



Town of Hampden  
**Planning and Development Committee**  
Wednesday December 20, 2017, 6:00 pm  
Municipal Building Council Chambers

## Agenda

1. Approval of December 6, 2017 Minutes
2. Committee Applications:
  - A. Morton Syversen, Reappointment to Planning Board
  - B. Jake Armstrong, Appointment to Planning Board
3. Updates:
  - A. MRC/Fiberight
  - B. Staff Report
4. Old Business:
  - A. Meeting with Town consultant Noel Musson and review of working draft of proposed amendments to Hampden Business Park Covenants
  - B. Meeting with Town consultant Noreen Norton and review of working draft of proposed Coldbrook Corners Tax Increment Financing (TIF) District
  - C. Executive Session pursuant to 1 MRSA Section 405(6)(C) to discuss economic development issues about which premature disclosure might prejudice the town's bargaining position
  - D. Discussion with Southstreet Development, LLC regarding potential duration and other terms of Credit Enhancement Agreement to support development of Tradewinds and other retail at Coldbrook Corners
5. New Business:
  - A. Update on marketing Hampden through Down East Magazine
6. Zoning Considerations/Discussion: None
7. Citizens Initiatives
8. Public Comments
9. Committee Member Comments
10. Adjourn



Town of Hampden  
**Planning and Development Committee**  
 Wednesday December 6, 2017, 6:00 pm  
 Municipal Building Council Chambers  
**Minutes - Draft**

Attending:

Committee/Council

Ivan McPike-Chair  
 Terry McAvoy  
 Dennis Marble  
 Mark Cormier  
 David Ryder

Staff

Karen Cullen, Town Planner  
 Myles Block, Code Enforcement Officer  
 Chief Joe Rogers, Public Safety Director

Public

Noel Musson, Consultant  
 Eric Ellingwood

Chairman McPike called the meeting to order at 6:00 pm.

1. Approval of November 15, 2017 Minutes – **Motion** to approve as submitted tonight with revisions to the draft version in the packet made by Councilor Marble with second by Councilor Ryder; carried 5/0/0.
2. Committee Applications:
  - a. Kelley Wiltbank, reappointment to the Planning Board. Planner Cullen noted Mr. Wiltbank is unavailable to attend the meeting tonight but is available for the next meeting. Councilor Marble said his application shows he is a well-qualified member of the Board and he has no objection to moving forward with his application tonight.
 

**Motion** to refer the application of Kelley Wiltbank to the Town Council for reappointment to the Planning Board for a five-year term as a full member of the Board made by Councilor Ryder with second by Councilor McAvoy; carried 5/0/0.
3. Updates:
  - a. MRC/Fiberight: Planner Cullen noted the items in the packet. CEO Block reported the building construction continues and everything is going okay. He noted DEP is holding them to all conditions and is keeping an eye on progress. In response to questions from the committee, CEO Block will take a look at the curbing along the roadway and the stormwater BMP's associated with it.

- b. Planner Cullen gave the staff update, noting she is going to be working with the Planning Board on the zoning amendments to deal with the uses and dimensional requirements at the board's two December meetings.
4. Old Business:
- a. Hampden Business Park Covenants – Planner Cullen introduced Noel Musson of The Musson Group, who led the discussion. This project is to amend the covenants for the business park to eliminate redundancy and potential conflicts with the zoning ordinance and to modify as needed to eliminate unnecessary processes. Councilor Marble noted the goal is to balance the Town's interests, those who have already invested in the park, and the marketability of the lots that are now available. Noel handed out a memorandum which lists his recommendations for appropriate actions for each section of the covenants (see attached). Key points of discussion:
    - i. The entire document should apply to the entire park.
    - ii. The approval process for site development should just be the site plan approval with the Planning Board; there should not be a requirement for Town Council approval too.
    - iii. There are some sections (e.g. 3.10, rights reserved to declarant) that will need to be reviewed with the attorney to ensure that modification or elimination will not remove protections the town should maintain.
    - iv. Discussion on 3.9 regarding why the town would want to buy land back if a buyer failed to develop it within a year, seems it would be better for the tax base to have such parcels remain in private ownership.
    - v. The committee sees no reason to keep the ten foot wide easement requirement in 3.10; the idea of having pedestrian ways surrounding each lot may have been well intentioned but it impractical.
    - vi. The development standards in Article 4 can mostly if not entirely be eliminated as they either already are or should be handled in the zoning ordinance. In this case, the subdivision plan includes the building envelopes for each lot, and the covenants could simply reference that plan. We may want to keep some provisions in the covenants to deal with allowing flexibility to the Planning Board in regard to standards, ensuring unpaved areas don't produce nuisance dust, etc.
    - vii. May want to keep the prohibited uses in the covenants for added protection.
5. New Business: None.
6. Zoning Considerations/Discussion: Planner Cullen noted that MMA is recommending that municipalities consider adopting moratoriums on retail marijuana uses to ensure there is not a period where there are no local regulations in effect after February 1, 2018 when the state moratorium ends. She added the state legislature may extend the state moratorium but that has not yet occurred and the town should take local action to protect our interests. Question as to whether a field of marijuana crop would be considered a "facility" – staff believes under the state laws it would be, although it is not crystal clear. Planner Cullen noted that the town has recently adopted amendments to the zoning ordinance to prohibit retail sales and social clubs, and the

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proposed emergency moratorium covers the other three uses: cultivation, product manufacture, and testing. She also said this is proposed as an emergency moratorium so it will take effect immediately instead of 30 days later. It will be effective for 60 days, and Council can vote to extend it as long as the reasons for enacting it remain valid.

**Motion** to refer the “Emergency Moratorium Ordinance Regarding Retail (Adult Use) Marijuana” to Town Council, due to the lack of state rules regarding retail marijuana which are necessary for Hampden to adopt reasonable regulations for the uses as stated in the moratorium ordinance made by Councilor Marble, with second by Councilor McAvoy; carried 5/0/0.

7. Citizen Initiatives: Eric Ellingwood of Dudley Street presented a proposal to the committee regarding a town forest and recreational trails. He submitted a paper on this, see attached.
8. Public Comments: None.
9. Committee Member Comments: None.
10. **Motion** by Councilor Ryder to enter into executive session at 7:30 pm, pursuant to 1 MRSA Section 405(6)(c) to discuss potential terms of a Credit Enhancement Agreement for Southstreet Development within the proposed Coldbrook Corners TIF District, and to include Planner Karen Cullen in the executive session, with second by Councilor Marble; Councilors McAvoy, Cormier, Marble, Ryder, and McPike voted in the affirmative, motion carried 5/0/0.  
  
**Motion** to exit executive session at 7:55 pm by Councilor Marble, with second by Councilor McAvoy; Councilors McAvoy, Cormier, Marble, Ryder, and McPike voted in the affirmative, motion carried 5/0/0.
11. Adjournment: **Motion** to adjourn at 7:55 pm by Councilor McAvoy; seconded by Councilor Marble, carried 5/0/0.

Respectfully submitted by  
Karen Cullen, Town Planner

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Check One:  Initial Application  Reappointment Application

TOWN OF HAMPDEN
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: SYVERSEN MORTEN
LAST FIRST

ADDRESS: 70 MAIN ROAD SOUTH HAMPDEN MI
STREET TOWN ZIP

MAILING ADDRESS (if different):

TELEPHONE: 974-7125
HOME WORK

EMAIL: GOKSTAD @ TDS.NET

OCCUPATION: ENGINEER

BOARD OR COMMITTEE PREFERENCE:

FIRST CHOICE: PLANNING BOARD

SECOND CHOICE (OPTIONAL):

How would your experience, education and/or occupation be a benefit to this board or committee?

DESIGN & CONSTRUCTION ENGINEERING
HOLD A PROFESSIONAL ENG. LICENSE

Are there any issues you feel this board or committee should address, or should continue to address?

3 YEAR

BOARD OF ASSESSMENT REVIEW
PERSONNEL APPEALS BOARD
LURA HOIT MEMORIAL POOL
HARBOR COMMITTEE

DYER LIBRARY
RECREATION COMMITTEE
BOARD OF APPEALS
HISTORIC PRESERVATION COMMISSION

5 YEAR
PLANNING BOARD

DEC 06 2017

FOR TOWN USE ONLY

Date Application Received: DEC 06 2017

COUNCIL COMMITTEE ACTION: Planning & Development DATE: 12/20/17

COUNCIL ACTION: DATE:

NEW APPT REAPPOINTMENT DATE APPOINTMENT EXPIRES:



Check One:  Initial Application  
 Reappointment Application

TOWN OF HAMPDEN  
APPLICATION FOR TOWN BOARDS AND COMMITTEES

NAME: Armstrong JAKE R  
LAST FIRST MI

ADDRESS: 109 Kennebec Rd Hampden 04444  
STREET TOWN ZIP

MAILING ADDRESS (if different): \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ 207 735 6545  
HOME WORK

EMAIL: JAKE R Armstrong 21 @ Gmail.com

OCCUPATION: Insurance Adjuster

BOARD OR COMMITTEE PREFERENCE:  
FIRST CHOICE: Planning Board  
SECOND CHOICE (OPTIONAL): \_\_\_\_\_

How would your experience, education and/or occupation be a benefit to this board or committee?  
Have a degree in building science and work in the field.

Are there any issues you feel this board or committee should address, or should continue to address?  
\_\_\_\_\_  
\_\_\_\_\_

3 YEAR

BOARD OF ASSESSMENT REVIEW  
PERSONNEL APPEALS BOARD  
LURA HOIT MEMORIAL POOL  
HARBOR COMMITTEE

DYER LIBRARY  
RECREATION COMMITTEE  
BOARD OF APPEALS  
HISTORIC PRESERVATION COMMISSION

5 YEAR  
PLANNING BOARD

<b>FOR TOWN USE ONLY</b>		Date Application Received: <u>DEC 13 2017</u>
COUNCIL COMMITTEE ACTION: <u>P+D</u>	DATE: <u>12/20/17</u>	
COUNCIL ACTION: _____	DATE: _____	
<input type="checkbox"/> NEW APPT	<input type="checkbox"/> REAPPOINTMENT	DATE APPOINTMENT EXPIRES: _____

**BI-WEEKLY CONFERENCE CALL  
MRC & Fiberight Facility  
November 27, 2017**

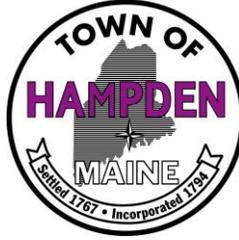
**Attendees:**

- |   |                 |
|---|-----------------|
| ◆ Alan Iantosca, Patrick Emerson, Craig Stuart Paul           | Fiberight       |
| ◆ Greg Louder   | MRC             |
| ◆ Lou Pizzuti, Victoria Eleftheriou, David Burns, Lynn Muzzey | Maine DEP       |
| ◆ Myles Block   | Town of Hampden |
| ◆ Kyle Sullivan   | CES, Inc.       |

**Discussion Notes:**

1. **Meeting Minutes** – No Comments on previous meeting minutes
  
2. **Agreements** - Craig provided an update of executed agreements associated with project progress: With the exception of Cianbro all construction contracts have been executed, Executed agreement with Pine tree for delivery of MSW during interim of construction and full operations capacity; discussed proposed PERC vision of potential waste delivery and processing agreement. David requested additional information regarding a proposed framework for the waste handling agreements for the next meeting
  
3. **Construction Schedule**—Fiberight still believes steel will be erected and building completion will occur in December, Alan will be providing MDEP with an Updated Master Schedule. Victoria requested the updated schedule included tanks, electrical, dripline, and odor control system installation.  
  
David requested an update on the wet end equipment and to have this included on the schedule. Alan stated they were currently getting bids on this equipment.
  
4. **Condition Compliance** – Kyle asked if the recently provided MRF layout drawing met MDEP’s expectation for Condition Compliance 3. Victoria stated that they were expecting construction ready drawings and specifications.
  
5. **Closing** – Craig expected offering memorandums associated with bonding to be sent this week and the closing would be before Christmas.
  
6. **Air Bureau** – Lynn asked for an update on the expected license amendment, and Alan stated Coastal was waiting for boiler sizing from AMEC. After we receive boiler sizing information, CES and Fiberight will provide MDEP an update on the amendment schedule.

**Town of Hampden**  
106 Western Avenue  
Hampden, Maine 04444



**Phone:** (207) 862-3034  
**Fax:** (207) 862-5067  
**Email:**  
townmanager@hampdenmaine.gov

TO: Planning & Development Committee  
FROM: Angus Jennings, Town Manager  
DATE: December 18, 2017  
RE: Status update, Business Park Covenants

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Please find enclosed the current working draft of revisions to the Covenants. This primarily reflects the consultant's work product; I have made some edits and notes but time has not allowed a comprehensive review and this work will continue.

Noel Musson will be in attendance at Wednesday's meeting, and prior to the meeting we will identify key issues where additional policy direction from the Committee will be needed.

