



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

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

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*



Planning & Economic Development · Permitting · Project Management

MEMORANDUM

To: Angus Jennings; Planning and Development Committee
From: Noel Musson, The Musson Group
RE: Business Park Covenants
Date: December 4, 2017

Background

- Need to add the amendment date

Recitals

- See #2 second paragraph – should this document apply to the whole property of just to phase 1. What applies to the East and West Phase

Article I, Definitions

- Design Review Board should be deleted throughout
- Any additional definitions needed

Article II, Property Subject to this Declaration

- No changes at this time

Article III, Construction of Improvements

3.1 - Approval of Plans Required (p.5)

- Delete most of 3.1 but leave in the requirement to have Planning Board approval.

3.2 - Basis for approval (p.6)

- Delete – this section appears to give another set of standards for the planning board to consider when granting approval to a site plan.
- Does the town want to right to approval any final plans outside of the planning board review? If so we may want to revise 3.1 and 3.2.

3.3 - Action (p.7)

- Delete – seems like the Planing Board (or maybe staff if a minor site plan review provision is adopted) should have review authority and the town doesn't need extra.
- Also, aren't plans already kept on file at the town? Does this need to be in the Covenants?

3.4 - Appeal (p.7)

- Deleted 11/17/14

3.5 - Proceeding with work (p.7)

- What is the Planning Board timeline?



- Can this be amended to have statement that requires project to be completed and not half done?
- Maybe just combine with 3.6

3.6 - Completion of work (p.8)

- Typical post-approval activities for site plan review: timelines, extension criteria, revegetation requirements

3.7 - Declarant Not Liable (p.8-9)

- Possibly unnecessary but may be needed for standard language

3.8 - Construction without Approval (p.9)

- Delete - Unless the town wants to approve construction project separately from the Planning Board or CEO, this should be no different than any other project.

3.9 - Starting Time and Repurchase Options (p.9)

- Overall keep but portions of this section should be revised.
- Concept of having 1 year to get approval and start work, or the town can take back for the purchase price might be good to keep.

3.10 - Rights Reserved to Declarant (p.10)

- This section is confusing. Are the 10' easements for utilities and pedestrian egress on the site plans approved as part of the subdivision approval.
 - Utility easement noted on plan, no mention of pedestrian access.
 - Have easements for this purpose been recorded at the registry?

3.11 - Wetland Disturbances (p.10)

- Does this relate to DEP approvals?
- Prohibits wetland impacts to those shown on plan unless plan is amended – redundant?

3.12 - Buffer Areas and Open Space (p.10)

- Prohibits disturbances in delineated stormwater buffer areas or open space shown on the plan unless the plan is amended
- This may also be redundant

Article IV - Development Standards

4.1 - General Requirements (p.11)

- No change

4.2 - Minimum Setbacks (p.11)

- Generally setbacks should be the same as the code.
- For Phase 1 the setbacks make no sense on their own as described. Refer to Building Envelope Area and Impervious Envelope Area (check Definitions).
- Building area limit and impervious area limits in subdivision plan legend, not clear where they are on the lots.
- Revise this section to refer to the approved plans.

4.3 Exceptions to Setback Requirements (p.11)

- How do these relate to the building area envelopes and impervious area envelopes?
- Shouldn't exceptions to setbacks be spelled out in the ordinance.



4.4 Structures and Architectural Standards (p.12)

- Difficult to achieve with big setbacks and 100' ROW.
- Most of these performance standards should be in the Code.
- Perhaps things like exterior materials could stay

4.5 Signs (p.13)

- Could be moved into the zoning ordinance.
- Some reduced standards might be ok here – no neon, etc.

4.6 Landscaping (p.13)

- Keep provisions about maintain landscaping (see d) but delete rest. Should be in Code

4.7 Fences (p.14)

- If fences are allowed keep standards in the code.

4.8 Parking Areas, Loading Areas and Driveways (p.14)

- Some of this is ok to keep

4.9 Storage Areas (p.15)

- Some of this is ok to keep

4.10 Lighting (p.15)

- Should be in the Code.

4.11 Special Provisions (p.16)

- Reference to Sections 4.1-4.8 should be 4.1 to 4.10?
- This section might be the lead in for a provision in the ordinance.

Article V - Uses and Operations

5.1 No Further Subdivision of Lots (p.16)

- Does the town want to prohibit lot divisions on this property?

5.2 Permitted Uses (p.17)

- See LUZO section 3.1.2
- This business park may want to make sure only some of the permitted used from the Code are allowed. Which ones make sense?

5.3 Prohibited Uses (p.17)

- Perhaps "o. Non-taxable uses are prohibited..." is the only necessary use to list
- Should 5.3 and 5.2 be combined to make it a list of used that should not be allowed?

5.4 Nuisances (p.18)

- Site plan review touched on many of these.
- Perhaps ok to keep.

5.5 Condition of Property (p.19)

- Ok to keep

5.6 Maintenance of Grounds (p.19)

- Ok to keep

5.7 Remedies of Failure to Maintain and Repair (p.19)

- Ok to keep



5.8 Refuse Collection Areas (p.19)

- May want to revise to take out the specific setback area.

5.9 Repair of Buildings (p.19)

- Ok to keep

5.10 Public Utilities (p.19)

- Reservation of declarants right to install utilities lines across subject property. Keep

5.11 Utility Lines and Antennas (p.20)

- Keep?

