

**Town of Hampden
Planning Board
Wednesday April 13, 2016
Municipal Building Council Chambers
7:00 pm**

AGENDA

- 1. Approval of Minutes (March 16, 2016)**
- 2. Old Business**
- 3. New Business**

Site Plan/Conditional Use Review

Fiberight LLC/MRC: Solid Waste Recycling and Processing Facility

The Municipal Review Committee/Fiberight LLC, has proposed to construct a 144,000 square foot Solid Waste Processing Facility with an attached 9,800 square foot administration building accessed by a 4,600 newly constructed commercial road. The road and facility are proposed to be located East of the Coldbrook Road on Map 9, Lot 35-39 and Map 14, Lot 7. **Public Hearing**

- 4. Community Development Directors Report**
 - A. Letter from MDOT Highway Safety Improvements
- 5. Planning Board Concerns**
- 6. Adjournment**

Town of Hampden
Planning Board Meeting
Minutes
Wednesday March 9, 2016

The meeting of the Hampden Planning Board was called to order at 7:04 pm Wednesday March 9, 2016 at the Hampden Municipal Building Council Chambers by Chairperson Weatherbee.

Attendees:

Peter Weatherbee - Chairperson
Eugene P. Weldon
Kelly Wiltbank
Mike Avery
Joan Reilly

Staff:

Dean Bennett, Community Development Director (CDD)

1. Approval of Minutes (February 24, 2016)

Motion by Member Weldon, Second by Member Avery to approve the Minutes with two minor corrections:

1. Reference on page 2 to Chairperson Avery should state Chairperson Weatherbee.
2. CDD should be referenced as Community Development Director

Approval: Unanimous

2. Old Business

A. Public Hearings:

Chairperson Weatherbee asked for a motion to take the three items off the table for consideration as they were previously tabled until public notice could be given.

Member Avery, Chairperson of the Planning Board Ordinance Committee, reported to the full Board that these three items, coming out of the Ordinance Committee, were returned to the full board with an "ought to pass" recommendation.

Chairperson Weatherbee asked if the Board had any objection to addressing all three items in on public hearing. Hearing no objections, Chairperson Weatherbee opened the public hearing at 7:08 pm. Asking if there are any proponents, opponents, or persons with no position, who would like to comment to please step forward. Hearing and seeing none, Chairperson Weatherbee closed the Public Hearing at 7:10pm.

1. Codification: Public Hearing
2. Subdivision Ordinance Amendment: Public Hearing
3. Zoning Ordinance Amendment: Public Hearing

Chairperson Weatherbee asked the Community Development Director (CDD) to please explain the items. CDD explained the Codification Process is an update of all town

regulations with regard to statutory references, conflicts within the various codes and regulations, identification of no longer relevant codes and documents.

Planning Board Action: Motion made by Member Weldon, seconded by Member Avery, to forward an "ought to pass" recommendation for all three items to the Town Council for consideration of adoption. Vote: 4-0

3. New Business

A. Preliminary/Final Subdivision Application – Orient Avenue

B. Site Plan/Conditional Use Application – Orient Avenue

Chairperson Weatherbee suggested that whereas these two items are related to the same development proposal, that unless there are objections, he would like to address both items with one Public Hearing. There were no objections.

Chairperson Weatherbee opened the Public Hearing at 7:13pm. Proponents, Opponents, and persons with no position are invited to speak.

Jim Kiser, representing Jeffrey Rawcliffe, described the proposed development as being a subdivision, in the creation of more than three (3) units. The proposed development will involve the construction two (2) buildings, housing five (5) one bedroom apartments. The site is to be served by public sewer and water. The buildings will be constructed on slab at grade and be placed such that they will blend into existing landscape. Under the provisions of MDEP Chapter 500, a Storm Water Permit is not needed as the development is less than 1 acre, however, erosion controls need to be provided and a stormwater maintenance plan submitted. These two items have been addressed within the submission materials. Jim offered to answer any questions the board or public may have with regard to the project.

Jason Kash, of 14 Summer Street, inquired as to whether the trees along his back property line will be impacted by this development. Mr. Kiser reviewed the plans with Mr. Kash and indicated that approximately 10 feet of the applicants property will be utilized for slope toward Mr. Kash' property line, however, it was the intent of the applicant to leave the trees in place.

Thomas Lloyd, of 18 Summer Street indicated that last year for the first time he had an unusual amount of water on his back lawn, interfering with his mowing. He was concerned that the development may direct additional water onto his property. Mr. Kiser explained that provisions have been included in the plan, designed to slow water movement from the property. Stone level spreaders will be placed in the existing drainage path creating small dams and delay water movement through the property. In addition, drip edge filters will be installed along the foundation to collect roof runoff into stone storage areas. These measures are designed to drain runoff over a period of 24-48 hours. Mr. Kiser

further stated that the driveway surfaces will indeed move water more quickly. Mr. Lloyd indicated he was pleased that considerations have been made to address potential increased runoff.

Hearing and seeing no further comment, Chairperson Weatherbee closed the Public Hearing at 8:45pm.

Chairperson Weatherbee asked if the Board has any questions of Mr. Kiser. Member Weldon expressed his concern over the storm water and asked for clarification from Mr. Kiser to elaborate on what measures are being proposed with regard to increased runoff and as to whether additional actions could be taken. Mr. Kiser explained that the provisions of the Ordinance have been addressed and that State permits are not necessary. Mr. Kiser further explained that historically the practice is to follow the MDEP guidelines to which he has done. Member Weldon expressed his concern that he wanted to be sure that the local ordinance requirements were met. Member Weldon asked if the setback of the district including fill or just the building. It was determined the setback applied to the building. Section 530 Drainage Requirements within the Subdivision Ordinance was discussed. The consensus was that the proposed development met the stated requirements within the Ordinance.

Member Avery questioned whether the snow plowing area depicted on the plan, at the request of the Public Works Director, should be addressed with a metes and bounds descriptive easement be provided to the town as part of this submission. Mr. Kiser indicated that the area is identified on the plan, will be registered at the Registry of Deeds, and he didn't anticipate any issues arising from the use of the area. Mr. Kiser further indicated that general area has been used by the town historically for snow removal.

Planning Board Action: Motion by Member Weldon, seconded by Member Avery that the Site Plan/Conditional Use Application meets the provisions of the Zoning Ordinance. Vote: 4-0

Planning Board Action: Motion by Member Weldon, seconded by Member Avery with a friendly amendment for the motion: The proposed Subdivision meets the requirements of the Subdivision Ordinance, with the condition that legal advice be sought to determine if the applicant needs to provide a metes and bounds descriptive easement to the Town for the area identified as a snow plowing area. Vote: 4-0

4. Community Development Director's Report

The CDD updated the Board on the receipt of a pre-application submittal by Fiberright/MRC. The Application for Site Plan/Conditional Use is undergoing Peer Review and staff review and ideally will be ready for the April 13th Planning Board meeting to begin review.

CDD also conveyed to the Board of the availability of resources such as legal council during the review process of the Fiberight/MRC application. The Board indicated appreciation and need of available resources in the review and processing of the application. CDD anticipates that the application or parts thereof will be ready for the April 13th Planning Board Meeting.

5. Planning Board Concerns

6. Adjournment

Meeting adjourned at 9:15 pm.

Respectfully Submitted,

Michael Avery
Secretary Hampden Planning Board



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Paul R. LePage
GOVERNOR

David Bornhardt
COMMISSIONER

March 10, 2016

**Town of Hampden
RECEIVED**

MAR 14 2016

**Office of the
Town Manager**

Angus Jennings, Town Manager
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Subject: Highway Safety Improvements
Rumble Strip Installation
Federal Project Number HSIP-1890(00)
Project Number: 18900.00

Dear Mr. Jennings:

The Maine Department of Transportation is currently working on estimating a highway safety project on Route 202 in the Town of Hampden for advertisement of the subject project for competitive bids in May 2016. Construction will occur during the summer months, exact start and completion dates will be forwarded once a schedule from the Contractor has been reviewed and approved.

The project is further described as follows:

CENTERLINE RUMBLE STRIP INSTALLATION on Route 202 in the Town of Hampden. Centerline rumble strips will be installed in areas that speeds that are 45 MPH or over, shoulder widths that meet or exceed 4' in width and will allow for breaks at side roads and entrances.

For More detailed information about rumble Strips please visit the Department's web site at: <http://www.maine.gov/mdot/safety/docs/rumblestrip-brochure-general.pdf>

We hereby request that you provide a copy of this notice to all municipal officials, employees and boards with responsibilities for utility and/or land-use planning/permitting, and that you post this letter on any municipal public bulletin boards, media outlets and/or municipal websites as public meeting will not be held regarding this project unless specifically requested by the municipality.

Should you have any questions, concerns or other areas of interest, we would appreciate your comments and input. Please feel free to contact me at (207)-624-3470 with any questions or concerns.

Sincerely,

Denis Lovely, Senior Project Manager
Highway Program, Augusta
Emory.lovely@maine.gov

Enc.

What people are saying about rumble strips in their community

"I have been road commissioner in the town of Woolwich for over 30 years and was supportive of the centerline rumble strip installation on the Woolwich portion of Route 1. Route 1 is a heavily travelled road, especially during the summer months. I firmly believe the strip is very effective as a preventative safety measure; most significantly, in the avoidance of head-on collisions. The benefit, in my opinion, far outweighs any inconvenience experienced due to the occasional resulting noise."

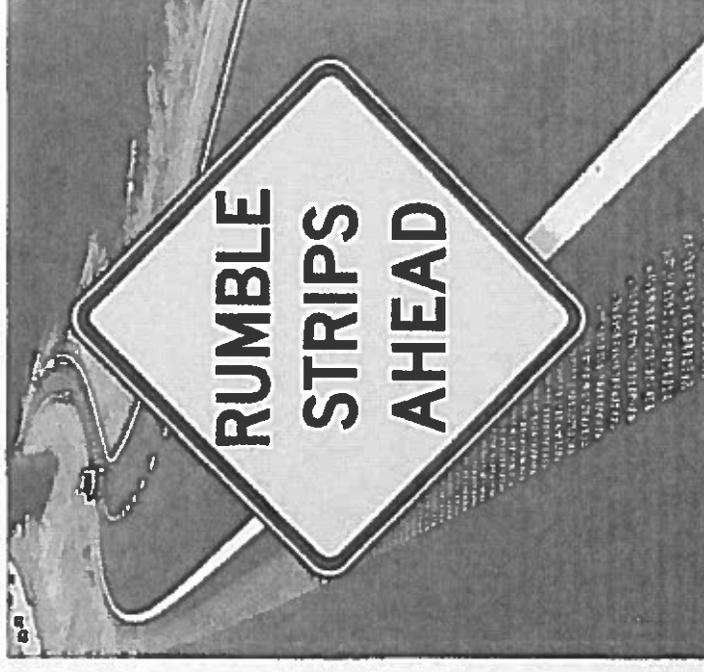
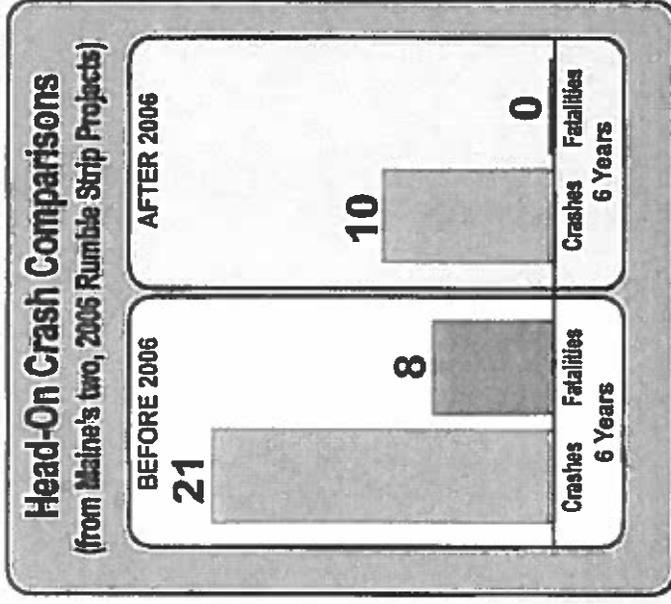
— Jack A. Shaw, Woolwich Road Commissioner

"...the positive impact of rumble strips along U.S. Route 1 in Woolwich - a 100% decrease in fatalities over a 5 or 6 year period - speaks for itself. Since I've been sheriff, beginning in January of 2009, we have only had a couple of head-on collisions. On a heavily traveled road that is considered wide and open, speed will always be a factor. Keeping vehicles in their proper lane is crucial, and that is what rumble strips do."

