

Town of Hampden  
Planning Board  
Wednesday, January 12, 2022, 7:00 P.M.  
Municipal Building Council Chambers  
Minutes

In Attendance:

Planning Board

Kelley Wiltbank, Chair  
Richard Tinsman, Vice Chair  
Benjamin Dunham  
Jennifer Austin  
Gene Weldon  
Brent Wells

Staff

Clifton Iler, Planner  
Paula Scott, Town Manager  
Amy Ryder, Economic Development Director  
Victor Smith, Public Works Director  
Chris Bailey, Director of Public Safety  
Jason Lundstrom, Deputy Fire Chief

Public

Jim Kiser  
David Ryder, Councilor

Chairman Wiltbank called the meeting to order at 7:00 p.m.

1. Administrative Part 1 – Approval of Minutes

a. Minutes – November 10, 2021, Regular Meeting

**Motion** by Member Tinsman to approve the minutes of November 10, 2021, regular meeting as amended, second by Member Weldon; motion carried 5/1/0 by roll call vote (Member Wells abstained).

b. Minutes – November 16, 2021, Workshop Meeting

**Motion** by Member Weldon to approve the minutes of November 16, 2021, workshop meeting as written, second by Member Dunham; motion carried 6/0/0 by roll call vote.

c. Minutes – December 14, 2021, Workshop Meeting

**Motion** by Member Dunham to approve the minutes of December 14, 2021, workshop meeting as amended, second by Member Weldon; motion carried 6/0/0 by roll call vote.

2. Old Business - None

3. New Business

a. Zoning Ordinance Amendments – Public hearing for amendments to the Hampden Zoning Ordinance. Amendments include revisions to the §3.1.3 Use Table and §4.11 Sanitary Provisions.

Chairman Wiltbank opened the public hearing at 7:07 p.m.

It was the consensus of the board to discuss and vote on each amendment revision separately.

Town Planner Iler went over the first proposed change to the Zoning Ordinance concerning Medical Marijuana Registered Dispensaries.

Town Planner Iler explained that the proposal is to change the eligible zoning districts to include the Business district. Economic Development Director, Amy Ryder provided a presentation at a recent workshop on the proposed changes.

The summary of the use would be to change the Business district from a not permitted use to conditional use. Currently, there are no facilities in town so changing this use designation would open future development of this use anywhere within the town.

The following locations in town, shown on the map provided at the meeting (see Exhibit A attached), are Main Road North near the Bangor/Hampden town line, the corner of Coldbrook Road and Route 202, and just after the Mayo Road before the train tracks on Western Avenue.

There were no comments from the public or the board concerning the revision to Section 3.1.3 of the Zoning Ordinance.

**Motion** by Member Weldon to refer the proposed Use Table revision to the Town Council to be enacted; seconded by Member Dunham; motion carried by roll call vote 6/0/0.

Town Planner Iler reviewed what town staff proposed, at the December 2021 workshop, concerning an amendment to §4.11 Sanitary Provisions of the Zoning Ordinance.

This amendment has been brought to the Planning Board by Code Enforcement Officer, Carey due to a concern of residents and the impacts on public health and safety because of excess solid waste accumulation.

Per the request of the Planning Board, Code Enforcement Officer Carey provided four ordinance examples. One example was from the International Code Council and the other three were from municipalities in Maine (see Exhibit B attached). The Planning Board also asked town staff to consult with legal review in terms of enforceability. Town Planner Iler read the proposed addition to §4.11 into the record (see Exhibit C attached).

Discussion:

Most of the Planning Board was satisfied with both the legal opinion and the examples Code Enforcement Officer Carey provided. Member Dunham is concerned with the vagueness of the definition and property rights.

Town Manager Scott spoke in favor of amendments to the ordinance. From a town's perspective, situations such as solid waste issues can cause expenses that are unexpected or budgeted for. Town Manager Scott believes that matters such as this can be handled sensitively and only act on legitimate complaints from other property owners.

Deputy Fire Chief Lundstrom spoke in favor of adding this amendment to the ordinance. He explained that it would give town staff a mechanism to remediate solid waste complaints in the future.

Member Weldon asked if the property owner will have enough time to comply with the notice? Town Planner Iler stated that there would be ample notification and time to comply before fines before proceedings would start.

Chairman Wiltbank closed the public hearing at 7:25 p.m.

**Motion** by Member Austin to approve the Solid Waste Management amendment as written and refer to the Town Council to be enacted; seconded by Member Weldon; motion carried by roll call vote 5/1/0 (Member Dunham voted No).

- b. Subdivision Ordinance – Public hearing for various amendments and revisions to the Hampden Subdivision Ordinance.

Chairman Wiltbank opened the public hearing at 7:26 p.m.