5.12 Mechanical Equipment (p.20)

- Keep with minor modifications

5.13 Mineral Exploration (p.20)

- Already addressed in Prohibited Uses

5.14 Other Operations and Uses (p.20)

- Catch all zoning standard?

Article VI - Modification and Repeal (p. 22)

6.1 Modification by Declarant

- Covenants can be unilaterally changed by the Declarant (Town) with
 - Approval of any governmental agency (SLODA permit amendment, if necessary)
 - Public hearing by the Town council
 - Owners and occupants have to be given 30 days 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 (p.21)

- Enforcement through Superior Court of Penobscot County or US District Court in Bangor

7.2 Right of Entry (p.22)

- No change

7.3 Deemed to Constitute a Nuisance (p.22)

- No change

7.4 Attorney's Fees (p.22)

- No change

7.5 Failure to Enforce is No Waiver (p.22)

- No change

Article VIII - Assignment (p.22)

Article IX - Constructive Notice and Acceptance (p.23)

Article X - Waiver and Failure to Enforce (p.23)



Article XI - Runs with Land (p.23)

Article XII - Rights of Mortgages (p.23)

Article XIII - Captions (p.24)

Article XIV - Effect of Invalidation (p.24)

- Severability section

Article XV - Notices (p.24)

- US mail to last known address as in the records of the Assessor.

Certificate of Amendments to Declaration of Covenants, Conditions, and Restrictions for The Hampden Business and Commerce Park (p. 27-28)(2008)
Changed setbacks and roof slopes for buildings less than 10K sf

Consent (p. 29-30) (2010)

Notice that the Town approves the specific uses for the Farren Holdings property - Veterinary clinic, commercial space and living quarters

this is a paper by Eric Ellingwood to the Hamden Town Council and to the people of Hampden Maine. This is a proposal for a new Hamden Town Forest utilizing 236 Acres of now unused land on 202. This will be a multi-phase project. This is to highlight some of the basic phases which I would propose to build such a town forest My contact emails are 17ellingwoode@RSU22.us school and bottleman97gmail.com Personal

- I understand that Finance is a sensitive issue to this Council so I will say this this public park and the construction would not Formally begin Until approval by the Town Council. Informal work and work not financed by the Town Council will be funded by donations and will be built by volunteer labor which would cost the Town Council nothing
- A list of Of entities from which volunteer labor and capital could be Assistance may include sourced may include the Bangor land trust,the Orono Land,Trust p.r. N.e.m.b.a. which is an acronym for Penobscot region mountain bike Association ,the Goodwill Riders snowmobile club, the local ski club Penobscot Valley Ski Club,Ground Perfection services the same group which helped build the Reeds Brook trails Local sporting goods stores local businesses and outdoor enthusiasts from the local area Etc
- The next phase that I can see a building it would be to Mark out potential Trails so first is to request permission from the appropriate Authority to before building trails using orange highlighting tape To Mark roughly where Trails will be
- Obtain GPS coordinates for a more accurate and comprehensive map to be made either by Town employees or At little to no cost to the town if done by volunteers
- The First Trails would likely be done by hand with Not much more than pocket Crooners or loppers and folding saws. Then chainsaws And Forestry Mulcher by ground Perfection services the group that helped make the Reeds Brook trails .when the Appropriate authorities will permit some means may not necessarily be approved all at the same time. An example would be folding saws could be used immediately After approval For Access by foot and bike where as forestry Mulcher would Likely require a comprehensive environmental survey
- The first Trail I would want to make would go from the Cavalry apostalic Church Road to an old earth-sheltered garage the significance of this Trail you will realize later
- Since this land is Public property I have done some virtual Exploration with both Google Maps and the Hampden town website maps as well as on the ground exploration
- In this exploration I have found the following two ponds One small pond near the northeast corner of the property located at 44.771674, -68.817214 And and a Pond which is only partially located on the town property on the northwest corner Located at 44.772401, -68.828857 Single track mountain bike trails and Old Woods roads visible on the Hamden town website 2014 images in the shape of a rectangle
- Access points For consideration would include a driveway off of the 1 Cavalry apostek Church road, 3 the Hampden pits, 2Access Road From the ammo industrial park Utilizing an existing although blocked off Overgrown Road and 4 Build a new access road To the large pond From the Access Road connecting amoo Park to the fiberright plant currently under construction
- 44.770556, -68.822740 This GPS coordinate marks a possible parking spot since there is an old Earth covered garage Likely an old remnant of Loring Air Force Base ammo dump nearby
- It should be noted that this road although blocked off Overgrown and remote is in the shape of a Rectangle and does have access from the amoo Industrial Park which if such a Town Forest were to be created it could be could Possibly be negotiated to open up this access point for Public Access. As of now this road is clearly visible on both the Hamden town website and Google Maps the corners of this Trail are marked by the following GPS coordinates obtained from Google Maps The entrance in northeast corner is marked by 44.771768, -68.820064 The southeast corner marked by 44.770548, -68.820157 The garage again marked by 44.770603, -68.822736 The southwest corner marked by 44.770511, -68.824248 The northwest corner marked by 44.771674, -68.824261
- I think the best idea for parking would be a combination of 1and 2 open up the road from the ammo park For access from Bangor as well as an access road from the Cavalry apostalic Church Road For access from 202 Both of which with Junction at the Earth sheltered garage garage