehicles to park on Main Road North and no other private properties were proposed for off-site, off-street parking.

The Board indicated that there appeared to be adequate room to widen the parking area with gravel to make more parking for the students and instructors and suggested that applicant consider modifying the site plan accordingly.

It was left to the applicant to determine the number of student and staff, therefore the number of parking spaces needed. The Board indicated that additional on-site parking or off-site (leased) parking was necessary to accommodate the total 35 students and the instructors that Mr. Kelmanson indicated would be utilizing the site at on time. The Board indicated that 35 to 40 spaces would be satisfactory.

Several Board Members indicated that they felt that a commercial school it is a great use for the area, and would like to see if there is anyway that they could make it work.

It was suggested that the item be tabled until the next meeting on June 4th, 2003.

Acting Chairman Peer asked the applicant if tabling the matter would be acceptable.

Mr. Kelmanson stated that it would be acceptable to them.

Member Thomas moved that this application be tabled until the next scheduled meeting on June 4, 2003, this was seconded by Member Holt. The vote was 7 in favor and none against the motion. This item was tabled until the next Planning Board meeting on June 4, 2003.

B. Pre-application Meeting to discuss Conditional Use/Site Plan Review - Neighborhood Church (Paul Jacques) - Construction of a 7,500 sq. ft. church located at Coldbrook Road in a Rural District and Residential A District (Map 9 Lot 31)

Mr. Peer indicated that this was not a public hearing and that the Board would not take any action on this issue. Rather it was an opportunity for the developer to discuss the proposed project with the Board and for the Board to answer questions as to their impressions on this site for a church.

Member Avery disclosed that his company CES has been retained by the Neighborhood Church to prepare plans, etc. None of the Board Members raised an issue with this.

Mr. Paul Jacques, representing the Neighborhood Church briefly discussed the proposed project using a site plan and elevation drawings. He asked the Board what their thoughts were on the proposal, and if it is acceptable in this area.

Mr. Osborne stated that a church is a conditional use in both the Rural District and Residential A District. Seeking to learn from the Abundant Life Church saga the Neighborhood Church is seeking some guidance as to how much church is too much in

a Rural District. (The Abundant Life Church proposal was in excess of 20,000 sq. ft. and seated over 1,000 people in the sanctuary). Sewer does not currently serve this lot and on-site septic system is proposed. Parking would be located primarily behind the building which does not present an extensive parking lot to the street. Mr. Osborne asked the Board to consider if the location would be appropriate for the size of the proposed church and if the site was appropriate for the size of the development and any proposed expansion with room for growth, if necessary.

Mr. Jacques stated that there would be someone in the office 4 days a week, maybe 3 to 4 people. The seating capacity of the church will be 270 with parking for 105 vehicles on approximately 1.5 acres of developed area.

Member Holt asked the applicant if there is a proposed school within the church.

Mr. Jacques stated that no there was no proposed school.

Member Holt stated his concerns over the septic vs. sewer.

Member Peer stated his concerns in crossing the wetlands, with the proposed road, which is following the existing roadway.

The wetland area was discussed with the applicant.

Mr. Jacques stated that they did have the area evaluated for acceptable soils for a septic system indicating that there are 2 test pits that meet the requirements. It did pass soil test and a system can be designed to serve the church use.

Member Holt asked for what volume did it pass the soil test.

Mr. Jacques stated he was not sure of that number, it was 4 gallons per seat, then the kitchen it jumps to 8 gallons, the total is over 2,000 gallons a day.

Member Dubay asked if the applicant has spoken with DOT on the entrance permit and a if they started a traffic study?

Member Holt stated that the Board cannot determine what might result from a public hearing when a full application is advertised, the land abutters notified and neighbors concerns are heard concerning the effect on the adjoining properties, etc.

Night meetings as a part of the church use was discussed along with other evening events as well as Sunday services.

The appearance of the proposed structures was discussed. The hours and frequency of operation were discussed. The future growth of the church was also discusses as well as the church being on sewer or septic.

The Board offered some suggestions for church sites in general indicating that the Baptist Church on Western Avenue was ideal in that it was far off the highway and well

screened because of the topography of the lot. The site development also does not appear as a huge parking lot and the structure looks like a traditional country church in form and scale (the building is relatively large but is belied by its setback and proportions).

4. STAFF REPORT

No staff report was offered.

5. BOARD MEMBERS CONCERNS

Member Childs announced that this would be his last Planning Board meeting, he has sold his home in Hampden and moved out of the area.