As for the noise related to the rumble strips, we have not received complaints, and now that they have been there for so many years, residents have become acclimated to them. Besides, the sheer volume of traffic along Route 1 creates enough noise that the rumble strips are really not noticed."

— Sheriff Joel A. Merry
Sagadahoc County Sheriff's Office

52% Reduction in Crashes
100% Reduction in Fatalities



Improving Safety
on Maine's Roads

Questions?

Contact MaineDOT at:
207-624-3278
or duane.brunell@maine.gov



mainedot.gov

Understanding
Rumble Strips

MaineDOT

Maine's Leading Crash Issue

70 % of Maine highway fatalities occur when drivers leave their proper lane of travel and drive off the road or into oncoming traffic.

Maine experiences an average of 800 head-on crashes a year. They are devastating, claiming nearly 40 lives annually.

What causes drivers to drive out of their lane? The leading factors are:

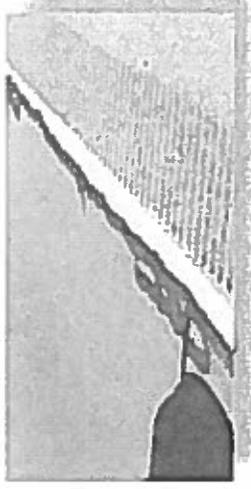
- driver fatigue and drowsiness;
- distracted driving;
- unsafe speed; or
- alcohol and drugs.

Slippery road surfaces and poor visibility in adverse weather conditions can increase the chances of lane departure.

Although technologies are being developed to help drivers stay in their lane, other mitigations are needed. The most effective and proven prevention to date is the rumble strip. Use of rumble strips has contributed to a significant reduction of serious lane departure crashes.

Types of Rumble Strips

Edge line or shoulder rumble strips are placed on the right side of the lane to alert drivers when they have drifted from their lane. Shoulders of adequate width are necessary for this type of rumble strip.



Centerline rumble strips are the most common treatment installed on Maine's two-lane roads. They are designed to alert drivers who may be heading for a potentially deadly head-on collision.



Maine rumble strips will be selectively installed on roads with speed limits of 45 mph or greater. Skips in the rumble strip pattern facilitate motorcycle lane changes and are for bicycle safety.

Maine's first non-interstate rumble strips were installed in 2006. Maine currently has centerline rumble strips installed on portions of twelve routes throughout the state. Crash reductions, particularly for head-on crashes, have been significant.



An Effective Safety Solution

Rumble strips create noise and vibration when the vehicle drives off the pavement or across the center line. Often, this alert gets the attention of a distracted or drowsy driver, who can quickly make a corrective steering action. Rumble strips can also alert drivers to the lane limits when conditions such as rain, fog, or snow reduce driver visibility. Rumble strips retain lane paint markings and provide improved lane identification.

Crashes Reduced
11 states and one national study have analyzed the effectiveness of centerline rumble strips in reducing crashes. These studies conclude that crossover crashes were reduced by 18% to 64%, with most studies showing 40% to 60% reductions.

Town of Hampden
106 Western Avenue
Hampden, Maine 04444



Phone: (207) 862-4500
Fax: (207) 862-5067
email:
economicdevelopment@hampdenmaine.gov

STAFF REPORT

Date: April 11, 2016
To: Planning Board
From: Dean Bennett, Community Development Director
Meeting: Planning Board Regular Meeting April 13, 2016
Re: Fiberight/MRC Site Plan Review Report

1. Project Information

Applicant: Municipal Review Committee, Inc & Fiberight, LLC
Site Location: East of Coldbrook Road Map 9, Lot 35-39/Map 14, Lot 7
Requested Action: Site Plan/Conditional Use Application for the construction of a 144,000 square foot Waste Processing Facility, 9,800 square foot Administration Building, and access road.
Zoning District: Industrial/Interchange
Use is listed as a Conditional Use in the identified Districts.

2. Project Dates

Application Submitted: March 3, 2016
Staff/Peer Review Date #1: March 16, 2016
Staff/Peer Review Date #2: March 23, 2016
Public Hearing Notification/Publication Date: April 2, 2016
Scheduled Planning Board Meeting: April 13, 2016

3. Project Details

The subject property is located in an area of the community known as the "Hampden Triangle". The proposed 90-120 acre parcel, on which the facility will be sited, will be accessed from the Coldbrook Road over a newly constructed commercial highway built to town specifications with the intent of being conveyed to the town upon completion.

The proposed development is intended to serve as a Recycling and Solid Waste Processing Facility for many communities within the State of Maine.

4. Staff & Peer Review

A Development Review Team, comprised of Code Enforcement, Planning, Public Works, Public Safety, and the Hampden Water District, has reviewed the application along with the Town's engineering firm of Woodard and Curran to determine the applications consistency with the requirements of Hampden's regulatory documents.

This approach is designed to assist and facilitate the developer with compliance with all applicable regulations in the most efficient manner possible without compromising the integrity of the standards developed and adopted by the Town of Hampden in its efforts to protect its citizen's health, safety and welfare.

Woodard and Curran has provided a Preliminary Review Letter dated March 30, 2016 regarding Ordinance applicability and recommendations regarding additional information to demonstrate conformance with Ordinance requirements. A second letter, dated April 7, 2016 was provided with detailed review comments regarding the submitted application package regarding Zoning Ordinance, Town Ways Ordinance, and Sewer Ordinance conformance.

5. Identified Outstanding Issues

The initial application is sufficiently complete to begin the Site Plan Review process. Our review has raised a number of issues that need to be addressed or resolved in order to be determined to have met the requirements of the Town of Hampden. Those items are listed below and attributed to the regulatory document in which they are found.

6. General Development Approach

The complexities of the development with regard to the utilization of existing parcels, creation of new parcels, and multiple ownership of parcels, in addition to the requirements of frontage, lot size etc., pose the question of which is the appropriate review approach. Eventual subdivision seems likely, however the applicants approach is to move forward under the Site Plan/Conditional Use in the Zoning Ordinance and Town Ways Ordinance.

Note: We request that the applicant provide a legal opinion regarding the applicability of this project, or parts thereof, to the Subdivision Ordinance versus the Zoning Ordinance, in support of the development approach.

4/11/16 A LEGAL OPINION HAS BEEN PROVIDED AS REQUESTED AND REVIEWED BY TOWN ATTORNEY BEAROR. IT IS THE OPINION OF LEGAL COUNCIL THAT THE PROPOSED DEVELOPMENT IS NOT A SUBDIVISION.

7. Zoning Ordinance: Article 3.2 Standards for Industrial Districts

Additional information is needed in order to comply with the following Industrial District Standards:

Frontage: The District requires 150 feet of frontage along a town approved road. It is unclear how this is to be accomplished, and once established needs to be referenced on Site Plan Sheets C101 through C103.

Setback: The processing facility setback requirement, due to its 60 feet height, requires a setback of 75 feet. This setback distance needs to be shown on Sheet C103.

Heights: Tank heights need to be shown on Sheet C103.

8. Zoning Ordinance: 4.1 Site Plan Review Criteria

4.1.6 Required Information on Plans

Section 4.1.6

The application and submittal package contains the required 17 submission items to qualify for Site Plan Review, with one exception:

A Waiver is sought from "including location and type of existing trees 12 inch diameter and over". Planning Board Waiver Requested

4.1.7 Standards Governing Site Plan Review

Section 4.1.7

The majority of criteria appear to have been addressed with the noted exceptions in **(Bold)** type:

- 4.1.7.1** **The proposed use, buildings, design and layout meets the provisions of all applicable regulations and ordinances of the Town of Hampden and meets the intent of the comprehensive plan, as amended.**

Note: The proposed use meets the intent of the comprehensive plan and Zoning Ordinance as Conditional Use within the Industrial District. The applicant is expected to demonstrate conformance of the proposed buildings, design, and layout to applicable regulations and ordinances through the Application and review process.

4.1.7.2 The proposed buildings, design, and layout shall, consistent with generally acceptable engineering and architectural design practices, be properly integrated with the terrain and the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location, and height of the building(s) and such natural features as soil type, slope and drainage ways.

***Note: Additional information is needed with regard to design, layout, bulk, location, height and integration with site.
See: CES Letter dated April 8, 2016***

4.1.7.3 The proposed site layout shall provide for safe ingress and egress to and from public and private roads by providing adequate location, numbers, and control of access points including sight distances, turning lanes, and traffic signals, if necessary. Factors for the planning board to consider in this determination are the turning movements in relation to traffic flow, proximity to intersections, location and access of off-street parking, provisions of pedestrian traffic, access by emergency vehicles, and minimization of pedestrian-vehicular contacts.

Note: Additional information is needed. See attached Memorandum from Maine Traffic Resources dated March 25, 2016

4.1.7.4 The layout and design of on-site vehicular and pedestrian traffic patterns shall provide for safe interior circulation, access by emergency vehicles, and separation of pedestrian and vehicular traffic and storage of plowed snow.

Note: Additional information is needed. See attached Memorandum from Maine Traffic Resources dated March 25, 2016.

4.1.7.5 Signs and exterior lighting shall be in accordance with the regulations in this Ordinance and in addition shall be so designed and located so as not to present a hazard, glare, reflection or unattractive appearance on or to adjacent properties and the traveling public.

Note: The applicant appears to meet the Ordinance requirements with regard to signs and lighting plans.

4.1.7.6 Buildings shall, consistent with generally acceptable engineering and architectural design practices, be designed and located so as to be properly integrated with the existing topography, terrain, and other natural features of the site.

Note: Additional information is needed with regard to building design, building elevation drawings, type of construction and other information that allows review and compliance determination.

See: CES Letter dated April 8, 2016

4.1.7.7 The development shall be designed and constructed to preserve the landscape in its natural state, in so far as practicable, by minimizing earthmoving, erosion, tree clearance, disturbance of existing vegetation, and the destruction of natural amenities.

4.1.7.8 All manufactured slopes, other than those constructed of stone, concrete or other impervious materials shall be planted or otherwise protected from the effects of storm runoff erosion. All graded slopes shall be of a character so as to cause the slope to blend with the surrounding terrain and development.

Note: (4.1.7.7 & 4.1.7.8). The development does not appear to disturb the landscape beyond that necessary to locate the access road and processing facility. Grading and earthwork modification appear to be minimal, utilizing relatively level ground. The engineering plans incorporate stormwater treatment and control per Maine Department of Environmental protection permitting requirements designed to minimize impact on surrounding areas.