We're continuing to work toward having revisions ready for Committee referral at the January 17 P&D meeting, which would allow for Council adoption in February 2018.

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE HAMPDEN BUSINESS AND COMMERCE PARK**

This Second Amended and Restated Declaration is made this \_\_\_\_ day of ~~September~~February, 20185 by the Town of Hampden, a municipality situated in Penobscot County, Maine:

**BACKGROUND:**

- A. A Declaration of Covenants, Conditions, and Restrictions for the Hampden Business and Commerce Park dated October 7, 2002 was recorded in the Penobscot County Registry of Deeds on December 17, 2002 in Book 8503, Page 78.
- B. By Certificate of Amendments dated January 23, 2008, recorded in the Penobscot County Registry of Deeds on January 28, 2008 in Book 11274, Page 328, the Town of Hampden amended Section 4.2 and Section 4.4 of the original Declaration.
- C. On November 17, 2014, the Hampden Town Council adopted additional amendments to the original Declaration pursuant to Article VI, Section 6.1 of the Declaration.
- D. This Amended and Restated Declaration is issued for the purpose of restating the original Declaration, as amended through November 14, 2014, and shall apply prospectively from November 14, 2014.
- D.E. This Second Amended and Restated Declaration is issued for the purpose of restating the Amended and Restated Declaration, as amended through September 17, 2015, and shall apply prospectively from February \_\_\_\_, 2018.

**RECITALS:**

1. The Town of Hampden is the owner of that certain real property in the Town of Hampden, County of Penobscot, State of Maine, shown on a Final Subdivision Plan entitled Hampden Business and Commerce Park and recorded in the Penobscot County Registry of Deeds in Map File Nos. 2001-70 and 2001-71, as amended by the Final Subdivision Plan - Amendment No. 1 recorded in said Registry in Map File Nos. 2002-89 and 2002-90, Final Subdivision Plan, Amendment 2 (addition of Business Court and Commerce Court) on June 20, 2007, recorded in said Registry in Map File No. 2007-112 and Final Subdivision Plan Amendment 3 (Reconfiguration of Carey Circle) on September 10, 2014, recorded in said Registry in Map File Nos. 2014-60 and 2014-61. (Amended 11/17/14)
2. The Hampden Business and Commerce Park is being developed as a master planned Business and Commerce Park. It is the Town of Hampden's desire and intention to subject the real property in said Business and Commerce Park to certain covenants, conditions, and restrictions which are deemed to be real covenants which run with the land, for the benefit of the property, the Town of Hampden, and

the owners or occupants of lots in the Hampden Business and Commerce Park. It is intended that said covenants, conditions and restrictions shall bind and benefit not only said Town of Hampden, and the owners and/or the occupants, but also their respective successors, heirs, and assigns and that all lots in Hampden Business and Commerce Park shall be owned, held, used, sold, transferred, leased, and conveyed subject to the covenants, conditions, and restrictions set forth in this Declaration.

It is the intention of the Town of Hampden to further a plan of subdivision by means of the covenants, conditions, and restrictions set forth in this Declaration. Said covenants, conditions, and restrictions are intended to be common to all of the lots in the Hampden Business and Commerce Park, and any other land which the Town might wish to add in the future, and to enhance and protect the value, desirability, and attractiveness of all such lots to their mutual benefit except where otherwise noted. The design review provisions in Sections are limited to Phase 1 as defined, and do not apply to the East Phase or West Phase of the subdivision. <sup>N1</sup>(Amended 11/17/14)

3. It is also the intention of the Town of Hampden to enhance the value of the property, to increase the job base and job diversity in the community, and to increase the Town's tax base by undertaking construction and management of the Business and Commerce Park and through the use of this Declaration. Limitations on use, preference for certain uses over other uses, a limitation on non-taxable uses, construction and appearance standards, and many other standards in this Declaration are designed toward these ends.

## ARTICLE I DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this article shall, as used in this Declaration, have the meanings herein set forth:

Declarant. The Town of Hampden, acting through its Town Council and Town Manager except as otherwise specified, and its successors and assigns.

Declaration. This Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Hampden Business and Commerce Park as it may from time to time be amended or supplemented.

Design Review Board. (Deleted 11/17/14)

Final Subdivision Plan - Subdivision Plan. The term Final Subdivision Plan or subdivision plan shall mean the Final Subdivision Plan approved by the Hampden Planning Board, on file at the Penobscot County Registry of Deeds in Map File Nos. 2001-70 and 2001-71, as amended by the: (1) Final Subdivision Plan - Amendment No. 1 recorded in said Registry in Map File Nos. 2002-89 and 2002-90, (2) Final Subdivision Plan, Amendment 2 (addition of Business Court and Commerce Court) on June 20, 2007, recorded in said Registry in Map File No. 2007-112 and (3) Final Subdivision Plan Amendment 3 (Reconfiguration of

Carey Circle) on September 10, 2014, recorded in said Registry in Map File Nos. 2014-60 and 2014-61. (Amended 11/17/14).

Hampden Business and Commerce Park. The term "Hampden Business and Commerce Park" shall be synonymous with the term "subject property" and shall mean all of the real property now or hereafter made subject to this declaration, including but not limited to the property shown on the Final Subdivision Plan.

Improvement - Improvements. The term "improvement" or "improvements" shall include buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, storage facilities, retaining walls, stairs, decks, water lines, sewers, electrical and gas distribution facilities, hedges, windbreaks; plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures, installations, and landscaping of every type and kind, whether above or below the land surface.

Lot. The term "lot" shall mean any lot or other tract or parcel of land located within the subject property as shown on the Final Subdivision Plan. This definition does not preclude establishing improvements across interior lot lines of lots held in common ownership. (Amended 11/17/14)

Low Impact Outdoor Recreation. The term "low impact outdoor recreation" shall mean outdoor recreation, nature observation and study which is dispersed, traditional non-commercial outdoor activities that do not generally rely on buildings or spectator facilities, and may include hiking, bird watching, picnicking, cross-country skiing, snowmobiling, snow-shoeing, bicycling, horseback riding, primitive non-commercial camping, and outdoor education, including scientific and archeological research and observation.

Master Plan. The Hampden Business and Commerce Park master plan approved by the Town of Hampden Planning Board developed by WBRC Architects-Engineers dated April 27, 2001, a copy of which is on file at the Town Clerk's Office in Hampden, Maine. The plan shall include items identified on the Final Subdivision Plan as amended.

Occupant. A person or entity that is in possession of and is occupying or using any improvements located on a lot. The term includes, but is not limited to, an owner, lessee, optionee, or party in possession.

Owner. A person or entity that holds title to a lot as evidenced by records recorded in the Penobscot County Registry of Deeds.

Phase<sup>A2</sup>. This term shall represent certain lots within the Hampden Business and Commerce Park Subdivision and further identified on the Amendment 3 Final Subdivision Plan:

Phase 1. Phase 1 is lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 18 within the Hampden Business and Commerce Park Subdivision.

Phase, East. East Phase is lots 33, 34, 35, 36 and 37 within the Hampden Business and Commerce Park Subdivision.

Phase, West. West Phase is lots 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 within the Hampden Business and Commerce Park Subdivision. (Amended 11/17/14)

Record-Recorded-Recordation. The terms shall mean, with respect to any document, the recordation of said document in the Registry of Deeds of the County of Penobscot, State of Maine.

Sign. Any structure, devise, or contrivance, electric or non-electric, upon or within which any poster, bill, bulletin, printing, lettering, painting, devise, or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, posted, otherwise fastened or affixed.

Street. Any public or private way as shown on the Final Subdivision Plan.

Subject Property. Synonymous with the term "Hampden Business and Commerce Park", or any lot therein, and shall mean all of the real property now or hereafter made subject to this Declaration.

Substantial Completion. The date at which the building can be fully utilized for its intended purpose.

Visible from Neighboring Property and/or Street R/O/W. The term "visible from neighboring property and/or Street R/O/W" shall mean, with respect to any object on the lot, that as determined by the ~~Design Review Board~~ Code Enforcement Officer, such object is or would be visible from a point measured six (6) feet above the grade at the property line of any adjacent lot or street right of way, except that objects greater than 35 feet above grade are exempt from this definition.

Other Definitions. Any term not defined herein shall have its customary dictionary definition.

## **ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION**

### **2.1 GENERAL DECLARATION**

Declarant hereby declares that all of that real property located in the Town of Hampden, County of Penobscot, State of Maine, as shown on the following plans:

Final Subdivision Plan entitled Hampden Business and Commerce Park recorded in the Penobscot County Registry of Deeds in Map Files No. 2001-70 and 2001-71, as amended by Final Subdivision Plan -Amendment No. 1 recorded in said Registry of Deeds in Map File Nos. 2002-89 and 2002-90;

Final Subdivision Plan, Amendment 2 (addition of Business Court and Commerce Court) on June 20, 2007, recorded in said Registry in Map File No.2007-112; and

Final Subdivision Plan Amendment 3 (Reconfiguration of Carey Circle) on September 10, 2014, recorded in said Registry in Map File Nos. 2014-60 and 2014-61. (Amended 11/17/14)

shall be sold, held, conveyed, encumbered, leased, rented, used, occupied, improved, maintained or transferred in whole or in part, subject to the limitations, restrictions, conditions, covenants, liens and provisions set forth in this Declaration, all of which are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, and sale of said real property and are established for the purpose of enhancing and protecting the value, desirability, and attractiveness of the subject property and every part thereof. All of said limitations, restrictions, conditions, covenants, liens and provisions of this Declaration shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest therein or any part thereof.

## **2.2 ADDITION OF OTHER REALTY**

Declarant may, but shall have no obligation to, add at any time or from time to time additional land to the scheme of this Declaration. The addition of additional land to the scheme of this Declaration shall be made and evidenced by filing in the Penobscot County Registry of Deeds a supplementary Declaration with respect to the additional land to be added. ~~Declarant reserves the right to so amend and supplement this Declaration without the consent of any party who may have any right, title, or interest to the subject property.~~<sup>[A]3]</sup> Upon addition of additional land to the scheme of this Declaration, said additional land shall be and become subject to this Declaration.

## **ARTICLE III CONSTRUCTION OF IMPROVEMENTS**

### **3.1 APPROVAL OF PLANS REQUIRED**

~~[The provisions of the Declaration of Covenants, Conditions, and Restrictions for the Hampden Business and Commerce Park outlined in Section 3.1 through 3.4 shall only apply to Phase 1, and do not apply to East Phase and West Phase as defined.]<sup>[N4]</sup>No exterior improvements shall be commenced, erected, placed, altered, maintained, or permitted to remain on any lot, nor shall any addition, change or alteration of any improvements be made, until final plans and specifications shall have been submitted to and approved in writing by the Hampden Planning Board. Such final plans and specifications shall be submitted in accordance with Zoning Ordinance Article 4.1 Site Plan Review, as may be amended or replaced from time to time. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Planning Board or Town Planner, but shall in any event include those items listed in III. 1.a and III. 1.b of this paragraph. The Planning Board must make a positive finding that the standards contained herein~~

are satisfied in addition to the standards contained in Article 4.1 Site Plan Review, as may be amended or replaced from time to time. (Amended 11/17/14)

A site development plan or plans shall include the nature, grading scheme, shape, composition, and location of all structures (including proposed front, rear, and side setback lines and all stream and wetland buffers), and all structures within three hundred (300) feet of any property line, and the number and location of all parking spaces and driveways, landscaping, buildings, lighting and signage accessory buildings, fences, storage areas, trash collection, antennas, and:

III.1.a. A plan showing all landscaping elements for the particular lot, including botanical/common name, size, condition, and "hard" landscape elements, and;

III.1.b. Building exterior elevations of each facade showing dimensions, all building windows and doors, materials, and exterior color scheme and any external mechanical systems, and;

III.1.c. (Deleted 11/17/14)

III.1.d. (Deleted 11/17/14)

III.1.e. (Deleted 11/17/14)

### **3.2 BASIS FOR APPROVAL (Deleted ==/==/2018)**

Approval shall be based, among other things, upon adequacy of site dimensions, adequacy of structural design, conformity and harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring lots, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning, or other rooftop installations, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration, and in reasonably close conformance with the approved Hampden Business Park master plan, as amended, and the final subdivision plan.