6. ADJOURNMENT

The Planning Board meeting adjourned at 9:30 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, April 9, 2003, at the Hampden Municipal Building by Chairman Deane.

Attendance: Planning Board Members Beric Deane, Chairman, David Caliendo, Art Childs, Steve Dubay, Dawn Thomas, Mike Avery, Steve Holt and Richard Peer were present.

Also in attendance: Town Planner Robert Osborne, Recording secretary Rosemary Bezanson and Applicants.

1. APPROVAL OF MINUTES - March 12 & 26 2003

Minutes were approved as written. Member Childs moved they be accepted as written, Member Caliendo seconded the motion. The motion was voted 7 in favor and none against the acceptance of minutes.

2. NEW BUSINESS

A. Zoning Ordinance Map Amendment - Town of Hampden - Change the zoning of portions of several parcels from Resource Protection District to Rural District. The parcels are located near the corner of Shaw Hill Road and Fowler Road - Public Hearing.

Public Hearing was opened by Chairman Deane, as there were no persons wishing to speak as to this item, the public Hearing was closed by Chairman Deane.

Town Planner, Robert Osborne stated that this was a house keeping item. The resource protection area juts out approximately 800 feet, in this particular area that include upland area with well drained Bangor soils. After going back to the maps that were drawn by the regional planning office, in 1970's, Mr. Osborne feels it was just a lack of registration between various maps, when they were creating lines. Staff is recommending that this resource protection line be moved in a way consistent with the wetland, flood and soils mapping available in the area. Mr. Osborne also recommended that it be referred to committee.

Chairman Deane referred the map amendment to the Comprehensive Committee, and a Committee meeting date was set for May 14th at 6 p.m., prior to the next Planning Board meeting.

B. Conditional Use/Site Plan - Hampden Water District - Revise previously approved plan for office space and parking lot and add a

fuel storage building located at 140 Main Road North in a Residential A District and a Resource Protection District - Public Hearing.

Chairman Deane opened the public Hearing

Sara Nicholson of Woodard and Curran spoke for the Hampden Water District. She explained that this plan is a revision of a previously approved site plan. The addition to the Hampden Water District's building on Main Road North is proposed to be added on the backside of the building rather than on the side of the building which was the previously approved plan. Ms. Nicholson showed the Planning Board the sketches of the proposed addition and it's location. She also stated that it would not impact the resource protection district. She noted that Cam Torey was also available to answer any questions that the Board might have.

Public Hearing was closed by Chairman Deane

Mr. Osborne stated that this is a revision to a previously approved site plan. This has a better lay out for the parking. The new construction is outside of the hundred year flood zone. Staff would recommend approval of this application.

A motion was made by Member Holt that the application meets the standards governing conditional use approval, this was seconded by Member Caliendo. It was voted seven in favor and none against this motion to approve the conditional use application.

A motion was made by Member Holt that the application meets the standards governing site plan approval, this motion was seconded by Member Caliendo. This motion was voted 7 in favor and none against the approval of site plan.

C. Pre-application Meeting to discuss Conditional Use/Site Plan Review - Rick Robinson and Gary Walker - construction of a 4,000 sq. st. fitness leisure and soccer facility located at 314 Western Avenue in a Rural District

Chairman Deane moved this item to the last item on the agenda.

D. Subdivision Sketch Plan - S.E. MacMillan Co., Inc., - Second phase of the River View Heights Subdivision by dividing 17.9 acres into 5 lots located at Perkins Drive in a Rural District and Resource Protection District. The proposal would extend road and water to new house lots.

Vinyl Applebee of Ames Corp., represents the owner, Stan MacMillan, for a proposal of an extension of the subdivision known as Riverview Heights for a 5 lot expansion to the existing 3 lot subdivision for S.E. MacMillan Co., Inc. It was also noted that Mrs. MacMillan and Trisha Quirk was in attendance and available to answer questions.

Mr. Applebee explained that the roadway would be an extension off of the existing cul-de-sac, a private road called Perkins Drive. Public water would also be extended. The

lots would have on-site wastewater disposal. Mr. Applebee described the resource protection area location, and indicated which lots that would be included in this zone.

Chairman Deane asked Mr. Applebee if there had been lots sold in the existing subdivision and if not, why? Mrs. MacMillan explained that they were never been put on the market. The original subdivision was approved some time ago.

Mr. Osborne stated that the water main will be will a new water main rather than an extension of the existing one. Mr. Applebee stated that it will be a new water main, not the existing main from the previously approved subdivision.