Town Planner Iler reviewed the history of the Subdivision Ordinance.

- Former Town Planner Cullen held twelve (12) workshops with the Planning Board and Town Council to write a new Subdivision Ordinance between 2019 and 2020.
- Planning Board directed staff to write a repeal and replace Subdivision Ordinance.
- Due to inconsistencies with other Ordinances between, 2017 and 2020 Town Planner Cullen had been tasked by Planning Board to update the Subdivision Ordinance.
- On, November 17, 2020, Contract Planner Sarah DeGizzo presented the new Subdivision Ordinance to Planning Board at a public hearing. The Planning Board voted unanimously to refer to Town Council.
- On, January 19, 2021, Town Council held a public hearing and by a 6-1 vote table the repeal of the Hampden Subdivision Ordinance until a new Town Planner is hired.
- Clifton Iler started as a Town Planner in May 2021. He began reading all notes, minutes, and twelve iterations of the Subdivision Ordinance that previous Town Planner Cullen wrote with staff, Planning Board, and Town Council.
- Town Planner Iler attended the Town Council workshop on June 14, 2021. At this meeting, it was determined to work with Planning Board on deficiencies in the Rural district and make edits as necessary to create and develop a passable Subdivision Ordinance.
- At the July 2021 Planning Board Workshop, it was the consensus of the Board to proceed with revising the Subdivision Ordinance tabled in January 2021 by the Town Council.

The rewrite of the Subdivision Ordinance aims to develop a simple and user-friendly code with actionable objectives. It will also help improve and streamline the review process as well as eliminate inconsistencies with the Town Ways Ordinance, State Statute, improve guarantee requirements, and address inadequate infrastructure in rural communities and neighborhoods.

Town Planner Iler read aloud the summary of changes to the Subdivision Ordinance tabled in January 2021 (see Exhibit D attached).

Chairman Wiltbank noted the time and efforts put forth by the previous Town Planner Cullen before her retirement.

Questions:

Member Weldon asked if any of the changes have been discussed at Planning Board Workshops at any point in the past year? Town Planner Iler stated a discussion was held regarding §2.3.3 fire protection and §2.3.4 stormwater management.

Opposition/Questions/Concerns?

Councilor Ryder, who resides at 315 Meadow Road, addressed the board with concerns about §2.3.3 Fire Protection.

- Why are sprinkler systems an option in rural areas but nowhere else in town?

- Shouldn't the Town be responsible for the water storage tank in the Subdivision, not the developer or homeowners' association?
- Concerned with using an overflow as a fire pond because it will not hold water. If there is another location on the property to get water could a dry hydrant be installed?
- Need to look at fire suppression for the entire town not just Rural districts.

Jim Kiser, who resides at 15 Constitution Avenue, agreed with Councilor Ryder's concerns.

Deputy Fire Chief Lundstrom spoke in favor of the Subdivision Ordinance changes. He explained that the Planner, Public Works Director, and himself produced options to give developers a bit of leeway in the Rural district. When you put multiple units in the Rural district, you are creating a larger fire suppression burden than you would with a single-family home. To help developers accomplish what they need to accomplish, we need to have parameters. Those parameters have not been set yet.

Deputy Fire Chief Lundstrom agreed with Councilor Ryder concerning the sprinklers, and if it were up to him, they would be global. Deputy Fire Chief Lundstrom did not make a recommendation for sprinklers on Main Road because there is already infrastructure there. The sprinkler was just one of three options. We are just addressing a specific issue, which is fire suppression in the Rural district. It was agreed that there needs to be water in the Rural district for the ability to extinguish fires. What we have not agreed on is what it will look like and who is going to finance it.

Discussion:

Chair Tinsman commented that currently in the Rural district there is no public water supply and developers are offered three options. Chair Tinsman, encouraged by the language written, hopes to see it submitted to Town Council for consideration.

Member Wiltbank expressed his appreciation for all the challenging work producing wording that will help the Planning Board with fire suppression decisions in the future.

Town Planner Iler explained that the draft language for the fire suppression section was developed using the model Subdivision Ordinance regulations for use by Maine Planning Boards. This is the standard language coming from the state level. In addition, Town Planner Iler wanted to highlight the requirements in terms of size, capacity, length of distance between home and water source that mirrors and mimics the state ordinance specifically as well as the Town of Hermon's ordinance for their Fire Protection Ordinance.

Town Planner Iler recommended that the Planning Board either table the Subdivision Ordinance in its entirety and continue to work on specific language in a workshop and then bring it back to a public hearing and then move forward to Council. Alternatively, Planning Board could vote to move forward in its entirety and work with the Council.

Police Chief Bailey's concern is that Deputy Fire Chief Lundstrom is doing his evaluation for fire suppression, and he has no direction. It is not going to be beneficial to delay this going to Town Council as it is making it difficult for Deputy Lundstrom to do his job appropriately.