Plans that provide for metal-clad buildings will be approved only on the condition that such buildings are designed and built in accordance with the requirements of Section 4.4. (Amended 11/17/14)

Plans for plantings and landscape improvements will be approved only on the condition that materials, placement, and form are designed and built in accordance with the Landscaping Plans for the Hampden Business and Commerce Park. (Amended 11/17/14)

Declarant shall not arbitrarily or unreasonably withhold its approval of any plans and specifications. Except as otherwise provided in this Declaration, Declarant, by and through the Hampden Planning Board, shall have the right to disapprove any plans and specifications submitted hereunder on any reasonable grounds including, but not limited to, the following:

- 1.—Failure to comply with any of the limitations, restrictions, conditions, and covenants set forth in this Declaration;
  - 2.—Failure to include information in such plans and specifications as may have been reasonably requested by the Planning Board;
  - 3.—Failure to reasonably comply with the Hampden Business and Commerce Park Master Plan;
  - 4.—Objection to the exterior design, the appearance of materials, or materials employed in any proposed structure;
  - 5.—Objection on the ground of incompatibility of any proposed structure or use with existing structures or uses upon other lots, or other property in the vicinity of the subject property;
  - 6.—Objection to the locations of any proposed structure with reference to other lots, or other property in the vicinity;
  - 7.—Objection to the grading or landscaping or parking plan for any lot;
  - 8.—Objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any structure;
  - 9.—Any other matter that, in the judgment of the Planning Board, would render the proposed improvements or use inharmonious with the general plan for improvement of the subject property or with improvements located upon other lots or other property in the vicinity.
- (Amended 11/17/14)

### **3.3 ACTION** (Deleted ==/==/2018)

Declarant, by and through the Planning Board, may approve plans and specifications as submitted, or as altered or amended, or it may grant its approval to the same subject to specific conditions, or it may deny approval. Upon approval or conditional approval by Declarant of any plans and specifications submitted, a copy of such plans and specifications, or the revised plans, together with any conditions, shall be deposited for permanent record with Declarant, and a copy of such plans and specifications, bearing such approval together with any conditions, shall be returned to the applicant submitting the same. If the Declarant fails to act within 10 business days from the date the plan is deemed complete, the plan is deemed denied. A time extension may be granted in writing by the applicant. (Amended 11/17/14)

### **3.4 APPEAL** (Deleted 11/17/14)

### **3.5 PROCEEDING WITH WORK**<sup>[N5]</sup>

Upon receipt of approval from ~~Declarant pursuant to Section 3.3~~ the Planning Board, the applicant, shall, as soon as practicable, satisfy any and all conditions of such approval and shall diligently proceed with the commencement of and shall diligently and continuously pursue the completion of all approved excavation and construction. In all cases, work shall commence within one (1) -year from the date of approval, and if work is not so commenced, approval shall be deemed revoked unless Declarant, pursuant to written request made and received prior to the expiration of said one (1) year period, extends the period of time within which work must be commenced.

### **3.6 COMPLETION OF WORK**<sup>[N6]</sup>

Any improvement commenced pursuant hereto shall be substantially completed within two (2) years from the date of ~~Declarant's~~ approval by the Planning Board pursuant to Section 3.3, except that if such substantial completion is rendered impossible, or unless work upon the proposed improvements would impose a great hardship upon the applicant ~~to whom Declarant's approval is given, due to strike, fire, national emergency, natural disaster, or other supervening force beyond the control of the applicant~~, Declarant may, upon written request made and received prior to the expiration of the two (2) year period, extend the period of time within which work must be completed. Failure to comply with this section shall constitute a breach of this Declaration and may subject the party in breach to the enforcement procedures set forth in Article VII. Nothing in this paragraph shall be deemed to extend any construction start or completion date required by the ~~Planning Board~~, Zoning Ordinance or other ordinance or regulation.

All disturbed areas on any Lot must be revegetated in accordance with good erosion practice methods within three (3) months if disturbed during the growing season and within nine (9) months if disturbed during the non-growing season.

All revegetation must be completely established within one year from the time of disturbance.

If all elements of the approved plans and specifications are not substantially completed in accordance with the terms and conditions of this Declaration or such terms and conditions as may be included in a deed of conveyance, the owner ~~shall~~ may be assessed a late penalty of \$100 for each day beyond the completion deadline that the project is not substantially completed. Said late penalty shall be payable to Declarant, and the owner shall also be obligated to pay any of Declarant's reasonable costs incurred to collect the same, including reasonable attorney's fees and expenses.

Within sixty (60) days from substantial completion, the Owner shall submit two (2) copies of final record drawings to the ~~Declarant~~ Hampden Planning Department, along with a set thereof in such electronic format as may be designated by Declarant.

### **3.7 DECLARANT NOT LIABLE**

Nothing in this Declaration shall be deemed to constitute an undertaking by the Declarant to perform any particular act with respect to the subject property, nor to assume liability or indemnify any person for any damage, loss, or prejudice suffered or claimed by any person on account of:

- a. The approval or disapproval of any plans, drawings, and specifications, whether or not in any way defective.

- b. The construction of any improvement, or performance of any work, whether or not pursuant to approved plans, drawings, and specifications.
- c. The development or use of any lot within Hampden Business and Commerce Park, or enforcement or failure by the Declarant to enforce any of the covenants, conditions, or restrictions contained herein.

### **3.8 CONSTRUCTION WITHOUT APPROVAL**<sup>[AJ7]</sup>

If any improvement shall be commenced, erected, placed, or maintained upon any lot, or any new use commenced upon any lot, other than in accordance with ~~the approval by the Declarant pursuant to the provisions of this article~~ article plan approved by the Planning Board, such improvement shall be deemed to have been undertaken in violation of this Declaration, then upon written notice from Declarant, any such improvement shall be removed or altered so as to conform to the approval ~~by the Declarant~~, and any such use shall cease or be altered so as to conform to the approval ~~by the Declarant~~ within thirty (30) days after receipt of such notice. Thereafter, any party who remains in breach of the approval shall be subject to the enforcement procedures set forth in Article VII.

### **3.9 STARTING TIME AND REPURCHASE OPTIONS**

- a. Lots are conveyed with the intent that the owner will build thereon, and not for purposes of speculation. Conveyance of lots shall be specifically made upon the condition that commencement of construction shall begin within one year from the date of said conveyance and that substantial completion of construction, including paving of access ways, walkways and parking lots and the grading and landscaping of the surrounding grounds, shall be substantially completed within two (2) years from the date of ~~Declarant's regulatory approval pursuant to Section 3.3~~. In the event owner shall fail to commence construction within one (~~1~~) year from the date of conveyance, the Declarant may at its option and after written notice of 30 days, declare a violation of these covenants and upon tender of the original purchase price for the lot by Declarant to owner, the owner shall, notwithstanding any improvements to the lot, execute and deliver to the Declarant a deed conveying the subject lot to the Declarant. Owner shall have no right, remedy or recourse against the Declarant for the cost or value of any improvements, nor a cause or claim for unjust enrichment, quantum merit, or other similar relief.
- b. In the event any owner of land lying within the Hampden Business and Commerce Park shall desire to sell all or part of the land which at the time is unimproved, then the Declarant shall have the prior right and option to repurchase the unimproved premises proposed to be sold at the same price per acre paid by the Owner for said land when originally acquired from the Declarant.
- c. Prior to any sale of such premises, the owner of such lot, or the owner's successors or assigns, shall notify the Declarant in writing of intention to sell, describing the premises to be sold and the Declarant shall have sixty (60) days from the date of receipt of such notice to exercise its

option, and in the absence of written notification sent by the Declarant of its election to exercise said option, such owner shall be free to sell such premises to any person and at any price deemed desirable by such owner.

- d. In the event of any repurchase by the Declarant under paragraphs a, b, and c hereof, the purchaser upon tender of the repurchase price, shall execute and deliver to the Declarant a Quitclaim Deed with Covenant to said premises conveying thereby marketable title to the same free and clear of all encumbrances, except those encumbrances contained in the original deed from Declarant.

### **3.10 RIGHTS RESERVED TO DECLARANT**<sup>[N8]</sup>

- a. The property subject to this Declaration is also subject to the reservation to the Declarant for itself, its successors and assigns, of easements and rights of way ten (10) feet in width along all front lines<sup>[N9]</sup> of all lots and as may be shown on the final subdivision plan for all purposes relating to the installation and maintenance of utilities and/or for the installation and maintenance of drainage ways and structures. The areas encumbered by these easements are parallel, and interior to and adjacent to all lot boundaries and this reservation shall include the right of entry by men and machines. In addition, a 10' pedestrian easement is reserved along all property lines for the purposes of public pedestrian egress.<sup>[N10]</sup>
- b. In recognition of the fact that Declarant, or its successors and assigns, will be undertaking the work of constructing the Hampden Business and Commerce Park, nothing in this Declaration shall be understood or construed to prevent the Declarant, or its successors, assigns, employees, agents, contractors or sub-contractors, from doing whatever they may determine to be reasonably necessary or advisable for the completion of the work and the establishment of the Park, and the disposition of lots by sale, lease, or otherwise.

### **3.11 WETLAND DISTURBANCES**<sup>[N11]</sup>

No disturbances may occur within any delineated wetlands as shown on the "Site Grading and Erosion Control Plan" (Sheets CGJ01 and CGI02), prepared by WBRC Architects/ Engineers, dated March 16, 2001, and recorded in the Penobscot County Registry of Deeds in Map Files 2002-275 and 2002-276, respectively, other than filling as specifically shown on said plan, unless said plan is amended with the written approval of the Declarant, and with the requisite governmental approvals. Any such amendments to said plan must be recorded in said Registry. Costs of any such amendments, including permitting, shall be the responsibility of those seeking such amendment(s).

### **3.12 BUFFER AREAS AND OPEN SPACE**<sup>[N12]</sup>

No disturbances may occur within any delineated stormwater buffer treatment areas or open space areas designated on the final subdivision plan, except for the removal of dead or dying trees or shrubs, and in accordance with the requirements of the Site Location of Development Permit or Natural Resource Protection Act Permit, as amended, unless said plan is amended with the written

approval of the Declarant, the Hampden Planning Board and Maine Department of Environmental Protection (MDEP). Any such amendments for alternative treatment methods or areas must be recorded in said Registry. Costs of any such amendments, including permitting, shall be the responsibility of those seeking such amendment(s). Exceptions to this restriction include the annual maintenance or mowing of non-wooded buffers, low impact outdoor recreation and recreational trail development within open space areas retained by the Declarant, and maintenance or repair of utilities within easements identified on the subdivision plan. In the event that MDEP requires that a Declaration be recorded in the Registry of Deeds, the more strict provisions shall apply.

## ARTICLE IV DEVELOPMENT STANDARDS

### **4.1 GENERAL REQUIREMENTS**

All improvements shall comply in every respect with all applicable laws and ordinances of the United States, the State of Maine, and the Town of Hampden, including zoning restrictions, landscaping, and site development standards under applicable Town of Hampden ordinances.

### **4.2 MINIMUM IMPERVIOUS AREA SETBACK** (Amended 10/15/07)

~~Notwithstanding any lesser setback requirements under Town of Hampden zoning ordinances, no improvements of any kind, and no part thereof, shall be placed closer than permitted by Declarant to an interior property line or right-of-way, except as otherwise provided in Section 4.3.~~

~~b. Front, side and rear setbacks — no buildings shall be placed outside the building area limit for each lot as depicted on the subdivision plan, or within 20' of a property line.~~

~~d. Building to parking setback — no less than 5' between parking spaces and principal buildings, except no less than 20' for entrance drives.~~

~~f.a. Impervious area setbacks —~~ No paved areas, parking spaces, loading spaces and associated driveways and access aisles shall be placed outside the impervious area limit for each lot as depicted on the subdivision plan, or within 20' of the front property line or 10' of the side and rear property lines, except for entrance drives. **This minimum setback requirement shall not apply to walkways, fences (subject to the requirements set forth in Section 4.7), landscaping, irrigation systems, low planers, signage, lighting, or underground utilities.**

### **4.3 EXCEPTIONS TO SETBACK REQUIREMENTS** (Deleted ==/==/2018)

~~The following improvements, or parts of improvements, are specifically excluded from the setback requirements set forth in Section 4.2:~~

~~a. Walkways;~~

~~b. Fences, subject to the requirements set forth in Section 4.7;~~

~~c. Landscaping and irrigation systems;~~

- d. ~~Low planters;~~
- e. ~~Business park identification signs, directional and parking signs, and signs identifying the occupant of a lot, subject to the prior written approval of Declarant, compliance with the Town of Hampden's Zoning Ordinance, and the requirements of Section 4.5 of this Declaration;~~
- f. ~~Lighting facilities, subject to the prior written approval of Declarant; and~~
- g. ~~Underground utility facilities and sewers.~~

#### **4.4 STRUCTURES AND ARCHITECTURAL STANDARDS**

The provisions of this section shall only apply to Phase 1 of the Park<sup>[N13]</sup>. (Amended 11/17/14)

- a. All buildings and other site improvements shall be built in conformance with all applicable laws, including any building code adopted by the Town of Hampden or the State of Maine. (Amended 11/17/14)
- b. Building primary facades (front face of building) visible from Route 202 and the Business & Commerce Park contained in Phase 1 of the final subdivision plan's road network shall incorporate design elements which create visual interest. These primary facing facades shall not be blank walls, but shall incorporate windows, entry treatments, variations in plane, variation in roof shapes, and other architectural features to create visual interest, and to distinguish them from simple industrial structures. ~~Development of continuous covered porches or arcades serving multiple businesses is encouraged. Building facades shall be designed and detailed to develop a human scale, present in the appearance of commercial storefront and recognizable entry elements. For the purposes hereof, the term human scale shall mean that the building facade shall use construction products or detailing which refer to modules or scale of the human body.~~ (Amended 11/17/14)<sup>[N14]</sup>
- c. Color scheme and finish for all metal, including roofs, shall be pre-painted. Trim (window, doors, roof edge, eaves, etc.) shall be articulated by color different than the building's siding color. Generally, colors should relate to the setting (landscape). ~~Bold hues and bright saturated colors shall be discouraged.~~
- d. ~~Buildings less than 10,000 s.f. footprint shall be proportioned such that the roof eave to ridge heights do not exceed the building facade height (ground to eave). Building footprint shall be contained within the building area limits designated on the approved final subdivision plan.~~
- e. ~~Roof slopes shall be 5"/12" minimum for buildings with footprints less than 10,000 s.f., and ½"/12" for others. Provided, however, that roof slopes for metal frame buildings with footprints less than 10,000 s.f. shall be a minimum of 3"/12". Roof eaves shall be projected 6" minimum beyond the exterior of all wall surfaces and trimmed, and 12" beyond for buildings having less than 10,000 s.f. footprint. (Amended 10/15/07).~~
- f.d. Acceptable exterior materials include:
  - 1) Finished concrete.
  - 2) Finished masonry or masonry units, such as stone, brick, structural facing tile and ceramic tile.