Members of the Planning Board expressed concerns over the resource protection area and the heavy dependence on this area for the layout of the new lots. Chairman Deane asked Mr. Applebee if he could re-work the lots and the parcel lines on a number of the proposed new lots. Mr. Applebee stated that he would make any necessary changes before preliminary plan. He also stated that they would be seeking town acceptance of the road, and would make sure that the standards are met.

Member Peer stated that the on-site waste disposal designed for lot 2 on the plot plan seemed close to the resource protection zone, he was wondering if there were any setback requirements for the septic design. Mr. Osborne stated that the plumbing inspector informed him that a septic system can be located in the resource protection zoning as long as it was 100 feet from the water body. Mr. Applebee stated that a site evaluator approved these site on the subdivision plot plan.

The percentage of the lots located in the resource protection was the biggest concern with the sketch plan of the extension of the subdivision.

Patricia Quirk, Frances Drive spoke in favor of the subdivision. Mrs. Quirk stated that she has work with Mr. MacMillan on many subdivisions, and is familiar with his work. She inquired, on a rural buildable lot, you would need well and septic and those two things need to be separated, would you look at this subdivision in a different light because you have public water? Chairman Deane stated that is a factor, having the septic on site rather than sewer.

Mr. Applebee will be back to the Planning Board for Preliminary subdivision, with the recommended changes from the Planning Board.

The Board voted unanimously that the proposed subdivision expansion was an major subdivision with public improvements and that the proposed street was a minor street.

E. Zoning Ordinance Text Amendment - Town of Hampden - Article 6.2.2 Variance Appeals to better conform to the state statute regulating variances - Public Hearing.

Chairman Deane opened the public hearing. As no one wished to speak, Chairman Deane referred this item to the Ordinance Committee, which will meet on April 30th,

2003 at 6 p.m.

F. Zoning Ordinance Text Amendment - Town of Hampden - Article 4.17 Lots and Group Development and Article 7.2 Definitions to amend the definition of lot and to make group development standards more flexible - Public Hearing.

Chairman Deane opened the public hearing. As no one wished to speak, Chairman Deane referred this item to the Ordinance Committee, which will meet on April 30th, 2003 at 6 p.m.

C. Pre-application Meeting to discuss Conditional Use/Site Plan Review - Rick Robinson and Gary Walker - construction of a 4,000 sq. st. fitness leisure and soccer facility located at 314 Western Avenue in a Rural District

Rick Robinson spoke with the Planning Board on a proposed fitness/physical therapy center, with the proposed location at 314 Western Ave.

Members of the Planning Board expressed concern that while indoor recreation would contemplate a fitness center that it did not contemplate the physical therapy use in a rural zone. Member Thomas indicated that physical therapy is a business which is not permissible in a rural zone.

Also the proposal plan showed the access driveway with access from Western Avenue utilizing lot #1 of Town Farm subdivision. The Planning Board questioned using lot 1 as the access to the facility, off of Western Avenue indicating that this was not in the interest of the neighboring lots in the subdivision and may violate the covenants requiring that the lots only be used for residential use.

The Planning Board stated to the pre-applicant that they had two fundamental issues with this proposed plan: 1) Access to the lot is through lot #1 of the Town Farm subdivision. And 2) Physical therapy practice conducted in the proposed fitness center.

3. OLD BUSINESS

A. Definitions for commercial schools.

This item was also referred to the Comprehensive Committee that will meet on May 14th, 2003 at 6 p.m. (Before the Planning Board meeting)

3. BOARD MEMBERS CONCERNS

4. ADJOURNMENT

The Planning Board meeting adjourned at 9:00 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The special meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, March 26, 2003, at the Hampden Municipal Building by Chairman Deane.

Attendance: Planning Board Members Beric Deane, Chairman, David Caliendo, Art Childs, Steve Dubay and Richard Peer were present.

Also in attendance: Town Planner Robert Osborne and Applicants.

1. APPROVAL OF MINUTES

No minutes were available from the prior meeting and Chairman Deane tabled the item.

2. OLD BUSINESS

A. Final Subdivision Plan - Lori Baker - Revision of the final phase of the Westbrook Terrace Cluster Subdivision down to a single house lot - End of Daisey Lane in a Residential A District - Public Hearing.

Chairman Deane noted that the public hearing was held at the March 12, 2003 meeting and that the hearing is closed but asked the applicant to update the Board concerning what changes had been made since the last meeting.