4.1.7.9 Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, or any public or private storm drainage system. Whenever possible, on-site absorption shall be utilized to minimize discharges from the site. In reviewing the adequacy of surface water drainage plans, the planning board shall emphasize protection of flood plains, reservation of stream corridors, establishment of drainage rights-of-way, the adequacy of the existing system, and the need for improvements, both on-site and off-site, to adequately control the rate, volume, and velocity of storm drainage. In addition, the planning board shall review maintenance responsibilities to determine their adequacy.

Note: Applicant will need to provide evidence of meeting Maine Department of Environmental Protection standards regarding stormwater monitoring and treatment devices.

- 4.1.7.10 Adequate provisions shall be made to mitigate any adverse impact on existing scenic or natural beauty, rare or irreplaceable historic sites, or other features of importance to the community.

Note: No important scenic areas, historic sites, or other features of importance to the community were noted as being impacted by this development.

- 4.1.7.11 The development shall not impose an unreasonable burden on, nor exceed the capacity of, utilities such as sewer, sanitary and storm drains, water lines, or on municipal services such as, but not limited to, fire, police, solid waste disposal, schools, open spaces, recreational programs and facilities, roads, or other municipal services and facilities.

Note: The applicant has provided utility capacity letters from the City of Bangor Wastewater Treatment Plant with conditional statements of capacity. ***The Applicant did not include the statement of capacity from the Town's Public Works regarding sewer capacity. The Applicant has not provided statements from the electrical (Emera) or natural gas (Bangor Gas Company) utilities regarding capacity or conditions for this facility.***

- 4.1.7.12 Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize any adverse impact on other land uses within the development area and surrounding properties.

Note: The Applicant appears to meet the setback requirements of the Industrial Zone. The Applicant has proposed a Class I Bufferyard along the street frontage to the facility. Loading, unloading, and processing has been proposed as occurring inside the processing building to minimize impacts. The Applicant states that the nearest residential neighbor in Hampden is approximately 3,400 feet.

- 4.1.7.13 The proposed use, buildings, and site development shall have no unreasonable adverse effect on surface water quality, ground water quality, ground water quantity, soil quality, or air quality.

Note: The odor control issues identified below will need to be addressed. Examples of how these might be addressed are

suggested within the attached Woodard and Curran Preliminary Review Letter dated March 30, 2016.

- **Demonstrate proposed controls are adequate to fully address odor emissions.**
- **Present monitoring plan of odor control.**
- **Address odors associated with queued vehicles and along haul routes.**
- **Process for handling odor complaints.**
- **Potential odor emissions from gas flare or boiler system.**
- **Control of dust, trash, and debris at facility and along haul routes.**

See: CES Letter dated April 8, 2016

9. Zoning Ordinance: 4.2 Conditional Uses

4.2.3 Standards Governing Conditional Use Permits

Section 4.2

Criteria needing additional information is indicated below in **(bold)** type:

- 4.2.3.1 **The proposed use is designed and sited so as to comply with all provisions of this Ordinance. The applicant shall demonstrate that the use will be operated and maintained in compliance with the performance standards set forth in *Article 4.4* of this Ordinance.**

Note: Additional information as noted in this memo is needed to determine this standard has been met.

- 4.2.3.2 The proposed use will provide adequate and safe provision for the collection, storage, and disposal of all wastes generated or stored on the site.

Note: The proposed use consists of indoor collection, storage, and processing of municipal solid waste. This practice appears to meet the intent of this Conditional Use Standard.

- 4.2.3.3 **The proposed use will not significantly devalue abutting property or property located across a public or private way. In making its determination, the board shall take into consideration the following facts: the type, size, bulk, height, architecture, and use of the structure proposed, the topography of the area, the market value of the**

surrounding real estate, the availability of utilities, traffic conditions, and other relevant facts.

Note: Additional information is needed to address effects on abutting properties, particularly those located along the proposed haul routes and surrounding properties potentially affected by air emissions.

See: CES Letter dated April 8, 2016

- 4.2.3.4** The proposed use will not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions. In making its determination, the board shall require the applicant to demonstrate that none of the foregoing will interfere with the peaceful use and enjoyment of residential properties located in the area of the proposed use.

Note: Additional information is needed that address odor emissions and their impact upon residential properties.

See: CES Letter dated April 8, 2016

- 4.2.3.5** The proposed use will not cause or aggravate hazardous traffic congestion on contiguous or adjacent streets.

Note: See attached Memorandum from Maine Traffic Resources dated March 25, 2016.

- 4.2.3.6** The proposed use will not deny light and air to surrounding properties.

Note: The proposed facility is appropriately located on the proposed lot with adequate setbacks, no existing neighboring buildings, and considerations for building height per the Ordinance requirements.

- 4.2.3.7** The proposed use will:

- a. Maintain the existing level of safe and healthful conditions.
- b. Not cause water pollution, erosion, or sedimentation.
- c. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.
- d. Conserve shore cover and visual, as well as actual, access to water bodies.

Note: None of these have risen to a level of local concern beyond the permit requirements of the Department of Environmental Protection.

4.2.3.8 The applicant has adequate financial and technical capacity to meet the requirements of this Ordinance and any conditions imposed by the planning board under the provisions of *Article 4.2.4*.

Note: The Applicant has submitted statements regarding the financial and technical ability of the MRC and Fiberight to build and operate this facility on Page 5 of the application narrative and Appendix 7 for the consideration of the Planning Board.

4.2.3.9 The proposed use, if a home occupation, shall meet the standards contained in *Article 4.10* of this Ordinance.

Note: This standard is not applicable.

4.4. Performance Standards

Section 4.4

Criteria needing additional information is indicated below in **(bold)** type:

4.4.1 ***Odorous Matter – As identified in Woodard and Curran’s Site Plan Review, additional information had been requested from the applicant, much of which is addressed in CES: MRC/Fiberight Response to Review Committee letter dated April 8, 2016.***

4.7.1.1.10. **Zoning Ordinance Parking Standards – Applicant has provided 47 parking spaces. Ordinance requirement for this proposed use is 52 parking spaces.**

These Ordinance provisions will apply to the proposed application upon positive findings that the application qualifies for Site Plan Review as Conditional use. Compliance with these Ordinances may need to proceed on parallel paths to the Site Plan Application as they require Town Council approval.

Woodard and Curran has provided the following review of submission materials at the request of the Town of Hampden with intended benefit to the applicant.

Town Ways Ordinance

Additional information and/or detail is recommended on the following:

1. Sheet 103: Proposed natural gas line is shown overlying proposed water main. Piping layout should be modified to maintain adequate distance between utilities.

Clarification is a structure will be required where the proposed natural gas injection line meets the existing Bangor Gas Company pipeline.

2. Sheet 201: Several curb cuts are shown, apparently to direct stormwater, however no erosion control methods are specified at these locations.

Further detail where curb cuts are close to existing grade.

3. Sheet C202: The distance between road high points appears to exceed 900 feet. Concern is for excess of flowing water impacting the travel lane should be addressed.

4. Sheet C203: Distance between roadway high points appears to exceed 1500 feet. Concern is for excess flowing water impacting the travel lane should be addressed.

Proposed sewer pump station appears to show a paved driveway. Recommendation is driveway match pavement and base gravel requirements as road.

5. Sheet C204: Location of Bangor Gas Company natural gas line and proposed gas injection pipe shown on Sheet C102 is not shown on the C204 plan and profile.

6. Sheet C502: " Typical Crowned Roadway Cross Section" A number of recommendations are contained in the Woodard and Curran Review Letter dated April 7, 2016.

Sewer Ordinance

Additional information and/or detail is recommended on the following:

A partial review of the Sewer Ordinance conformance has been completed. A complete review is not possible due to the omission of several elements at time of review.

1. Additional detail on force main piping design.
2. Sewer manhole details.
3. Pipe insulation details.
4. Details with regard to Sewer Pump Station.

March 30, 2016



Dean Bennett
Director of Community and Economic Development
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Re: Preliminary MRC/Fiberight Solid Waste Processing Facility Site Plan Review

Dear Dean:

We have completed a preliminary review of the Site Plan Application submitted for Municipal Review Committee, Inc. & Fiberight, LLC (Applicant) by CES, Inc. (Agent) dated March 3, 2016, for a proposed 144,000 square foot solid waste Processing Facility, 9,800 square foot Administration Building, and access road. This review is focused on applicability of the Town Ordinance requirements and completeness of the application with regard to these ordinances.

Our review of Town Ordinance applicability is intended to ensure that the Town permitting process is clear and can be completed in a timely manner, as this project involves elements spanning the requirements of multiple ordinances.

The overall project includes all of the elements necessary to provide access and utilities to the proposed MRC/Fiberight partnership solid waste processing facility. The project includes the creation of what appear to be three distinct parcels consisting of the following: an access road parcel, the solid waste processing facility parcel, and a 100-foot wide utility corridor parcel. The access road is intended to be conveyed to the Town upon completion and serve as access for the proposed solid waste processing facility and for future development of parcels through which the road passes. The affected parcels along the access road are not shown as being modified beyond the creation of a road right of way. The solid waste processing facility is located on a proposed new lot, created from portions of existing lots, located at the end of the proposed access road. There is also a proposed parcel, created from portions of existing lots, extending east beyond the end of the proposed access road toward Ammo Park that is intended as a utility corridor for sewer.

Of primary concern was the combination of the project elements, including the processing facility, access road, and 100-foot wide parcel, into one Zoning Ordinance Site Plan Application. We have identified several potential issues with this approach that we recommend the Applicant address, as follows:

1. The application site plans detail the creation of three new lots from multiple existing lots, an access road lot, the processing facility lot, and sewer extension lot. The Applicant's intent, based on discussions and development agreements in this Application, is to construct a road meeting Town Way standards for eventual conveyance to the Town. Sewer, water, and gas utility provisions are included along the length of the proposed access road, indicating an intent to further divide adjacent parcels. As the intent and layout of the proposed project reflect the intent to create a subdivision, and this term and regulation thereof are subject to State Statute, we recommend that the Applicant provide a legal opinion regarding the applicability of this project, or parts thereof, to Subdivision Ordinance versus the Zoning Ordinance. The Applicant should be aware of the implications regarding development classification for the affected lots along the access road. If this application does not meet the



legal definition of a subdivision, further development or parcel modifications of the properties along the access road will likely trigger Subdivision Ordinance requirements unless the statutory length of time passes after splitting the parcels.

2. Zoning Ordinance Article 3.3.4 requires 150 feet of road frontage for Industrial Zone lots. The Applicant does not explicitly state the amount of road frontage provided, but it appears to utilize frontage along the access road parcel bordering the facility, which is noted as a "Proposed Right of Way" on several plans. Although the intent of the Applicant, through discussion, has been to construct and transfer the road as a Town Way, the application does not make clear how the proposed access road meets the Zoning Ordinance definition of road or street per Article 7.2. As the Zoning Ordinance does not appear to address the creation of a Town Way, the access road may require approval in accordance with the Subdivision Ordinance to avoid creating a Non-conforming lot or lot(s). It is not clear if the Applicant can meet the Zoning Ordinance frontage requirement based on the submitted plans.
3. Zoning Ordinance Article 5.3.1.8 details the requirements that must be met prior to issuance of a building permit, including Town acceptance of roads providing frontage pursuant to the Town Ways Ordinance.
4. For the purposes of Town Zoning Ordinance compliance, further review of the portions of the project with potential to be subject to Subdivision Ordinance should be conducted and assigned to the appropriate application process based on ordinance applicability.