- 3) "Shallow" corrugated or flat metal panels.
- 4) Aluminum/glass curtain wall systems.
- 5) Wood siding, to include solid wood materials such as clapboards but not including pre-manufactured panels such as T1-11.
- 6) Architectural grade vinyl siding.
- 7) Aluminum doors and window systems.
- 8) Exterior insulation finish systems (EIFS).

#### **4.5 SIGNS**<sup>[A15]</sup>

~~No sign shall be permitted on any lot unless approved by Declarant in writing.~~

~~No sign shall be approved other than Only signs identifying the building or the business of the occupant of a lot, business park identification signs, informational, and vehicular control signs, signs offering the lot for sale or lease, and temporary development signs are allowed. All signs must comply with the Hampden Zoning Ordinance, and the following requirements:~~

- ~~a. Freestanding Occupancy Identification Signs shall be no more than twelve (12) feet in height above the average grade elevation of the site around the sign; shall be located on the frontage facing the Hampden Business and Commerce Park access road, no more than twenty five (25) feet nor less than eight (8) feet from the front property line; nor shall such signs be supported above the base or ground immediately beneath them by a single post. They shall be unlit, or indirectly lit by either back lighting through opaque sign facing or by spotlight. No neon, no intermittent or moveable character signs shall be permitted.~~
- ~~b. Occupant Identification Signage on a Building shall not extend above a parapet or eaves line (or obscure such building line) and shall not be erected on more than two walls of any building.~~
- ~~c.a. Deviations from these standards may be granted by the Declarant upon submission of a written request.~~

#### **4.6 LANDSCAPING**

Within ninety (90) days following completion of construction each lot shall be landscaped in accordance with the plans and specifications, except when the completion of the landscaping would impose a great hardship upon the applicant due to weather or climatic conditions. Declarant may, upon written request made and received prior to the expiration of the ninety (90) day period, extend the period of time within which work must be completed.

- a. The area of each lot between any street and any minimum setback line shall be landscaped with a combination of trees, shrubs, and other ground cover providing a buffer and transition zone from streetscape to site. All other undeveloped portions of a lot shall be landscaped in a complementary and similar manner.
- b. The perimeters of parking areas shall be landscaped with year round plant material or earth berms or a combination of both to screen said areas from view and lessen the impact on neighboring sites.

- c. ~~Within parking areas, parking spaces shall be broken up by landscaped islands such that for every 20 parking spaces there is one landscaped island containing at least 650 square feet, at least one deciduous tree, and planted with low shrubbery.~~
- d. After completion, such landscaping as is herein required shall be maintained in a sightly and well-kept condition. ~~If, in Declarant's reasonable opinion, the required landscaping is not maintained in a sightly and well-kept condition, Declarant shall be entitled to the remedies set forth in Article VII.~~
- e. ~~Minimum planting sizes:~~
  - ~~Deciduous shade trees — 2" Caliper~~
  - ~~Coniferous trees — 5-7' Height~~
  - ~~Deciduous shrubs — 18-24"~~
  - ~~Coniferous shrubs — 18-24"~~
- ~~Planting sizes may be waived at the Declarant's discretion and approval by landscape architect.~~
- f. ~~(Deleted 11/17/14)~~

~~(The applicant shall may be required, as a condition of Site Plan approval, to provide a suitable performance bond or other form of security to guarantee the performance and completion of all planting required pursuant to this section, which bond or security shall also guarantee plantings for a period of one (1) year after installation.)<sup>[N16]</sup>~~

~~Landscaping shall be maintained thereafter by the property owner at a level consistent with the site plan approval. In determining the amounts of planting to be required, the Declarant shall take into account:~~

- ~~1) Existing trees, shrubs, evergreens and other vegetation to be preserved on the site.~~
- ~~2) Visibility of incompatible or unsightly areas from roads and/or adjoining properties.~~
- ~~3) Shade trees and landscape strips in relation to existing and planned streets.~~

**4.7 FENCES**<sup>[N17]</sup>

All fences are subject to the provisions of this section.

- a. A fence six feet high or less may be placed up to but not on a property line so that both sides of the fence can be erected and maintained from the property of the person erecting the fence.
- b. A fence more than six feet high shall be considered a structure subject to normal setback requirements for the zoning district, unless otherwise approved by the Declarant during site plan review.
- c. A fence shall be erected so that its "good side" shall face an abutting property or roadway.
- d. Any fence located adjacent to a publicly owned or maintained sidewalk, bike path or pedestrian way shall not be located closer than two feet to such public facility.
- e. The Declarant reserves the right to approve the location and design of all fences, and no fence shall be constructed without written approval from the Declarant.

#### **4.8 PARKING AREAS, LOADING AREAS, AND DRIVEWAYS**

~~Off-street parking adequate to accommodate the parking needs of the development and the employees and visitors thereof shall be provided for each Lot. The intent of this provision is to eliminate the need for any on-street parking. If parking requirements increase as a result of a change in the use of a lot or in the number of persons employed thereon, additional off-street parking shall be provided so as to satisfy the intent of this section.~~ All parking areas shall conform to the following standards:

- a. Parking areas shall be paved so as to provide dust free, all weather surface s.
- b. Each parking space provided shall be designated by lines painted upon the paved surface.
- c. Provision shall be made on each site for any necessary vehicle loading, and no on-street vehicle loading shall be permitted.
- d. Loading dock areas shall be set back, recessed, or screened to minimize visibility from neighboring properties or streets.
- e. No more than one (1) entrance or exit driveway per Lot shall be permitted except in extraordinary circumstances approved by the Declarant, or as identified on the master plan.

#### **4.9 STORAGE AREAS**

All storage of bulk materials, including but not limited to such things as coal, wood, pulp, raw materials shall be located completely within a building or other space adequately screened from public view, ~~as approved by the Design Review Board~~. Any fences, walls or plantings used for such screening purposes shall be located not less than twenty (20) feet from any property line. Outside storage of materials, supplies, or equipment, including trucks or other motor vehicles, shall be permitted only if:

- a. The material equipment, or objects stored outside are necessary and accessory to the activities regularly conducted on the premises;
- b. The area devoted to outside storage is limited and does not dominate the site or appear unattractive from neighboring sites, ~~as determined by the Design Review Board~~.
- c. The area is screened on the sides and harmonizes with the architecture, landscaping, design, and appearance of neighboring structures and other surroundings, and in reasonably close conformance to the master plan; and
- d. The area is located upon the rear portions of a lot, unless otherwise approved in writing by Declarant.

#### **4.10 LIGHTING**

All lighting is to be shielded so as not to be directly visible from neighboring property or to cause glare on neighboring streets and properties. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "downshield luminaire" type where the light source is not visible from any public highway or from adjacent properties.

Only fixtures, which are shielded, do not expose a light source, and which do not allow light to "flood" the property are permitted to be attached to buildings. All lighting must be approved in writing by Declarant.

When illumination is required for part or all of a structure, the illuminating device shall be designed, located and adjusted so as to not cast light directly on adjacent properties or roadways.

#### **4.11 SPECIAL PROVISIONS**

In addition to the requirements of Section 4.1-4.8, site plans for development in the Hampden Business and Commerce Park shall be consistent with the requirements of this sub-section. The Hampden Business and Commerce Park is to become a pleasant commercial area in which all visual and functional elements form an integrated design plan. Route 202 connects Hampden and Bangor centers and the site lies in the path of planned recreation trails and alternative transportation links. Site plans for proposed new developments must acknowledge this basic pattern and reinforce it by defining public spaces and walkways, and by providing appropriate landscaping and features. Design Requirements. [N18]

- a. New buildings shall be sited to create pleasant outdoor spaces, and to create visual and pedestrian linkages between existing buildings.
- b. Public spaces shall be created to connect to and reinforce the circulation pattern and recreation paths. These public spaces shall be designed at a human scale and furnished with appropriate features such as benches, plantings, public sculptures, bike racks, and pedestrian scaled and styled light fixtures.
- c. Public walkways shall be created and shall be suitably landscaped and furnished with attractive pavement, plantings, pedestrian scaled and styled light fixtures, and other amenities.
- d. The location and design of buildings, public spaces and walkways shall create pleasant and effective termini for views to and from the site.
- e. The southerly views from this area towards the agricultural land and Penobscot River beyond are an important public resource. Prominent public vantage points for these views must be identified and the visual corridors from these vantage points to this resource must be protected and enhanced. Building envelopes have been defined which will prevent these visual corridors from being interrupted by new buildings or landscaping.
- f. The wetlands and waterways shall be utilized as the focal point for the public open space, which shall be designed as a more natural open space rather than developed parks, plazas, or greens. The open space should be accessed by walkways and bikeways, and should be accessible from the buildings. [N19]

### **ARTICLE V USES AND OPERATIONS**

### **5.1 NO FURTHER SUBDIVISION OF LOTS**

No lot as shown on the Final Subdivision Plan shall be subdivided without the prior approval of the Declarant and the Hampden Planning Board. No building shall be constructed, erected or placed on any lot other than shown on said Plan, or an amended subdivision plan as approved by the Planning Board and recorded in the Penobscot County Registry of Deeds.

### **5.2 PERMITTED USES**

Lots shall be used for light manufacturing, assembly, research and testing laboratories, professional and other business offices, call centers, warehouses and other acceptable uses permitted by the Town of Hampden Zoning Ordinance, ~~provided that Declarant specifically consents to such use in writing.~~ (Amended 11/17/14)

~~Such approved use shall be performed or carried out entirely within a building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to other lots or property, such as, but not limited to, vibration, sound, electro mechanical disturbances, electromagnetic disturbances, radiation, air or water pollution, dust, or emission of odorous, toxic, or nontoxic matter (including steam). Certain activities that cannot be carried on within a building may be permitted, provided Declarant specifically consents to such activity in writing and further provided that such activity is screened so as not to be highly visible. The screening or fencing shall be attractive from neighboring property and streets. All lighting is to be shielded so as not to be directly visible from neighboring property or to cause glare on neighboring streets and properties.~~

### **5.3 PROHIBITED USES**

The following operations and uses shall not be permitted on any property subject to this Declaration:

- a. Junk yards; wrecking yards; automobile graveyards; or automobile recycling business;
- b. Recycling facilities (unless accessory to the primary activities regularly conducted on the premises);
- c. Mining, drilling for, or removing oil, gas, or other hydrocarbon substances;
- d. Refining of petroleum or of its products;
- e. (Deleted 11/17/14)
- f. Commercial excavation of building or construction materials, provided that this prohibition shall not be construed to prohibit any excavation necessary in the course of approved construction pursuant to Article III;
- g. Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or other refuse;
- h. Uses prohibited by federal, state, or local law, including applicable Town of Hampden Zoning Ordinance provisions; (Amended 11/17/14)

- i. No use shall be made of any lot or any portion thereof which would allow access to transportation or utility systems through such lot to any property not controlled by the Town of Hampden without approval of the Town of Hampden;
- j. Non-taxable uses are prohibited unless approved by the Hampden Town Council because they are generally inconsistent with the goals of Recital 4 above.