Lori Baker stated that the subdivision plan had been revised to mark each corner of the new house lot as the Board had indicated. She also stated that the Town Council, at the March 17, 2003 meeting, accepted the deed for the open space dedication. With those items completed she requested that the Board approve the Final Subdivision Plan amendment.

Chairman Deane asked the Town Planner for comment.

Bob Osborne stated that Mrs. Baker correctly noted the changes to the plan and the Town Council's acceptance of the deed for open space. He provided the Board with a copy of a certificate from the Town Clerk indicating Council acceptance of the open space. No public improvements are proposed thus no improvement guarantees are required. He indicated that Staff recommends approval of the one-lot amendment of the Westbrook Terrace Subdivision expansion located at the end of Daisey Lane with no conditions.

Chairman Deane asked for a motion.

Member Caliendo moved that the plan met the standards for Final Subdivision Plan approval. Member Childs seconded the motion. The Board voted five in favor and

none against to grant Final Subdivision Plan approval to a one-lot expansion of the Westbrook Terrace expansion subdivision located at the end of Daisey Lane in a Residential A District with no added conditions.

3. NEW BUSINESS

A. Zoning Text Amendment - Town of Hampden - Amend Article 3.3.3. Commercial Service District to add Commercial School as a Conditional Use in the District - Public Hearing.

Chairman Deane opened the Public Hearing and asked for comments.

Ron Dennis spoke in favor of the amendment indicating that he has a project that depends on commercial school use being added to the conditional uses allowed in the Commercial Service district, and felt that this use would fit nicely in the proposed location.

Chairman Deane encouraged Mr Dennis to comment on the merits of the ordinance amendment rather than to comment of his proposal for the vacant retail building.

Mr. Dennis indicated that he felt that commercial schools were a reasonable use in the Commercial Service district and encouraged the Board to recommend the amendment to the Town Council.

Edward Kelmenson spoke in favor of the proposed amendment indicating that he was also associated with the proposed commercial school and supported a change to the Zoning Ordinance so that his project could go forward.

As no one else wished to speak Chairman Deane asked the Town Planner for comment.

Mr. Osborne, utilizing a zoning map, indicated where the Commercial Service districts are located in Hampden. He noted two large areas were on the east side of Main Road North extending from the Bangor line to Sucker Brook, and on both sides of Route 202 extending from Coldbrook Road to Souadabscook Stream. He explained that the prior designation of the Commercial Service district was Industrial Commercial which sounded distinctly different than the Business district. He noted that the Commercial Service district was quite extensive and text changes to this district affected a large area.

Mr. Osborne discussed the various school uses that are allowed by district noting that the public and non-profit schools are relegated to residential and rural district. The commercial schools are allowed in the Business and Village Commercial II Districts. Preschools are limited to the Village Commercial District and that currently no other districts contemplate schools of any type.

Mr. Osborne discussed what the possible range of commercial schools might include. A quick list of types of commercial schools would include those teaching trades and job

skills including culinary arts, design arts, beauty, medical technology, business skills, plumbing, electrical, carpentry, HVAC, etc. Schools would also include personal improvement training such as driver education, martial arts, music education, etc. He suggested that trade schools such as welding and carpentry would seem better suited to the Commercial Service district than a Village Commercial district.

Member Caliendo recalled a recent meeting he attended of the Council Ordinance committee at which they discussed overhauling the use designations in every zoning district because based on the chart of uses by zone that staff had prepared it was clear that many inconsistencies have been created by the piecemeal approach that has been taken over the years. He indicated, however, that he was supportive of this amendment as it was quite consistent with the stated purpose of the Commercial Service district.

Member Peer recalled a recent meeting he attended of the Economic Development committee at which a proposal was discussed to significantly change the land use plan and zoning in the area of the Penobscot River from the Marina to the Bangor line by encouraging more residential development on the waterfront. He questioned if perhaps all the Commercial Service zoning would be replaced and this action would be inappropriate.

Board members discussed the lack of a definition for commercial school and asked the Town Planner to report back to them at a future time with established definitions of the use so that they could evaluate if a definition should be added to the ordinance. The Board questioned would extensive complexes such as Husson College or Beal College be commercial schools.

Chairman Deane asked the Board if there was a consensus as to the need to send this item to committee for review and comment. The majority of the Board indicated that they were ready to move the item.