Zoning Ordinance

The project involves several parcels of land that span two zoning districts, the Interchange District and Industrial District. The solid waste processing facility is proposed within the Industrial District and will be subject to conformance with the Industrial District standards, except as allowed in Article 2.1 for parcels involving more than one zoning district. For the purposes of this portion of the review, we are considering the completeness of the application materials regarding the processing facility site located on the proposed parcel shown on Sheet C101 Overall Site Plan and in further detail on Sheet C103 Enlarged Site Plan and not the access road parcel, which is considered separately in this letter as a Town Ways Ordinance issue.

The facility does not meet the definition of a Permitted Use for the Industrial Zone, but appears to meet the criteria for Conditional Use, as it is a processing and treatment plant with a gross floor area greater than 5,000 square feet.

With regard to Article 4.1.6. Required Information on Plans, the Applicant has met the requirements with the following exceptions:

1. The Applicant has requested a waiver from including the location and type of trees 12-inch diameter and over.

With regard to Article 4.1.7. Performance Standards appears to have met the requirements with the following exceptions:

1. The Applicant has not provided submittal information regarding building design per Article 4.1.7.2 and 4.1.7.6 such as building elevation drawings, intended type of construction, or other information that allows review for compliance with this standard.
2. Please see the attached Memorandum from Maine Traffic Resources dated March 25, 2016 regarding a preliminary review of traffic of this application. There are a number of concerns with regard to meeting Article 4.1.7.3 and 4.1.7.4 standards.



3. The application addresses stormwater requirements in Article 4.1.7.9, although we have deferred review of stormwater modeling and treatment device design to the Maine DEP Solid Waste Processing Facility application. We request the Applicant provide evidence of meeting Maine DEP standards regarding these items.
4. Article 4.1.7.13, in addition to Article 4.2.3.4 and Article 4.4.1, applies to air emissions and odor standards. The Applicant has stated the use of operational and engineering controls to limit nuisance odors. The Applicant states that they are using an enclosed building, minimizing the time that access doors are open, minimizing the volume of solid waste on the tipping floor, and maintaining a negative air pressure via an air handling system. An odor control system has been proposed for odor reduction. In addition to the materials provided in the Site Plan Application, CES forwarded supplemental application materials from the MDEP Solid Waste Processing Facility Application. We have not reviewed the MDEP application materials in depth, although these materials may be necessary to address the following concerns regarding the Town Site Plan Application:
 - a. The Applicant has not demonstrated that the proposed controls are adequate to fully address odor emissions. We recommend requesting records of odor complaints from existing similar facilities, including identification of conditions that resulted in complaints and any corrective actions to address these conditions. Reference to comparable facilities with similar odor emissions sources and control technologies should be provided.
 - b. The Applicant has not presented a monitoring plan to ensure odor emissions are controlled or to demonstrate compliance with stated statute requirements. We recommend that the Applicant propose a monitoring plan with the goal of maintaining compliance with statute requirements and Zoning Ordinance standards.
 - c. The application has not addressed the odor concerns from queued vehicles (both full and empty), impacts along concentrated haul routes (refer to traffic review comments), and impacts of odor generation based on varying meteorological conditions. We recommend that the Applicant provide evidence of their ability to manage these impacts.
 - d. The Applicant has not presented a process for handling odor complaints. We recommend that the Applicant propose a systematic process for receiving and addressing odor complaints from the Town of Hampden employees and its residents that ensures continued compliance with Zoning Ordinance standards and does not place an undue burden on Town employees.
 - e. The Applicant has not addressed the potential for odor emissions from the gas flare or boiler system or control thereof.
 - f. The Appendix 6 narrative identifies an "Operations and Maintenance Plan" with regard to fugitive dust. In addition to dust control, we recommend that the Applicant demonstrate compliance with control of dust, trash, and other debris generated not only at the facility, but along concentrated haul routes and surrounding properties.

As a Conditional Use, the Applicant is subject to additional review subject to Article 4.2.3 Standards Governing Conditional Use Permits. The Application does not appear to meet these additional standards based on findings regarding items listed above and the following:



1. Article 4.2.3.1, regarding the requirement for compliance with all provisions of the Zoning Ordinance and operated and maintained in compliance with Article 4.4 Performance Standards.
2. Article 4.2.3.3 regarding effects on abutting property, particularly those located along the proposed haul routes and surrounding properties potentially affected by air emissions.
3. Article 4.2.3.4, particularly regarding odor emissions and their impact upon residential properties.
4. Article 4.2.3.5 regarding traffic concerns as noted previously and in the attached Maine Traffic Resources review.

The Planning Board may assign additional conditions to the Applicant per Article 4.2.4, such as operational controls, professional inspection and maintenance, type of construction and other conditions as necessary to ensure compliance with the Zoning Ordinance standards.

Other Ordinance Requirements

As stated previously, this application contains elements with applicability to several Town ordinances in addition to the Zoning Ordinance. Each item is discussed below in terms of applicability and review processes for the benefit of the Applicant. Depending on finding of applicability, these items may need to proceed on parallel paths to the Site Plan Application in order to meet the Applicant's proposed schedule.

Town Ways Ordinance

The access road, if not applicable to Subdivision Ordinance requirements, would be applicable to the Town Ways Ordinance. This ordinance details the process for acceptance of a privately constructed road as a Town Way, including:

1. Demonstration of design and construction in accordance with Article II – Standards and Requirements for an Industrial Way;
2. Provision for an improvement guarantee;
3. Town Attorney review and approval of conveyance documents, improvements, and any applicable easements;
4. Utility statements regarding acceptance of installed infrastructure;
5. At the discretion of the Town Council, acceptance of the road prior to installation of the surface pavement with an approved performance guarantee for completed paving; and
6. Town Council acceptance as Town Way.

In addition to the issues identified in the Maine Traffic Resources memo previously referenced, the application does not provide sufficient information to demonstrate compliance with Article II of the Town Ways Ordinance.

Sewer Ordinance

The proposed sewer collection system, unless also applicable to the Subdivision Ordinance, is subject to Sewer Ordinance requirements. These include, but are not limited to, the following:

1. Approval by the Town to construct sewer extension including review of engineering documents, design data, etc. as listed in Article 5.3. This includes demonstrating compliance



- with Article 5.3.1 regarding the use of sewer pump stations, limitations in force main length, and feasibility for gravity sewer;
2. Arrangement for Town inspection of the sewer installation and establishment of account for developer reimbursement of inspection expenses;
 3. Town approval of construction shop drawings prior to issuance of construction permit;
 4. Completion of testing per Article 5.4 regarding sewer extensions constructed by Private Developer prior to connection to Town sewer;
 5. Completion of Article 5.5 requirements for transfer of ownership; and
 6. Town Council acceptance of private sewer.

The application partially fulfills the Sewer Ordinance requirements for initial submittal documents, as the engineering plans for the gravity sewer and installation details are included. However, the sewer pump station, a large portion of the sewer force main, and determination of feasibility for any portion of gravity sewer for the "cross-country" route has not been provided. Without these components, a complete Sewer Ordinance review cannot be provided.

The Applicant is proposing a facility subject to the Industrial Pretreatment Program, administered by the City of Bangor Wastewater. The Applicant has not provided materials demonstrating the ability to comply with this program's requirements in this application. The process for or status of obtaining an Industrial User Permit is not described in the application.

The Applicant will be subject to a Special Charge for Industrial Organizations per Section 10.3 of the Sewer Ordinance. The applicant has not submitted information that allows the Town to develop this sewer use fee, including sewer pump station design, flow and pumping calculations, force main maintenance, establishment of Town right of way year-round utility access, and other appurtenant costs associated with conveying and treating waste from the Applicant's facility. The Applicant should be aware that the Town Council is considering amendments to the Sewer Ordinance that may affect the requirements applicable to this development.

If you should have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

WOODARD & CURRAN INC.

A handwritten signature in blue ink, appearing to read "Kyle Corbeil".

Kyle Corbeil, P.E.
Project Engineer

KVC/eah

PN: 213351.00 040

April 7, 2016



Dean Bennett
Director of Community and Economic Development
Town of Hampden
106 Western Avenue
Hampden, ME 04444

Re: MRC/Fiberight Solid Waste Processing Facility Site Plan Review

Dear Dean:

We have completed a preliminary review of the Site Plan Application submitted for Municipal Review Committee, Inc. & Fiberight, LLC (Applicant) by CES, Inc. (Agent) dated March 3, 2016, for a proposed 144,000 square foot solid waste Processing Facility, 9,800 square foot Administration Building, and access road. This review is focused on conformance with Zoning Ordinance requirements as well as other applicable ordinances as referenced below.

Zoning Ordinance Review

As described in our Preliminary MRC/Fiberight Solid Waste Processing Facility Site Plan Review dated 3/30/2016, the Applicant project is classified as a Conditional Use within the Industrial Zone.

Several concerns were noted in the previous review letter, which is attached to this letter in lieu of repeating those concerns. The following is a review of specific standards that appear to be met as well as any other concerns raised during a detailed review of the submitted Site Plan Application.

Zoning Ordinance Standards for Industrial District (Article 3.2)

1. Submittal appears to meet the standards of this section for minimum lot area, setback requirements, and ground coverage. The site plan indicates a building height of 60 feet where the maximum allowable building height is specified to be 35, except where additional setback distances are provided.
2. The Site Plans Sheets C101 through C103 do not detail the lot frontage. As noted in our previous review, it is not clear that frontage along the access road will be available to claim as front on a Town Way and a minimum of 150 feet of frontage is not provided elsewhere with the proposed lot configuration. We recommend that the Applicant address this issue as detailed in our previous review.
3. The Street Yard setback line on Sheet C103 shows the required 50-foot street yard setback. The 75-foot street yard setback line for the processing facility building height of 60-feet (special regulation based on the Article 3.2.5.3 requirement) should also be shown. The Proposed Admin Building (building height of 20 feet) is within the 75-foot setback, but the remainder of the facility does not extend into this setback area.
4. We recommend that the Applicant provide tank heights on Sheet C103.
5. The proposed property line to the north of the facility shown on Sheet C103 uses the linetype for setback and the side yard setback line is shown at 100-feet from the property line. We



recommend that the Applicant correct the plan according to the linetypes shown on the legend and adjust the setback lines to 35 feet (standard minimum) and 60 feet (special regulation based on the Article 3.2.5.3 requirement). It does not appear that any structures are proposed beyond the side yard setback distance of 35 feet and the Scale House is the only structure within the 60-foot side yard setback.

Zoning Ordinance Site Plan Standards (Article 4.1)

1. The Application appears to have submitted items addressing each of the items in Article 4.1.6, with the exception of the "Location and type of existing and proposed fences, hedges, and trees of twelve (12") inch diameter and over at a point four and one (4.5') above ground level." The Applicant has requested a waiver from this requirement in the Application narrative.
2. We recommend that the Applicant revise Sheets C101 and C102 to label contour lines and modify the setback lines as stated previously in this letter regard Sheet C103.
3. A number of concerns were stated in the 3/30/2016 Preliminary Review letter regarding conformance with Article 4.1.7. In addition to those concerns, we have noted the following:
 - a. The Applicant has provided utility capacity letters from the Hampden Water District and the Bangor Wastewater Treatment Plant with conditional statements of capacity. The Applicant did not include the statement of capacity from the Town's Public Works regarding sewer capacity.
 - b. The Applicant has not provided statement from the electrical (Emera) or natural gas (Bangor Gas Company) utilities regarding capacity or conditions for this facility.

Zoning Ordinance Conditional Use and Performance Standards (Article 4.2 and 4.4)

No additional concerns regarding Conditional Use Standards were noted beyond those noted in the 3/30/2016 Preliminary Review letter.