#### **5.4 NUISANCES**

No nuisances shall be permitted to exist or operate upon on any Lot so as to be offensive or detrimental to any adjacent Lot or property or to its occupants. A nuisance shall include, but not be limited to, any of the following conditions:

- a. Any use, excluding reasonable construction activity, of the Lot that emits dust, sweepings, dirt, or cinders into the atmosphere, or discharges liquid, solid wastes, or other matter into any stream, river, or other waterways that, in the opinion of the Declarant, may adversely affect the health, safety, comfort, or intended use of property by persons within the area. No waste nor any substance or materials of any kind shall be discharged into any public sewer serving the subject property or any part thereof in violation of any regulation of the Town of Hampden;
- b. The escape or discharge of any fumes, odors, gases, vapors, steam, acids, or other substances into the atmosphere, which discharge, in the opinion of Declarant, may be detrimental to the health, safety, or welfare of any person or may interfere with the comfort of persons within the area or may be harmful to property or vegetation;
- c. The radiation or discharge of intense glare or heat, or atomic, electromagnetic, microwave, ultrasonic, laser, or other radiation. Any operation producing intense glare or heat or such other radiation shall be performed only within an enclosed or screened area and then only in such manner that the glare, heat, or radiation emitted will not be discernible from any point exterior to the site or lot upon which the operation is conducted;
- d. Excessive noise. At no point outside of any lot shall the sound pressure level of any machine, device, or any combination of same, from any individual plant or operation, be offensive or detrimental to any adjacent lot or property or to its occupants, ~~as determined by the Design Review Board;~~
- e. Excessive emissions of smoke, steam, or particulate matter. Emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations;
- f. Ground vibration. Buildings and other structures shall be constructed and machinery and equipment installed and insulated on each lot so that the ground vibration inherently and recurrently generated is not perceptible without instruments at any point exterior to any lot.
- g. Trash and refuse outdoors if not contained in a proper receptacle in a refuse collection area.  
(Amended 11/17/14)

## **5.5 CONDITION OF PROPERTY**

The occupant of any lot shall at all times keep it and the buildings, improvements, and appurtenances thereon in a safe, clean, and wholesome condition and comply, as its own expense, in all respects with all applicable governmental, health, fire, and safety ordinances, regulations, requirements, and directives, and the occupant shall at regular and frequent intervals remove at its own expense any rubbish of any character whatsoever that may accumulate upon such lot.

## **5.6 MAINTENANCE OF GROUNDS**

Each occupant shall be responsible for the maintenance and repair of all parking areas, driveways, walkways, and landscaping on his/her lot. Such maintenance and repair shall include, without limitation, up to the public travel way including any easements, esplanades, tree protection zone, and joint or shared parking areas. Each occupant shall be responsible for:

- a. Maintenance of all parking areas, driveways, and walkways in a clean and safe condition, including the paving and repairing or resurfacing of such areas when necessary with the type of material originally installed thereon or such substitute therefor as shall, in all respects, be equal thereto in quality, appearance, and durability, the removal of debris and waste material and the washing and sweeping of paved areas, the painting and repainting of striping markers and directional signals as required;
- b. Cleaning, maintenance, and re-lamping of any external lighting fixtures; and
- c. Performance of all necessary maintenance of all landscaping, including the trimming, watering, and fertilization of all grass, groundcover, shrubs, or trees, the removal of dead or waste materials, the replacement of any dead or diseased grass, groundcover, shrubs, or trees.

## **5.7 REMEDIES FOR FAILURE TO MAINTAIN AND REPAIR**

Each lot owner and occupant thereof shall promptly maintain and repair their premises per Article V but if owner or occupant shall fail to do so after fifteen (15) days written notice by Declarant, then the Declarant may pursue those remedies described in Article VII.

## **5.8 REFUSE COLLECTION AREAS**

All outdoor refuse collection areas shall be screened to minimize visibility from neighboring property or streets ~~and setback at least ten (10) feet from the Street right-of-way~~. No refuse collection area shall be permitted between a subdivision street and the front of a building.

## **5.9 REPAIR OF BUILDINGS**

No building or structure upon any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

### **5.10 PUBLIC UTILITIES**

Declarant reserves the exclusive right to approve installation of utility lines across the subject property. Declarant will consult with any Lot owner before such installation and shall attempt to accommodate Lot owner concerns. The appropriate governmental authority must approve the construction and operation of public utilities in rights-of-way dedicated to the public.

### **5.11 UTILITY LINES AND ANTENNAS**

No sewer, drainage, or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals, including telephone, television, microwave, or radio signals, shall be constructed without approval by the Declarant. Notwithstanding the requirements of the Hampden Zoning Ordinance, no antenna or tower for the transmission or reception of telephone, television, microwave, or radio signals shall be placed on any Lot within the subject property without the consent of the Declarant, which shall not be unreasonably withheld. Nothing contained herein shall be deemed to forbid the erection or use of temporary power or telephone power or telephone facilities incidental to the construction or repair of buildings on the subject property.

### **5.12 MECHANICAL EQUIPMENT**

All mechanical equipment, utility meters, storage tanks, air conditioning equipment, and similar items shall be screened with landscaping or attractive architectural features integrated into the structure itself, and shall not be visible from neighboring properties or street rights of way as defined in Article I.

### **5.13 MINERAL EXPLORATION**

No portion of the subject property shall be used in any manner to explore for or to remove any steam, heat, oil, or other hydrocarbons, gravel, earth, or any earth substances or other mineral of any kind, provided, however, that this shall not prevent the excavation of earth in connection with the grading or construction of improvements within the subject property.

### **5.14 OTHER OPERATIONS AND USES**

Operations and uses that are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by Declarant in accordance with the procedures set forth in Article III of this Declaration. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other property subject to this Declaration or upon the occupants thereof, but shall be in the sole discretion of Declarant. [N20]

**ARTICLE VI  
MODIFICATION AND REPEAL**

**6.1 MODIFICATION BY DECLARANT**

The Declarant, at its sole discretion, may modify or amend the provisions of this Declaration, provided, however, that:

- a. Prior to any such modification or amendment, Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary;
- b. A public hearing on the proposed amendment will be held by the Town Council;
- c. No such modification or amendment shall be effective until the owners and occupants have been given thirty (30) days prior written notice of the proposed change and a proper instrument in writing has been executed and recorded.

**ARTICLE VII  
ENFORCEMENT**

**7.1 ABATEMENT AND SUIT**

The Declarant may enforce any breach or violation of the provisions of this Declaration in either the Superior Court of Penobscot County or the U.S. District Court, Bangor, Maine. In the event the Declarant seeks legal redress, the Declarant may pursue, at its option, both the owner and any related or non-related occupant for money damages, specific performance or any other form of legal or equitable relief. Notice of violation or breach of any covenant, condition or restriction or provision of this Declaration shall be provided by the Declarant in writing, and upon a failure to correct or abate said violation after 30 days, Declarant may pursue such legal or equitable action. In addition to the above remedies, if such violation shall continue for more than 30 days, the Declarant may enter upon the lot where said violation or breach exists and summarily correct, abate or remove, at the expense of owner and/or occupant, any improvements, structure, thing or condition deemed by the Declarant to be in violation of or contrary to the provisions of this Declaration. No such entry by the Declarant or its agents shall be deemed a trespass, nor shall the Declarant or its agents be liable for any actions taken hereunder to remedy or remove a violation. All costs incurred by Declarant shall be levied as an assessment against the owner of the lot(s) in question. If any such assessment is not paid within thirty (30) days of an invoice therefor issued by Declarant, such assessment shall then become delinquent and shall, together with interest thereon at the rate of twelve (12) percent per annum and the cost of collection thereof (including reasonable attorney's fees) become a continuing lien on the lot(s) against which such assessment is made and shall bind such lot(s) in the hands of the owner(s), and the owner's successors and assigns, and shall also be a continuing personal obligation of the owner(s) against whom the assessment is levied. The lien of the assessment for which provision is herein made shall be subordinate to the lien of any first mortgage to a financial institution.

**7.2 RIGHT OF ENTRY**

During reasonable hours and upon reasonable notice and subject to reasonable security requirements, Declarant, or its agents, shall have the right to enter upon and inspect any lot and the improvements thereon covered by this Declaration for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and neither Declarant nor its agents shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

**7.3 DEEMED TO CONSTITUTE A NUISANCE**

The result of every act or omission whereby any covenant, condition, or restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or in equity against an owner or occupant shall be applicable against every such result and may be exercised by Declarant.

**7.4 ATTORNEY'S FEES**

In the event the Declarant initiates any legal or equitable action to enforce these covenants, and it prevails in that action, the Declarant shall be entitled to its reasonable attorney's fees. In no event and under no circumstances shall Declarant be responsible for owner's or occupant's attorney's fees.

**7.5 FAILURE TO ENFORCE IS NO WAIVER**

The failure of Declarant to enforce any covenant, condition, restriction, or provision of this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter or in other cases nor to the right to enforce any other restriction.

**ARTICLE VIII  
ASSIGNMENT**

Any and all of the rights, powers, and reservations of Declarant herein contained may be assigned to any person, partnership, corporation, or association that will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned, and upon any such person, partnership, corporation, or association evidencing its consent in writing to accept such assignment and assume such duties, the assignee shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Any assignment made under this article shall be recorded in the Registry of Deeds.

**ARTICLE IX  
CONSTRUCTIVE NOTICE AND ACCEPTANCE**

Every person or entity who now or hereafter owns or occupies any portion of the subject property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and provision contained in this Declaration, regardless of whether any reference thereto is made in any document by which that person acquired an interest in the subject property.

**ARTICLE X  
WAIVER AND FAILURE TO ENFORCE**

The Declarant may after public hearing, waive one or more of the covenants, conditions, and restrictions contained in this Declaration. Neither Declarant, nor its successors or assigns, shall be liable to any owner or occupant of the subject property by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction or for the enforcement or failure to enforce any provision of this Declaration. No owner or occupant of property in the Hampden Business and Commerce Park may bring any action or suit against Declarant to recover any such damages or to seek equitable relief because of same.

**ARTICLE XI  
RUNS WITH LAND**

All covenants, conditions, restrictions, and provisions contained in this Declaration are made for the direct, mutual, and reciprocal benefit of each and every lot of the subject property; shall create mutual equitable servitudes upon each lot in favor of every other lot; shall create reciprocal rights and obligations between respective owners or occupants of all lots, their heirs, successors, and assigns; and shall, as to the owner or occupant of each lot, their heirs, successors, and assigns, operate as covenants running with the land, for the benefit of all other lots, except as herein provided otherwise.

**ARTICLE XII  
RIGHTS OF MORTGAGEES**

No breach of any covenant, condition, restriction or provision herein contained, or any enforcement thereof, shall defeat or render invalid the lien of any mortgage now or hereafter granted on the subject property or a portion thereof, provided, however, that if any portion of said property is transferred under a foreclosure of any mortgage or by a deed in lieu of foreclosure, any successors and assigns shall hold any and all property so transferred subject to all of the covenants, conditions, restrictions and provisions contained in this Declaration.

**ARTICLE XIII**

**CAPTIONS**

The captions of articles and sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limit, or describe the scope and intent of the particular article or section to which they refer.

**ARTICLE XIV  
EFFECT OF INVALIDATION**

If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

**ARTICLE XV  
NOTICES**

Any notices required to be sent to any owner or occupant under the provisions of this Declaration shall be deemed to have been properly sent when mailed by U.S. mail, postage prepaid, to the last known address of the person as it appears in the records of the Assessor of the Town of Hampden. Owner and occupant shall notify the Assessor of any change of address.

IN WITNESS WHEREOF, the Town of Hampden has caused this Second Amended and Restated Declaration to be duly executed on its behalf as of this \_\_\_\_ day of ~~September~~ \_\_\_\_\_, ~~2015~~2018.

Town of Hampden

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Angus G. Jennings  
Its Town Manager

STATE OF MAINE  
PENOBSCOT, ss.  
2015~~2018~~

~~September~~ \_\_\_\_\_,

Personally appeared the above-named Angus Jennings in his stated capacity and acknowledged the foregoing instrument to be his free act and deed in such capacity and the free act and deed of said Town of Hampden.

Before me,

\_\_\_\_\_  
Notary Public  
Printed Name: ~~DENISE R. HODSDON~~



Town of Hampden  
Land & Building Services

## Memorandum

To: Planning & Development Committee  
From: Karen M. Cullen, AICP, Town Planner *KME*  
Date: December 15, 2017  
RE: Potential Coldbrook Corners TIF District

Following the discussion last month on a potential new Tax Increment Financing (TIF) District at the corners of Coldbrook Road and Route 202, Noreen Norton has prepared a draft TIF Development Program. Staff has reviewed and edited it and it will be discussed at the P&D meeting on December 20. Some items that require further policy direction will be highlighted for discussion. This includes discussion of potential terms of a Credit Enhancement Agreement. Chuck Lawrence of Southstreet Development, LLC will be in attendance for the meeting, and an Executive Session has been included on the agenda to provide the Committee the opportunity to discuss potential CEA terms prior to discussion with the developer.