Member Caliendo moved to send this item to the Town Council with an "ought to pass" recommendation. Member Dubay seconded the motion. The Board voted four in favor and one against the motion to send the proposed amendment to Article 3.3.3 Commercial Service District adding commercial school to the conditional uses to the Town Council with an "ought to pass" recommendation.

4. BOARD MEMBERS CONCERNS

Member Peer reported on the recent Economic Development meeting and Member Caliendo reported on the recent Council Ordinance Committee meeting.

5. ADJOURNMENT

The Planning Board meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The special meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, March 12, 2003, at the Hampden Municipal Building by Chairman Deane.

Attendance: Planning Board Members Beric Deane, Chairman, David Caliendo, Art Childs, Steve Holt, Steve Dubay, Richard Peer, and the two new associate members Mike Avery and Mort Syverson were present.

Also in attendance: Town Planner Robert Osborne /recording Secretary Rosemary Bezanson, and Applicants.

1. APPROVAL OF MINUTES (12-11-02, 01-08-03)

Member Peer moved that the minutes of the December 11, 2002 and the minutes of the January 8, 2003 meetings be accepted as written, and Member Dubay seconded the motion. The vote was unanimous.

2. NEW BUSINESS

A. Site Plan - Steven M. Morrell - Addition of a third dwelling unit to a two-unit residential structure - 37 Kennebec Road in a Residential B District - Public Hearing.

Public Hearing was opened by Chairman Deane.

Steven Morrell of 37 Kennebec Road presented the proposed addition of a third apartment over the office area of his dwelling for approval. Mr. Morrell stated that the footprint of the dwelling would not be changed and there is adequate parking.

Public Hearing was closed by Chairman Deane as there was no one else that wished to speak. Chairman Deane asked the Town Planner for comments.

Mr. Osborne noted that in a letter he received from Mr. Morrell stated that work being done to the building would be completed in a timely manner.

The Board asked Mr. Morrell if his daughter was already living in the proposed third unit. Mr. Morrell stated that his daughter was in fact living in the unit at this time.

The date of completion for a Certificate of Completion was discussed with applicant. He was asked what time frame he would be looking at to complete this project. Mr. Morrell stated that he would need four months to complete the project.

Member Peer moved that the application meets the standards governing site plan

approval. Member Caliendo seconded the motion. The Board discussed the motion and agreed to add an amendment placing a completion date set four months from the date of approval (July 12, 2003) for all work related to the third dwelling unit.

Chairman Deane called the amended motion to a vote. The Board voted seven in favor and none against the motion to approve the site plan for a third residential unit located at 37 Kennebec Road in a Residential B District with all work related to the third dwelling unit to be completed by July 12, 2003.

B. Final Subdivision Plan - Lori Baker - Revision of the final phase of the Westbrook Terrace Cluster Subdivision down to a single house lot - End of Daisey Lane in a Residential A District - Public Hearing.

Chairman Deane opened the public hearing.

Lori Baker spoke in favor of their proposal to create an additional lot at the end of Daisey Lane in the Westbrook Terrace extension Subdivision. Mrs. Baker stated that they hope to revise the final plan of the Westbrook Subdivision, with a single family house lot. Of the total 7.52 acres they are deeding to the Town 3.79 acres as open space and retaining 3.73 acres for the single house lot. Mrs. Baker acknowledged the problems the residents are having with the recreational vehicles using the rear land for their ATV's and other motorized vehicles.

No one wished to speak further to the application, therefore Chairman Deane closed the public hearing and asked the Town Planner for staff comments.

Mr. Osborne stated that there is a letter that should be read into the record if the Chairman would permit. Chairman Deane indicated that the letter could be included as part of the public hearing. The letter was from Lisa and Jeff Stevens, 56 Daisey Lane, dated March 4, 2003 and addressed to the Planning Board. It stated that they were unable to attend the meeting but wanted to write in support of the proposed project as long as it is for one house lot only.

Member Peer asked about the proposed application, was it in front of the Board a number of years ago with regards to the same land area? What was approved at that time?

Mr. Osborne clarified the question of lotting of the amended subdivision. The original subdivision plan called for about 13 lots in the subject area and that received preliminary plan approval but not final plan. Subsequently, the Board approved a final plan adding lots 13 to 17 and made adjustments to lots 42, 43, 44, and 45.

Open space was also discussed and the proposed new open space along with the right of way easements were pointed out for the Planning Board members.

A Discussion was held as to the access to Rt 202, and the open space. Mr. Osborne stated that the 98 feet of road frontage on Rt 202 is required to develop this proposed lot, under cluster subdivision standards.