**Motion** by Member Tinsman to approve the subdivision regulations first submission to the Town Council for consideration; seconded by Member Austin motion carried by roll call vote 4/1/1 (Member Weldon voted No and Member Dunham abstained).

Chair Wiltbank closed the public hearing at 8:16 p.m.

- c. 676 Main Rd N – Sketch plan review for a major subdivision to construct sixteen dwelling units at 676 Main Rd N; Tax Map/Lot: 20-0-034-1. The property is in the Business District.

Town Planner Iler went over the project.

- Sixteen multi-family units within (4) buildings
- 2.1 AC
- Located in Business District
- Municipal water and sewer
- Requires a DEP permit for stormwater management
- Shared driveway with Dollar General

The development meets the requirements and terms of the Zoning and Subdivision Ordinance. It will be a major subdivision as it has sixteen units. Because it will be a private entryway it will be considered a minor street. It will utilize the same entrance off Main Road North as the Dollar General. The review will be for a major subdivision and a major site plan.

Staff Notes for the preliminary plan:

- Applicant should clarify the acreage of the subject parcel.
- Applicant should clarify the means of fire protection.
- Identify locations for dumpsters, snow storage, EMS turnaround, and detailed description of the road maintenance plan.
- Applicant should address stormwater management issues around the site
- Building elevations with proposed materials
- Detailed landscaping and site lighting

Jim Kiser, the applicant representative, briefed the board on the project. He explained that there are issues with the site grading in Sucker Brook and the sewer line crossing through the center of the property. Would the board be doing a site walk on this property?

Questions:

Member Tinsman asked if the access road is coming out onto Dollar General property? Jim Kiser stated that yes, it is, and with the approval of Dollar General.

Member Austin asked about the acreage discrepancy. Jim Kiser stated that he believes that the parcel was divided from Dollar General, but the tax records did not show the increase. We have the survey in hand, and we will reaffirm that.

**Motion** by Member Weldon to classify this project, at 676 Main Road North, as a major subdivision with a minor street, and schedule a site visit; seconded by Member Dunham motion carried by roll call vote 6/0/0 all in favor.

1. Administrative Part 2 – Election of Officers

d. Election of Officers

a. Chair

**Motion** by Member Wiltbank to nominate Member Tinsman to serve as Chair; second by Member Weldon; motion carried by roll call vote 5/0/1 (Member Tinsman abstained).

b. Vice-Chair

**Motion** by Member Wiltbank to nominate Member Austin to serve as Vice-Chair; second by Member Weldon; motion carried by roll call vote 5/0/1 (Member Austin abstained).

2. Town Planner Report

Town Planner Iler reminded board members that a workshop will be on Wednesday, January 19, 2022, at 6:30 p.m. in Council Chambers.

3. Planning Board Comment

Member Tinsman stated what a great chairperson Kelley Wiltbank has been for the last two years. His leadership and professionalism will be missed.

Member Weldon thanked Kelley Wiltbank for his leadership as Planning Board Chair for the past two years.

Chair Wiltbank asked if under the new By-Laws everyone was satisfied with the way the meeting was opened? Member Austin commented that the only difference between now and opening under COVID lockdown is formally asking to make sure everyone could hear and see the presentation.