**ECONOMIC DEVELOPMENT  
HAMPDEN, MAINE**

*An Application for a Municipal Development and Tax Increment Financing District*

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**HAMPDEN COLDBROOK CORNERS OMNIBUS  
MUNICIPAL DEVELOPMENT AND  
TAX INCREMENT FINANCING DISTRICT**

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*Presented to:*

**TOWN OF HAMPDEN**

**DATED:**

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**EXHIBITS:**

- A-1 TIF District Map Showing District in Relation to Municipal Boundaries**
- A-2 Map Showing TIF District Boundary**
- B Statutory Requirements & Thresholds**
- C Assessor's Certification of Original Assessed Value**
- D-1 TIF Revenue/Captured Assessed Values Projections**
- D-2 Tax Shift Calculations**
- E Public Hearing Notice**
- F Public Hearing Minutes**
- G Town Council Resolution**

**DRAFT**

## **I. Introduction**

### **A. The Coldbrook Corners Project**

Coldbrook Corners is an important intersection in Hampden. Traffic volumes are relatively high, reflecting travel going to or from Interstate Routes 95 or 395. Route 202, one of the roads comprising this intersection, carries traffic to and from Route 395, Bangor, and provides access to the Hampden Business Park and other industrial and commercial sites to the north. Coldbrook Road, the other road comprising the intersection, runs from Route 1A near the Penobscot River northwest to I-95. Given these major roadways, this intersection is busy and the land area around it is becoming more attractive for development.

The town's 2010 comprehensive plan recognizes this area as having growth potential, and most of the land in the proposed district is zoned for commercial use. Currently, one quadrant of the intersection is the site of a major trucking trailer company and a popular seafood restaurant, and another is used for a small auto dealership and repair facility. One quadrant is the 76-acre site of a former concrete plant, which is ripe for redevelopment, and an adjacent 77-acre parcel of undeveloped land. The fourth quadrant is the site where Southstreet Development, LLC ("the Company") is interested in constructing a gasoline station with convenience store and other retail, as well as a stand-alone bank. High visibility and relatively high traffic volumes at this intersection are key (the "Project"). Hampden expects that development of this use in this location will anchor this area, and help spur development on other parcels within the District and along Coldbrook Road, heading toward I-95.

### **B. Tax Increment Financing – Coldbrook Corners Project**

To make the Project investment financially viable, the Company has requested a credit enhancement agreement made possible through the creation of a Municipal Tax Increment Financing ("TIF") district. The establishment of a TIF district, together with the execution of a credit enhancement agreement between the Town and the Company, will help ensure the economic viability of the Project and bring investment and jobs to the Town.

The Town seeks to support the Project as it is anticipated to bring attention to the value of this high traffic intersection, and vacant land along Coldbrook Road between Coldbrook Corner and I-95, thus motivating new commercial investment on land in an area identified as a growth area for development by the Town. The proximity to the interstate makes this an attractive area for development, and in the past year public water service was extended from its prior terminus at 202 northwesterly along Coldbrook Road. However, the lack of sewer infrastructure along Coldbrook Road has limited the opportunities for development, and will continue to constrain opportunities.

The Town can designate the proposed TIF District consistent with the provisions of 30-A M.R.S.A. § 5223, adopt this Development Program, authorize a credit enhancement agreement, and accomplish the following goals:

- Maintain the existing tax revenues generated within the Town;
- Support the development of mixed use commercial development within a designated growth area thus enhancing the future tax revenues generated within the TIF District;
- Provide resources (i.e. TIF revenues) for municipal economic development investments;
- Encourage new commercial development;
- Create employment opportunities for area residents; and
- Improve the general economy of the Town as well as the Bangor Region and the State of Maine.

In addition, by creating a TIF District, the Town can “shelter” the increase in valuation that this Project will bring about. This tax shelter will mitigate the impacts that the District’s increased assessed property value would have on the Town’s share of state aid to education, municipal revenue sharing and its county tax assessment. An estimate of the tax shelter benefit is shown as Exhibit D-2 attached hereto.

In order to fulfill these goals, the Company property (a portion of Map-Lot 33-0-011-A) on the corner of Route 202 and Coldbrook Road along with ten other parcels (Map -Lots 22-0-004, 22-0-004-1, 22-0-005, 22-0-005-A, 9-0-020, 9-0-020-A, 9-0-030, 9-0-028-A, 17-0-001, and 17-0-002), and the public right-of-way extending from this location northwesterly along Coldbrook Road to its intersection with I-95, have been proposed as the **“Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District”** (the **“District”**). Through the creation of the District, together with a credit enhancement agreement (the **“Credit Enhancement Agreement”**) between the Town and the Company, a portion of the projected tax revenue generated from the real property taxes paid on the captured assessed value of the improvements made within the Company Tract (as described herein) of the TIF District will be allocated to and used by the Company to fund the Project and to pay eligible expenses which may include debt service associated with the improvements. These eligible expenses and potential investments are described more fully herein.

Additional credit enhancement agreements may be approved within the Town Tract of the business park through an Omnibus feature of the District described herein.

**C. Tax Increment Financing – Hampden Economic Development Program**

The Town intends to use its portion of tax revenue generated from the taxes on real property paid on the captured assessed value of the improvements made within the District (the **“TIF Revenues”**) to finance some or all of the costs of public improvement projects and

future economic development programs and initiatives which collectively will improve the Town’s economy and increase the Town’s ability to stand out in a competitive marketplace as a dynamic place in which to grow a business. Anticipated Town Projects are described in Table 1 below, such costs being authorized as project costs as defined under 30-A M.R.S.A. § 5225 and § 5230.

**TABLE 1  
Town of Hampden Coldbrook Corners TIF District Project Costs**

Project Description	Cost Estimate	Statutory Cite
<b>Investments Within the District</b>		
<p>1. <u>Capital Costs including but not limited to:</u></p> <ul style="list-style-type: none"> <li>• The acquisition or construction of land, improvements, public ways, infrastructure, buildings, structures, fixtures and equipment for public or commercial development district use.                             <ul style="list-style-type: none"> <li>○ The proposed District includes the Coldbrook Road public right-of-way extending from Route 202 northwesterly to I-95</li> </ul> </li> <li>• Public safety measures including but not limited to turning lanes, road widening;</li> <li>• The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;</li> <li>• Site preparation and finishing work;</li> <li>• Fees and expenses including but not limited to licensing, permitting expenses, project design and planning, engineering, architectural, legal and accounting expenses.</li> </ul>	<p>\$</p>	<p>30-A M.R.S.A. § 5225(1)(A)(1)(a),(b), (c), and (d)</p> <p>30-A M.R.S.A. § 5225(1)(A)(5)</p>
<div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: fit-content;">                     Note that “Real Property Assembly” and “Relocation” costs are not included                 </div>		
<p>2. <u>Financing Costs:</u> TIF Revenues may be used to finance any of the other projects listed herein. Such costs may include, but are not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity.</p>	<p>\$,000</p>	<p>30-A M.R.S.A. § 5225(1)(A)(2)</p>

Project Description	Cost Estimate	Statutory Cite
3. <u>Administrative Costs</u> : A dedication of reasonable reimbursement from District revenues to defray administrative costs in connection with the implementation of the development program, including pro-rated municipal staff salaries.	\$,000	30-A M.R.S.A. § 5225(1)(A)(5)
4. <u>Organizational Costs</u> : relating to the establishment or amendment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs informing the public about the creation of the District and implementation of the project plans.	\$,000	30-A M.R.S.A. § 5225(1)(A)(7)
<b>Investments Made Necessary by District</b>		
5. <u>Infrastructure Costs</u> : Improvements directly related to and made necessary by the District including, but not limited to sewer, water or stormwater utilities, electric lines, and roadway improvements. Use of TIF Revenues for such improvements will be limited to improvements within the District and improvements outside the District pro-rated to include only the portion of improvements made necessary by the Project.	\$,000	30-A M.R.S.A. § 5225(1)(B)(1)
6. <u>Public Safety</u> : As development occurs within the District, significant increases in traffic t may require measures to address safety concerns outside the District boundaries. TIF Revenues will be made available to address those concerns through measures which may include, but are not limited to, installation of turning lanes, signalization, or other traffic control; signal preemption for emergency response; communications infrastructure: or fire protection equipment & maintenance if development requires equipment not currently owned by the municipality.	\$,000	30-A M.R.S.A. § 5225(1)(B)(2)
<b>Investments Related to Economic Development</b>		

Project Description	Cost Estimate	Statutory Cite
<p>7. * # % <u>Costs of funding economic development programs and/or events including, but not limited to:</u></p> <ul style="list-style-type: none"> <li>• Municipal economic development programs marketing the municipality as a business location,</li> <li>• Events that will attract visitors to the municipality,</li> <li>• Planning for economic development within the Town of Hampden, including but not limited to, Economic Development Strategic Planning, Feasibility Studies for a Downtown Development District, Downtown Redevelopment Plan, Transportation Planning, Broadband Feasibility Study, Utilities expansion feasibility etc.</li> </ul> <p>Pro-rated costs of staff salary or consultant fees to oversee the TIF program and to promote economic development within the Town.</p>	\$0,000	30-A MRSA §5225 (1)(C)(1)
THIS SPACE INTENTIONALLY LEFT BLANK		
<p>8. * # % <u>Economic Development Program Support</u></p> <p>Pro-rated share of dues to organizations that provide economic development support to the Town, such as the Eastern Maine Development Corporation. Such funding may include additional economic development services and contracts.</p>	\$,000	30-A MRSA §5225 (1)(C)(1)
<p>9. # % <u>Costs of funding environmental improvement projects</u> related to commercial activities in Hampden. Such projects could include impact studies and watershed management in areas that affect, or are affected by, commercial development in Hampden.</p>	\$,000	30-A MRSA §5225 (1)(C)(2)
<p>10. # % <u>Costs of funding to establish permanent economic development revolving loan funds, investment funds, loan guarantee programs, and/or grants.</u></p>	\$,000	30-A MRSA §5225 (1)(C)(3)

Project Description	Cost Estimate	Statutory Cite
<p>11. # % <u>Costs of services and equipment to provide skills development and training</u>, including scholarships to in-state educational institutions or to online learning entities when in-state options are not available, for jobs created or retained within Hampden.</p> <p>Expand Broadband Access to Hampden commercial and industrial areas to improve access to training and educational opportunities.</p>	\$,000	30-A MRSA §5225 (1)(C)(4)
<p>12. * # % <u>Costs relating to planning, design, construction, maintenance, grooming and improvements to new or existing recreational trails</u> determined by the department to have significant potential to promote economic development, including bridges that are part of a trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses. Trail systems are prevalent and active in Hampden, drawing visitors from surrounding communities.</p>	\$,000	30-A M.R.S.A. § 5225(1)(C)(6)
<p>13. % <u>Costs associated with a new or expanded transit service</u>, limited to transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure.</p>	\$,000	30-A M.R.S.A. § 5225(1)(C)(7)(a)
<p>14. # % <u>TIF revenues to be used as match for applicable State and Federal Economic Development Grant Programs</u></p> <p>To be used for purposes identified as authorized project costs in 30-A M.R.S.A. § 5225.</p>	\$,000	30-A M.R.S.A. § 5230
<b>Total Municipal Investment Plan Costs:</b>	<b>\$00,000</b>	

\* Projects identified with an asterisk (\*) share funding with Dennis Paper & Foodservice TIF, a currently active TIF District within the Town of Hampden.

# Projects identified with a hash tag (#) share funding with Coldbrook Road & Emera Maine Hampden TIF, a currently active TIF District within the Town of Hampden.

% Projects identified with an asterisk (\*) share funding with Hampden Business Park TIF, a currently active TIF District within the Town of Hampden.

## **II. Development Program Narrative**

### **A. The Development District**

The District consists of real property and facilities within the identified boundaries and will exist for a total of thirty (30) years. The Development Program described herein will serve the purpose of administering the District as a Municipal Development and Tax Increment Financing District pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended (the “Development Program”). Subsequent to the Town Council vote designating the District and adopting the Development Program, the designation of the District and adoption of this Development Program will become effective on July 1, 2018, following approval by the Commissioner of the Maine Department of Economic and Community Development (“DECD”) and end on June 30, 2048. The District is more fully described below in this Development Program and is depicted on the maps attached as Exhibit A. The Town plans to capture one-hundred percent (100%) of the increased assessed value of taxable real property located within the District. The Town will use the property taxes paid on such captured real property value to fund a Credit Enhancement Agreement with the Company of the Project, any subsequent CEAs with companies or developers of property within the District boundaries, and to fund municipal projects described in detail in Table 1 herein.

#### **1. Physical Description**

The District will encompass a total of **?+/- acres** of property with a Company Tract and a Town Tract.

**Company Tract**: The Company Tract is a 16+/- acre parcel within the Coldbrook Corners District found on Town tax map 33-0-011-A.