Member Peer stated the last time the Planning Board had this subdivision as part of a planning process, they had discussions as to what was lot 1, what had frontage, and where that frontage lies. Mr. Osborne stated that there are many examples where the frontage is taken from a state highway, but access to the lot is gained in some other way such as shared driveways or parallel service roads.

The Town Council will deal with the open space on Monday night's meeting, March 17th, 2003.

Member Holt asked Mr. Osborne what the process is in approving the application before the Council accepts the open space. Can the application be conditioned upon the acceptance of the open space. Mr. Osborne stated that he sees this application being tabled until the next meeting, and the open space is accepted.

Chairman Deane stated that the Board will consider tabling this item until the next Planning Board meeting, which is a special meeting on March 26th, 2003.

Member Holt made a motion to table the application pending the Town Council's acceptance of the open space. This motion was seconded by Member Childs. The motion was voted 6 in favor and one against. (Member Caliendo voted against the motion to table the application).

Mr. Osborne noted that on the next plan there will be two (2) additional property pins depicted on a revised plan marking the southerly corners of the proposed open space. The applicant is aware of this situation.

Chairman Deane asked to two newest Member if they had voting preference, it was decided that they would switch back and forth between them.

Mrs. Baker asked if she could speak again. Chairman Deane told Mrs. Baker to go ahead. Mrs. Baker asked for a clarification of the order of events, between the Planning Board to Town Council and back to the Planning Board. She inquired if the Town Council accepts the proposed open space and then the Planning Board denies her application, what happens, does the Town keep the open space? Mr. Osborne explained what happens with the deed to the Town for the open space. The Town exchanges the signed final subdivision plan for the signed open space deed. Until the Planning Board approves the application the signed deed does not actually come into the possession of the Town to be recorded.

Member Holt had an item he needed to discuss with the Board. Member Holt stated he is managing a building material supply company. There will be applicants coming in front of the board that are customers dealing with this company. The next applicant in front of the Board is one of those good customers that the building supply company deals with. He stated he does not see this as a conflict of interest, but wanted to make the Board aware of it.

None of the Board Members sees this as a problem.

C. Subdivision Sketch Plan - Libby Brothers, Inc. - A 9-lot residential subdivision with public improvements located near the corner of Shaw Hill Road and Western Avenue in Rural District and Resource Protection District.

Chairman Deane wanted to make the audience aware of a few items in regard to the sketch plan phase. One of the tasks of the Board is to label the subdivision as a major or minor subdivision. The Board has to look at the proposed road and decide whether it is a collector or minor, in other words categorize the road. We also have a discussion with the applicant to look at any area that might have potential problems when you move to preliminary and then to final subdivision approval.

Stevenson Sheppard of Shyka Sheppard & Garster, represented Libby Brothers Inc., the applicant. Mr. Sheppard stated they propose a nine (9) lot subdivision. The sketch of the proposed subdivision was provided to the Board member and shows those nine (9) lots along with a proposed road 1,340 feet in length. The sketch also delineates the wetlands, and preliminary topography to come up with a sketch plan to best suit the natural features of the lot. The portion of the property near the Souadabscook Stream is Resource Protection district extending 250 feet and the remainder is Rural District. Mr. Sheppard explained the proposed design for the subdivision and the size of the lots.

Member Caliendo asked about the lines on the sketch plan extending south from the proposed cul-de-sac: Is this for future development, an expansion of the subdivision? Mr. Sheppard stated that there is remaining property in the Wiseman holdings, and they would like to leave the future expansion for a possibility of four (4) more lots. Mr. Sheppard showed a sketch of the possible full build out of the subdivision.

The Board asked was the Wiseman homestead not accepted into the historic district and wasn't there something about no further subdivision of lands. Mr. Osborne stated that the language is for the 3 acre parcel with the homestead only.

The Board determined that the road is a dead end, minor street even with the additional 4 lots being add later down the road.

Mr. Sheppard noted that briefly considered was an extension of the minor subdivision road to have another access to RT 9 or Shaw Hill Road. Having looked at the costs involved it would be not be feasible for the total number of lots created.

The Board discussed the wetlands with Mr. Sheppard. The crossing of the wetland areas to access some of the lots was discussed. Board members voiced concerns over the need to cross wetlands to access the buildable portion of subdivision lot 4. Member Peer asked about moving the lot lines in lot 4 and 5 inquiring if it was possible to avoid the wetlands crossing. Mr. Osborne stated that the wetland crossing is relatively small in area. He found it reasonable to impact a small area for a driveway and noted that applicant had made a real effort to balance the Town's requirements and avoid as much of the wetlands as they had.