Zoning Ordinance Parking Standards (Article 4.7)

1. The Applicant does not appear to meet the minimum off-street parking space requirement for "Industrial Use" in Article 4.7.1.1.10. Based on statements in Appendix 1 regarding 70 employees and the required $\frac{3}{4}$ space per employee, a total of 52 spaces should be provided. Sheet C103 states that proposed parking includes 47 spots.

Town Way Ordinance Review

The access road was reviewed based on the assumption that it would be conveyed to the Town as a Town Way with an Industrial classification.

1. The proposed road appears to meet the 100-foot right-of-way width requirement based on the property lines shown on the plans.
2. The proposed road appears to meet the requirements for grades and side slopes.
3. In addition to the comments provided by Maine Traffic Resources (MTR) in their Preliminary Traffic Review memo dated 3/25/2016, please see the following comments.



4. No street signage was detailed. We recommend that the Applicant provide details and locations on the plans in accordance with Manual on Uniform Traffic Control Devices (MUTCD) standards regarding street signage including, but not limited to, stop sign, "No Outlet" sign, street name signage, speed limit signage, and others as applicable. See MTR Review Memo dated 3/25/2016.
5. Sheet C103:
 - a. The proposed natural gas injection line is shown overlying the proposed water main. We recommend modifying the piping layout to maintain adequate distance between utilities.
 - b. Please clarify if a structure will be required where the proposed natural gas injection line meets the existing Bangor Gas Company pipeline.
6. Sheet C201:
 - a. Several curb cuts are shown with the apparent intent to direct stormwater off of the roadway. No erosion control methods are specified at these locations. We recommend that the Applicant detail a suitable means of dispersing stormwater at these locations to prevent erosion damage.
 - b. The curb cuts shown near Station 6+50 appear to be very close to existing grade and contour lines are not shown in this area. We recommend that the Applicant detail these areas further to ensure that roadway flooding does not occur.
 - c. The distance between roadway high points stormwater outlets, either curb cuts or Filterra units, appears to exceed 600 feet. We recommend that the Applicant present evidence that the proposed spacing does not result in an excess of flowing water impacting the travel lane or reduce the spacing between outlets.
7. Sheet C202:
 - a. The distance between roadway high points stormwater outlets, either curb cuts or Filterra units, appears to exceed 900 feet. We recommend that the Applicant present evidence that the proposed spacing does not result in an excess of flowing water impacting the travel lane or reduce the spacing between outlets.
8. Sheet C203:
 - a. The distance between roadway high points stormwater outlets, either curb cuts or Filterra units, appears to exceed 1,500 feet. We recommend that the Applicant present evidence that the proposed spacing does not result in an excess of flowing water impacting the travel lane or reduce the spacing between outlets.
 - b. The proposed sewer pump station appears to show a paved driveway. We recommend that the Applicant specify that the driveway match pavement and base gravel requirements for the roadway.



9. Sheet C204:

- a. The location of the existing Bangor Gas Company natural gas pipe and proposed gas injection pipe shown on Sheet C102 is not shown on the C204 plan and profile.

10. Sheet C502:

- a. Comments regarding "Typical Crowned Roadway Cross Section":

- i. Pavement and gravel specifications layers are not detailed. Recommend referencing applicable detail or adding callouts for all materials shown in the cross section.
 - ii. No material specification for loam or depth of loam is shown. We recommend a minimum of 4 inches and including a material specification for loam.
 - iii. Subgrade and fill materials are not specified. We recommend adding specifications for fill material and compaction requirements in addition to the Aggregate Base and Aggregate Subbase gravel shown.
 - iv. Detail shows "box cut" type of gravel installation. We recommend extension of Aggregate Base and Subbase layers to the full width of the cross section, not just below the pavement and curb.
 - v. Review of the cross section against the plan sheets C201 through C204 shows that gravel layers will be below existing grade for significant portions of the road length. No subbase drainage via ditch construction or underdrain is included in the design. The Applicant should present evidence that the proposed design will be resistant to frost heave and thawing damage for the anticipated traffic loads. Load limitation during thawing conditions will not be an option with this road due to the nature of the proposed facility, so resistant to freeze-thaw damage is critical.
 - vi. The "Typical Trench Detail – HDPE Water Main" appears to reference the wrong pipe material as ductile iron pipe is specified on the plans. We recommend correcting this detail to reflect ductile iron pipe.
 - vii. The "Typical Box Culvert Detail" appears to show the culvert footings placed on native subgrade material. We recommend that the Applicant clarify if this is suitable installation method or if installation of support gravel or stone is required.
- b. The "Typical Roadway Buildup Detail" specifies a total of 4 inches of pavement and 24 inches of gravel base. Per our comment regarding freeze-thaw protection, we recommend that the Applicant present evidence that the proposed design will be resistant to frost heave and thawing damage for the anticipate traffic loading.
 - c. No pavement marking details were provided to show centerline and shoulder marking dimensions. We recommend that the Applicant provide details for lane markings. See MTR Review Memo dated 3/25/2016.



Sewer Ordinance

A partial review of Sewer Ordinance conformance has been completed, but as noted in the 3/30/2016 Preliminary Review letter, we are not able to perform a complete review due to the omission of several elements. Our comments regarding the submitted sewer design for the access road are as follows:

1. Sheet C502:
 - a. Per Article 5.3.4, we recommend modifying the "Typical Sewer Trench Detail" to add a geotextile layer between the crushed stone bedding material and backfill material.
2. The Applicant did not provide a detail for force main piping. We cannot comment on the adequacy of the force main piping design except that the "Typical Sewer Trench Detail" is not adequate for force main installation conditions.
3. The Applicant did not provide sewer manhole details for review. We cannot comment on the adequacy of the sewer structure design.
4. The Applicant did not provide pipe insulation details. It appears that insulation will be necessary in the vicinity of Station 0+00 due to a pipe depth of less than 5 feet.
5. The Applicant did not provide details regarding the sewer pump station. We cannot comment on the adequacy of the design, including force main sizing, design flow, or wet well size.

If you should have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

WOODARD & CURRAN-INC.

A handwritten signature in blue ink, appearing to read "Kyle Corbeil".

Kyle Corbeil, P.E.
Project Engineer

KMC
213351.00 040

Attachments

SUMMARY MEMORANDUM

Mr. Kyle Corbeil, P.E.
Project Engineer
Woodard & Curran
One Merchants Plaza
Bangor, ME 04401

March 25, 2016

RE: Preliminary Traffic Review for Hampden Solid Waste Processing Facility

The purpose of this memorandum is to summarize my preliminary review of the proposed Solid Waste Processing Facility in regard to traffic, as requested by Woodard and Curran and the Town of Hampden. I reviewed "Hampden Site Plan Review Application for Solid Waste Processing Facility, Appendix 1, Traffic Narrative," prepared by Victor J. Smith, P.E. and dated June 24, 2015. In addition, I reviewed the site plans prepared by CES, Inc, dated March 3, 2016. My preliminary review comments are summarized below:

1. **Trip Generation:** The Institute of Transportation Engineers (ITE) "Trip Generation" report does not provide a Land Use Code for Solid Waste Facilities. While the application provided daily traffic estimates it did not attempt to estimate peak hour flows. The application anticipates 70 employees at full operation, spread over three shifts. Generally, employment is heaviest during the first two shifts with the peak hour occurring when the first shift is ending and the second shift is starting. Assuming 10 employees for the overnight shift and 60 employees for the other two shifts combined would result in up to 60 peak hour trips, when first shift employees are departing and second shift employees are arriving. It is also important to note that the application assumed just two daily trips per employee. Since some employees leave at lunch or to run errands, the daily average number of trips per worker is typically 3.3 trips, based upon typical ITE office data, resulting in a total of 260 daily one-way trips for employees and visitors, as opposed to the 168 cited in the application.

In addition to the employee traffic, there will be up to 89 truck deliveries of incoming waste per day. Assuming most of these occur over a twelve hour period results in 8 round trip truck trips per hour = 16 one-way trips, which is then doubled to equate to passenger car equivalents (pces). This yields a projected afternoon peak hour of 60 employee trips and 32 pce truck trips for a total of 92 pces. While I concur that the project will likely not exceed the 100 trip-threshold, which would require a Traffic Movement Permit from the Maine Department of Transportation (MaineDOT) this is a significant level of traffic as discussed in the following paragraph.

Based upon standard operating practice in Maine, this level of traffic (92 pces) would warrant a full Traffic Impact Study. The general study area, according to Maine standard practice, extends to where a project is expected to contribute 25 or more lane hour trips

(defined in pces). As a result, the study area should extend from the site through the site drive intersection and then along Coldbrook Road to where there are fewer than 25 lane hour trips (again, defined in terms of pces) in the peak hour.

It is requested that CES provide peak hour trip estimates and trip assignments to finalize the study area. The best method to estimate trip generation for the new facility may be to collect data at the existing PERC facility in Orrington and appropriately increase or decrease those results, based upon both employee data and waste tonnages. It may also be necessary to adjust any trip generation counts performed this spring to peak summer conditions, when waste generation is highest in Maine.

2. ***Trip Assignments:*** Since no peak hour data was provided in the narrative, no peak hour trip assignments were provided by CES. Based upon the anticipated haul routes and existing traffic patterns relative to employee trips, trip assignments should be provided. The purpose of these trip assignments will be to determine study area for capacity purposes, as previously discussed, and also to allow for traffic impacts to be analyzed for no-build and build conditions.
3. ***Traffic Volumes:*** No traffic volume data was provided. A turning movement count should be conducted at the intersection of Coldbrook Road and the H.O. Bouchard Drive (at a minimum) to determine existing traffic volumes for the peak hour period, based upon the trip generation analysis results, which is expected to be the afternoon/PM peak hour period. Dependent upon the trip assignments and the resultant study area, additional turning movement counts may be needed.
4. ***Traffic Analysis.*** Level of service (LOS) analysis should be performed for both no-build and build conditions for the determined study area intersections to assure acceptable traffic operations. At a minimum, the study area will include the site drive intersection of Coldbrook Road and LOS analysis should be provided for the site drive to assure acceptable drive operations.
5. ***Auxiliary Turn-Lane Warrants.*** In addition to LOS analysis, turn-lane warrants should be provided for Coldbrook Road at the site drive to determine the need for either a right-turn lane or a left-turn lane to serve traffic entering the site. These warrants should be performed according to the procedure of the MaineDOT "Highway Design Guide".
6. ***Accident Data:*** Mr. Smith obtained accident data for Coldbrook Road from I-95 to Route 202. Depending upon the results of the trip assignments and resulting study area, since a new portion of the haul route is Route 202 from Route 2 to Coldbrook Road, additional accident data may need to be obtained and analyzed. Based upon the data provided there are no high crash locations along the Coldbrook Road corridor.

The study area for accident review purposes is often extended beyond the 25 lane hour trips. Additional accident data should be obtained and analyzed for all areas of concern identified by the Town as outlined in the following section.

7. **Haul Routes:** The application shows the intended haul routes to the facility. How will the facility mandate these haul routes? For example, trucks that are headed from the northeast are expected to take Route 202 to Coldbrook Road. How will they be managed to assure that they do not take Main North Road and the Town portion of Coldbrook Road to access the site? Most trucks would be expected to simply take the shortest, most direct route. The haul route map show trucks coming from the southeast up Route 1A towards the facility but it then expects them to travel to I-395. I think many of these trucks will simply opt to stay on Route 1A. How can the trucks possibly be controlled to require the specific haul routes noted in the application?