**Town Tract**: The Town Tract is a collection of parcels within the Coldbrook Corners District found on Town **tax maps ?? (?? acres)**. Maps of the proposed District are presented in Exhibit A-1, a Locational Map and A-2, which provides detail of individual sections of the District.

#### **2. Statutory Requirements and Thresholds**

The Statutory Requirements and Thresholds form addressing the acreage and valuation conditions for approval mandated by 30-A M.R.S.A. § 5223(3) is set forth in Exhibit B.

#### **3. Duration of the Program**

The District will be designated for a total of thirty (30) years, becoming effective on July 1, 2018, following approval by the Commissioner of the Maine Department of Economic and Community Development (“DECD”) and ending on June 30, 2048.

#### **4. Certification of Original Assessed Value**

The Original Assessed Value (“OAV”) of the District was (need \$\$) as of March 31, 2017, (April 1, 2016). The Assessor’s Certificate of Original Assessed Value is included as Exhibit C.

##### **B. The Project**

The Project, as described herein, consists of the construction of a “Tradewinds” retail food (small grocery) and gasoline establishment and other retail, as well as infrastructure improvements for the Project. The District is designed to assist in financing of improvements put into place within the District.

The Town intends to use tax increment financing to support the Project by allocating certain tax revenues generated by future new development within the District to the Project. Under the Development Program, the Town will make a portion of the incremental tax revenues from real property investments within the Company Tract of the District available to the Company pursuant to a Credit Enhancement Agreement, which Agreement will be consistent with the allocation of incremental tax revenue as detailed below in the Financial Plan section of this document and reflected in Exhibit D-1 attached. These revenues will be used by the Company to pay costs of the Project directly or to pay debt service on funds borrowed privately by the Company to finance the cost of the Project. By means of a Credit Enhancement Agreement between the Town and the Company, a portion of the TIF Revenue generated solely from the property taxes paid on the captured assessed value of real property improvements made within the Company Tract of the District will be allocated to and used by the Company to fund Project costs. The TIF Revenues will provide financial assistance for the Project itself, making it a more viable endeavor for the Company, including in addressing significant up-front costs to develop the site due to existing topography, infrastructure and environmental constraints.

##### **C. The Development Program**

The Town’s designation of the District and adoption of this Development Program creates a single municipal TIF district in order to capture the value of the taxable real property improvements to be made within the District and enable the use of a portion of the TIF Revenues to assist the Company through a Credit Enhancement Agreement. It will also permit a portion of the TIF revenues be used to finance various municipal economic development projects as set forth in Table 1 above.

This Development Program will run for a term of 30 years and will capture one-hundred percent (100%) of the increased assessed taxable real property value of the District. The Town will retain the tax revenues generated by the captured assessed taxable real property value for designated economic development purposes.

The Town will enter into a Credit Enhancement Agreement with the Company, which will allocate to the Company a portion of the TIF Revenues generated from the captured assessed value resulting from site improvements and building investment within the Company Tract. The credit enhancement allocation to the company will begin in the first tax year in which the Company pays taxes on an assessed value of the Company Tract that is greater than the original assessed value of the Company Tract. The credit enhancement shall continue for a total of \_\_\_ years, as set forth below in Section IV—Financial Plan. The Company will use such TIF Revenues to offset the cost of its investment in the Project, as more fully discussed in this Development Program. Any TIF Revenues not allocated to the Credit Enhancement Agreement will be retained by the Town to fund municipal economic projects as described in this document.

Through the Omnibus feature of this TIF District, the Town reserves the right to negotiate and execute one or more future credit enhancement agreements for up to the balance of the term of the District with up to one hundred percent (100%) reimbursement of the TIF Revenues to a Company or company making investments within the Town Tract of the TIF District. Approval of such future credit enhancement agreements is at the sole discretion of the Hampden Town Council.

The Town will retain any portion of the TIF Revenues not designated to a credit enhancement agreement for economic development programs and projects as discussed in Table 1 above. By adopting this Development Program, the Town will underscore Hampden's commitment to business retention and growth, support its growing reputation as a desirable community in which to locate a business.

This Development Program is structured and proposed pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. Subsequent to a public hearing and Town Council vote, and following approval by the Commissioner of the Maine Department of Economic and Community Development, adoption of this Development Program will be effective on July 1, 2018.

**D. Operational Components**

**1. Public Facilities**

Please refer to Table 1 for the various public infrastructure improvements that TIF Revenues will support. The Town will be responsible for these improvements as it deems necessary to accommodate future development.

**2. Commercial Improvements Financed Through Development Program**

The Company Project consists of planning, permitting and construction of building and infrastructure improvements within the Company Tract of the District.

By means of an Omnibus structure, the Town will have the flexibility to negotiate and execute future credit enhancement agreements with a Company or developer of property within the Town Tract of the District. Such credit enhancement agreements will be executed at the sole discretion of the Town Council and may provide a reimbursement of up to one hundred percent (100%) of the TIF Revenue generated for a term not to exceed the balance of the District term remaining at the time of approval.

**3. Relocation of Displaced Persons**

Not applicable.

**4. Transportation Improvements**

Please refer to Table 1. The Town will fund roadway and traffic improvements within the District and/or outside the District that are made necessary by the investments within the District.

**5. Environmental Controls**

The improvements made under this Development Program will meet or exceed all federal, state and local environmental laws, regulations and ordinances and will comply with all applicable land use requirements for the Town.

**6. Plan of Operation**

The Company shall be responsible for securing needed permits and for completion of all improvements it will make within the proposed Project area. All of the personal property improvements made by the Company and located within the District are planned to be owned by the Company. The Company will be responsible for maintenance expenses, insurance and taxes on all Project improvements.

Any company or developer of private parcels within the District will be responsible for securing needed permits and for completion of all improvements to those parcels and for maintenance expenses, insurance and taxes on all Project improvements.

During the term of the District, the Town Manager or his/her designee will be responsible for all matters related to public ways and all administrative matters within the purview of the Town concerning implementation and operation of the District.

### III. Financial Plan

#### A. Increased Assessed Values & Credit Enhancement Agreements

Estimates of the increased assessed value of the District property, TIF Revenues to be generated by the District, and credit enhancement projections are shown in Exhibit D-1.

The Development Program provides that the Town will “capture” one-hundred percent (100%) of the increased assessed value over the Original Assessed Value on taxable real property of the District beginning on July 1, 2018 after approval of this TIF District and Development Program by the Commissioner of DECD. The TIF Revenues so collected will fund tax reimbursements to the Company pursuant to a Credit Enhancement Agreement and/or contribute to the funding of the approved municipal projects as described on Table 1 hereof. At the end of the TIF term all taxable real property value captured in the District will be added to the general tax rolls.

A [redacted]-year period for tax reimbursements to the Company will begin in the tax year in which there is an increase in the taxable value of real property within the Company Tract of the District over the established original assessed value (see Exhibit C). Tax reimbursements to the Company shall be [redacted] percent ([redacted]%) of the taxes on the Incremental Assessed Value, except that the following conditions shall apply: If, in Year One of the reimbursement period, [redacted] percent ([redacted]%) of the taxes on the Company Tract Incremental Assessed Value is less than \$19,500, then, provided District TIF Revenues are available, the Company reimbursement shall be \$19,500, with the remaining portion coming from what would have been Town TIF Revenue. This condition shall continue into subsequent years until the Company has received \$19,500 in reimbursement. If this condition is exercised, the actual dollar value of the Town TIF Revenues used to supplement the Company reimbursement to reach the \$19,500 shall be deducted from the Company reimbursement in the next year those revenues are available within the Company reimbursement period.

Through the Omnibus feature of this TIF District, the Town reserves the right to negotiate and execute one or more future credit enhancement agreements for up to the balance of the term of the District with up to one hundred percent (100%) reimbursement of the TIF Revenues to a company or developer making investments within the Town Tract of the TIF District. Approval of such future credit enhancement agreements is at the sole discretion of the Hampden Town Council.

Any TIF revenues not committed to a credit enhancement agreement will be retained by the Town to fund municipal TIF project costs as outlined in Table 1.

Upon each payment of property taxes by the property taxpayers in the District, the Town will deposit into a development program fund (the “Development Program Fund”) the entirety of the property tax payments constituting TIF Revenues. The Development Program

Fund is pledged to and charged with the payment of the project costs in the manner provided in 30-A M.R.S.A. § 5227(3). The Development Program Fund consists of two segregated accounts, a sinking fund account (“Sinking Fund Account”) and a project cost account (the “Project Cost Account”). The Town will deposit the TIF Revenues necessary to pay debt service on any bonds issued to pay for District improvements, if any, into the Sinking Fund Account. The money in this account is pledged to and charged with the payment of interest and principal on municipal indebtedness related to the improvements in the District. The Town will deposit any additional TIF Revenues into (a) a subaccount or subaccounts of the Project Cost Account to be used for credit enhancement payments to the Company and (b) to a subaccount of the Project Cost Account for other approved municipal projects outlined in this Development Program and not financed with Town indebtedness. Additional dedicated Development Program subaccounts will be created with each Omnibus credit enhancement agreement approved by the Town Council.

The Town has agreed to enter into a Credit Enhancement Agreement with the Company over a period of     (     ) years as reflected in Exhibit D. Estimates of the increased assessed values of the District, the anticipated TIF Revenues generated by the District, that portion of the TIF Revenues to be applied to the District each year, and the estimated tax shifts are shown in Exhibit D.

**B. Sources of Revenues**

The Company will finance the Project through private funds. The Company will be responsible for making all arrangements for, and payments with respect to, any additional indebtedness incurred to fund the Project.

Town Public Improvements that are not part of the Project will be financed with municipal resources including TIF revenues. The Town will be responsible for making all arrangements for, and payments with respect to, any additional indebtedness incurred to fund the Public Improvements.

**C. Public Indebtedness**

The Town does not anticipate funding municipal project costs through public indebtedness. The Town, however, reserves the right to incur bonded indebtedness for approved projects in the future, provided that the timing and funding of any bonded projects complies with all statutory requirements for paying bonded indebtedness with TIF Revenues.

**D. Original Assessed Value**

Certification by the Town’s Tax Assessor of the Original Assessed Value of the District is set forth in Exhibit C.

**IV. Statutory Requirements and Thresholds**

The Statutory Requirements and Threshold limits addressing the conditions for approval mandated by 30-A M.R.S.A. § 5223(3) are set forth in Exhibit B.

**V. TIF Projections and Tax Shifts**

In accordance with 30-A M.R.S.A. § 5224(4), the tables set forth in Exhibit D-1 and Exhibit D-2 show, based on planned investment within the Company Tract, for each year of the term of the District: (1) estimates of the increased assessed values of the District; (2) the portion of increased assessed values to be applied to the Development Program as captured assessed values; (3) the resulting tax increments (i.e., the TIF Revenues); and (4) the estimated tax shifts that are expected to result from the designation of the District. There is no reliable way to project investment value or timing of full development of the District.

**VI. Municipal Approvals**

**A. Notice of Public Hearing**

Attached as Exhibit E is a copy of the Notice of Public Hearing regarding the establishment of the Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District and adoption of this Development Program for the District, published in the Bangor Daily News, a newspaper of general circulation in the Town, on \_\_\_\_\_, 2018 a date at least ten (10) days prior to the public hearing.

**B. Minutes of Public Hearing Held by Town Council**

Attached as Exhibit F is a certified copy of the minutes of the public hearing held on \_\_\_\_\_, 2018 at which time the proposed District and Development Program were discussed by the public.

**C. Authorizing Votes**

Attached as Exhibit G is a copy of the Hampden Town Council Resolution designating the District and adopting this Development Program, which Resolution was adopted by the Council at a meeting of the Council duly called and held on \_\_\_\_\_, 2018.