The Board inquired as to whether the lot was currently flagged for wetlands and also what ownership the applicant had in the land at this time. Mr. Sheppard indicated that the lot had been flagged for the wetlands, and there is a purchase and sale agreement in place with Libby Brothers.

The Board discussed shoreland standards with the applicant.

Member Peer had a question on the entrance road into the proposed subdivision. What is the topography and the site distances. Mr. Sheppard stated that the site distances had not been done yet, but all that is in progress.

A site visit was discussed with the Board Members.

A motion was made by Member Childs to classify this subdivision as a major subdivision. This motion was seconded by Member Dubai. The vote was seven in favor and none against.

Member Holt made a motion to classify the road as a minor street. This motion was seconded by Member Avery. The vote was seven in favor and none against.

The Board's concerns over the impact on the wetlands was voiced, and the applicant acknowledged the importance of minimizing this impact on the wetlands.

Lillian Deighan, stated her concern over the resource protection area and the wildlife. She had a question as to cash in lieu of and what it was. Chairman Deane explained cash in lieu of open space means that in stead of dedication of 5 percent of the lot area of the subdivision as open space the applicant provides cash based on a formula found in the subdivision ordinance.

Chairman Deane stated that there was no buffer zone as to building up to the resource protection area.

Jean Deighan, here tonight representing the heirs of Janet Deighan, stated her concerns over the land along the stream and the wildlife being left undeveloped.

Ms. Deighan asked about the subdividing of land and can the subdividing keep going and going or is there a limit to the division. Chairman Deane explained the limits on subdivision and the Planning Board is very careful when a developer comes to the Board with a proposal that they do meet with the town's ordinances.

The resource protection area is on both sides of the river so in fact it is a 500 foot area that is protected.

Greg Bosch, 35 Shaw Hill Road. He was wondering if there was any ordinances that restrict the amount of cutting that can go on. Can they clear cut that land if they want? Chairman Deane stated that until they get to the resource protection area, there are state laws that prohibit clear cutting. It goes from forestry to house lots, and you can clear a house lot.

3. STAFF REPORT

Mr. Osborne stated that the town's council's ordinance committee is meeting Monday at 6 p.m., they are discussing the zoning ordinance in the context of uses by district. The Members assigned to the ordinance committee were asked if they could attend this meeting.

4. BOARD MEMBERS CONCERNS

A discussion was held with the Town Planner in regards to the special meeting being held March 26, 2003.

5. ADJOURNMENT

The Planning Board meeting adjourned at 9:25 p.m.

Respectfully Submitted,

Steve Holt, Secretary

**TOWN OF HAMPDEN
PLANNING BOARD
MINUTES**

The regular monthly meeting of the Hampden Planning Board was called to order at 7:00 p.m. on Wednesday, January 8, 2003, at the Hampden Municipal Building by Chairman Deane.

Attendance: Planning Board Members Beric Deane, Chairman, Art Childs, Steve Holt, David Caliendo, and Dawn Thomas, Richard Peer, Steve Dubay, and the two newest members Mort Syversen, and Mike Avery were present.

Also in attendance: Town Planner Robert Osborne, Recording Secretary Rosemary Bezanson, and Applicants.

Two new members, Mort Syversen and Mike Avery, were welcomed by Chairman Deane and other Board Members.

1. APPROVAL OF MINUTES (11-13-02)

Member Childs moved that the minutes of November 13, 2002 be accepted as written, and Member Thomas seconded the motion. The motion was approved unanimously.

2. NEW BUSINESS

- A. Subdivision Sketch Plan - Andre Cushing (4 Independence Avenue) - Second phase of the Colonial Heights Subdivision by dividing 30 acres (of a 47 acre parcel) into 27 lots located at Constitution Avenue and Independence Avenue in a Residence B District. The proposal would extend road, sewer and water to new house lots.**

Jim Kiser, P.E. of Kiser and Kiser spoke as a representative of the applicant.

Mr. Kiser showed a sketch plan of the proposed subdivision and the 27 lots, extending the street, and water, sewer and stormwater service these new lots.

Mr. Kiser stated that prior to the Christmas break, he and Mr. Osborne (and several members of the Conservation Committee) did a site walk. They hope to have the final approvals in hand for late spring or early summer.

Chairman Deane stated that determinations on the subdivision and its streets should be made.