It is understood that the Town of Hampden is concerned with trucks at three particular intersections in the vicinity of the facility, which could indeed be impacted by trucks using the shortest, most direct route. These intersections are:

Main Road North (Route 1A) and Western Avenue
Western Avenue and Route 202.
Coldbrook Road and Main Road North (Route 1A)

Since the above intersections are generally within two miles of the facility and are noted to be of particular concern to the Town, they should be specifically addressed in some manner in the Traffic Impact Study. The Town also feels that there are sight distance restrictions at the intersection of Main Road North and Coldbrook Road so this should be evaluated in the study.

8. **Driveway Sight Distances:** Sight distances were provided for the proposed new drive across from the HO Bouchard Drive. For the 45 mph speed limit zone, the Maine Department of Transportation requirement is 635' for drives with a high number of large vehicles. Mr. Smith stated sight distance to the right is 740' and that it exceeds 2,000' to the left. These sight distances are more than adequate. It is important to note that MTR did not perform a field review to verify these sight distances.
9. **Interior Road Network:** The site plan (C103 dated 3/3/16) was reviewed in regard to on-site circulation for both pedestrians and vehicles since circulation, pedestrians and access by emergency vehicles are outlined as items of importance in the Town of Hampden Ordinance. CES appropriately provided a paved sidewalk for employees to enter both the processing facility and the admin building.

AutoTurn runs performed by Maine Traffic Resources show that a WB-67 tractor trailer truck will need to use all of the access road to make the turn in and out of the facility in the area of the cul-de-sac making it unsafe for other vehicles, particularly for automobiles entering or exiting the parking lots. The access road needs to be widened in this area to assure that trucks do not need to cross centerline to access the facility. AutoTurn runs showed no issues at the Coldbrook Road intersection. The AutoTurn runs are attached for your information.

No stop signs or pavement markings are shown on the plans. Who has the right-of-way at the cul-de-sac? Appropriate stop signs and pavement markings, such as stop lines, should be shown on the plans.

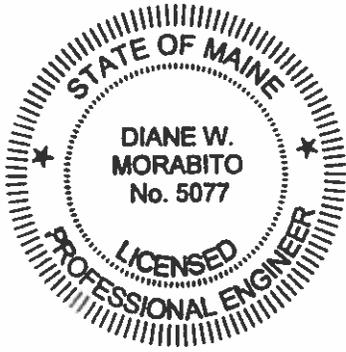
Is a speed limit being posted on the access road?

10. **Right-of Way.** The plan shows a 100' wide right-of-way extending beyond the facility. It is understood that this a utility corridor that extends to Ammo Industrial Park and that it will have a gravel surface. It is understood that this access is to be to be gated by no gate is shown on the plans,

To summarize, Maine Traffic Resources requests a complete Traffic Impact Study (TIS) to be provided based upon standard traffic engineering practice in Maine. The TIS is required to demonstrate to the Town of Hampden that this project will not have a significant impact on safety or traffic operations and that no off-site mitigation is required to accommodate the proposed waste processing facility. As stated in Section 4.1.3, the burden of proof is upon the applicant. The off-site Traffic Impact Study should include the following at a minimum:

- Peak hour trip generation analysis. This may best be obtained by performing trip generation counts at the existing Orrington facility and appropriately adjusting them to both Hampden and peak summer conditions for waste facilities.
- Peak hour trip assignments based upon the intended haul routes and area traffic patterns to determine study area and traffic operational impacts.
- A truck Management Plan detailing how the waste trucks will be mandated to only use the haul routes or off-site mitigation as needed to address the Town of Hampden's concerns.
- Associated turning movement counts at study area intersections, appropriately factored to peak summer conditions.
- Level of service calculations for study area intersections under existing, no-build and build conditions.
- Auxiliary turn-lane warrants for Coldbrook Road at the site drive.
- Additional accident review for the expanded study area.
- Sight distance review at the intersection of Main Road North and Coldbrook Road since it has been flagged as a concern of the Town.

As always, if you have any questions regarding these preliminary review comments please do not hesitate to contact me. I'll look forward to continuing my review when the additional materials are received.

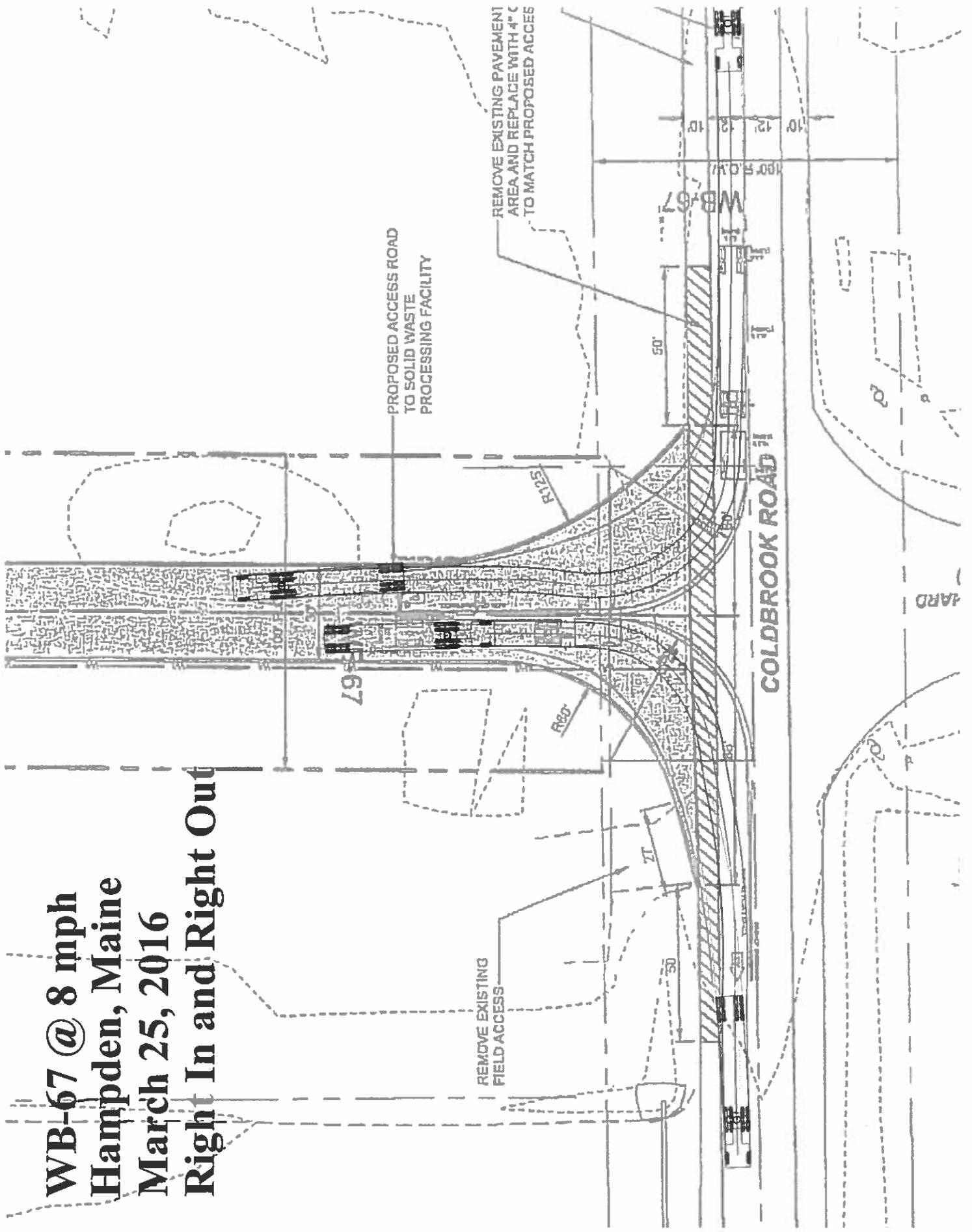


Sincerely,

A handwritten signature in black ink that reads "Diane W. Morabito". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Diane W. Morabito, P.E. PTOE
President

**WB-67 @ 8 mph
Hampden, Maine
March 25, 2016
Right In and Right Out**



April 8, 2016

Mr. Dean Bennett
Director of Community and Economic Development
Town of Hampden
106 Western Avenue
Hampden, Maine 04444

Re: MRC/Fiberight Response to Review Comments

Dear Dean:

We have reviewed the letter provided by Woodard and Curran based on their preliminary review of the Site Plan Application that we've submitted on behalf of the Municipal Review Committee (MRC) and Fiberight, LLC. Based on our discussions with you, we thought that it may be helpful to provide some additional information in response to some of the technical items noted in the Woodard and Curran letter prior to the Planning Board meeting on April 13th as part of MRC/Fiberight's Application. Eaton Peabody will be providing a separate letter addressing the applicability of the Subdivision Ordinance.

Regarding Article 4.1.7.2 and 4.1.7.6, building elevations have not been prepared at this time and the ordinance does not indicate that they are required. The proposed processing portion of the building will be a metal building typical of what would be found in an industrial park setting. The administration portion of the building will most likely be a wood frame structure. There are no existing buildings in the vicinity, but the proposed building would integrate well with other industrial type buildings, which matches the zoning of the property.

Regarding Article 4.1.7.9, stormwater management, we have submitted a Stormwater Permit application to Maine Department of Environmental Protection (MDEP) that addresses the stormwater along the access road. The MDEP Solid Waste Permit application addresses stormwater management for the facility development. It is our understanding that the review of these portions of the permits has been completed and all MDEP comments have been addressed. If the MDEP permits have not been issued by the time that the Planning Board is prepared to make a determination on this project, we would suggest that the MDEP permit approvals be a condition of the Town approval.

Regarding Articles 4.1.7.13, 4.2.3.4, and 4.4.1 air emissions and odor standards, we offer the following response to letters a-f in the review letter:

- (a) There are no locally operated facilities, similar in process, that are provided with odor controls comparable to those being proposed for the Fiberight facility. The facility most similar in operations is the Fiberight facility in Lawrenceville, Virginia. To date, there have been no odor complaints at the Virginia facility.

Mr. Dean Bennett | 04.08.2016 | 10973.002 | Page 1



- (b) In order to address the MDEP requirement for the prevention of nuisance odors at occupied buildings, the revised DRAFT Operations and Maintenance Plan (O&M) manual submitted to MDEP on March 30, 2016, includes revisions to the Odor Management Section. The updated O&M manual includes provisions for regular site inspection and odor survey with the purpose of identifying sources of potential odors. The inspection and odor survey will include the waste receiving areas, truck queuing area, and truck maneuvering areas. The applicant will be submitting the results of these inspections and odor surveys to the MDEP on a weekly basis. Section F.3 of the revised O&M manual states the following in regard to the inspection intervals:

During the first month of, and for a total of 6 months during, the first year of operation a daily inspection and odor survey will be conducted around the facility. The daily inspection period must include the summer months when waste odors are expected to be strongest. If operations commence in the winter months and no odor issues are identified during the first month, inspections will be reduced to weekly until warmer weather. If after 6 months, including summer months, no odor issues are identified, inspections will be permanently reduced to weekly.

- (c) As specified in Section F.2 of the Revised O&M manual, queued waste trucks that exhibit strong odors will be prioritized for offloading to minimize the time the truck is waiting to unload. Trucks containing waste that is typically more odorous may be scheduled for receipt to minimize the time the truck is in queue. Following off-loading onto the tipping floor, trucks will be allowed to drain remaining leachate to the maximum extent practicable inside the building. This practice will minimize the potential for leaks or drips from trucks outside the building or on public roadways. The drained leachate is collected in the trench drain system and reintroduced into the pulping process. In addition to the operational and mechanical controls that are proposed, the Applicant will maintain sufficient odor neutralizing agents for application as necessary. The neutralizing agent will be available in both spray and solid form.