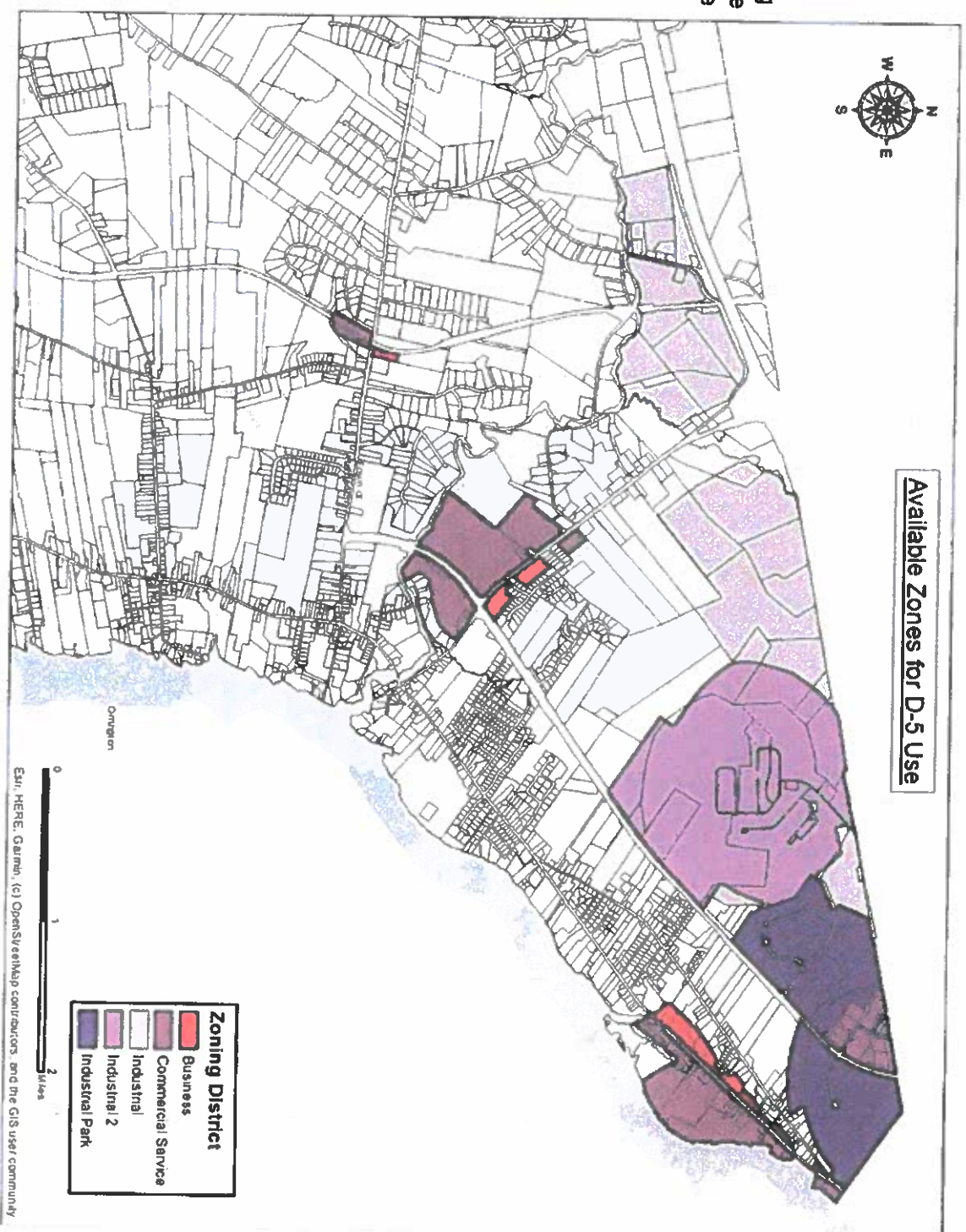
4. Adjournment

**Motion** by Member Austin moved to adjourn the meeting at 8:34 p.m., seconded by Member Weldon; motion carried by roll call vote 6/0/0 in favor.

Respectfully submitted by Wanda Libbey, Administrative Asst.

## Available Zones

- In addition to the current zoning allowances, the areas within the Business District (red) would be included as locations for the proposed use.
- Any application would be subject to the Conditional Use permit requirements within the Zoning Ordinance.
- Adjacent Roads:
  - Main Road N
  - Coldbrook Road
  - Western Avenue



## Examples in Other Ordinances

- *"Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage." - §308.1 International Code Council (ICC) Property Maintenance Standards*
- *"Disposal of rubbish and garbage on public or private property. No person shall throw or place or cause to be thrown or placed upon the premises of himself, herself or another located within the limits of the City of Bangor any rubbish, garbage or debris of any kind, nor shall any owner or occupant of any such premises suffer any such rubbish, garbage or debris to remain on said premises after receiving notice from the Chief of Police, Code Enforcement Officer or Director of Public Works or their designees. Any person or persons so failing to remove any such rubbish, garbage or debris for a period of seven days after receipt of said notice shall be fined as designated below." – §265-5 A-2 Solid Waste, City of Bangor*



## Examples in Other Ordinances (cont.)

- *“No person shall cause or permit any accumulation of rubbish which, in the opinion of the Health Officer or Health Inspector, is unsanitary or hazardous to the health of the public or, in the judgment of the Fire Chief of the Fire Department, constitutes a fire hazard.” – §181-4 A Solid Waste, City of Saco*
- *“No person, firm or corporation shall permanently dispose of waste or refuse of any kind upon any land within the corporate limits of the Town of Scarborough, unless such land has been designated by the Town Council as a solid waste disposal facility.” – §4.1.1 Solid Waste Ordinance, Town of Scarborough*

# Sanitary Provisions (§4.11) Revision

**Proposed Text:**

**4.11.3 Solid Waste Management**

**4.11.3.1 No solid waste, garbage, or rubbish that, in the opinion of the Director of Public Safety, Code Enforcement Officer, or Director of Public Works or their designees is unsanitary or hazardous to the public health, shall be disposed of or stored for a period greater than 30 days on any property or in any structure within the Town of Hampden outside of an approved facility or property.**