Member Peer moved that the subdivision be classed as a major subdivision with public improvements, this was seconded by Member Childs. The motion was seven in favor and none against the classification of the major subdivision.

Member Holt moved that the road be classed as a collector road, this was seconded by Member Peer. All votes were in favor of the motion and none against.

Open space and cash in lieu of was discussed. Mr. Kiser indicated that applicant may elect to provide cash in lieu of open space.

B. Final Subdivision Plan Revision - David I. French (27 West 734 Parkview, Warrenville, IL 60555) - K-L-T Realty Trust Subdivision by splitting lot 8 located at 601 Meadow Road in a Rural District into two lots - Public Hearing.

This application was previously in front of the Board in October, 2001, Mr. French did not file the plan with the registry of deeds in Penobscot County within the 90 day time frame allotted under the subdivision ordinance. Applicant requests that the Board vote on the subdivision a second time.

Chairman Deane opened the Public Hearing but as no one wished to speak the public hearing was closed.

Mr. Osborne stated that this is the same plan that the Board approved back in 2001, unfortunately it did not get filed in a timely fashion. The lots were subsequently sold as there are now 2 houses on these lots, and deeds were recorded. Septic systems were designed and approved for these two lots. Two working septic systems are also reported on these sites.

Member Caliendo asked if there has been any changes to the subdivision or zoning ordinances that might effect this.

Mr. Osborne stated that yes there were some but none that directly effect this subdivision. Staff recommended approval.

A motion was made by Member Holt that this application meets final subdivision approval standards, this was seconded by Member Peer. It was voted seven in favor and none against to grant approval for the two-lot revision of the KTL subdivision.

C. Site Plan/Conditional Use - Bangor Savings Bank - Addition of a drive-thru lane (to the former Fleet Bank) - 19 Main Road North in a Village Commercial II District - Public Hearing.

Jessie Hudson of the WBRC represented Bangor Savings Bank and Kevin Whalen and Bill Pelkey of BSB were also in attendance. Mr. Hudson stated that Bangor Savings Bank has acquired the old Fleet Bank building and property at the end of last year. They are proposing to utilize the building in place but add a second drive-thru lane which will contain an ATM, utilize the current lane for a teller window, and construct a new canopy to cover both lanes. The parking behind the building was moved back to the setback line, 5 feet from the rear lot line, to accommodate the second lane. He noted that the parking in the front of the building is grandfathered, non-conforming, as Village Commercial II District does not allow parking in the front. The number of

parking spaces overall remain the same, they have simply been moved back.

Public hearing was closed by Chairman Deane.

Mr. Osborne stated that this is a simple application. It's been less than a year since Fleet Bank left this facility. There was a drive thru window on the original site plan. At some time the window was converted to an ATM / automatic teller. The spacing of the lanes are adequate and provide a five vehicle queue for each lane. Staff recommends approval.

A motion was made by Member Holt that the application meets the requirements for conditional use approval, this was motion was seconded by Member Thomas. This motion was voted 7 in favor and none against the approval of the conditional use (to add a second drive through lane to the bank facility).

Member Holt made a motion that this application meets site plan approval, this motion was seconded by Member Caliendo. This motion was voted 7 in favor and none against the site plan approval.

3. STAFF REPORT

It was reported by Mr. Osborne that the Council will take another look at the language on the non-conformities. They will also be voting on the sign ordinance amendments, at this meeting on the 17th of January, 2003.

4. BOARD MEMBERS CONCERNS

The annual election of Chairman and Secretary were held. Member Holt nominated Chairman Deane for another term as Chairman, Member Caliendo seconded this nomination, the vote was unanimous with the Board Members. Member Peer nominated Member Holt to service another term as Secretary, Member Thomas seconded this nomination, the vote was unanimous with the Board Members. \

As there were new Members of the Board the committee assignments were discussed and determined.

The Comprehensive Committee, is as follows: Member Holt will serve as Chairman of this Committee, Member Dubai, Member Peer, Member Syversen.

Member Peer stepped down as the Chairman of the Ordinance Committee.

Ordinance Committee, is as follows: Member Caliendo will serve as Chairman of this Committee, Member Thomas, Member Childs, Member Avery.

Chairman Deane will attend both Committees as time will allow. Member Holt and Chairman Deane explained to the new Members how these committees worked and what was involved with these committees.

5. ADJOURNMENT

The Planning Board meeting adjourned at 8:45 p.m.

Respectfully Submitted,

Steve Holt, Secretary