The Applicant will have no legal control over the routes that waste haulers use to transport waste from the source to the Applicant's facility. Based on input from the Town of Hampden, the Applicant can request that waste haulers avoid certain roadways or intersections but will have no enforcement capability. In accordance with Chapter 411 of the Solid Waste Rules, waste haulers must be licensed in order to transport waste within the State of Maine. Waste haulers must comply Chapter 411, Section 5(C) which states "All waste must be properly contained during transportation to prevent any leaking, spilling, blowing or any other type of discharge to the environment. No conveyance shall be loaded beyond its legal capacities." Trucks and haulers that do not comply with this regulation will be warned by Fiberright that waste will not be accepted if the hauler continues to be out of compliance with the MDEP licensing General Conditions.

Fiberright and MRC chose the proposed site, in part, based on its location in respect to separation from occupied buildings. The nearest occupied residence is located at a distance of approximately 3500' and is buffered by a generally forested area. Seasonal prevailing wind directions were evaluated based on 5 years of meteorological data collected at the Bangor

International Airport (BIA). Given the proximity of BIA to the proposed site, and the similarities in topography, this data should be representative of the prevailing wind directions at the proposed site. During the spring and summer months when the potential for nuisance odors to exist is generally higher, the prevailing wind direction is to the north. This direction is away from the closest residences. During the autumn and winter months when the potential for nuisance odor generation is the lowest, the prevailing wind direction is to the southeast. Neither of the conditions will convey potential nuisance odors in the direction of the nearest occupied buildings.

- (d) Section F.5 of the revised O&M manual addresses the process for handling odor complaints. Fiberight will provide trained staff to receive complaints from the public 24 hours per day, 7 days per week. The Town of Hampden will be supplied with this contact information. In the event that complaints are received by Town of Hampden, they can be forwarded to the Applicant. The following is the Basic Process for Odor Complaint Response:
1. When an odor complaint call is received, Fiberight staff shall obtain the necessary information from the caller to fill out an Odor Complaint Response Form (Form). This information includes: the caller's name and address; date and time of the complaint; and whether the caller would like someone to visit them at the location of the complaint, either on-site or as a result of truck traffic, to verify the odor. A copy of the Odor Complaint Response Form is attached.
 2. The Form will be completed by the staff member answering the phone and the information relayed to the appropriately trained response staff for follow-up action.
 3. If a visit is requested, the appropriate staff member should note the conditions observed during the visit. At a minimum, the following should be noted; wind direction, distance from the facility, and odor noted.
 4. If a visit is not requested, or upon return from a visit, staff should perform an inspection of the facility to check for obvious sources of potential odor. Upon completion of the inspection, the appropriate corrective measures should be taken.
 5. The Fiberight staff member who is addressing the complaint shall notify Fiberight's Operations Manager within four hours of the complaint and notify MRC (as the landlord and owner of the property) and MDEP (as the regulatory agency) of the complaint immediately.
 6. If MDEP determines that the facility created an off-site odor nuisance, Fiberight will submit a written report to the Department detailing the cause of the nuisance odor, follow-up actions taken, as well as plans for future treatment, minimization, and control of nuisance odors. This report will be submitted within 30 days.
- (e) There are no anticipated odor issues associated with the operation of the flare or boiler. The flare and thermal oxidizer are the control mechanism for tail gas and potential bypass gas. There are no anticipated odor issues anticipated from the combustion of gas. The fuel source for the boilers, post-hydrolysis solids, similar to the flare gas, is not expected to generate odors during combustion or storage.

(f) Section B.1(2) Operations addresses the control of dust on roadways as follows:

2. A paved road provides access to the facility. If necessary during dry periods, the access ways may need to be wetted to control excessive dust generation resulting from facility activities. The access road will be kept free of excessive dirt and debris by sweeping or other methods, to ensure a clear travel way. All proposed roadways will be paved, so there should not be any dust issues from the access road or the site upon construction completion.

Section B.9 Routine Maintenance and General Cleanliness and Section B.12 Litter Control. As discussed in the response to Item 4(c), "All waste must be properly contained during transportation to prevent any leaking, spilling, blowing, or any other type of discharge to the environment", this will limit potential litter issues on the roads leading to the site. Trucks will be required to keep their loads covered until they reach the scale house. Regular inspections, daily, and weekly will be conducted around the facility and any litter will be noted and removed at that time. If it becomes evident that litter is becoming problematic, staff will review waste handling protocol to determine the likely cause and the appropriate change will be made, as practicable.

Regarding traffic, based on our discussions with you, we are examining the haul routes of current MRC towns that could potentially travel within Hampden (e.g., Route 1A), on their way to the proposed facility. Based on the historical tonnage from these towns, we will estimate the expected number of trips per day/week from this region. We will be prepared to discuss this in more detail at the Planning Board meeting next week.

Please let us know if you have any questions or need additional information. We look forward to discussing these items in more detail with the town and Planning Board next week.

Sincerely,
CES, Inc.



Sean Thies, P.E.
Senior Project Manager

SMT/jok
Enc.
Cc: Greg Louder, MRC
Jon Pottle, EP

ODOR COMPLAINT REPORT

Top portion of this form is to be filled out at the time of the complaint.

Date: _____

Time: _____

Name of caller: _____

Contact information for the caller:

Location of complaint:

Does the caller wish to have the odor verified? (y/n)

Bottom portion of this form is to be filled out by the responder.

Was a visit to the caller conducted? (y/n)

Distance of the complaint from the facility: _____

Was an odor noted? (y/n)

Was the caller's location downwind of the facility? (y/n)

Is there anything unusual happening at the facility? (Shutdown, maintenance, etc.?) (y/n)

Any unusually odorous waste loads delivered? (y/n)

Was a follow-up inspection conducted at the facility? (y/n)

List any items identified during the inspection that require attention.

What steps were taken to correct any issues identified?

Jonathan A. Pottle
Direct Dial 207-992-4365
jpottle@eatonpeabody.com



80 Exchange Street, P.O. Box 1210
Bangor, Maine 04402-1210
Phone 207-947-0111 Fax 207-942-3040
www.eatonpeabody.com

April 8, 2016

Hampden Planning Board
Attn. Chair Peter Weatherbee
106 Western Ave.
Hampden, ME 04444

Re: MRC/Fiberight Project Application

Dear Chair Weatherbee and Members of the Planning Board:

On behalf of the Municipal Review Committee, Inc. ("MRC"), I am providing this letter that sets forth why the MRC/Fiberight Project Application is not a subdivision, and why the MRC lot meets frontage requirements under the Hampden Zoning Ordinance, which were both issues raised as part of a preliminary peer review process.

The MRC/Fiberight Project is Not a Subdivision, and Therefore the Hampden Subdivision Ordinance Does Not Apply

A "subdivision" only occurs when (i) a tract or parcel of land is divided into three or more lots within a five-year period; (ii) the division of a structure or structures creates three or more dwelling units on a tract or parcel of land within a five-year period; or (iii) three or more dwelling units are constructed or placed on a single tract or parcel of land. 30-A M.R.S. § 4401(4) (enclosed). When conducting a subdivision analysis, all applicable exemptions must be considered (e.g., transfer of land to an abutter).

Here, the MRC/Fiberight Project does not involve any dwelling units of any nature, so categories (ii) and (iii) above are not applicable.

With respect to the consideration of "lots" (category (i) noted above), MRC's Option to Purchase does not divide any tract or parcel of land into three or more lots within a five-year period that would constitute a subdivision. Simply stated, the MRC lot resulting from the Option to Purchase consists of (1) a portion of an existing tract or parcel of land owned by Hickory Development, LLC; and (2) adjacent land from H.O. Bouchard, Inc. and Maine Ground Developers, Inc., who are both abutters to the MRC lot. See *updated Overall Site Plan* (April 8, 2016) (enclosed).¹

By carving out one lot from Hickory Development, LLC's existing parcel of land, the exercise of MRC's Option to Purchase would only result in two lots: (1) MRC's lot; and (2) the land retained by Hickory Development, LLC.² The remaining non-Hickory Development, LLC

¹ The Overall Site Plan was updated to accurately reflect that the owner of the area along the southeasterly portion of the access road as Hickory Development, LLC (not H.O. Bouchard, Inc. as initially identified).

² Maine Subdivision Law defines a tract or parcel of land as "all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless

land that is part of the MRC lot consists of transfers of land from abutters – namely, H.O. Bouchard, Inc. (the southeasterly portion of the MRC lot) and Maine Ground Developers, Inc. (the northeasterly portion of the MRC lot that includes land for sewer utilities to serve the Project). See *Overall Site Plan* (April 8, 2016). As noted above, under Maine Subdivision Law, land transferred to an abutter is not counted as a “lot”. 30-A M.R.S. § 4401(4)(D-6).³ Therefore, the transfers of land from H.O. Bouchard, Inc. and Maine Ground Developers, Inc. have no subdivision implications; they are exempt as transfers to an abutter.

As part of MRC’s due diligence, we reviewed the title of all properties that concern MRC’s lot to ensure there were no prior divisions that may have occurred relative to the proposed creation of the MRC lot that would result in the creation of a subdivision. In this respect, based upon an examination of the records of the Penobscot County Registry of Deeds as to all instruments of record affecting these properties for a minimum of forty (40) years prior to the date hereof, there were no recorded conveyances or instruments of record that would result in the creation of a subdivision.

Regarding the Project’s access, construction of the access road will first occur in the easement area prior to creation of the MRC lot. See *Overall Site Plan* (April 8, 2016); see also *Option to Purchase p. 1* (“...together with an easement for a right of way for all purposes, including utility services, along the private road depicted on Exhibit A.”) (emphasis supplied). This access easement is not a “lot” for subdivision purposes either. Moreover, once the access road is constructed, MRC will offer this access road to the Town Council for acceptance as a town way – which is a prerequisite to closing on the MRC lot (i.e., a prerequisite to creating the MRC lot). See *Option to Purchase p. 3* (“It is a condition of Closing that the private road accessing the Property shall be accepted as a public way by the Town of Hampden . . .”).⁴

It bears emphasis that construction and placement of utilities along the access road are proposed for a single reason: to provide utilities to the MRC/Fiberight Project. MRC/Fiberight is not proposing any other development to be served by these utilities. See, e.g., *Overall Site Plan* (April 8, 2016). Preliminary comments on the MRC/Fiberight Project misconstrue these utilities to somehow indicate “an intent to further divide adjacent parcels.”⁵ MRC and Fiberight have no such intent, and to suggest so is purely speculative. It is also speculative to suggest the adjacent owner even has intent to create a subdivision. There is simply no basis to expand the MRC/Fiberight Project, a single facility project, to speculative future development plans of unrelated individuals or entities that may or may not involve the division of parcel into three or more lots within a five-year

the road was established by the owner of land on both sides of the road after September 22, 1971.” 30-A M.R.S. § 4401(6). Because Hickory Development, LLC holds title to the various areas depicted as separate tax lots in the same ownership on the Overall Site Plan, they are collectively considered one tract or parcel of land for subdivision purposes.
³ Notably, a “subdivision” is not created by division of a lot from the middle of a parcel that only involves two legal interests in the land, such as the portion of MRC’s lot adjacent to Maine Ground Developers. See *Bakala v. Town of Stonington*, 647 A.2d 85 (Me. 1994).

⁴ The Option to Purchase obligates the Seller to cooperate with MRC in connection with any applications required for construction and acceptance of the access road as a town way, as contemplated by the Town Ways Ordinance and 23 M.R.S. § 3025.