TIF DISTRICT MAP SHOWING DISTRICT IN RELATION TO MUNICIPALITY BOUNDARIES

DRAFT

DRAFT

EXHIBIT B  
STATUTORY REQUIREMENTS & THRESHOLDS

<b>A. ACRE LIMITATION</b>		
1. Total Acreage of Municipality		24,000
2. Total Acreage of Proposed Municipal TIF District		
3. Total <b>Downtown</b> acres contained in the Proposed Municipal TIF District		-0-
4. Total <b>Transit</b> acres contained in the Proposed Municipal TIF District		-0-
5. Total acreage of Proposed Municipal TIF District counted towards 2% cap (A2-A3-A4)		
6. Percentage of total acreage in proposed municipal TIF District (cannot exceed 2%) Divide A5 by A1		0. %
7. Total acreage of all existing and proposed municipal TIF districts in the municipality. Add A2 to sum of all existing TIF district acreage. (+A.5.) *		
8. Total acreage of an existing or Proposed <b>Downtown</b> TIF District in the municipality.		0
9. Total acreage of all <u>existing</u> <b>Pine Tree Development Zone</b> TIF Districts in the municipality.		0
10. Total acreage of all existing or Proposed <b>Transit</b> TIF Districts in the municipality.		0
11. Total acreage of all existing and Proposed Municipal TIF Districts in the municipality counted toward 5% cap. Subtract A8+A9+A10 from A7.		
12. Percentage of total acreage in all existing and proposed Municipal TIF Districts (cannot exceed 5%) Divide A11 by A1.		%
13. Total Acreage of all real property in the Proposed Municipal TIF District that is:		
(Note: a, b, or c must be at least 25%)	<b>Acres</b>	<b>%</b>
a. Blighted (Divide acres by	-	-
b. In need of rehabilitation/conservation (Divide acres by	-	-
c. Suitable for industrial/commercial site (Divide acres by		%
<b>TOTAL</b>		%
<b>B. VALUATION LIMITATION</b>		
1. Total Aggregate Value of Municipality (TAV) <i>Use most recent April 1<sup>st</sup></i>		
2. Original Assessed Value (OAV) of Proposed Municipal TIF District. <i>Use March 31<sup>st</sup> of tax year preceding date of municipal designation</i>		
3. Total OAV of all existing and Proposed Municipal TIF Districts in the municipality. <i>Add b2 to sum of all existing TIF district OAVs (10,005,500+B.2.) *</i>		
4. OAV of an existing or proposed <b>Downtown</b> TIF District in the municipality.		0
5. OAV of all <u>existing</u> <b>Pine Tree Development Zone</b> TIF Districts in the municipality.		0
6. OAV of all existing or Proposed <b>Transit</b> TIF Districts in the municipality.		0
7. Total OAV of all existing and Proposed Municipal TIF Districts in the municipality counted toward 5% cap. Subtract B4+B5+B6 from B3		1x,xxx,xxx
8. Percentage of total OAV to TAV in all existing and Proposed Municipal TIF Districts (cannot exceed 5%). Divide B7 by B1		1.xx%

\*Total from Hampden Business Park TIF, plus proposed

## Statutory Requirements Backup Data

### Hampden Business Park

District	Year Established	Acreage	OAV	Expiration FY
HEC	2008	1.64	87,400	2017-18
Dennis Paper	2012	13.00	1,378,300	2027-28
Coldbrook Rd/Emera	2015	224.39	1,582,200	2038-39
Hampden Business Park	2017	130.34	6,957,600	2046-47
<b>TOTAL:</b>		<b>369.37</b>	<b>10,005,500</b>	

### Coldbrook Corners

District	Year Established	Acreage	OAV	Expiration FY
HEC	2008	1.64	87,400	2017-18
Dennis Paper	2012	13.00	1,378,300	2027-28
Coldbrook Rd/Emera	2015	224.39	1,582,200	2038-39
Hampden Business Park	2017	130.34	6,957,600	2046-47
Coldbrook Corners	2018			2047-48
<b>TOTAL:</b>		<b>xxx.xx</b>	<b>1x,xxx,xxx</b>	

ASSESSOR'S CERTIFICATE OF ORIGINAL ASSESSED VALUE

TOWN OF HAMPDEN

COLDBROOK CORNERS OMNIBUS MUNICIPAL DEVELOPMENT & TAX INCREMENT FINANCING DISTRICT

**ASSESSOR'S CERTIFICATE**

The undersigned Tax Assessor for the Town of Hampden, Maine, does hereby certify pursuant to the provisions of 30-A M.R.S.A. §5254 that the taxable assessed value of taxable real property in the Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District, as delineated on a map included in the Development Program to which this Certificate is included, was \$ XXXXX as of March 31, 2017, (April 1, 2016).

As of the Original Assessed Value date, there was \$XXX personal property which is exempt from taxation pursuant to the business equipment tax exemption within the Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District.

**IN WITNESS WHEREOF**, This Certificate has been executed as of this XXth day of Month, 201x.

TOWN ASSESSOR

By: \_\_\_\_\_

Original Assessed Value for Individual Tax Map Lots

Tax Map and Lot Number	Acreage	Original Assessed Value as of March 31, 2017 (April 1, 2016)
Town Tract		
Roads		
Total Town Tract		\$
Company Tract		
Total Company Tract		-
<b>Total:</b>		\$

EXHIBIT D-1  
INCREASED ASSESSED VALUE AND TIF REVENUE PROJECTIONS

DRAFT

DRAFT

**NOTICE OF PUBLIC HEARING  
TOWN OF HAMPDEN MAINE  
Regarding**

**A Municipal Tax Increment Financing Development Program for the District Known as the  
“Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District”**

Notice is hereby given that the Hampden Town Council will hold a public hearing on

**\_\_\_\_\_**, 2018

at the

**Council Chambers, Hampden, Maine,  
The Public Hearing will be at 7:00 p.m.**

The purpose of the public hearing is to receive public comments on the designation of the proposed Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District (the “District”), the Development Program and Financial Plan for said District, and a proposed credit enhancement agreement with the Company, Southstreet Development Company LLC, all pursuant to the provisions of Chapter 206 of Title 30-A of the Maine Revised Statutes, as amended. The proposed Municipal Development and Tax Increment Financing District consists of approximately **xxx** acres of property located on Route 202 and Coldbrook Road, known as the Coldbrook Corners and identified on Town **Tax Map Lots\_\_\_\_\_**; including the roads contained therein.

All interested persons are invited to attend the public hearing and will be given an opportunity to be heard at that time. Verbal and written comments received prior to the close of the public hearing will be included in the public hearing record.

EXHIBIT F  
MINUTES OF PUBLIC HEARING AND TOWN COUNCIL MEETING

DRAFT

**HAMPDEN TOWN COUNCIL**  
**ORDER # \_\_\_\_\_**

**WHEREAS**, the Town of Hampden, Maine (the "Town") is authorized pursuant to Chapter 206 of Title 30-A of the Maine Revised Statutes as amended (the "Act"), to designate a specified area within the Town as the Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District (the "District") and to adopt a development program (the "Development Program") for the District pursuant to the Act; and

**WHEREAS**, there is a need for economic development in the Town, in the surrounding region, and in the State of Maine; and

**WHEREAS**, there is a need to improve and broaden the tax base of the Town; and

**WHEREAS**, designation of the District and adoption of the Development Program will help to improve and broaden the tax base in the Town and improve the economy of the Town and the region by attracting business development to the District; and

**WHEREAS**, there is a need to implement continued economic development initiatives in the planned District through the establishment of the District in accordance with the provisions of Act; and

**WHEREAS**, the Town desires to designate the District and adopt the Development Program; and

**WHEREAS**, it is expected that approval will be obtained from the State of Maine Department of Economic and Community Development (the "Department"), approving the designation of the District and adoption of the Development Program.

**ORDERED AS FOLLOWS:**

**Section 1.** The Town Council of the Town of Hampden Maine, as the legislative body of said Town pursuant to Article II, section 205 of the Hampden Town Charter, hereby designates the Coldbrook Corners Omnibus Municipal Development and Tax Increment Financing District and hereby adopts the Development Program for said District; such designation and adoption to be pursuant to the following findings, terms, and provisions:

**Section 2.** The Town Council hereby finds and determines that:

a. At least twenty-five percent (25%), by area, of the real property within the District, as hereinafter designated, is suitable for commercial uses; and

b. The total area of the District does not exceed two percent (2%) of the total acreage of the Town, and the total area of all development districts within the Town (including the proposed District) does not exceed five percent (5%) of the total acreage of the Town; and

c. The original assessed value of all existing and proposed tax increment financing districts (including the proposed District) does not exceed five percent (5%) of the total value of equalized taxable property within the Town as of April 1, 2016 (March 31, 2017); and

d. The designation of the District and adoption of the related Development Program will make a contribution to the economic growth and well being of the Town and the surrounding region, and will contribute to the betterment of the health, welfare and safety of the inhabitants of the Town, including a broadened and improved tax base and economic stimulus, and therefore constitutes a good and valid public purpose. The Town has considered all evidence, if any, presented to them with regard to any adverse economic effect on or detriment to any existing business and has found and determined that such adverse economic effect on or detriment to any existing business, if any, is outweighed by the contribution expected to be made through the District and the Development Program.

**Section 3.** The Town Manager, or his duly appointed representative, is hereby authorized, empowered and directed to submit the proposed designation of the District and the proposed Development Program for the District to the Department for review and approval pursuant to the requirements of 30-A M.R.S.A. § 5226.

**Section 4.** The Town Manager, or his appointed representative, is hereby authorized and directed to enter into the Credit Enhancement Agreement contemplated by the Development Program with Southstreet Development Company LLC, in the name of and on behalf of the Town, such agreement to be in such form and to contain such terms and provisions, not inconsistent with the Development Program, as the said Town Manager or his duly-appointed representative, may approve, his approval to be conclusively evidenced by his execution thereof.

**Section 5.** The foregoing designation of the District and approval of the Development Program shall automatically become final upon receipt by the Town of approval of the designation of the District and adoption of the Development Program by the Department, without requirement of further action by the Town, the Town or any other party, and shall take effect in accordance with Title 30-A M.R.S. section 5224(2)(H) for the tax year subsequent to the Department's approval, beginning July 1, 2017.

**Section 6.** The Town Manager or his duly appointed representative is hereby authorized and empowered, at his discretion, from time to time, to make such revisions to the Development Program as the Town Manager, or his duly appointed representative, deems reasonably necessary or convenient in order to facilitate the process for review and approval of the District and/or the Development Program by the Department, or for any other reason, so long as such revisions are not inconsistent with these resolutions or the basic structure and intent of the District and the Development Program.

Dated: \_\_\_\_\_, 2018.

TOWN OF HAMPDEN, MAINE

(By) \_\_\_\_\_  
Ivan P. McPike, Councilor

\_\_\_\_\_  
David I. Ryder, Councilor

\_\_\_\_\_  
Mark S. Cormier, Councilor

\_\_\_\_\_  
Dennis R. Marble, Councilor

\_\_\_\_\_  
Terry McAvoy, Councilor

\_\_\_\_\_  
Gregory J. Sirois, Councilor

\_\_\_\_\_  
Stephen L. Wilde, Councilor

**Maine Revised Statutes**  
**Title 1: GENERAL PROVISIONS**  
**Chapter 13: PUBLIC RECORDS AND PROCEEDINGS**

**§405. EXECUTIVE SESSIONS**

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions. [1975, c. 758, (NEW).]

**1. Not to defeat purposes of subchapter.** An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.

[ 2009, c. 240, §2 (AMD) .]

**2. Final approval of certain items prohibited.** An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.

[ 2009, c. 240, §2 (AMD) .]

**3. Procedure for calling of executive session.** An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.

[ 2009, c. 240, §2 (AMD) .]

**4. Motion contents.** A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.

[ 2003, c. 709, §1 (AMD) .]

**5. Matters not contained in motion prohibited.** Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.

[ 2009, c. 240, §2 (AMD) .]

**6. Permitted deliberation.** Deliberations on only the following matters may be conducted during an executive session:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;

(3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and

(4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal; [2009, c. 240, §2 (AMD).]

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

(1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire; [2009, c. 240, §2 (AMD).]

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency; [1987, c. 477, §3 (AMD).]

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions; [1999, c. 144, §1 (RPR).]

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage; [2009, c. 240, §2 (AMD).]

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute; [1999, c. 180, §1 (AMD).]

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and [1999, c. 180, §2 (AMD).]

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter. [1999, c. 180, §3 (NEW).]

[2009, c. 240, §2 (AMD).]

#### SECTION HISTORY

1975, c. 758, (RPR). 1979, c. 541, §A3 (AMD). 1987, c. 477, §§2,3 (AMD). 1987, c. 769, §A1 (AMD). 1999, c. 40, §§1,2 (AMD). 1999, c. 144, §1 (AMD). 1999, c. 180, §§1-3 (AMD). 2003, c. 709, §1 (AMD). 2009, c. 240, §2 (AMD).

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Town of Hampden  
Land & Building Services

Memorandum

To: Planning & Development Committee  
From: Karen M. Cullen, AICP, Town Planner *KME*  
Date: December 15, 2017  
RE: Marketing Hampden

Staff has been working with Down East Magazine to produce a piece which will highlight Hampden as a good place to live and to do business. We had explored this idea last year, but both budget and available staff capacity did not allow this to proceed. During FY18 budget discussions with the Council, support was expressed to include this initiative in the FY18 budget, which was approved.

We spoke with the Bangor City Manager and Community & Economic Development Director to see if they were interested in partnering with us on this initiative, and they enthusiastically agreed. Our goal is to secure a four page fold-out piece, splitting the \$6,500 cost 50/50. Hampden's portion (\$3,250) is in the marketing budget this year.

We will be working closely with our Bangor counterparts and with the editors at Down East in the coming weeks as we put together the material for publication in the March 2018 Live & Work edition. This follows specifically from findings in the Market Study completed earlier this year, and we expect will help Hampden capitalize on the good that has happened (and is happening) with regard to economic development and quality of life.