⁵ As depicted on the Overall Site Plan (April 8, 2016), these asserted “parcels”, as reflected in the Town’s tax records, are all owned by the same entity.

period or the construction or placement of three or more dwelling units within a five-year period. For example, this owner may choose not to develop its land, or could propose a development that is not even a subdivision (e.g., a commercial building or buildings). Of course, if any individual or entity does at some future time decide to pursue a development that constitutes a subdivision, then they would have to ensure all applicable laws and regulations are satisfied, including those pertaining to subdivisions, especially the Hampden Subdivision Ordinance. Those future plans, if any should ever arise, are not intended by the MRC/Fiberight Project, and the time to address them is whenever, if ever, they are proposed.

Accordingly, for each of the above reasons, the MRC/Fiberight Project is not a "subdivision" under Maine law, and therefore the Hampden Subdivision Ordinance is not applicable.

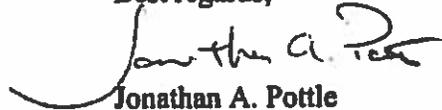
The MRC Lot Will Have Sufficient Road Frontage

As stated above, the MRC lot will not be created until the closing of the Option Agreement, which contemplates as a prerequisite the acceptance of the access way as a town way by the Town Council.⁶ Construction of the proposed solid waste facility on the MRC lot will subsequently follow creation of the new town way. Thus, before construction of the proposed solid waste facility occurs, a new town way will exist and the resulting MRC lot will meet the Industrial Zoning District's road frontage requirement of 150 feet.⁷ See *Overall Site Plan* (April 8, 2016).

* * *

I appreciate the Planning Board's consideration of this letter that addresses the subdivision and frontage questions raised as part of the preliminary peer review process, and look forward to addressing these matters and any questions the Board may have at its meeting scheduled on Wednesday, April 13, 2016.

Best regards,



Jonathan A. Pottle

Encl. (2)

Cc: Dean Bennett, Director of Community and Economic Development
Edmond Bearor, Esq.
Greg Louder
Denis St. Peter, P.E.
Sean Thies, P.E.

⁶ MRC understands that the Planning Board may wish to include a condition of approval regarding Town Council acceptance of the proposed access way as a town way.

⁷ Prior to the closing of the Option to Purchase, the land now owned by Hickory Development, LLC where the MRC/Fiberight Project is proposed has sufficient frontage on Coldbrook Road since the various "tax" parcels are all in the same ownership. See *Overall Site Plan* (April 8, 2016), and Hampden LUO § 7.2 (definition of "lot").



Dean Bennett <economicdevelopment@hampdenmaine.gov>

FW: Letter Response

Edmond J. Bearor <ebearor@rudmanwinchell.com>

Sun, Apr 10, 2016 at 12:26 PM

To: "economicdevelopment@hampdenmaine.gov" <economicdevelopment@hampdenmaine.gov>,
Angus Jennings <townmanager@hampdenmaine.gov>

Cc: "Lynn E. Brochu" <lbrochu@rudmanwinchell.com>

Angus / Dean: I have reviewed the letter from MRC's counsel, Jon Pottle, and the updated Site Plan with corrected abutters noted on this April 8, 2016 Plan, although I don't think those changes in the Plan have a bearing on the subdivision question. Based upon the representations made in Mr. Pottle's letter, namely that the road will be constructed and accepted by the Hampden Town Council before any construction on the parcel takes place and thus establishing a minimum 150 of frontage on the development parcel, I am satisfied that the scheme does not constitute a subdivision and that the contemplated construction will only occur after a town way has been constructed to the development parcel.

The conveyance of the 100 strip that will constitute the road to either MRC or directly from Hickory Development, LLC to the Town does not create a subdivision under the Maine Law Court's Bakala v. Stonington holding, as the original owner will retain the land on either side of the conveyed parcel (road). I recognize that the creation of the town road, assuming acceptance by the Council, will create a separately owned parcel, and that at the end of the day there will be three owners namely Hickory Development, LLC, Town of Hampden and MRC, but it has not been my experience to count a road as a lot in any development proposal. In this case, being consistent with what I suspect is the town's past practice (not counting a road as a lot) this proposal does not constitute a subdivision.

I do not have Peter Weatherbee's e-Mail address. Please send this along to him at your earliest convenience.

From: Pottle, Jonathan [mailto:JPottle@eatonpeabody.com]

Sent: Friday, April 08, 2016 4:55 PM

To: 'economicdevelopment@hampdenmaine.gov'

Cc: <glounder@mrcmaine.org> (glounder@mrcmaine.org); Edmond J. Bearor; 'Sean Thies'

Subject: RE: Letter Response

Dean,

As a follow-up to Sean's email below, attached please find additional correspondence addressing the subdivision and frontage questions raised during the preliminary peer review, together with referenced enclosures. As Sean notes below, please distribute these materials to the members of the Planning Board as well. (Note: I will also have paper copies dropped off at the Town office on Monday in the interest of efficiency.)

Best Regards,

Jon

Jonathan A. Pottle
Eaton Peabody
P.O. Box 1210
80 Exchange Street
Bangor, ME 04402-1210
Tele: 207.947.0111
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[Professional Profile](#) | [Website](#)

Eaton
Peabody

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From: Sean Thies [<mailto:sthies@ces-maine.com>]
Sent: Friday, April 08, 2016 3:36 PM
To: 'economicdevelopment@hampdenmaine.gov'
Cc: Pottle, Jonathan; <glounder@mrcmaine.org> (glounder@mrcmaine.org)
Subject: Letter Response

Dean,

Attached is a pdf of a letter responding to some of the technical issues/comments raised in the Woodard & Curran review letter. Could you please distribute this letter to the planning board members prior to the meeting next Wednesday? Please let us know if you have any questions. Thanks

Sean Thies, P.E. ♦ Senior Project Manager

P 207.989.4824 | F 207.989.4881 | C 207.341.0588

CESINC

Engineers ♦ Environmental Scientists ♦ Surveyors

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3 attachments



Ltr to Planning Board re. Subdivision and Frontage (02130720xAE394).pdf

117K

 **30-A M.R.S. 4401 (02130578xAE394).pdf**
134K

 **Overall Site Plan (April 8, 2016) (02130648xAE394).pdf**
2718K

Maine Revised Statutes Annotated
Title 30-a. Municipalities and Counties (Refs & Annos)
Part 2. Municipalities
Subpart 6-a. Planning and Land Use Regulation (Refs & Annos)
Chapter 187. Planning and Land Use Regulation (Refs & Annos)
Subchapter 4. Subdivisions (Refs & Annos)

30-A M.R.S.A. § 4401

§ 4401. Definitions

Effective: October 9, 2013

[Currentness](#)

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Densely developed area. “Densely developed area” means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

2. Dwelling unit. “Dwelling unit” means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

2-A. Freshwater wetland. “Freshwater wetland” means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

2-B. Farmland. “Farmland” means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources

Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2.

3. Principal structure. "Principal structure" means any building or structure in which the main use of the premises takes place.

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

(1) Deleted. Laws 2001, c. 651, § 1.

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D. Repealed. Laws 2001, c. 359, § 2.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than $\frac{1}{2}$ the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as

stringent as that required under this subchapter.

H. Repealed. Laws 2001, c. 651, § 2.

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

5. New structure or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.;

B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;

C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line;

D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills;

E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;

F. The East Machias River, including the Maine River, from $\frac{1}{4}$ of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocoomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;

G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line;

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;

L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake;

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line;

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake;

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;

Q. The Saco River from the Little Ossipee River to the New Hampshire border;

R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;

S. The St. George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;

U. The Sandy River from the Kennebec River to the Madrid and Township E town line;

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;

W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and

X. The West Branch of the Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond.

Credits

1989, c. 104, § A, 45; 1989, c. 326, § 1; 1989, c. 404, § 1; 1989, c. 497, §§ 1 to 3, eff. June 29, 1989; 1989, c. 772, § 2; 1991, c. 500, §§ 1, 2, eff. June 24, 1991; 2001, c. 359, §§ 1 to 5; 2001, c. 523, § 1, eff. March 12, 2002; 2001, c. 651, §§ 1 to 3; 2007, c. 49, § 1; 2009, c. 356, § C-1; 2013, c. 126, § 1, eff. Oct. 9, 2013.

Notes of Decisions (18)

30-A M. R. S. A. § 4401, ME ST T. 30-A § 4401

Current with emergency legislation through Chapter 423 of the 2015 Second Regular Session of the 127th Legislature. The Second Regular Session convened January 6, 2016. Statutory Adjournment is April 20, 2016.

End of Document

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Dean Bennett <economicdevelopment@hampdenmaine.gov>

FW: Letter Response

Edmond J. Bearor <ebearor@rudmanwinchell.com>

Sun, Apr 10, 2016 at 12:26 PM

To: "economicdevelopment@hampdenmaine.gov" <economicdevelopment@hampdenmaine.gov>, Angus Jennings <townmanager@hampdenmaine.gov>
Cc: "Lynn E. Brochu" <lbrochu@rudmanwinchell.com>

Angus / Dean: I have reviewed the letter from MRC's counsel, Jon Pottle, and the updated Site Plan with corrected abutters noted on this April 8, 2016 Plan, although I don't think those changes in the Plan have a bearing on the subdivision question. Based upon the representations made in Mr. Pottle's letter, namely that the road will be constructed and accepted by the Hampden Town Council before any construction on the parcel takes place and thus establishing a minimum 150 of frontage on the development parcel, I am satisfied that the scheme does not constitute a subdivision and that the contemplated construction will only occur after a town way has been constructed to the development parcel.

The conveyance of the 100 strip that will constitute the road to either MRC or directly from Hickory Development, LLC to the Town does not create a subdivision under the Maine Law Court's Bakala v. Stonington holding, as the original owner will retain the land on either side of the conveyed parcel (road). I recognize that the creation of the town road, assuming acceptance by the Council, will create a separately owned parcel, and that at the end of the day there will be three owners namely Hickory Development, LLC, Town of Hampden and MRC, but it has not been my experience to count a road as a lot in any development proposal. In this case, being consistent with what I suspect is the town's past practice (not counting a road as a lot) this proposal does not constitute a subdivision.

I do not have Peter Weatherbee's e-Mail address. Please send this along to him at your earliest convenience.

From: Pottle, Jonathan [mailto:JPottle@eatonpeabody.com]

Sent: Friday, April 08, 2016 4:55 PM

To: 'economicdevelopment@hampdenmaine.gov'

Cc: <glounder@mrcmaine.org> (glounder@mrcmaine.org); Edmond J. Bearor; 'Sean Thies'

Subject: RE: Letter Response

Dean,

As a follow-up to Sean's email below, attached please find additional correspondence addressing the subdivision and frontage questions raised during the preliminary peer review, together with referenced enclosures. As Sean notes below, please distribute these materials to the members of the Planning Board as well. (Note: I will also have paper copies dropped off at the Town office on Monday in the interest of efficiency.)

Best Regards,

Jon

Jonathan A. Pottle
Eaton Peabody
P.O. Box 1210
80 Exchange Street
Bangor, ME 04402-1210
Tele: 207.947.0111
Fax: 207.942.3040
[Professional Profile | Website](#)



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From: Sean Thies [<mailto:sthies@ces-maine.com>]
Sent: Friday, April 08, 2016 3:36 PM
To: 'economicdevelopment@hampdenmaine.gov'
Cc: Pottle, Jonathan; <glounder@mrcmaine.org> (glounder@mrcmaine.org)
Subject: Letter Response

Dean,